

**From:** Erich Spangenberg  
**To:** [Fee.Setting](#)  
**Subject:** Proposed Fee Increase  
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I am the CEO of IPwe, Inc. and we are a proud owner of approximately 30 pending US patent applications. Our business is to promote transactions in the patent space, so our primary focus is on the post-issuance phase of a patent's life.

In a prior business, we operated one of the largest "patent troll" businesses in the US (IPNav) and regularly dealt with being on "defense" in many IPRs filed as part of patent litigation strategies (in total, over 100). As a principal in the Coalition For Affordable Drugs (CFAD) filings against pharma patents in 2015 – 2018, we were on "offense" in over 35 IPR petitions. Today, at IPwe we work with a number of large corporations, universities and SMEs. Given our history and current business we see the patent market from a variety of perspectives. We are big believers in the patent system and think patents play a critical role in the economy. We respectfully disagree with those that do not.

In general, we are supportive of the fee proposal. The goals sought to be achieved through the fee increase speak for themselves. There are two areas we wish to comment.

**IPR Fees.** We believe raising the fees associated with IPRs is appropriate. We would, in fact, support raising these fees significantly higher and creating a narrow path for application for a fee waiver or fee reduction based on a showing of "good cause" (e.g., narrowly tailored exception for SMEs that can demonstrate limited financial resources when being sued for infringement). If you want to get really creative, charge even more when the entity filing the IPR is not directly involved in litigation (e.g., the CFAD's and Unified Patents of the world attempting to profit off the IPR system should pay more).

**SMEs.** Where we would ask you to consider modifying the fee proposal is in the case to SMEs (by this term we are referring to "small" and "micro" entities). We regularly engage with many SMEs and the feeling among SME's is that the cost of obtaining and maintaining a patent are simply too high. Through innovation, the legal market is bringing down the cost of prosecution (AI assistance in assessing and drafting initiatives are particularly encouraging). One can look at SME contribution to various measures of the US economy and take the position that SMEs are underrepresented in patent ownership – this is also well documented in the case of minority innovators. What can you do to encourage greater participation by SMEs in obtaining and maintaining patents? I think the USPTO does a good job on education and resource awareness for SMEs. In particular the regional offices (I am personally familiar with local initiatives of the Dallas office) do a very good job in this regard. We are not advocating "free" for SMEs, but we are advocating you carefully considering whether further reductions in the fees are possible for SMEs (certainly for micro entities) while maintaining the legitimate goals articulated in the fee proposal.

Keep up the good work.

Erich Spangenberg

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