



**National Association of Patent Practitioners**

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**Drew Hirshfeld**

Commissioner for Patents

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United States Patent and Trademark Office (USPTO)

U.S. Department of Commerce

Dear CIO Holcombe and Commissioner Hirshfeld:

The National Association of Patent Practitioners (NAPP)<sup>1</sup> would like to thank you personally, and the USPTO collectively, for the efforts undertaken to improve the accessibility of patent data over the years. Providing tens of thousands of practitioners access to millions of patents and associated data is a monumental task. While NAPP understands the magnitude of your charter, many NAPP members have recently encountered IT-related issues with various USPTO systems that we wish to bring to your attention. Particularly, NAPP would like to call your attention to the specific issues described below.

**IT-RELATED ISSUES EXPERIENCED BY NAPP MEMBERS**

**I. PAIR IS OFTEN SLOW, “BUGGY,” AND NONRESPONSIVE**

In recent months, many of our members have expressed concerns that the PAIR systems—both Private and Public PAIR—have errors, operate slowly, and/or are failing to respond at all. Because these issues seem to coincide with the USPTO’s separation of various Public and Private PAIR data, it is our speculation that these and other recent IT-related changes implemented by the USPTO have increased the load on these systems. It is therefore our suggestion that steps be taken to increase the capacity for web traffic across these platforms.

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<sup>1</sup> NAPP is a nonprofit organization dedicated to supporting patent practitioners and those working in the field of patent law in matters relating to patent prosecution. NAPP provides its members networking opportunities, knowledge related to patent practice, and through its Government Affairs Committee, a voice to the larger patent community. The focus of NAPP is to foster professionalism in the patent practitioner community and to aid patent agents and patent attorneys in staying current in matters relating to practice before the USPTO.

Some examples of PAIR issues that NAPP members are experiencing include:

- An application number of a published application can be accurately entered by a user,<sup>2</sup> but PAIR will erroneously respond that the application is unavailable—e.g., that the application number is incorrect or that an application is not published when a practitioner is staring at the publication.
- The system consistently responds that it is too busy for a request.
- Access to the system frequently times-out after a long wait by a hopeful practitioner.
- Once access is duly granted, the system times-out without warning.
- A typographical mistake made in entering an application number can cause the system to crash and become nonresponsive, requiring sign-off of the authenticated session, rather than informing the practitioner of the incorrect application number and prompting for a new entry.

## **II. EFS-WEB ISSUES**

Similar to the PAIR issues described above, many NAPP members have expressed concerns with IT issues regarding the functionality of EFS-Web. Some examples of EFS-Web issues that NAPP members are experiencing include:

- EFS-Web fails during a critical moment in the filing of an application or communication.
- EFS-Web is outright unresponsive.
- Once access is duly granted, the system times-out without warning.

## **THE MATERIAL IMPACT OF IT-RELATED ISSUES ON NAPP MEMBERS**

The IT-related issues described herein may seem trivial, but they can be extremely disruptive to practitioner workflows. Various tasks that were previously conducted efficiently and expeditiously can now become quite the ordeal—adding frustration and stress. This added stress is compounded for patent practitioners that are generally (and rightfully) extremely concerned with filing dates and deadlines. By way of example, a nightmare scenario for many of our members involves missing a filing date or deadline because of a USPTO system failure, which may be curable, but the real-life impact on a practitioner can still involve the loss of income, the loss of a client, or the threat of a malpractice lawsuit.

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<sup>2</sup> The application number can be copied/pasted directly from a publication; eventually, the same copying/pasting operation may successfully retrieve data, reinforcing that the application was first entered correctly.

NAPP can attest that the aforementioned USPTO IT-related issues have adversely affected the bottom-line of many NAPP members (and our clients—your valued inventors and applicants) due to wasted time. That is, attempting to reenter the system multiple times and/or tediously re-checking application numbers that are in fact entered correctly is not only maddening, it has tangible effects on NAPP members’ bottom line and mental health. Our clients’ projects can take measurably longer than they should, causing trivial tasks to hinder more important, substantive work. In this manner, the aforementioned USPTO IT-related issues are detrimental to many NAPP members’ effectiveness as practitioners.

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We believe that the aforementioned USPTO IT-related issues are not unique occurrences, especially since the implementation of the USPTO’s recent IT-system changes. Many frustrated patent practitioners, both NAPP members and non-NAPP members, have simply considered these issues to be “part of the job” without reporting their concerns.

However, we at NAPP know that the USPTO can and will do better. Therefore, we are hopeful that the USPTO will devote sufficient resources to alleviate, repair, or otherwise correct the aforementioned IT-related issues. NAPP recognizes that some of these issues have been brought to the USPTO’s attention from various data-gathering service providers and the like. However, NAPP would like to emphasize that these IT issues also adversely affect the everyday patent practitioner, i.e., the average NAPP member.

As a further suggestion, the USPTO may want to consider implementing a way to receive and record feedback on the workings of its various IT systems. For example, an ongoing chatboard or the like would allow, in near real time, a practitioner to describe any issues. If such a chatboard were monitored by USPTO personnel, these issues could potentially be resolved quickly. Further, such a chatboard could inform other practitioners of troubleshooting solutions.

As a disclaimer, while the comments herein may reflect the views of various practitioners (including non-NAPP members and trademark practitioners), these comments are only meant to reflect the experiences of NAPP members. Further, NAPP members experiencing the issues described herein have taken measures to ensure that these are not end-user IT issues (such as browser selection, faulty software or hardware, etc.).

NAPP recognizes that the examples and issues described in this letter may seem anecdotal, but many of our members have expressed identical concerns that lead us to believe that these issues are systemic in nature. We would be happy to provide survey data of our membership if it would be helpful to resolve these issues.

NAPP hopes that this feedback is helpful to the USPTO for improving its systems. As always, NAPP looks forward to future discussions with the USPTO and appreciates the opportunity to comment.

Sincerely,



Dr. Daniel J. Krueger, Esq.

President of the National Association of Patent Practitioners

-and-

The NAPP Government Affairs Committee:

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