



625 Slaters Lane – 4th Floor • Alexandria, Virginia 22314-1176 USA  
TEL 703.683.0500 FAX 703.683.1080 EMAIL mail@baconthomas.com  
www.baconthomas.com

September 30, 2019

Via email only to fee.setting@uspto.gov

Director of the United States Patent and Trademark Office  
Alexandria, Virginia

Re: Setting and Adjusting Patent Fees During Fiscal Year 2020  
Docket No. PTO-P-2018-0031

Dear Director:

The following comments are submitted in accord with your Notice of proposed rulemaking in the Federal Register of July 31, 2019, starting at page 37398. You state that “fee collections have been lower than anticipated due to lower than expected application filings,” at page 37399. You then propose to increase the cost of filing a patent application. An increase in cost is unlikely to increase the number of applications filed, based on the experience of the undersigned in over 40 years of patent practice.

Therefore, the undersigned proposes to reduce the cost of filing certain patent applications by allowing an applicant to DEfer Payment Of some Fees (“DEPOF”) without penalty. DEPOF would not apply to design, plant, provisional, continuation, divisional and continuation-in-part applications. DEPOF would apply to a non-provisional application which does not have a non-publication request and to a national stage of a PCT application (the “case”). The DEPOF box could be checked electronically on filing the case, and would allow payment of the search and examination fees to be deferred without penalty until three months after the first U.S. publication of the case. This would allow an Applicant to use the published application to seek additional funding for prosecution of the case. Before publication, there are advantages for an Applicant to require signature of a Non-Disclosure Agreement (NDA) as condition of disclosing the case to a potential investor. However, some potential investors are resistant to signing an NDA.

The foregoing comments should be attributed solely to the undersigned, and not to his law firm or any other organization that he may be associated with.

Very truly yours,

Thomas J. Moore  
Registration No. 28,974

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