



UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE OF THE GENERAL COUNSEL

April 06, 2022

VIA E-MAIL

PTAAARMIGAN LLC
P.O. Box 590372
Newton, MA 02459
PTAAARMIGAN@PTAAARMIGAN.ORG

Re: Request for Clarification
Freedom of Information Act (FOIA) Request No. F-22-00092

Dear Ptaarmigan LLC:

The United States Patent and Trademark Office (USPTO) FOIA Office has received your e-mail dated, March 25, 2022, requesting a copy of the following documents pursuant to the provisions of the Freedom of Information Act, 5 U.S.C. § 552

Please provide all records relating to this “yearlong study.” To the degree they were available on the USPTO’s web site, or on another Federal Government website, as of Aug. 2, 2020, identification by URL is sufficient. This request includes the following, insofar as they relate to the “yearlong study”:

- a. all considerations of “implementation defined” parameters of Standards ECMA-376 and ISO/IEC 29500;
- b. all consideration of optional plug-ins used by patent attorneys, agents, and applicants;
- c. all documents defining any subset of ECMA-376 the USPTO proposes to support;
- d. all documents defining methodology, study design, and assumptions;
- e. any contracts with third parties to conduct the “yearlong study,” and instructions to such third party;
- f. any survey instrument directed to any member of the public;
- g. any survey instrument directed to agency staff;
- h. any statistical compilation of survey responses;
- i. all underlying data collected in support of the “yearlong study;”
- j. any mathematical or computer models (these should be produced in native form—such as spreadsheets, not as PDF captures of the spreadsheets);
- k. all documents stating assumptions, intermediate findings, conclusions, reservations on the conclusions for the “yearlong study,” and the like;

1. any comparisons to, or analyses of, WIPO's ePCT or inquiries to WIPO relating to PDF or DOCX as a filing medium;
- m. any disclosure to the public of this "yearlong study" and its underlying support; Freedom of Information Act Request for DOCX "Yearlong Study"
- n. any request for comment on the "yearlong study" published by the USPTO, before or concurrent with either the July 2019 Notice of Proposed Rulemaking or the August 3, 2020 Final Rule notice; and documents sufficient to identify:
 - o. alternatives considered, and conclusions as to all alternatives rejected;
 - p. what variables and attributes of PDF and DOCX were studied, and weight or importance assigned to each;
 - q. any null hypothesis and all statistical methods used to reject or confirm that hypothesis;
 - r. any comparative study of the reliability of, or feasibility of, processing text from DOCX documents.
2. Please provide all communications with OMB or OIRA relating to the DOCX rule. This includes any communications relating to any regulatory review under any executive order, or any ICR or other filing, between July 1, 2016 and March 30, 2022, purporting to cover information collections contained in the DOCX rule. If the USPTO has never sought clearance under the Paperwork Reduction Act or Information Collection regulation for the DOCX rule, it is sufficient to so state.
3. Please provide any objective support for any estimate of burden provided to OIRA for the DOCX rule.
4. Please provide any communications, including any supporting documents, with the Small Business Administration relating to regulatory flexibility analysis or approval for the DOCX rule.

As a corollary to the "reasonably described" inquiry, courts have held that agencies are not required to conduct wide-ranging, "unreasonably burdensome" searches for records.

Your request, as written, is a request without any reasonable parameters and extremely overbroad. "all consideration of optional plug-ins, all documents defining any subset of ECMA-376, all documents defining methodology, study design, and assumptions, any contracts with third parties to conduct the "yearlong study etc." Presumably, this request includes every invention, every contract, every study etc. at the USPTO. This request must be narrowed and further clarified. The courts have held that agencies are not required to conduct-wide ranging, "unreasonably burdensome "searches for records. AFGE v. U.S. Dep't of Commerce, 907 F.2d 203, 209 (D.C. Cir. 1990) (holding that "while [plaintiff's requests] might identify the documents requested with sufficient precision to enable the agency to identify them . . . it is clear that these requests are so broad as to impose an unreasonable burden upon the agency," because agency would have "to locate, review, redact, and arrange for [the] inspection [of] a vast quantity of material");

Your request does not provide sufficient information to permit the agency to formulate a reasonable search for responsive documents. You are free to submit a revised FOIA request that

more adequately describes a record or set of records that you are seeking. Please be advised this is not a denial of your request. Please resubmit your request containing a reasonable description of the records you are seeking. Failure to respond within ten (10) days of the date of this letter will result in the administrative closure of this file.

Sincerely,

A handwritten signature in black ink, appearing to read 'KES', with a long horizontal line extending to the right.

Karon E. Seldon
USPTO FOIA Specialist
Office of General Law