

From:
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To:
Mail Stop Comments – Patents
Commissioner for Patents
PO Box 1450
Alexandria VA 22313-1450

Attn: Raul Tamayo, Legal Advisor
Office of Patent Legal Administration

Re: Notice of Proposed Rulemaking (73 FR 45662)
Changes to Practice for Documents Submitted to the United States Patent and
Trademark Office
RIN 0651-AC27
Docket No. PTO-P-2008-0022

Sirs,

Regarding proposed rule §1.52 (minimum font size), I agree that 6-pt or even 8-pt font is ridiculous, particularly when used as the bulk of submitted text. Overall, I agree that the proposed rule is necessary and appropriate. Nevertheless, I believe certain flexibility in the rule should be provided for the following circumstances.

Tables within a patent specification cannot always be made to fit with a readable layout and within the allowed margins when using 0.28cm (12pt) font. A flexible rule is needed in this regard. In particular, the existing minimum text size of 0.21cm (9pt) should be retained for such tables submitted as part of patent specifications, with an encouragement to use 12 pt font or larger when possible.

Likewise, equations may be more readable and understandable when they can fit on a single line, even if the font is made slightly smaller. Also, even when using a 12pt setting, superscripts and subscripts of 12pt text tend to be smaller than the indicated 0.28cm height. The existing minimum text size of 0.21cm (9pt) should be retained for such equations, superscripts and subscripts submitted as part of patent specifications, with an encouragement to use 0.28cm (12 pt) characters or larger when possible.

It is not entirely clear from the rule itself or from the supplementary information in the proposed rulemaking, whether "all papers" also applies to copies of prior art submitted in compliance with applicant's duty of disclosure. The rule should be limited to papers over which the submitter has control over the choice of font size, and it is not always possible to successfully enlarge prior art documents in a usable way. The rule should be suitably flexible

in this regard. In particular, §1.52(a)(3) should be modified to clarify that the provisions do not apply to copies of patents, printed publications or other information in pre-printed form that are submitted with an information disclosure statement; but that applicants are strongly encouraged to ensure that, wherever possible, such submitted copies will remain legible when electronically scanned, e.g., by enlarging such documents or those portions thereof that contain small text. If the PTO views this as a problem, it should even consider printing its own patent documents with suitably larger font as other countries have done.

Sincerely,

A handwritten signature in black ink that reads "Mark Protsik". The signature is written in a cursive, slightly slanted style.

Mark Protsik

P.S.: Although the rulemaking indicated that Internet submissions to AC27.comments@uspto.gov were preferred; after four unsuccessful attempts in which the PTO server returned the e-mail submission as 'undeliverable', I have reverted to submitting these comments by regular mail. If somehow the PTO server message is in error and the email message was in fact delivered, this version should replace any previously sent versions.