



American Intellectual Property Law Association

October 30, 2023

The Honorable Kathi Vidal
Under Secretary of Commerce for Intellectual Property and
Director of U.S. Patent and Trademark Office
U.S. Patent and Trademark Office
600 Dulany Street
Alexandria, VA 22314

The Honorable Vaishali Udupa
Commissioner for Patents
U.S. Patent and Trademark Office
600 Dulany Street
Alexandria, VA 22314

Re: Patent Center and the Retirement of EFS-Web and Private PAIR

Dear Director Vidal and Commissioner Udupa:

The American Intellectual Property Law Association (“AIPLA”) writes concerning the upcoming transition to Patent Center as a replacement for EFS-Web and Private PAIR by the United States Patent and Trademark Office (“Office”). In particular, we write to ask that the Office delay the retirement of the EFS-Web and Private PAIR systems beyond the recently announced November 8, 2023 date.

Founded in 1897, the American Intellectual Property Law Association is a national bar association of approximately 7,000 members including professionals engaged in private or corporate practice, in government service, and in the academic community. AIPLA members represent a wide and diverse spectrum of individuals, companies, and institutions involved directly or indirectly in the practice of patent, trademark, copyright, trade secret, and unfair competition law, as well as other fields of law affecting intellectual property. Our members represent both owners and users of intellectual property. Our mission includes helping establish and maintain fair and effective laws and policies that stimulate and reward invention while balancing the public’s interest in healthy competition, reasonable costs, and basic fairness.

We recognize the potential of Patent Center to provide an improved system for electronic filing and management of patent applications and associated information. We appreciate the efforts that the Office has made in developing, rigorously testing, and iteratively improving Patent Center. We also appreciate the Office’s outreach regarding the transition to Patent Center, including stakeholder listening sessions, training programs, and other events to further refine Patent Center to meet users’ needs. AIPLA has been in an on-going dialogue with Office officials about the transition to Patent Center, and we are appreciative of the Office’s efforts to address our concerns throughout this transition process.

AIPLA believes that Patent Center will be able to fully replace all aspects of EFS-Web and Private PAIR in the future, but we do not think that Patent Center and the user community are

fully ready at this time. Our members are still noting that Patent Center has significant errors and is missing important features. The on-going transition has or had problems such as:

- Not providing all the sponsorship features found in EFS-Web that allow attorneys and their assistants to hand work back and forth. While such sponsorship features are not absolutely necessary, their absence will create significant disruptions and inefficiencies in patent practitioner's established work processes.
- Usability concerns around sponsored accounts with large (100+) amounts of customer numbers.

AIPLA conducted a survey in early June of this year regarding the transition to Patent Center and retirement of EFS-Web and Private PAIR. We have previously shared the results of the survey with the Office.¹ The survey results indicated that users were not yet comfortable with Patent Center as a full replacement of EFS-Web and Private PAIR and were having difficulties adapting to the change.

Further, we continue to receive feedback from our members that there have been an appreciable number of times in the past few months that Patent Center was unavailable, evidencing the Office's own transition issues. We suggest that decommissioning EFS-Web and Private PAIR at this time removes a useful back-up contingency for Patent Center.

We recognize the incredible efforts by the Patent Center development team, which is making changes, addressing automation issues as they arise, and improving reliability. We believe that with the Office's on-going development and refinement, Patent Center will be able to fully and viably replace EFS-Web and Private PAIR. At this time, however, EFS-Web and Private PAIR are more robust. Given that many users are still adapting to Patent Center, we urge the Office to delay the full transition.

As was noted by senior Office staff, there is no good time to make automation changes. There are, however, bad times, such as the fourth calendar quarter when workload challenges are at a high level. Lacking any specific urgency or necessity, we ask that the Office delay the full-retirement of EFS-Web and Private PAIR at this time.

Based on our analyses and member input, we recommend delaying transition to Patent Center at least until sometime in the first calendar quarter, which, coupled with the provision of suitable backup IT contingencies, would serve all users – the Office, users, Applicants, and the public-at-large.

During such delay, AIPLA is willing to continue to do outreach to AIPLA members and collect information about issues faced with the transition to Patent Center and to work with the Office to address such issues.

Thank you for your attention to our concerns. We welcome the Office's continuing open and frank dialogue during this transition.

¹ A Summary of the Survey Results is attached hereto.

AIPLA Letter to USPTO on Patent Center and the Retirement of EFS-Web and Private PAIR

October 30, 2023

Page 3

Please do not hesitate to contact us at any time.

Sincerely,

A handwritten signature in blue ink that reads "Ann M. Mueting". The signature is written in a cursive style with a large, looped "M" and a long, trailing "g".

Ann M. Mueting

President

American Intellectual Property Law Association

Attachment

AIPLA Patent Center Survey 2023

AIPLA

American Intellectual Property Law Association

Patent Center Survey 2023

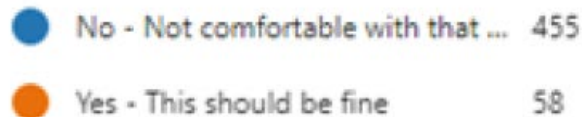


Executive Summary

- 513 respondents
- 84% Frequent Users or Power Users of Platform
- Results are Strongly Consistent

Question 1

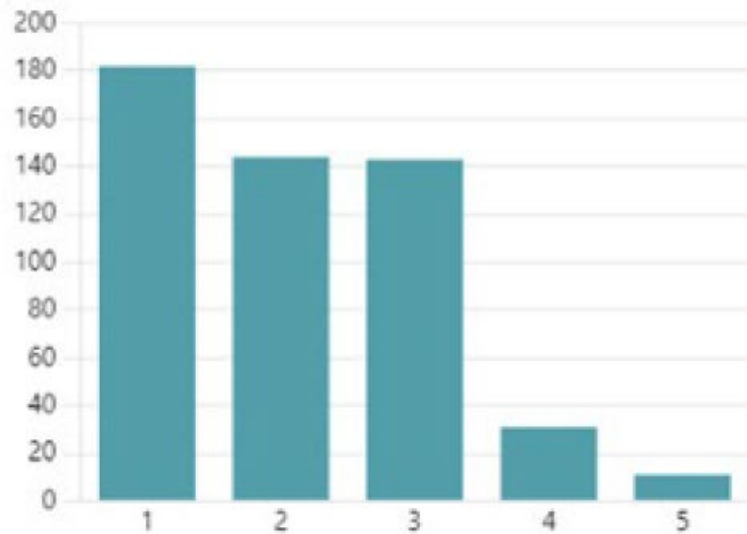
- **Would you be comfortable with Private PAIR and EFS Web being shut down in favor of PatentCenter by sometime later this summer?**



Question 2

- In your opinion, how ready is PatentCenter for full day-to-day use (without Private PAIR or EFS Web as backup)
 - (1-5) 5 meaning fully ready

2.11
Average Rating

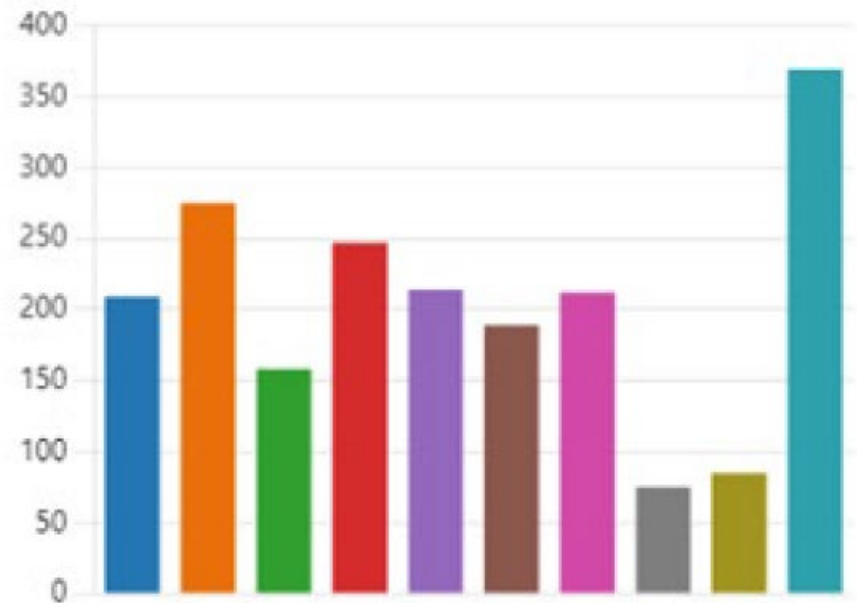


Question 3 Issue Choices

- e-Petition process is changed and more cumbersome
- Docx Issues
- Incorrect or missing continuity data
- Data access - exceeding search limits
- Data access - authentication issues
- Lack of advance notification of changes
- Difficulty searching/filtering matters on docket
- Sponsorship process issues
- Interface issues when accessing large numbers of customer numbers
- General stability and uptime

Question 3 Answers

● e-Petition process is changed a...	209
● Docx Issues	275
● Incorrect or missing continuity d...	158
● Data access - exceeding search l...	247
● Data access - authentication iss...	214
● Lack of advance notification of c...	189
● Difficulty searching/filtering mat...	212
● Sponsorship process issues	75
● Interface issues when accessing ...	85
● General stability and uptime	369



Top 2: Stability Issues / Docx/ Access Throttling

Question 4 Free Text Question

- What are other issues/shortcomings of PatentCenter that would need to be resolved to make it a viable replacement for Private PAIR/EFS Web?

Ranked Free Text Answers (paraphrased and normalized)

- Stability and Reliability
- Feature Parity with EFS and PAIR
- Transition and Change Management & Update Communication
- Document Organization and Ordering - Specifically References for IDs
- Authentication and Login Issues
- Payment and Fee Issues (Correct Fees, e.g. PCT Fees)
- Ability to Filter by Practitioner/Docket No.
- Programmatic Access and Backend APIs
- Document Formatting and Control
- Bulk Download and Access to Cited References
- eFiling Receipt issues
- ePetitions, Terminal Disclaimers and e-Filings
- Allowing a sponsor to file
- Sequence Listings (ST.25s)
- XML Data Download for all application information
- Outgoing Correspondence
- Inconsistency Data Consistency & Updating
- Ability to file in all document categories
- Change Entity Status

Question 5 Usage

- How often do you currently use Private PAIR, EFS Web, and/or PatentCenter?
- Rarely 008
- Weekly 072
- Daily 151
- Multiple Times Daily 281

84% Frequent Users/54% Power Users