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

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

Dear Mr. Isaac and Mr. Tamayo:

The USPTO's DOCX filing software does not work reliably, and because of inherent properties of DOCX, *cannot possibly ever* work reliably. The USPTO should rescind the \$430 fee for non-DOCX filing. That is, users should be permitted to file in whatever full-text form their word processors reliably outputs, DOCX or PDF/A, with no surcharge.

On May 13-15, my firm attempted to file an application in DOCX format. The DOCX had been generated by Libre Office, rather than Microsoft Word. The Patent Office's DOCX filing software refused to accept it, failing in exactly the way many of us have been predicting for years.¹ After several frustrated attempts to file an application, and several calls to the Electronic Business Center, one EBC agent advised "just use Microsoft Word." An EBC supervisor stated, and I quote "I can't answer yes or no as to whether the USPTO supports Libre Office for filing patent applications."

During rulemaking, as a commitment prerequisite to implementing the DOCX rule, the USPTO represented, multiple times, that "DOCX is supported by many popular word-processing applications, such as Microsoft Word, Google Docs, Pages, and LibreOffice."² The USPTO is now reneging on a commitment it made. If the USPTO cannot keep its commitments, and apparently does not even suggest to its supervisory employees that they are subject to those commitments, the DOCX surcharge should be rescinded.

The Office now admits that it built its regulations and application filing software around a single-source proprietary software vendor — without ever explaining why that departure from OMB's voluntary-consensus-standards policy under the National Technology Transfer and Advancement Act (Pub. L. 104-113 § 12(d), codified as note to 15 U.S.C. § 272), and OMB Circular A-119 was justified. I urge that the § 1.16(u) non-DOCX surcharge be rescinded, so that those of us who do not use Microsoft Word can submit our patent applications in PDF or PDF/A (A for "archival," ISO 19005, the subset of full PDF that ensures that a PDF is entirely self-contained, with no features that could depend on some external computer or data) with no surcharge.

¹ Past letters drawing these failures to the Office's attention are at https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=202309-0651-002

² Setting and Adjusting Patent Fees During Fiscal Year 2020, Response to Comments 46, 51, 54, 61, 85 FR 46932, 46956-58 (Aug. 3, 2020),

My firm and I use Libre Office as our word processor of choice. In my office with several lawyers and assistants, we do not have a single copy of Microsoft Word installed. As many letter-writers have warned repeatedly, DOCX is not a “voluntary consensus standard,” and therefore is not within OMB Circular A-119, and is discouraged by Secretary Lutnick under 15 U.S.C. § 272(b)(3). It is a standard driven by a single vendor—Microsoft—and even Microsoft does not honor it.³ Because the Patent and Trademark Office departed from OMB guidance on “voluntary consensus standards” to endorse a single-vendor proprietary standard, those of us who use non-Microsoft authoring tools cannot reliably generate patent application files that are accepted by the USPTO for filing.

Background

Of course it makes sense for any government agency or patent office to ask its applicants to hand in their filings in a computer-readable way (in a way that contains computer-readable characters rather than mere bitmap images of characters). All U.S. Government agencies and courts—except one—do that by requiring filing in PDF/A, that is, an ISO-standardized subset of PDF that has all characters, paragraph breaks, and similarly semantically-relevant formatting locked in and easily read by downstream software. But the Patent Office goofed—instead, it does two things, both remarkably counterproductive: (a) it accepts a PDF, but immediately “flattens” it to a low-resolution bitmap, throwing away the precise and machine-readable characters that applicants provide, and (b) it accepts DOCX, a format that is not uniform and reproducible across all versions of Word, let alone across computers and software of other vendors. Nonetheless, 37 C.F.R. § 1.16(u) says that an applicant must hand in a patent application in “DOCX format” or pay a \$430 penalty for failing to do so.

Yes there are at least two supposed standards for what supposedly counts as a DOCX file, but both leave far too many behaviors “implementation defined,” and both allow extensions. Because of that range of behavior that is not guaranteed to be uniform, neither standard purports to be an “interoperability” standard (unlike PDF and PDF/A, both of which do.) Microsoft itself does not make any real attempt to conform to the standard; instead it provides an extensive (and growing) list of ways in which Microsoft Word does *not* conform to the standard. The various word processor makers that are not Microsoft do their best to try to export into variants of DOCX that look similar to the variant of DOCX that Microsoft Word generates, but given the lack of any clear standard for “what counts as DOCX”, this is not an achievable goal.

The upshot is that the USPTO’s present patent e-filing system for filing in “DOCX standard format” only works if the applicant chooses to purchase and use the most up-to-date Microsoft Word software to create the DOCX file.

³ https://learn.microsoft.com/en-us/openspecs/office_standards/ms-docx/b839fe1f-e1ca-4fa6-8c26-5954d0abbccd

Detailed facts⁴

This all came to a head on May 13, 2026, when I did a first test filing of a patent application that had a filing deadline of May 15, 2026.

Patent Center puked on my DOCX file. Patent Center said (falsely) that my DOCX file “contains fonts that are not recognized by the system”.

I phoned up the USPTO’s Electronic Business Center, reaching a particular agent whom I will call “Agent AL”. I was given a trouble ticket number of 2-01001251. At the request of Agent AL, I emailed a copy of the DOCX file to Agent AL. Agent AL, who I believe was genuinely trying to be helpful, immediately started telling me where to click in my word processor to make the DOCX file into a kind of DOCX file that would work in Patent Center. By this I mean a DOCX file that would permit me to avoid paying the \$430 penalty.

Agent AL’s first instructions were to do a “Save As”. I said I was looking at my word processor and could not see any “Save As”. I asked what word processor Agent AL was using, and the agent named some particular Microsoft product. I explained that in my firm we don’t use Microsoft word processors, we use Libre Office. Agent AL was unable to tell me how to get my word processor to generate a DOCX file that Patent Center would not puke on.

I then followed the next few would-be workarounds that Agent AL asked me to try. Do a “select all” and pick a single known-to-be-USPTO-acceptable font and save the file using only that font. Which I did, using Times New Roman. Nope, Patent Center puked on the resulting DOCX file. At the request of Agent AL, I repeated the “select all” and forced the entire document to be Arial font. Again, Patent Center puked on the resulting DOCX file.

Agent AL then asked me to copy the entire file and past it into Notepad. (This eliminates nearly all formatting in almost any computer file.) And then Agent AL asked me to copy from Notepad into a new empty document in my word processor, which I did. And then I did what was required to restore some of the most basic formatting, such as the section headings for “claims” and “abstract”. And I exported the file into DOCX. Again, Patent Center puked on it.

Agent AL promised to escalate this defect in the Patent Center system to “the developers” and promised to get back to me well in advance of May 15.

By noon on May 14, I had not yet heard back from Agent AL. So I called the EBC again, reaching an agent that I will call “Agent JA”. We discussed the problem and his conclusion was:

The only other thing I can recommend is just use [Microsoft] Word.

⁴ This is an excerpt from two more-detailed, and same-day contemporaneous accounts, that I posted on my blog at <https://blog.oppedahl.com/usptos-non-docx-surcharge-rears-its-ugly-head-again/>

So what was previously unspoken is what got spoken today — the USPTO only supports patent applications prepared using Microsoft Word.

Agent JA also referred to some unpublished document in which he sees that Patent Center supports different fonts depending on whether the word processing being used is Libre Office or Microsoft Word. He said that the Times New Roman used in Libre Office is different from the Times New Roman used in Microsoft Word. I asked him where this is documented publicly, and he was not able to say where this is documented publicly.

I then escalated to an EBC supervisor. After a long period on hold, I was speaking with a supervisor whom I'll call "RO". I asked her whether she concurs in the advice of Agent JA to "just use Microsoft Word". RO said, and I quote:

I can't answer yes or no as to whether the USPTO supports Libre Office for filing patent applications.

Supervisor RO said she would try to communicate to the DOCX developers to urge them to get back to me about this Patent Center defect.

When my deadline arrived on May 15, I was just barely able to e-file using DOCX, but with no confidence that the USPTO will render it correctly in some months when the USPTO publishes the application, and with no confidence that the USPTO will render it correctly in some years when the USPTO issues the patent.

Another instance

When I posted this story in my blog, a reader responded by explaining an anecdote similar to mine:

I am at least happy to hear that I am not alone – while this problem has occurred only once for us, I had an application that I ultimately could not file as DOCX – after 12 tries to reformat, copy to notepad according to the method you described, replace all fonts and then replace them again, extract the pages of the document that allegedly had the problem and reformat them, etc. None of it worked and I saved every one of the files that the office generated to show me my errant font. I suspect we will fail but since I filed without fees my response to the [missing parts] notice will detail my two hour odyssey in an attempt to secure a waiver of the fee – of course with an authorization to charge the fee if the request is not granted.

Conclusions

DOCX does not work reliably for filing patent applications.⁵ PDF does. The surcharge for filing in PDF should be rescinded. If the PTO wants to retain DOCX as an optional filing vehicle for those that choose to use it, I have no objection. But the DOCX penalty is unwarranted burden.

This entire fiasco arose because the PTO evaded multiple procedural requirements of multiple laws. These procedural requirements exist to ensure that an agency informs itself of all adverse consequences of a regulation, and takes them into account to mitigate them. The PTO evaded each of these requirements, through false claims of exemption, false claims of having complied in the past, by simply skipping them, or by lying:

- The PTO violated OMB Circular A-119 by deprecating PDF and PDF/A, “voluntary consensus standard” that commit to interoperability, and instead choosing DOCX, which is *not* a “voluntary consensus standard” and *not* subject to interoperability commitments.
- As time has progressed, the PTO has placed more and more emphasis on the “auxiliary PDF,” that is a PDF copy of the DOCX filing. That is, to correct for the deficiencies of DOCX filing, the PTO puts greater reliance on “duplicative information” 5 C.F.R. § 1320.5(d)(1)(ii).

⁵ A recent article at IPWatchdog, <https://ipwatchdog.com/2024/03/11/mastering-uspto-docx-formats-ultimate-guide> noted the risk, and stated that the following new steps should be mandatory:

- **Follow the USPTO guidelines** when you prepare your application in DOCX format to avoid errors during the filing process.
- **Save the feedback document** that Patent Center creates when you submit your application. This document may serve as evidence in case of any litigation related to misuse.
- **Submit a supplementary PDF** along with the DOCX filing by 17th January 2024, unless the PTO extends the deadline.
- **Review your submission** a month or two after filing and before the 1-year filing deadline expires to fix any issues that you may have overlooked initially.
- **File your documents early**, so that you and your staff or attorneys can examine the feedback report and take the necessary actions.
- **Compare the documents** to ensure no unintentional changes are there. Mark this is a mandatory step. You must compare the User-submitted DOCX to the USPTO-generated DOCX; the User-submitted DOCX to the USPTO-generated PDF; a User-submitted PDF to the USPTO-generated DOCX; and the User-submitted PDF to the USPTO-generated PDF.

All of these extra saves, extra error checks, and the like are extra burden that have been raised in multiple past letters, and are not booked in the PTO’s April 2026 estimates.

- The PTO has never explained how DOC+PDF filing has any benefit *to the public* over PDF filing alone (or PDF/A filing alone). The entire DOCX rule is entirely regulation in agency self-interest.
- The PTO has consistently misparaphrased public comments in order to answer them directly, entirely simply skipped public comments, or simply lied (see the bullets below). As of June 2026, the PTO has never “Conducted the review required in § 1320.8” and “Evaluated the public comments received under § 1320.8(d) and § 1320.11” as required by § 1320.5(a)(1)(i) and § 1320.5(a)(1)(ii) because the PTO has evaded them.
- This ICR contains no “evaluation of the continued need for such collection,” 5 C.F.R. § 1320.8(a)(1)—agency *need* is satisfied by PDF collection. This ICR identifies no “need for the information and proposed use of the information,” § 1320.5(a)(1)(iv)(B)(3), to compare *mandatory* DOCX filing against pre-2020 PDF filing, or against PDF/A filing. The DOCX rule is regulation in agency self-interest, with no benefit to the public.
- The ICR gives no explanation that “the proposed collection of information: (i) Is the least burdensome necessary for the proper performance of the agency's functions to comply with legal requirements and achieve program objectives” § 1320.5(d)(1)(i). The public explained in several letters⁶ that PDF/A collection is less burdensome; the PTO has never offered any explanation to the contrary.
- This ICR contains no “evaluation of whether (and if so, to what extent) the burden on respondents can be reduced by use of” PDF/A collection, rather than DOCX. § 1320.8(a)(5).
- The PTO’s guidance for DOCX filing has dozens of mandatory requirements that are stricter than regulation—fonts, disallowed features of Microsoft Word, etc. The PTO’s guidance violates President Trumps Executive Order 13892 § 3. Disallowing features of Microsoft Word is inconsistent with the PTO’s representation that the PTO made that it would accept “the DOCX standard.”⁷
- The PTO violated the Administrative Procedure Act several times over by either hiding or misstating facts, and this pattern of evasion implies that the factual underpinnings for the PTO’s Paperwork Reduction Act filings were similarly flawed. For example, in my comment letters, I gave an example of an attempted DOCX filing that gave clearly erroneous results.⁸ In the Final Rule, the PTO claimed “To date, the Office has not received notifications of any issues resulting from the filing of applications in DOCX format.”⁹ That was a lie.

⁶ See letters of Boundy, Oppedahl, Cretsinger, Lake, Feigelson, Neifeld.

⁷ Responses to comments 51, 59, 85 Fed. Reg. 46957-58.

⁸ https://www.uspto.gov/sites/default/files/documents/Comment_Carl_Oppedahl_081219.pdf

- For another example, in the 2020 final rule, the PTO refers to a “yearlong study” four times. The PTO never made that “yearlong study” available during the notice-and-comment period, itself unlawful. Further, the PTO’s representation of the conclusion of the “yearlong study” is simply a lie. In the Final Rule notice, the PTO wrote:¹⁰

EXHIBIT 10A.

Response: The USPTO conducted a yearlong study of the feasibility of processing text in PDF documents. The results showed that searchable text data is available in some PDFs, but the order and accuracy of the content could not be preserved. With DOCX, the Office is able to use the text directly and pass it on to USPTO downstream systems, which results in increased data accuracy and a more streamlined patent process.

The conclusion of the “yearlong study” is 180° opposite the representation in the Federal Register—the study concluded that PDF is “the right approach.”

5.9 CONCLUSION

Although the presented solution has some limitations, it takes the right approach towards achieving the objectives. Limitations may be addressed in the long term by extending the Java application and using future releases of PDFxStream to customize / enhance the product to suit USPTO’s needs.

The PTO’s characterization of the “yearlong study” was a lie.

- In the Final Rule Notice, the PTO claimed “The collection of information involved in this Final Rule have been reviewed and previously approved by the OMB...”¹¹ That was a lie. No such clearance had even been filed, let alone approved. Because the PTO claimed to not need to, the PTO skipped all the procedural steps required by 5 C.F.R. § 1320.8 and .11. The PTO has never performed them all in arrears.

The USPTO has demonstrated repeatedly over five years that it either technologically cannot, or will not, implement DOCX filing with the reliability necessary for patent application filing. Likewise, the USPTO has demonstrated repeatedly over five years that it is willfully institutionally committed to violating the procedural law that would have prevented this fiasco. The ICR should be approved to the extent of *permitting* DOCX

⁹ 85 Fed. Reg. 46956, col. 2

¹⁰ Responses to Comments 51, 56, 65, 67, 85 Fed. Reg. at 46957-59.

¹¹ 85 Fed. Reg. 46985, col. 2.

filing for those that choose to, but refused for 37 C.F.R. 1.16(u), the rule that *penalizes* non-DOCX filing.

Respectfully submitted,

/s/

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