

NEIFELD IP LAW PLLC

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Re: 0651-0089 comment on 91 Fed. Reg. 22526 (Apr 27, 2026) request for comment on DOCX Submission Requirements

To:

Justin Isaac and Raul Tamayo
Office of the Chief Administrative Officer
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria VA 22313-1450

From: Richard Neifeld
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Dear Mr. Isaac and Mr. Tamayo:

WHY THE USPTO's DOCX FILING SYSTEM IS UNRELIABLE

The USPTO's DOCX filing software cannot not work reliably because it does not rely upon an immutable and publicly available file format for saving word processing documents. Instead, it requires a document be in any unspecified "DOCX" format to be uploaded to the USPTO filing server. And then the USPTO filing server runs an unpublished algorithm to convert that uploaded "DOCX" file to a new file, and requires the user to accept the new file for submission.

WHY ITS BURDENSOME

The process is inherently unreliable and unnecessary burdensome on the public. Because it necessarily requires the user to review and download the converted file, during the process of filing a document, against the uploaded document, to ensure the USPTO server has not introduced errors into the information contained in the file as a consequence of the unpublished algorithm applied to the uploaded file.

WHY THE USPTO PROMULGATED A RULE IMPLEMENTING AN UNRELIABLE AND BURDENSOME REQUIREMENT

Unfortunately, the USPTO either failed to recognize this problem, or actively tried to hide this problem, during the regulatory process enacting the requirement to pay a fee for filing in other than "DOCX." There, it stated that "DOCX" is a standard. DOCX is definitely not a standard. The actual standard is Office Open XML, which to my knowledge, the USPTO has never claimed it implements.

THE USPTO DOES NOT CONTROL THE DOCX FILE FORMAT ON WHICH IT DEPENDS

To make matters worse, the USPTO likely does not even control the unpublished algorithm it must use to convert that uploaded "DOCX" file to the new file format it requires a user to accept for submission into the official file of a patent application. This is because the USPTO does not and cannot control the "MS-DOCX" Word Extensions to the Office Open XML file format. That "MS-DOCX" Word Extensions is controlled, instead, solely by Microsoft Corporation.

WHAT A FILE ENDING IN ".DOCX" DEFINES

To be clear, files ending in ".DOCX" are not data saved a single unitary standard file format. Instead, they only define one of dozens of file formats. Consequently, a user cannot know if a file they prepare and save with a file extension ".DOCX" and then upload to the USPTO server with information defining their filing will have the information changed because (1) the mere file extension ".docx" does not specify the file format in which the data is saved and (2) the USPTO's unpublished algorithm converts such an uploaded "DOCX" file to a new file in a manner a priori unknowable by the user.

THERE ARE DOZENS OF DIFFERENT FILE FORMATS USING THE FILE EXTENSION ".DOCX"

The fact that files ending in ".DOCX" are not a single unitary standard for file format, but instead only define one of dozens of file formats is incontrovertible, as shown by the dozens of file formats identified as "MS-DOCX" Word Extensions that Microsoft has rolled out, since the year 2009, shown in the subsections titled "Published Version" and "Previous Versions" on the web page titled "[MS-DOCX]: Word Extensions to the Office Open XML (.docx) File Format". That page is currently available at the URL:

https://learn.microsoft.com/en-us/openspecs/office_standards/ms-docx/b839fe1f-e1ca-4fa6-8c26-5954d0abbccd

To avoid doubt, most users are unaware of the diversity of file formats that a "*.docx" file may have. This is clear from the functionality of the Microsoft word processor programs referred to as Microsoft Word.

When a user opens any version of Microsoft Word, clicks "Save As" and then selects the "Save as Type" drop down box, they are presented with a drop down list of file formats in which to save their document. This list includes the default option which reads "Word Document (*.docx)" and then near the bottom of this list an option which reads "Strict Open XML Document (*.docx)". Note that BOTH options result in a saved document having the file

extension ".DOCX" but the two files are NOT the same. The file saved by default, or when selecting the "Word Document(*.docx)" when using the "Save As" option applies whatever version of the ".DOCX" file format the Microsoft Word has installed. That maybe the latest version specified by Microsoft (as indicated in the foregoing web page as the "Published Version", which as of this writing is dated 11/13/2025) , or some earlier version in case the installed Microsoft Word program has not been updated to use the latest version.

WHY THE USER MUST REVIEW THE FILE GENERATED BY THE USPTO FILING SYSTEM BEFORE CLICKING SUBMIT

Failure to review the file converted by the USPTO server risks accepting loss of information intended for filing. The USPTO readily admits that it does not save the uploaded ".docx" file. In fact, the USPTO goes out of its way to provide no evidence the user can rely upon to show what it actually uploaded. Specifically, the USPTO does not provide the filer the name of the uploaded file and a corresponding HASH algorithm output of the uploaded file in an electronic filing receipt. Such a receipt would be irrefutable proof of what the user attempted to file, allowing the user to petition to correct a record of a patent application in which the USPTO's unpublished algorithm mangled the uploaded information. Instead, the USPTO filing receipt document provides the following information, which is utterly useless as proof of what the user uploaded. It provides (1) the name of the uploaded file and corresponding number of pages, description and file size. That information is utterly useless in proving the information contained in the file. It provides (2) a "Digest" which contains the filename of a different document, which filename is related to the originally uploaded document by including the originally uploaded document name and appending to that name additional characters indicating this different document is not the same document as the originally uploaded document, ... and SHA-512 HASH value for this new file. The SHA-512 HASH is irrefutable proof of what information the different document contains, but it is no proof of what the original document contains. In effect, the USPTO server "hides the ball" by implying there is proof of what the user uploaded, when in fact all the USPTO provides is useless information, which is what the USPTO's revised document contains.

The consequence of the USPTO failing to provide irrefutable proof that the USPTO received the original document the user uploaded, and the well known fact that the USPTO will not retain a record of what the user uploaded requires the user why recognizes these facts to review the revised document the USPTO generates during the filing process to ensure the information apparent in the revised document is the same as the information in their originally uploaded document.

COST INCURRED BY THE PUBLIC

The cost of the USPTO's defective process is manifold. It affects the business process of and time line for effecting a patent application filing, requiring the user to build in excess review time to cross read an uploaded document against a USPTO generated document, deal with any inconsistencies identified in the comparison. That introduces substantial uncertainty in the time required to file, and adds at least one more an additional round of review. It also introduces to patent practitioners and additional source of liability wherein once their client has approved the information in a patent application, the practitioner can incur liability because the USPTO server mangled the uploaded information or delayed the practitioner from completing the filing until

after a critical "BAR DATE" deadline.

A conservative estimate of that cost in time is 1 hour of professional time. The cost of inadvertent loss of rights due to the USPTO mangling critical information in a patent application is immeasurable.

Very truly yours,
/RichardNeifeld/
Richard Neifeld, Neifeld IP Law, PLLC

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