

**UNITED STATES
PATENT AND TRADEMARK OFFICE**



Trademark Public Advisory Committee

Trademark Fee Proposal Hearing

600 Dulany Street, Alexandria, VA 22314

November 3, 2015

UNITED STATES
PATENT AND TRADEMARK OFFICE





Maury Tepper

Chair

Trademark Public Advisory Committee



WELCOMING REMARKS



Russell Slifer

Deputy Under Secretary of Commerce for
Intellectual Property and Deputy Director of
the United States Patent Office



MESSAGE FROM THE DEPUTY DIRECTOR



Mary Boney Denison

Commissioner for Trademarks

Gerard F. Rogers

Chief Administrative Trademark Judge



**OVERVIEW OF THE TRADEMARK
FEE PROPOSAL**

Overview

- The USPTO is exercising its fee setting authority to set and adjust trademark fees to recover the aggregate estimated cost of the trademark operation, IP Policy and USPTO administrative services that support trademark operations.
- This meeting of the Trademark Public Advisory Committee is an opportunity for the USPTO to present and for the TPAC to receive comments on the proposal to adjust certain trademark process and service fees.
- There will be more opportunities for the public to provide comments on this proposal through the rule-making process.
- Fee setting authority based on Section 10 of the Leahy-Smith America Invents Act (AIA).

Process and Timeline

- November – August 2015 – Bi Annual Fee Review conducted to assess cost recovery and future budgetary requirements.
- November 2015 – TPAC hearing
- May 2016 – Publish Federal Register Notice of Proposed Rulemaking (NPRM), which will open a 60-day comment period for the public to submit written feedback.
- May – July 2016 – Public comment period. The USPTO encourages public input about the proposed fee schedule to guide the Agency in making adjustments.
- November 2016 – Publish Final Rule in the Federal Register
- January 2017 – Proposed effective date for fee changes.

Fee Proposal Considerations

- Achieve cost recovery in total
- Better alignment with the cost of providing the service
- Provide multiple options for application filings – consistent with prior fee reductions
- Incentivize electronic filing by providing fee discounts relative to the cost of a paper submission
- Improve the efficiency of the process
- Encourage more timely filing to improve the integrity of the register.

Proposed Trademark Fee Changes

The proposed changes impact the following Trademark Process Fees:

- Paper Filing Fees
- Extension of Time for Filing a Statement of Use
- Petitions to the Director
- Dividing an Application
- Trademark Trial and Appeal Board Fees
- Extension of Time for Filing a Notice of Opposition

The proposed changes would eliminate the following Trademark Service Fees:

- Self-service copy charge, per page
- Establish a new Deposit Account

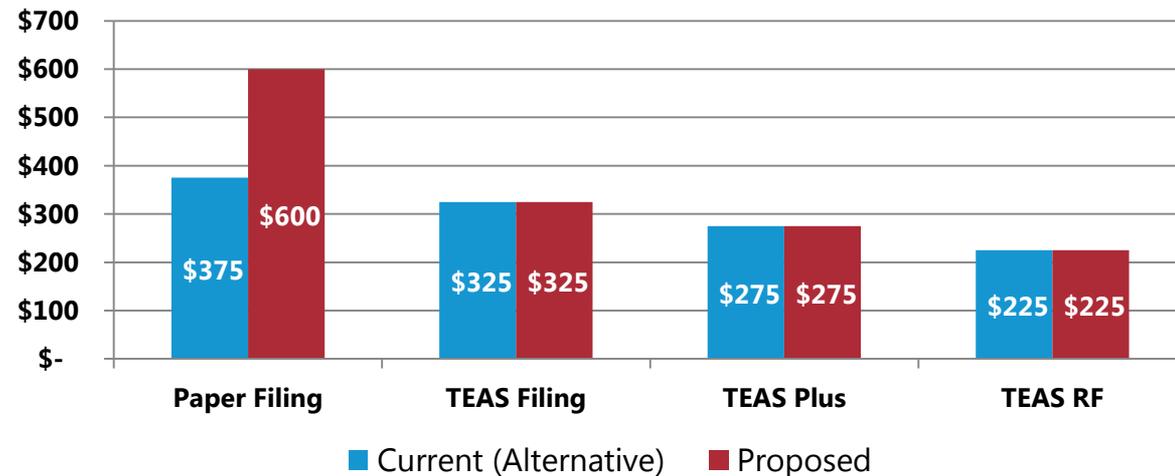
Labor service fees are replaced with specified service fees to provide users clear costs upfront.



Proposed Application for Registration

- Only paper filing fees for an application for registration will increase
- Increase will help offset the rising cost of processing paper applications
- Seek to incentivize electronic filing as the preferred method of doing business
- Consistent with previous fee reductions and options for electronic filing that address applicant choice

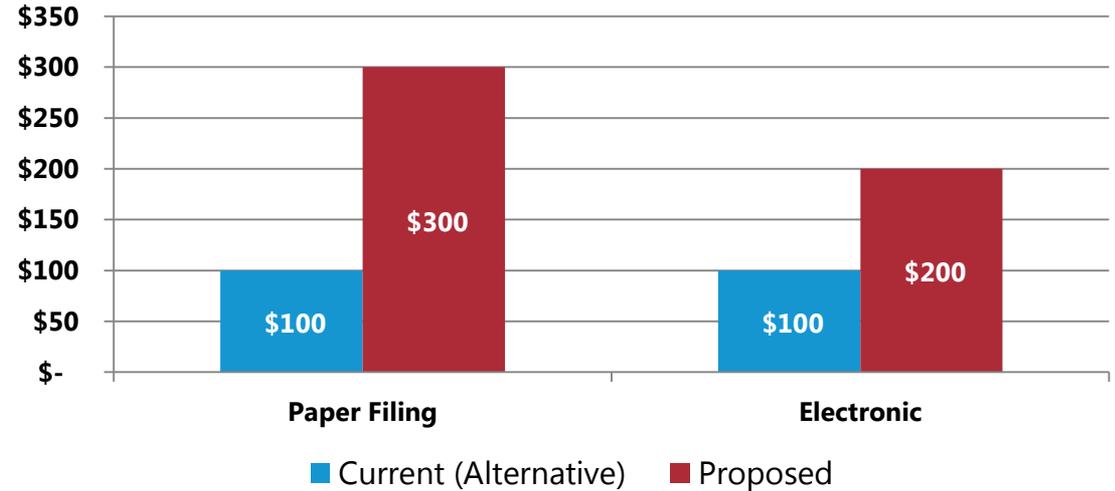
Current vs. Proposed Application for Registration, per International Class



Proposed Petition Fees

- Proposed increase of \$200 per class for paper filings and \$100 for electronic filings

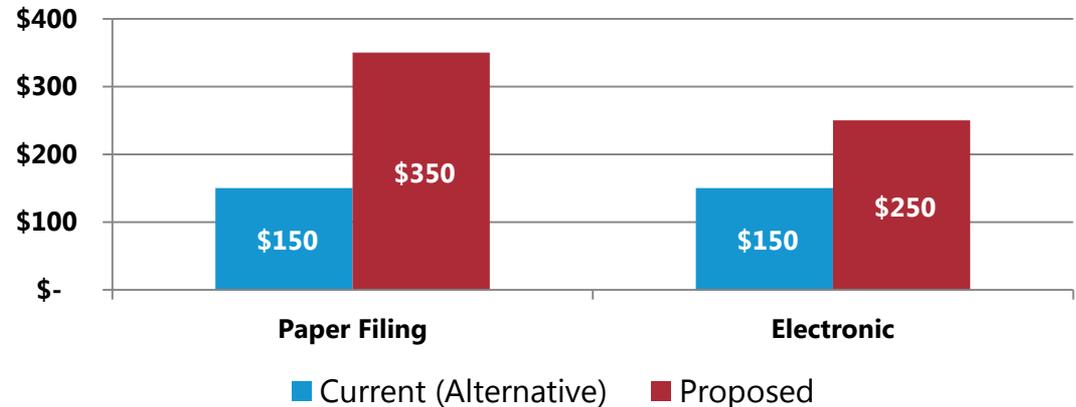
Current vs. Proposed Petitions



Proposed Filing a Request for a Six-month Extension of Time for Filing a Statement of Use under §1(d)(1), per class

- Proposed increase of \$200 per class for paper filings and \$100 for electronic filings

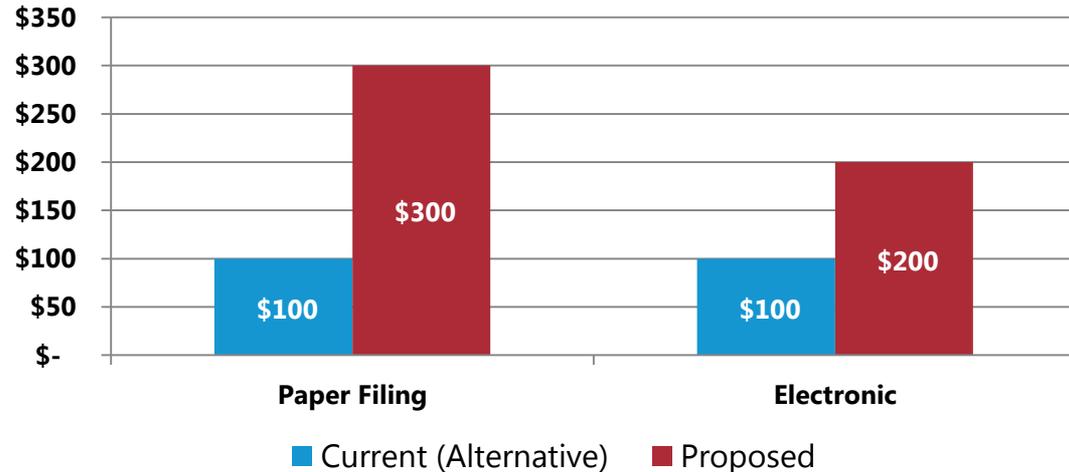
Current vs. Proposed - Extension of Time, per International Class



Proposed Fee for Dividing an Application, per new application (file wrapper) created

- Proposed increase of \$200 per class for paper filings and \$100 for electronic filings

Current vs. Proposed Dividing an application



Benefits of Proposed Fee Changes – TTAB Fees

TTAB Increases to Existing Fees

- While workloads are relatively small, the cost of operations is heavily subsidized by revenues from other fees
- Increase maintains optimal alignment between costs and fee rate (processes would remain largely subsidized)
- Ex parte Fees have not been adjusted in more than 25 years; inter partes fees have not been adjusted in 15 years
- Additional increase to paper fees will incentivize electronic communication to improve efficiency and reduce total costs.

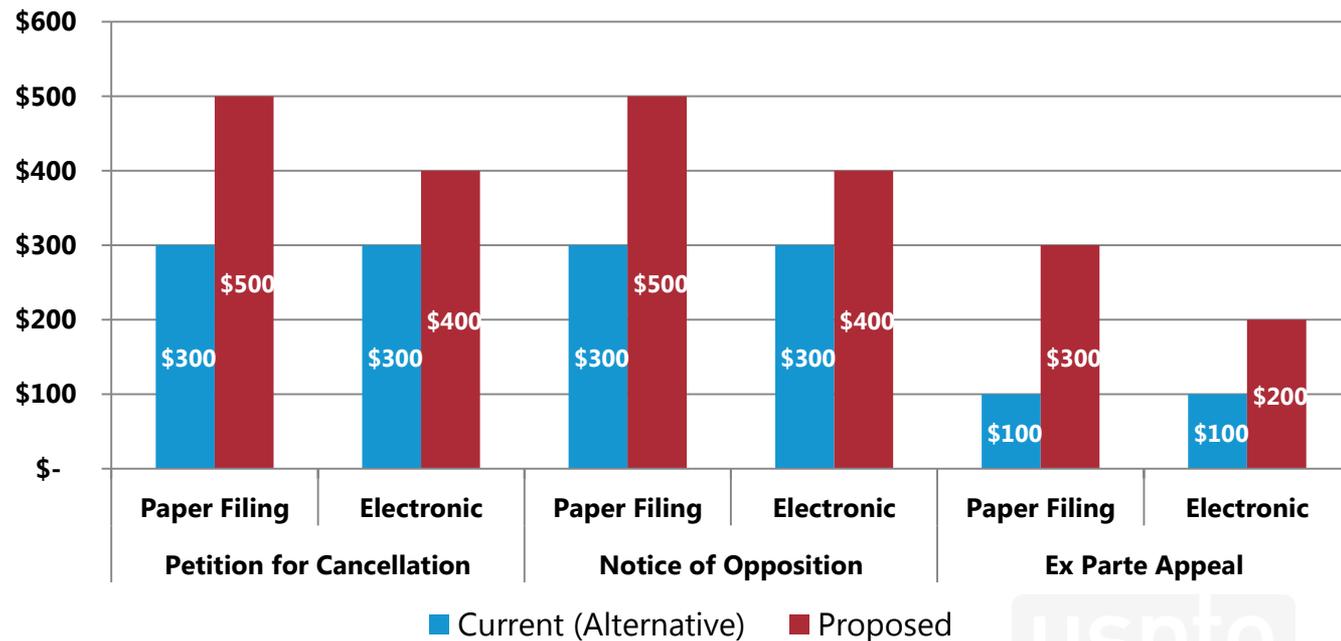
NEW – Establish Extension of Time to Oppose Fee

- Applies only to the second request – initial request remains at no cost
- Encourage potential opposers to make decisions earlier and reduce delay to applicant
- Encourage faster conclusion of TTAB cases through progressive fee structure

Proposed Trademark Trial and Appeal Board Fees

- Proposed increase of \$200 per class for all paper filed requests
- Proposed increase of \$100 per class for electronic requests
- TTAB fees have remained unchanged for over 15 years

Current vs. Proposed TTAB Existing Fees (per class)

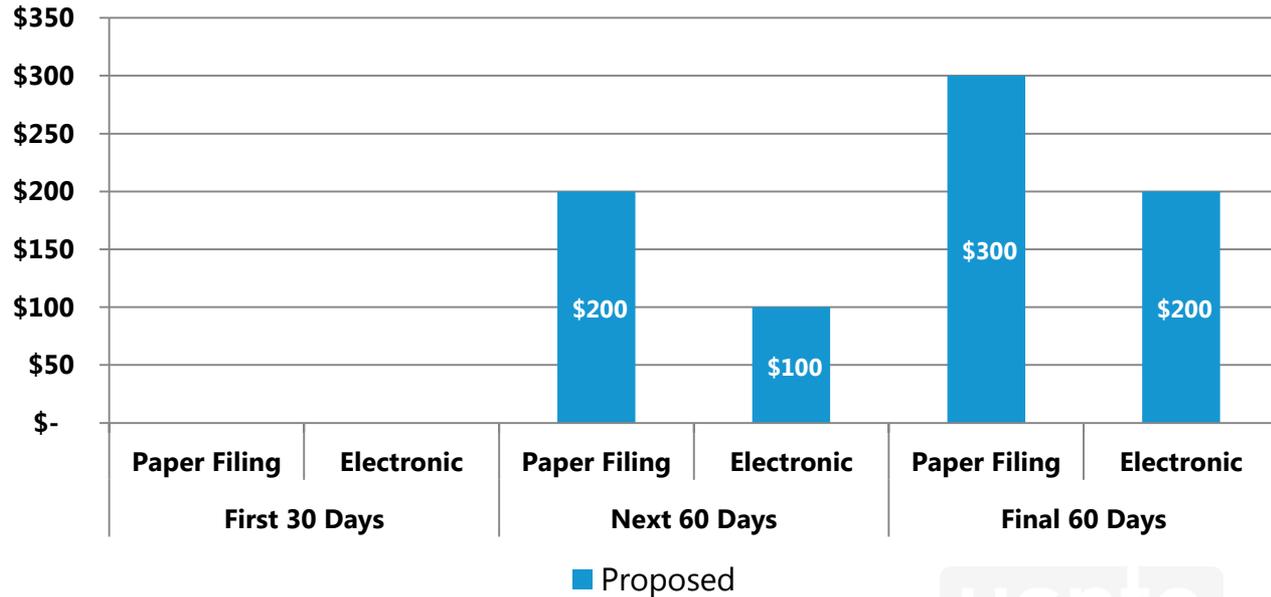


Proposed Fees for TTAB Extension of Time to Oppose

Three Tiered Structure:

- No fee or “No reason necessary” – First 30 days
- Fee for “For good cause or consent” – Next 60 days
- Increased fee “With consent or under extraordinary circumstances” – Final 60 days

**Current vs. Proposed
TTAB Extension of Time to Oppose (by case)**



Impact of Maintaining Current Fee Schedule

- Projected increases in filings and the costs necessary to support trademark operations, continued and promised investments in IT systems, IP Policy and USPTO programs will exceed available revenues and operating reserve minimum balances by FY 2017.
- Managing without an adequate operating reserve would put the USPTO in jeopardy of being unable to respond to emergency situations, such as unexpected economic downturns; having to make short-term financial decisions, for example, stopping investment in IT plans that are crucial to operations and customer support; and in the event of a lapse in appropriation, having to shut down.

Conclusion

Proposed fee adjustments represent:

- **No impact for the vast majority of applicants and registrants** who file electronically and communicate on a timely basis
- A better **incentive for broader adoption** of the cost-effective electronic filing, communication, and processing
- A better and **fairer** cost recovery system
- A **balance** between subsidizing costs for a relative few, promoting a strong incentive for electronic filing, and ensuring an accurate federal register as a reliable indicator of marks in use

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 10, 2015



**SCHEDULED TESTIMONY AND
OPEN FLOOR FOR UNSCHEDULED
TESTIMONY**



Maury Tepper

Chair

Trademark Public Advisory Committee



CLOSING REMARKS

