


## For the urgent personal attention of Director Vidal and GC Berdan -- DOCX

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To: Kathi <[Kathi.Vidal@uspto.gov](mailto:Kathi.Vidal@uspto.gov)>; Derrick Brent <[Derek.Brent@uspto.gov](mailto:Derek.Brent@uspto.gov)>; David Berdan <[david.berdan@uspto.gov](mailto:david.berdan@uspto.gov)>

 4 attachments (952 KB)

2022-12-23 Letter to Vidal re DOCX.pdf; Test B -- mangle claims.docx; Test B -- mangle claims-APP.TEXT.pdf; Test C -- standard features.docx;

Dear Director Vidal, Deputy Director Brent, and GC Berdan --

Attached is an urgent letter with 117 co-signatories regarding the PTO's upcoming DOCX requirement.

The issues raised in this letter cannot be delegated—they require the personal attention of GC Berdan and at least one of Director Vidal and Deputy Director Brent.

By the Freedom of Information Act, we obtained documents demonstrating misconduct by your senior career staff, including objectively false statements to *ex parte* tribunals. The DOCX rulemaking was compromised by multiple violations of the Administrative Procedure Act, Paperwork Reduction Act, Commerce Department regulations, and a directive from President Biden. Almost all of these issues have been raised in public comment letters; it appears that both your legal and IT staff have been whitewashing fundamental engineering mistakes by failing to produce documents at the time required (we got them by FOIA and back channels), misparaphrasing the comments to avoid fair answers, misinforming *ex parte* tribunals, hiding errors, and stonewalling. Your staff have been less than candid with the public. Your legal staff have been less than candid with OMB and SBA. Reports we get from others who have discussed this with you suggest that your staff have likely been less than candid with you.

We request a six-month stand-down on the PTO's upcoming DOCX requirements: maintain the 2022 *status quo*, allowing applicants to file either DOCX or PDF with no penalty through June 2023. Complete rescission is a discussion we can save for 2023.

Twice I've been seated next to a Federal Circuit judge for dinner; both used the term "bureaucratic cheating" to describe the PTO. They're on to it. It's time to fix it.

We hope that the signatories alone will warrant a careful reading—signatories include a former member of PPAC, a former member of the AIPLA Board, a person who was an invited panel moderator at the Federal Circuit Judicial Conference for a presentation to the court on rulemaking law. Signatories of this letter have successfully quashed past rules for violations of law less severe than here.

Of course, we're happy to discuss further. You may reach me as a first point of contact, (646) 472-9737.

David Boundy

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