

From: motej
To: [Fee.Setting](#)
Subject: Comments in opposition to the proposed Annual Active Practitioner Fee and proposed surcharge for non-DOCX filings
Date: Tuesday, August 6, 2019 11:39:06 AM
Attachments: [image001.png](#)

I opposed the proposed Annual Active Practitioner Fee. First, I believe that the proposed Annual Active Practitioner Fee is a new fee that is not tied to existing rules and constitutes the type of rulemaking that requires its own proposal, public comment period, and final rulemaking. In other words, it must comply with the normal process of rulemaking required under the Administrative Procedure Act.

I also find the discussion of the justification for the annual fee in the NPRM shallow and unsupported. Instead, it appears the USPTO is acting like “big brother” and seizing an opportunity for big government to engage in unjustified regulation and to extract yet another tax into the USPTO surplus. The social engineering goals implicit in the proposal aside, there simply is no case made for the manner of collecting the payment, different classes of practitioners having different fee requirements, penalties for non-compliance, and options for reinstatement. Finally, we all know that once this fee/tax is imposed, practitioners will be faced with an endless number of increases that will entirely change the dynamic of practicing at the USPTO.

The CLE issue is a completely separate issue and obligations of the bar in remaining up-to-date is reasonable and separate issue from the proposed Annual Active Practitioner Fee. Putting the cost of a pro bono program on practitioners is ridiculous and unfair—if there really is a need for a government mandated pro bono program put the cost on the entire body of tax payers that allegedly benefit from such a program. In any event, there are already pro bono programs operated by schools and ngos that address this so-called need.

I also oppose the proposed surcharge for non-DOCX filings, because the proposed benefits do not appear to justify the costs of the rule and there does not appear to have been consideration of approaches that reduce burdens and maintain flexibility and freedom of choice for the public.

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