

Seventy-four Members of the Patentcenter Listserv

By Priority Mail 9405503699300103672653

Drew Hirshfeld

Performing the functions and duties of the Under Secretary of Commerce for Intellectual Property and
Director of the USPTO

USPTO

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Dear Mr. Hirshfeld:

We write to you as members of the Patentcenter listserv. The Patentcenter listserv is a group of users of the Patentcenter system. Most of us are registered patent practitioners. The signers of this letter, either directly or through their firms or corporations, have paid over seventy-two million dollars to the USPTO in fees over the past ten years. The signers of this letter, either directly or through their firms or corporations, have prosecuted over one-half million US patents to issuance.

Some of the signers of this letter were, at the USPTO's invitation, beta testers of the USPTO's ePave e-filing system, and saw the complete failure of that e-filing system and USPTO's eventual abandonment of that e-filing system.

Some of the signers of this letter were, at the USPTO's invitation, alpha testers of the Patentcenter system upon its launch for alpha testing in 2018. We reported flaws and deficiencies in the Patentcenter system as it appeared in 2018. Other signers of this letter were, at the USPTO's invitation, participants in the private beta test of Patentcenter beginning in 2019, and reported additional flaws and deficiencies. We are disappointed to see that many of the flaws and deficiencies which we reported to the USPTO as long ago as 2018 remain outstanding in the system even now in December of 2021. The signers of this letter continue to report flaws and deficiencies in the Patentcenter system. We continue to be disappointed at the many flaws and deficiencies that remain outstanding in the system.

We are aware of the USPTO's view that its Ideascale system is supposedly a workable system by which users of Patentcenter could report flaws and deficiencies in Patentcenter, supposedly resulting in the USPTO correcting the flaws and deficiencies. This view on the USPTO's part is mistaken. We have reported many dozens of flaws and deficiencies to the USPTO through its Ideascale system from as long ago as 2018 to the present, and in almost no case has any such report resulted in the USPTO correcting the flaw or deficiency. Indeed it appears to us that the strongest indication of the USPTO's real handling of our reports of flaws and deficiencies in Patentcenter during the alpha test may be seen in the USPTO's having simply deleted all of the postings of the alpha testers from public view. It seems to us that the simplest and most accurate characterization of Ideascale is that "Ideascale is where good ideas go to die."

USPTO has also said repeatedly that the only other reporting path that it is willing to accept for flaws and deficiencies in Patentcenter besides Ideascale is the opening of trouble tickets with the Electronic Business Center ("EBC"). We have found the people at the EBC to be unfailingly polite and over the

past three years, they have methodically opened many dozens of trouble tickets at our request relating to bugs in Patentcenter. We understand that it is not the responsibility of the EBC itself to correct the bugs, but instead that the EBC passes along such trouble tickets to others at the USPTO. Our experience is that as a general matter, we do not hear back from anyone at the USPTO in response to most of the trouble tickets. Although a few of the bugs in Patentcenter which we have reported through the EBC have been corrected, the great majority of the bugs that we have reported through trouble tickets at the EBC have not been corrected. Most of the EBC trouble tickets have been outstanding for well over a year with no response from the USPTO and with the reported problem remaining uncorrected.

We have accumulated a list of Patentcenter trouble tickets on a web site. The number of trouble tickets by now exceeds seventy. We have accumulated a list of Patentcenter feature requests on the web site. The number of feature requests by now is at least forty. As best we can see, only at most about six of the trouble tickets have been cleared by the USPTO. Most of the trouble tickets have been outstanding for more than a year. As best we can see, not one of the feature requests has been implemented. In fairness to the USPTO, we have also accumulated a list of good things about Patentcenter, and this list is also provided on the web site. Nothing would delight us more than if this relatively short list could grow longer, perhaps in part as a result of future cooperation between the USPTO and our group of users of Patentcenter.

We find very discouraging the USPTO's repeated refusal to set up any path for two-way communication with our group of Patentcenter users despite our repeated requests over the past year and a half. USPTO regularly communicates in both directions with other groups of users, for example by sending people in person to meetings of the AIPLA and the ABA and INTA and IPO. You yourself recently went in person to attend a meeting of the AIPLA.

We ask that you do the following:

- Direct your Patentcenter developers to identify one or two people from their developer team to subscribe to the Patentcenter listserv to follow the postings. This might sometimes permit those people to pass things along from the listserv to appropriate colleagues on the Patentcenter developer team.
- Direct your developers to formally adopt the Patentcenter listserv trouble ticket page as a "to do" list for trouble ticket action by the developers.
- Direct your developers to formally adopt the Patentcenter listserv feature request page as a place for the developers to receive feature requests for Patentcenter.
- Direct your developers to report back to the people of the Patentcenter listserv each time the developers clear a trouble ticket, referencing the listserv trouble ticket number in the report.
- Direct your developers to report back to the people of the Patentcenter listserv each time the developers implement a feature request, referencing the listserv feature request number in the report.
- Direct your developers to cooperate with the people of the Patentcenter listserv by means of some periodic two-way communications by which the progress with trouble tickets and feature requests may be reviewed.

To summarize, it is clear to us that the USPTO is quite mistaken in any view that its two existing mechanisms (Ideascale and submission of EBC trouble tickets) have been or are satisfactory ways to get flaws and deficiencies in Patentcenter corrected. Some of the flaws and deficiencies which our people have reported to the USPTO through these two mechanisms as long ago as 2018 remain

uncorrected, and most of the flaws and deficiencies which our people have reported to the USPTO through these two mechanisms have been outstanding for well over a year. Those mechanisms just don't work.

If USPTO people can (and do) engage in two-way communication with other groups of practitioners and USPTO customers, then it seems to us that USPTO ought likewise to engage in two-way communication with our group of practitioners and USPTO customers. USPTO's goal of developing a new system (Patentcenter) that will provide all of the functions of EFS-Web and PAIR has a long way to go before it will achieve that goal, and this group was established specifically to assist the USPTO toward that goal. USPTO's goal of correcting flaws and deficiencies in Patentcenter is likewise far off, and this group was established specifically to help the USPTO with that goal as well. We hope the USPTO would realize that it can better serve its own goals by accepting our offers of help rather than by rebuffing them.

Respectfully submitted,

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