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Setting and Adjusting Patent Fees

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Setting and Adjusting Patent Fees During Fiscal Year 2020

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Comment Eric Wannamaker

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General Comment

Please see comments below in opposition to proposed fees for (1) Non-DOCX Filings, and (2) Annual Patent Practitioner.

(1) DOCX. The stated purpose of incenting use of DOCX can be better achieved by either requiring the use of text pdf's created from word processors, or requiring a common open-source text file format, such as those created by OpenOffice. Practitioners who opt for non-Microsoft products should not be steered to expensive proprietary formats which are updated on a corporate schedule beyond the government's control. Financially, this is a relatively higher burden for solo-practitioners inclined to use innovative or less expensive products, who might have diverse practices (and diverse software needs). These practitioners might otherwise be more inclined to break into and provide useful competition in IP prosecutions. Federal agencies should also not allow themselves to contribute to potential monopolies, such as by financially disincentivizing new market entrants who support common open-source document formats.

(2) Annual practitioner fees. Attorneys already pay local bar association dues and are subject to (and may be referred to) disciplinary processes. This proposed fee might be a relatively low burden for high-hour attorneys focused on a high-volume prosecution-focused practice, as the cost is spread over multiple applications. It will deter some part-time attorneys already working thin overhead margins and those with diverse practices who would otherwise bring high-quality work and be able to increase IP law competition. It is not clear that this market needs a guild or additional barrier-to-entry, and inventors priced out of legal services by a government-installed guild may be more inclined to file pro se which would likely increase inefficiency and use of USPTO resources.