

**UNITED STATES
PATENT AND TRADEMARK OFFICE**



Patent Fee Proposal

Patent Public Advisory Committee Hearing
November 19, 2015

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Proposed Fee Adjustments – Patent Fees

Proposed Fee Structure for a Utility Patent – Compared to Current

- The fees to obtain a utility patent (file/search/exam and issue) will increase slightly.
- Maintenance fee rates will remain unchanged for all 3 stages.
- Additional revenue generated from the proposed increase will lead to improvements in patent examination quality, backlog reduction, and compact prosecution.

Fee	Current Large Entity Fee Rates	Proposed Large Entity Fee Rates
Utility Filing Fee	\$280	\$300
Utility Search Fee	\$600	\$660
Utility Examination Fee	\$720	\$760
Utility Issue Fee	\$960	\$1,000

Proposed Fee Structure for a Design Patent – Compared to Current

- The fees to obtain a design patent (file/search/exam and issue) will increase.
- Design filings do not pay maintenance fees to subsidize lower front end fees and the majority of design applicants are subsidized small or micro entity applicants.

Fee	Current Large Entity Fee Rates	Proposed Large Entity Fee Rates
Design Filing Fee	\$180	\$200
Design Search Fee	\$120	\$160
Design Examination Fee	\$460	\$600
Design Issue Fee	\$560	\$1,000

Proposed Fee Structure for RCEs – Compared to Current

- Fees for both RCE tiers will increase slightly, but the cost to recover the initial examination plus the RCE remains subsidized.
- Additional revenue generated from the proposed increase will lead to improvements in patent examination quality, backlog reduction, and compact prosecution.

Fee	Current Large Entity Fee Rates	Proposed Large Entity Fee Rates
Request for Continued Examination (RCE) - 1st Request (see 37 CFR 1.114)	\$1,200	\$1,500
Request for Continued Examination (RCE) - 2nd and Subsequent Request (see 37 CFR 1.114)	\$1,700	\$2,000

Proposed Fee Structure for IDS – Compared to Current

- Applicants no longer need to use QPIDS or file an RCE to obtain consideration of an IDS.
- No fee if submitted before FAOM or within 3 months after the filing date, whichever is later.
- Eliminates certification of IDS.
- Provides fees for all IDS submissions after FAOM.
- 1st tier for IDS submitted after FAOM but before notice of allowance.
- 2nd tier for IDS submitted after notice of allowance. Must be accompanied with petition to withdraw if filed after issue payment.

Fee	Current Large Entity Fee Rates	Proposed Large Entity Fee Rates
Submission of an Information Disclosure Statement after FAOM, before Notice of Allowance	\$180	\$300
Submission of an Information Disclosure Statement after Notice of Allowance	N/A	\$600

Proposed Fee Structure for Other Patent Fees

Maintaining Multiple Reissue Patents

- No change in fee rates, however, proposing maintenance fees to be paid for each reissued patent.

Streamlined Reexamination

- Adding a new fee for a smaller, streamlined request for reexamination reduces the cost to the USPTO, allowing the Office to pass on the cost savings to applicants.

Hague Agreement Fees

- Reset design fees under AIA authority to provide for micro entity discount

Proposed Fee Adjustments – Patent Trial and Appeal Board (PTAB) Fees

Proposed Fee Structure for Appeals – Compared to Current

- Fees will increase for both Notice of Appeal and Appeal Forwarding fee.
- Better align fees with cost, and allow continued progress on reducing the backlog of ex parte appeals.

Fee	Current Large Entity Fee Rates	Proposed Large Entity Fee Rates
Notice of Appeal	\$800	\$1,000
Forwarding an Appeal in an Application or Ex Parte Reexamination Proceeding to the Board	\$2,000	\$2,500

Proposed Fee Structure for IPRs, PGRs and CBMs – Compared to Current

- Fees will increase.
- Better align fees with cost, and continue to meet deadlines required in the America Invents Act.
- Initial fee setting required estimating potential cost. Actual, historical cost is now available and used for the proposed fee rate, which remains subsidized.

Fee	Current Fee Rates	Proposed Fee Rates
Inter Partes Review Request Fee - Up to 20 Claims	\$9,000	\$14,000
Inter Partes Review Post-Institution Fee - Up to 15 Claims	\$14,000	\$16,500
Post-Grant or Covered Business Method Review Request Fee - Up to 20 Claims	\$12,000	\$16,000
Post-Grant or Covered Business Method Review Post-Institution Fee - Up to 15 Claims	\$18,000	\$22,000

Path Forward

- November to August 2015 – Conducted Biennial Fee Review
- November 2015 – PPAC hearing
- Spring 2016 – Publish Notice of Proposed Rulemaking (NPRM)
- Summer 2016 – 60-day public comment period
 - PPAC Report will be posted for public review during this period
- Late Fall 2016 – Publish Final Rule
- January 2017 – Anticipated effective date of fee changes

Closing

Additional Information

Fee Setting Proposals and Materials:

<http://www.uspto.gov/about-us/performance-and-planning/fee-setting-and-adjusting>

Comments may be sent by email to: fee.setting@uspto.gov by November 25, 2015

