

From PLI's Course Handbook
2nd Annual Patent Law Institute
#14506

30

THE NEW AGE OF ELECTRONIC
PATENT FILING FROM A – Z:
THE PATENT SIDE GOES PAPERLESS

Leonard Richard Svensson
Birch, Stewart, Kolasch & Birch, LLP

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THE NEW AGE OF ELECTRONIC PATENT FILING FROM A – Z:

THE PATENT SIDE GOES
PAPERLESS



OVERVIEW OF PRESENTATION

- Benefits of Using Electronic Systems
- Available USPTO Systems
- Potential Dangers and Pitfalls

Benefits to Electronic Filing

- ❖ Courier Costs/Express Mail
- ❖ Copy charges
- ❖ Filing Fees
- ❖ Private PAIR access
- ❖ E-Receipts
- ❖ Application Numbers
- ❖ Speeds up Prosecution
- ❖ File Request for Accelerated Examination via EFS
- ❖ File an ADS with your new application filing, the application data is directly uploaded into the U.S. PTO system
 - ❖ Application prosecution delays will be reduced
 - ❖ Accurate bibliographic data will be in a patent application publication
- ❖ Ability to file anywhere and anytime with an internet connection

EFS – WEB

- **What is EFS?**

File patent applications and documents directly with the U.S. PTO. Web-based system, no additional software or tools necessary.

- **What documents?**

YES = Accelerated Examination, New Utility, Provisional, Design, National Stage 371 Applications, Design Reissue, Utility Reissue, Reexam, Design with Color Drawings, and International PCT Applications.

Follow-on documents and fees such as Amendments, Sequence Listings Information Disclosure Statements, Pre-grant publications, Petition to Accept Unintentionally Delayed Payment of Maintenance Fees in an Expired Patent and Issue Fee payments.

NO = Certified Priority Document, Maintenance Fees, Credit Card Authorization Forms, New Plant Applications or Color Plant Drawings, and Assignments (should use EPAS).

When Can I file

When can I file? Monday-Friday 6 am – 12 midnight (Eastern Time) and Saturday-Sunday 10 am –6 pm 1-866-217-9197

New Applications – 24 hours a day, 365 days a year

Follow-on filings – 23 hours a day, 365 days a year
(unavailable 4:30am-5:30am, Eastern Time)

Fee Payments – (unavailable every Sunday Midnight-4am,
Eastern Time)

Registered vs Unregistered Users

Registered Users hold a public key infrastructure (PKI) certificate and a Customer Number. This enables them to use Private PAIR, E-file new applications and E-file follow-on documents.

Unregistered Users can not view submissions in Private PAIR and can e-file applications only. They can not E-file follow-on documents.

You may still E-file using the correspondence address but you will not be able to view your submission in private PAIR.

Training? Contact EFS.Training@USPTO.gov

Registration – How?

Fill out a customer number request form and fax it to the EBC at 571-273-0177.

http://www.uspto.gov/web/forms/sb0125_fill.pdf

Associate your current patent applications to your new customer number.

http://www.uspto.gov/ebc/documents/cust_req_instructions.xls

The USPTO issues PKI certificates to registered patent attorneys, registered patent agents, independent inventors and limited recognition practitioners.

Fill out a Certificate Action Form.

<http://www.uspto.gov/ebc/documents/certificateactionform.pdf>

Have the form notarized and mail it to the EBC.

The EBC will then provide you with an authorization code, reference number and instructions for set up.

Getting Started

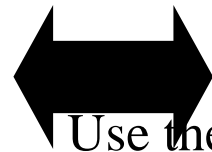
*Lets submit
an
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for a Utility
Application
previously
filed.*

Prepare your documents and save/scan them as PDF documents.

Use my Forms?
fillable forms?

Information DOES NOT
directly feed into PALM
and PAIR

Convenience
of using your
own forms



Use the PTO's

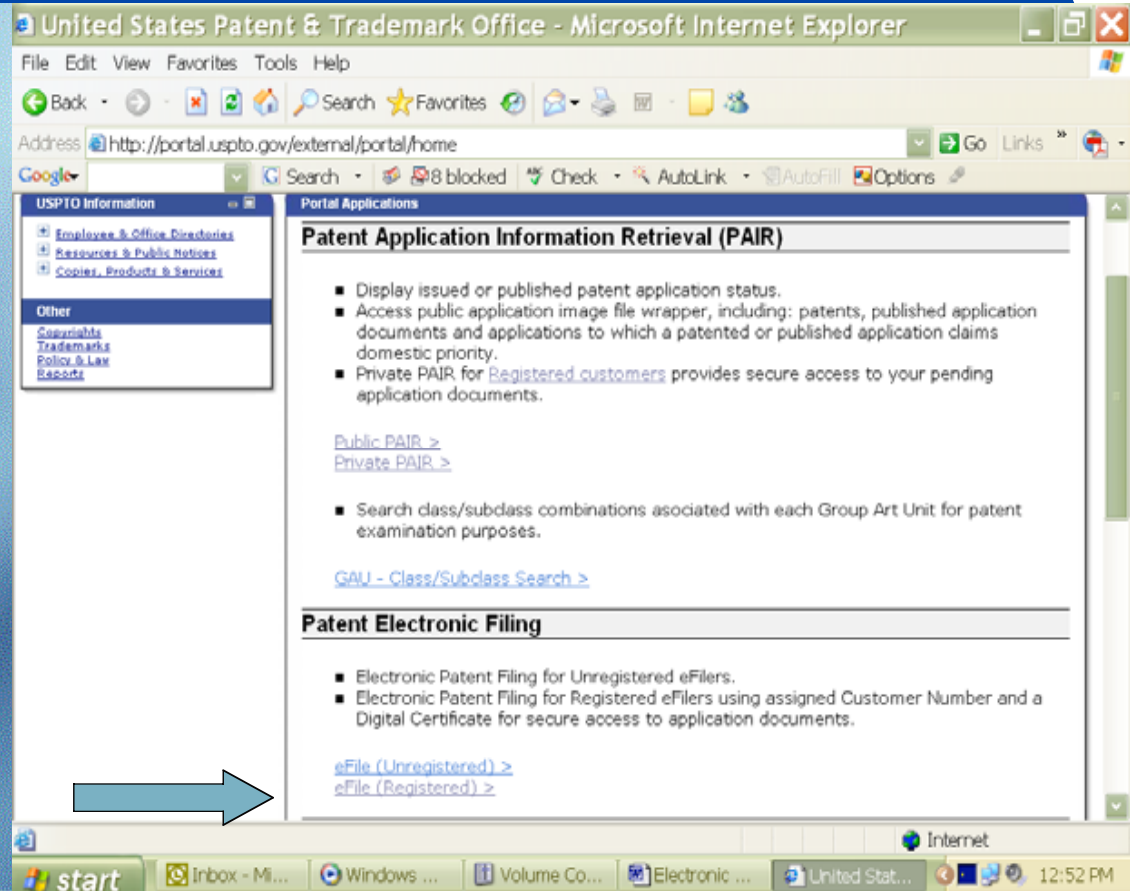
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feeds into PALM and
PAIR

Improves
Accuracy of
Data

Our Firm's Process




- Prepare your documents in IPDAS pursuant to the firm's standing procedures using the deposit account. Save the documents in Word format to the appropriate folder corresponding to your file.
- Give documents to the Attorney for review and signature.
- Scan each signed document as a PDF document.**
- Open a new folder titled "e-file" under the client/matter folder.
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- If you have a single PDF file with multiple documents, you will need to index them separately for the USPTO's Image File Wrapper

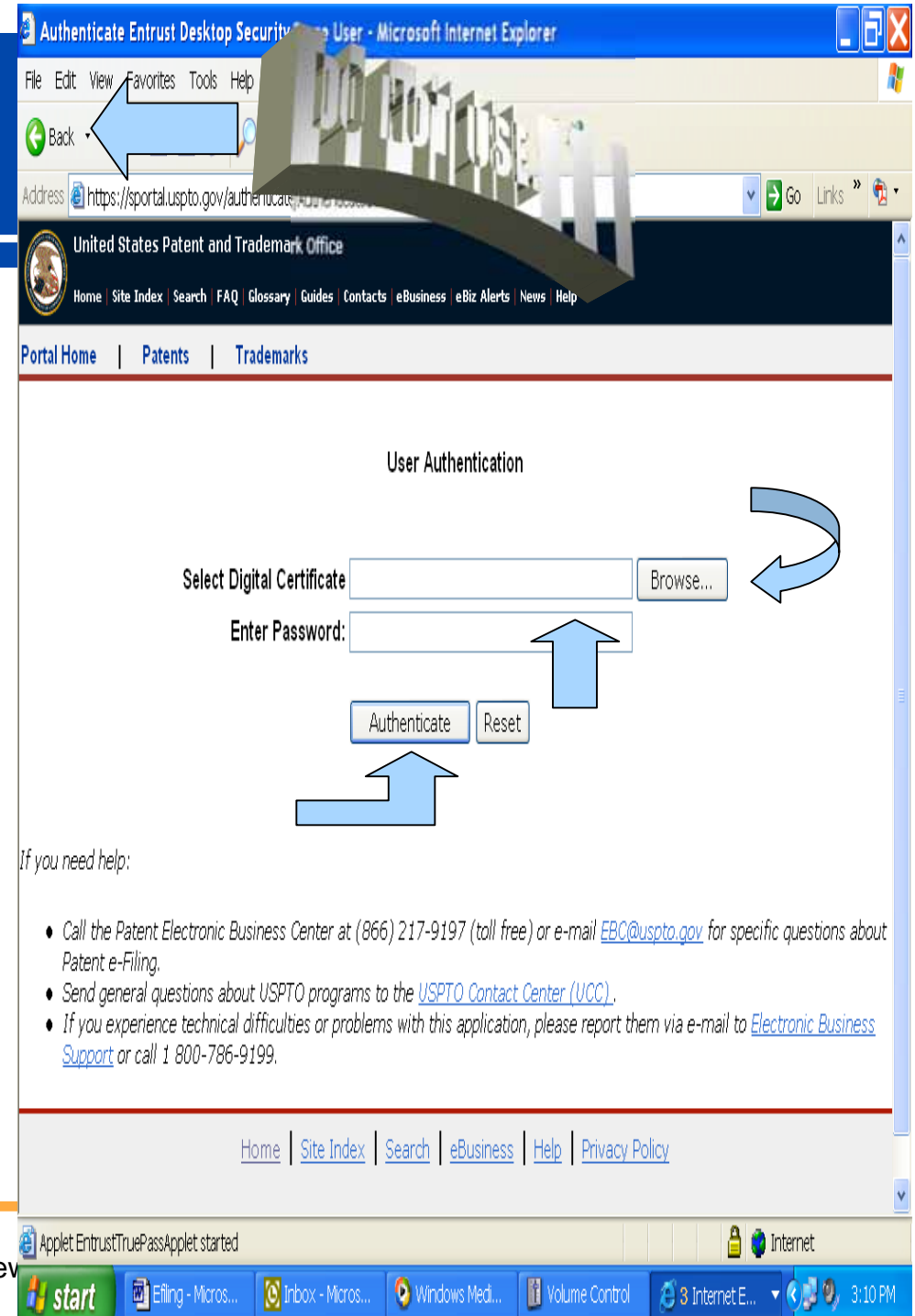
*You may also file electronically via an e-signature.



Select "eFile-Registered" from the portal applications screen, section "Patent Electronic Filing".

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-  **DO NOT USE BACK BUTTONS, ONLY USE THE TABS AT THE TOP OF THE SCREEN.**
-  **Log in using the Attorney's profile and password.**
-  **Enter the password and select "Authenticate".**



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- Call the Patent Electronic Business Center at (866) 217-9197 (toll free) or e-mail EBC@uspto.gov for specific questions about Patent e-Filing.
- Send general questions about USPTO programs to the [USPTO Contact Center \(UCC\)](#).
- If you experience technical difficulties or problems with this application, please report them via e-mail to [Electronic Business Support](#) or call 1 800-786-9199.

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Applet EntrustTruePassApplet started

start E-filing - Micros... Inbox - Micros... Windows Medi... Volume Control 3 Internet E... 3:10 PM

- When working under your Attorney's authority, you must certify your status, provide your name and e-mail address (mailroom@bskb.com) and indicate if this is a new or existing application then Select "Continue".

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A submission has not been filed officially at the USPTO until the e-filer executes the Submit function and the documents are received at the USPTO. The Acknowledgement Receipt is evidence of this submission.
All items denoted by * are required.

Your Digital Certificate has been authenticated - please certify your identity:

I certify that I am the certificate holder Kathryn Van Overschelde Test

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The following information is required if you are not the recorded holder of the digital certificate.

* Your First Name

* Your Last Name

If you select “Existing Application”, you will be prompted to enter the Application Number and the Confirmation Number and Select “Continue”.

The screenshot shows the United States Patent & Trademark Office eFiling portal in Internet Explorer. The browser address bar shows the URL: <https://portal.uspto.gov/secure/myportal/efi-registered>. The page title is "United States Patent & Trademark Office".

The main content area is titled "*Main Functions" and contains the following options:

- New application
(This includes new filings of continuation, divisional, and continuation-in-part applications. A request for continued examination (RCE) and continued prosecution application (CPA) are considered existing documents and must be filed as a registered eFiler.)
- Existing application/patent

Under "Existing application/patent", there is a section titled "Select Type of Existing Application" with the following options:

- Documents/Fees for an existing application
(A request for continued examination (RCE) and continued prosecution application (CPA) are considered existing documents)
- Petition under 37 CFR 1.378(c)
- Pre-Grant Publication under 37 CFR 1.211 to 1.221

Below these options, there are two input fields:

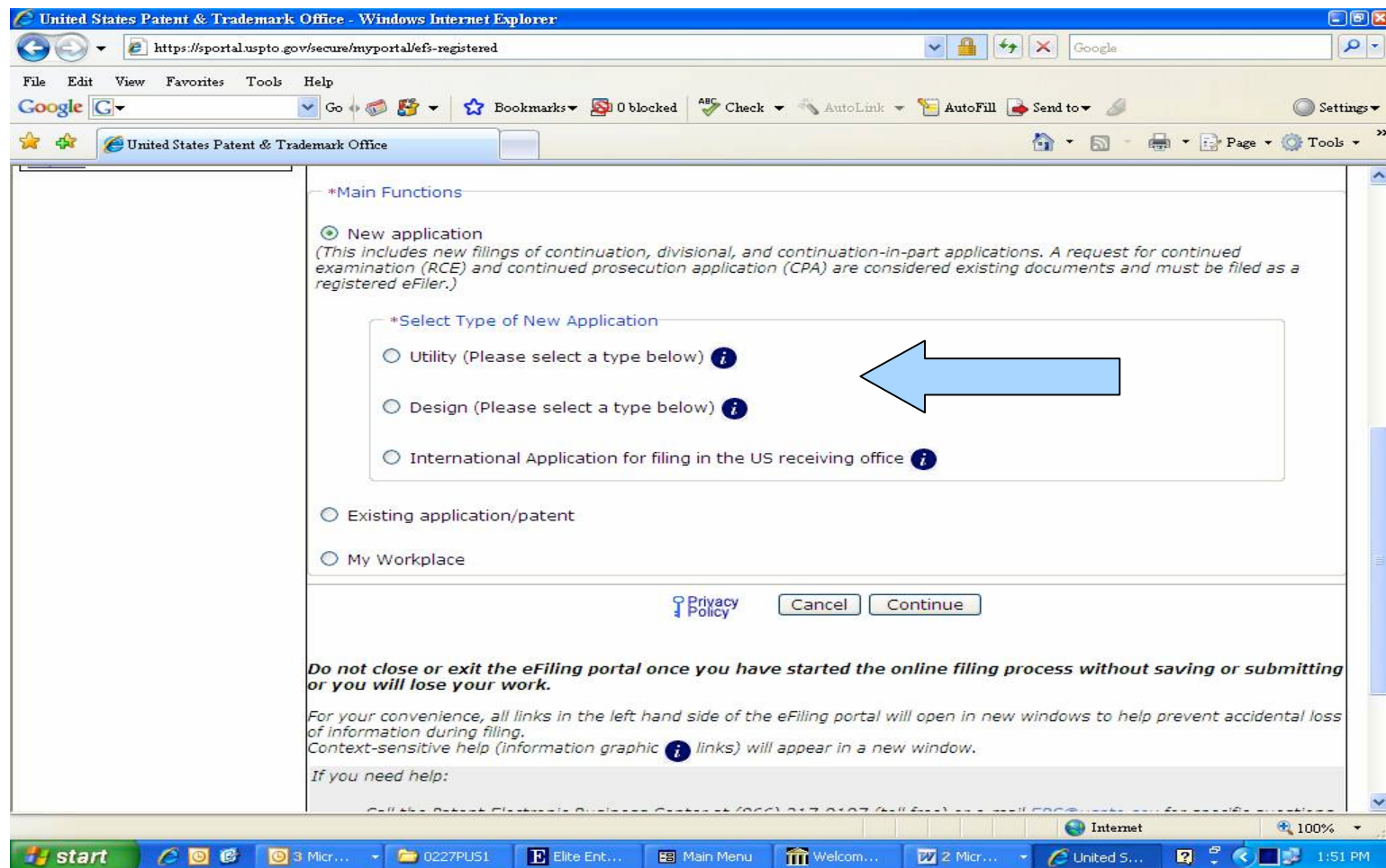
- *Application Number: 1234568 (EXAMPLE: 99999999 , 99/PCT/USYY/99999)
- *Confirmation Number: 1234 (EXAMPLE: 1234)

At the bottom of the form, there are two buttons: "Cancel" and "Continue". A blue arrow points to the "Continue" button.

At the bottom of the page, there is a warning: "Do not close or exit the eFiling portal once you have started the online filing process without saving or submitting or you will lose your work."

The Windows taskbar at the bottom shows the start button, several open applications, and the system clock showing 1:51 PM.

If you select “New Application”, you will then be prompted to select a type of new application.



Your case specific information will appear.
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➔ I have no documents for this filing, please continue to [Calculate Fees](#).

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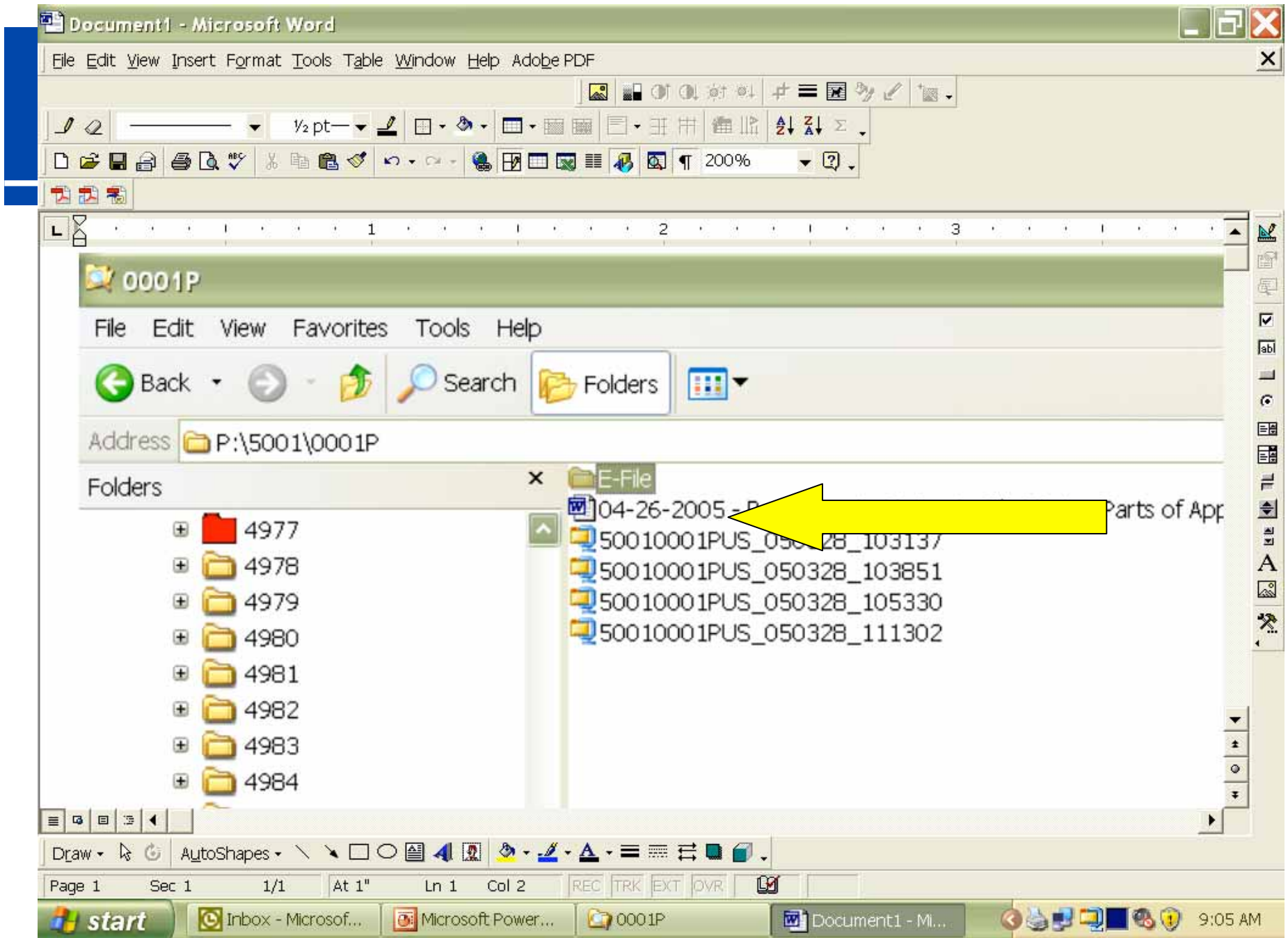
Title of Invention	John Doe Machine
First Named Inventor	John Michael Doe
Customer Number or Correspondence Address	12345 OR John M. Doe Jane Doe 123 Some Street Somewhere AL 12345 US 123-456-7890 jdoe@email.com
Filed By	John Doe
Attorney Docket Number	ABCDEF123456
Application Type	Design OR Utility OR Provisional OR U.S. National Stage under 35 USC 371

If your PDF file contains multiple parts, check the *Multi-Doc* checkbox and choose the appropriate

Files to be Submitted	Multi-Doc	Category	Document Description
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Done, but with errors on page. Internet

start Efling - Mi... Inbox - Mi... Windows ... Volume C... 2 Intern... Adobe Acr... 3:34 PM



ATTACHING DOCUMENTS (Single PDF)

Browse and select the PDF file to be submitted from the appropriate p:/client/matte “E-file” folder corresponding to your file. Enter the document category and description for the file or its parts. If you need to attach additional documents, click ‘Add Document’ or “Add Parts” and repeat these steps.

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This is the application data associated with your filing. If any information is incorrect, please edit the [Application Data](#)

Title of Invention	Test
First Named Inventor	Test Test
Customer Number or Correspondence Address	00059
Filed By	Kathryn Van Overschelde Test
Attorney Docket Number	

Application Type Utility

If your PDF file contains multiple parts, check the *Multi-Doc* checkbox and choose the appropriate document descriptions.

Files to be Submitted	Multi-Doc	Category	Document Description
1	<input type="checkbox"/>	Amendment	

Privacy Policy Cancel Upload & Validate Add Document

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Title of Invention: test
 First Named Inventor: John Patent
 Customer Number or Correspondence Address: 00059
 Filed By: Kathryn Van Overschelde Test
 Attorney Docket Number:
 Application Type: Utility

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Files to be Submitted | Multi-Doc | Category | Document Description

1 | Browse | |

Category	Document Description	Page Start	Page End
Application Part			
Application Part			

Add Part | Add Document

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- For example, a patent application PDF file may contain a specification, claims, abstract, and drawings that should be listed as separate documents.
- Browse and select the PDF file to be submitted.
- Indicate whether the PDF file has multiple documents by clicking the 'Multi-Doc' check box.
- Enter the category and the document description for the file or its parts.
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Amendment is a Multiple PDF

The screenshot shows a Microsoft Word document titled "Document12 - Microsoft Word". The document content is a form for submitting a PDF. The form includes a header section with the text: "If your PDF file contains multiple parts, check the *Multi-Doc* checkbox and check document descriptions." Below this is a table with columns: "Files to be Submitted", "Multi-Doc", "Category", and "Document Description". The first row shows a file path: "I:\Whet\20060704Amendment.pdf" and a "Browse..." button. Below the table is a checkbox question: "Does your PDF file contain multiple documents?" with "Yes" selected. At the bottom, there is a table with columns: "Category", "Document Description", and "Page Start".

Files to be Submitted	Multi-Doc	Category	Document Description
1 I:\Whet\20060704Amendment.pdf <input type="button" value="Browse..."/>	<input type="checkbox"/>		

Does your PDF file contain multiple documents? Yes No

Category	Document Description	Page Start
Amendment	Amendment - After Non-Final Rejection	1
Application Part	Specification	2
Application Part	Claims	7
Amendment	Applicant Arguments/Remarks Made in an Amendment	11

Amendment plus accompanying documents

Document4 - Microsoft Word

File Edit View Insert Format Tools Table Window Help Adobe PDF

Normal Times New Roman 12 B I U

1/2 pt

100%

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Files to be Submitted	Multi-Doc	Category	Document Description
1 I:\Whet\20060704Amendment.pdf <input type="button" value="Browse..."/>	<input checked="" type="checkbox"/>		
Does your PDF file contain multiple documents? <input checked="" type="radio"/> Yes <input type="radio"/> No			
Category	Document Description	Page Start	Page End
Amendment	Amendment - After Non-Final Rejection	1	1
Application Part	Specification	2	6
Application Part	Claims	7	10
Amendment	Applicant Arguments/Remarks Made in an Amendment	11	15
<input type="button" value="Add Document"/>			
2 I:\Whet\20060704FeeTransmittal.pdf <input type="button" value="Browse..."/>	<input type="checkbox"/>	View All Categories	Fee Worksheet (PTO-875)
Does your PDF file contain multiple documents? <input type="radio"/> Yes <input checked="" type="radio"/> No			
3 I:\Whet\20060704Petitionof EOT.pdf <input type="button" value="Browse..."/>	<input type="checkbox"/>	View All Categories	Extension of Time
Does your PDF file contain multiple documents? <input type="radio"/> Yes <input checked="" type="radio"/> No			

Page 1 Sec 1 1/1 At 1" Ln 1 Col 1 REC TRK EXT OVR

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- Once you have selected “Upload and Validate”, your submission will immediately be checked for compliance and you will be notified of any errors/warnings at this point.
- Types of Errors:



*Yellow triangles =
warning*



*Red triangles =
Error found*



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0060316Amendment

FEES

IF YOU DO NOT HAVE FEES CORRESPONDING TO YOUR FILING, CLICK 'CONTINUE'.

- You now will be prompted to pay the appropriate fees.
- You must indicate the business size (large or small entity) and select all applicable filing fees. Click 'Calculate' to see fees and double check the fees against your fee transmittal documents. The fees should match (on-line fees and IPDAS generate form). 'Continue' to proceed to the next section.

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Calculate Fees

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Failure to pay these fees on filing a new application will result in a surcharge. See [37 CFR 1.16 \(f\) and \(g\)](#).

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Select business size: Large Entity Small Entity [?](#)

Fee Calculator

Total Fees Due: \$ 300

Utility Patent Application Filing Fees (select all that apply)

	<input checked="" type="checkbox"/> Filing	<input type="checkbox"/> Search	<input type="checkbox"/> Exam	
Amount	\$300	\$500	\$200	
Fee Code	1011	1111	1311	Sub-Total \$ 300

Application Fee Size - Number of Pages in the Specification and any external tables [?](#)

* .75 = - 100 = / 50 = * \$ 250 = Sub-Total \$

Claims (select all that apply)

Total Claims	<input type="text" value="15"/> - 20 = <input type="text" value="0"/>	* \$ 50 = \$ <input type="text" value="0"/>
Independent Claims	<input type="text" value="0"/> - 3 = <input type="text" value="0"/>	* \$ 200 = \$ <input type="text" value="0"/>
<input type="checkbox"/> Multiple Dependent Claims(\$360)		= \$ <input type="text" value="0"/> Sub-Total \$ <input type="text" value="0"/>

Miscellaneous Filing Fees: (select all that apply)

<input type="checkbox"/> Non-English Specification (\$ 130)	
<input type="checkbox"/> Publication Fee for early, voluntary or normal publication (\$ 300)	Sub-Total \$ <input type="text" value="0"/>

Petition Filing Fees (select all that apply)

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- If this is a non-extendable deadline (XXX or new application) then you need to get a checker to examine your on-line package. Accordingly, click on “Save for Later Submission”.

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[Save for Later Submission](#)

This is the application data associated with your submission. If any information is incorrect, please edit the [Application Data](#)

Title of Invention	John Doe Machine
First Named Inventor	John Michael Doe
Customer Number or Correspondence Address	12345 OR John M. Doe Jane Doe 123 Some Street Somewhere AL 12345 US 123-456-7890 jdoe@email.com

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EFS ID	1007694	You may take the following actions: Print Record Save Record File Another Application Exit
Saved Date	17-NOV-2005	
Title of Invention	John Doe Machine	
First Named Inventor	John Michael Doe	
Customer Number or Correspondence Address	12345 OR John M. Doe Jane Doe 123 Some Street Somewhere AL 12345 US 123-456-7890 jdoe@email.com	
Filed By	John Doe	

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[PTDL Program](#)

Patent Searches

123-456-7890
jdoe@email.com

Filed By John Doe

Attorney Docket Number ABCDEF123456

Application Type Design OR Utility OR Provisional OR U.S. National Stage under 35 USC 371

This is the fee data associated with your submission. If the following amount is incorrect, please edit the [Fee Calculation](#)

Total Fees Due: \$ 900

To Review a Document, please click on the document name.

Files to be Submitted	Page Count	Document Description	File Size	Validation Status	Message
Filename4.pdf	3	New or Additional Drawings	284837 byte	Pass	Remove
fee-info.pdf	2	Fee Worksheet (PTO-875)	6915 byte	Pass	Remove

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Finalizing

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Unregistered eFilers

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Pay Fees

Receipt

Congratulations! You are ready to pay fees associated with your submission.

15:07:35 Eastern Time on 17-NOV-2005 You have submitted your application files and an Acknowledgement

The following is NOT an *Acknowledgement Receipt*, but is provided for your information.

The following identification numbers are associated with your submission.


Application Number	11607376
Confirmation Number	8787
EFS ID	1007693


The following fees are due.

Total Fees Due: \$ 300

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- Or via an Electronic Funds Transfer

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Review fees and select payment method review fees make payment fee receipt

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This is the application for which you are paying fees.

EFS ID	1000018
Application Number	59967008
Confirmation Number	1010
Title of Invention	test
First Named Inventor	test test
Customer Number or Correspondence Address	00059
Filed By	Kathryn Van Overschelde Test
Attorney Docket Number	
Application Type	Utility

The following fees will be collected for this application.

Fee Description	Fee Code	Quantity	Fee Amount	Fee Total
Utility application filing	1011	1	300	300
Utility Search Fee	1111	1	500	500
Utility Examination Fee	1311	1	200	200

Total Payment \$ 1000

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Charge Credit Card

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 Enter Deposit Account Access Code
 Click "Choose an Authorized User for this Deposit Account".

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Your Acknowledgement Receipt (evidence of this submission) will be provided upon completion of this payment transaction, or, upon choosing to not pay at any time during the payment process.

Enter USPTO Deposit Account Information (all items are required):

* Deposit Account Number

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Choose an Authorized User for this Deposit Account

NO - I do not wish to use Deposit Account:

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EFS ID	1000018
Application Number	59967008
Confirmation Number	1010
Title of Invention	test
First Named Inventor	test test
Customer Number or Correspondence Address	00059
Filed By	Kathryn Van Overschelde Test
Attorney Docket Number	
Application Type	Utility

The following fees will be collected for this application:

Fee Description	Fee Code	Amount		
Utility application filing	1011	300		
Utility Search Fee	1111	500		
Utility Examination Fee	1311	200	Total Payment:	\$1000

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- Send general questions about USPTO programs to the [USPTO Contact Center \(UCC\)](#).
- If you experience technical difficulties or problems with this application, please report them via e-mail to [Electronic Business Support](#) or call 1 800-786-9199.

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Utility application filing	1011	1	300	300
Utility Search Fee	1111	1	500	500
Utility Examination Fee	1311	1	200	200

Total Payment \$ 1000

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- Your acknowledgement receipt provides you with the time and date your submission was received as well as re-displaying your critical application information and details. It also allows you to do any of the following:
 - Save Receipt
 - File Another Application
 - File an Assignment of Ownership
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Unregistered eFilers | Please Read Announcements | Application Data | Attach Documents | Review Documents | Calculate Fees | Confirm & Submit | Pay Fees | Receipt

Acknowledgement Receipt
 The USPTO has received your submission at **15:07:35 Eastern Time on 17-NOV-2005**.

No fees have been paid for this submission. Please remember to pay any required fees on time to prevent abandonment of your application.

eFiled Application Information

EFS ID	1007693
Application Number	11607376
Confirmation Number	8787
Title of Invention	My title
First Named Inventor	John Patent
Customer Number or Correspondence Address	00059
Filed By	John Patent
Attorney Docket Number	
Filing Date	
Receipt Date	17-NOV-2005
Application Type	Utility

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- [Print Receipt](#)
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Application Details

Submitted Files	Page Count	Document Description	File Size	Warnings
9.pdf	12	Abstract	171214 bytes	◆ PASS
fee-info.pdf	2	Fee Worksheet (PTO-875)	6606 bytes	◆ PASS

Once you have completed your electronic filing, save the “Acknowledgement Receipt” If you accidental forget to print out the “Acknowledgement Receipt”, the system saves the last 20 submission (see 1st page) of EFS web.

Finalizing

- Make the appropriate copies of the entire package including a copy of the “Acknowledgement Receipt” for the client.

From this same screen, select the “attach files” button and then the “revalidate” button. You will have to enter the descriptions, etc. again as well.

Once you hit the “edit attached files”, you will be lead to the “Review Documents” screen. Next to each document that was placed onto the server, there is an “edit” or “remove” button on the right side. Select “remove”.

The screenshot shows a web browser window with the address <http://www.uspto.gov/ebc/portal/sandbox/efs0-4-3.htm>. The page displays a document review interface. At the top, there is a form with fields for 'Filed By' (John Doe), 'Attorney Docket Number' (ABCDEF123456), and 'Application Type' (Design OR Utility OR Pro... National Stage under 35...).

Below the form, a message reads: "To Review a Document, please click on the document name. To add more files please [Attach Files](#)".

The main content is a table with the following columns: Validation Status, Files to be Submitted, Multi-Doc PDF, Document Description, and Size. Each row includes 'Edit' and 'Remove' buttons.

Validation Status	Files to be Submitted	Multi-Doc PDF	Document Description	Size		
ERRORS	Filename1.pdf	NO	New or Additional Drawings	21354 bytes	Edit	Remove
WARNINGS	Filename2.pdf	YES	New or Additional Drawings	16841 bytes	Edit	Remove
PASSED	Filename3.pdf	YES	New or Additional Drawings	15648 bytes	Edit	Remove

Below the table, a message states: "Cannot find any error." At the bottom of the page, there are buttons for 'Cancel', 'Attach Files', 'Revalidate', and 'Continue'. A 'Privacy Policy' link is also visible.

POTENTIAL CHALLENGES/DANGERS

- Quality control
- Keeping complete records – paper & electronic
- Keeping docketing in the loop
- Cost of scanning equipment
- Different/additional staff duties
- What if USPTO server is down?

DANGERS ON THE PTO SIDE

- Examiners seem to not read important parts of the application.
- Examiners can confuse the identity of certain documents because of improper scanning.

EPAS (Electronic Patent Assignment System)

- What can be filed using EPAS?
 - Assignment documents
 - Change of name documents
 - Merger documents
 - Corrective Assignments
 - Other documents relative to ownership or interest in application/patent

PRIVATE PAIR SYSTEM

- Change attorney docket numbers
- Change list of attorneys associated with customer number
- Order certified copies of application
- Request publication changes
(immediately posts in Private Pair)

NEW DEVELOPMENTS

- Pilot program for electronic notification of outgoing correspondence.
 - Began December 16, 2006. Potential “full production” in June 2007.
 - Daily e-mail with list of applications for which some correspondence has issued.
 - BSKB’s experience: May be efficient for USPTO, adds burden to law firm.

EXAMPLE E-MAIL NOTICE

Dear PAIR Customer:

The following USPTO patent application(s) associated with your Customer Number, ****, have new outgoing correspondence. This correspondence will be available on Private PAIR within 3 days of the date of this email notification.

The official date of notification of the outgoing correspondence will be indicated on the form PTOL-90 accompanying the correspondence.

Application	Attorney Docket No.
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09746782	63917
09915576	1403-0214P
10089846	3920-0110P
10271594	1247-0492P

NEW DEVELOPMENTS (cont'd)

- USPTO and EPO began electronic priority document exchange on January 16, 2007.
- Forms (PTO/SB/38 and PTO/SB/39) and instructions are available on the USPTO's Web site:

<http://www.uspto.gov/web/forms/index.html#patent>

- For further information, see Federal Register Notice:

<http://www.uspto.gov/web/offices/com/sol/notices/72fr1664.pdf>

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