

No. 29,346.

DESIGN.


Patented Sept. 13, 1898.

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(Application filed June 20, 1898.)

4 Sheets—Sheet 1.

Fig. 1



Quick Reference Guide to the FY2025 Patent Fee Setting Rule



UNITED STATES
PATENT AND TRADEMARK OFFICE ®

1. When is the FY2025 Patent Fee Setting Rule effective?

Answer: The FY2025 Patents Fee Setting Rule (hereinafter “Fee Rule”) is effective on January 19, 2025. However, please note that the amount of some fees due on or after January 19, 2025 may vary depending on the receipt date of an international application under the Patent Cooperation Treaty (PCT), or the international registration date of an international design application under the Hague Agreement.

2. Where can I find a copy of the Fee Rule?

Answer: The Fee Rule published in the Federal Register on November 20, 2024. It can be found on the Federal Register’s website by searching for its citation (89 FR 91898) or at the following link: www.federalregister.gov/documents/2024/11/20/2024-26821/setting-and-adjusting-patent-fees-during-fiscal-year-2025. The Fee Rule is also available on the fee setting section of the USPTO website at www.uspto.gov/about-us/performance-and-planning/fee-setting-and-adjusting.

3. Where can I find more information about the Fee Rule?

Answer: The Fee Rule and supporting materials about the rule are available on the fee setting section of the USPTO website at www.uspto.gov/about-us/performance-and-planning/fee-setting-and-adjusting. The supporting materials include a slide deck providing an “At-a-Glance” summary of the Fee Rule and a Small Entity Compliance Guide.

4. Where can I find more information about the new fee for presenting benefit claims?

Answer: The new fee for benefit claims presented in late-filed continuing applications is called the Continuing Application Fee (CAF), and is set forth in new 37 CFR 1.17(w) and amended 37 CFR 1.78(d) and (e). The CAF is explained in the Fee Rule itself, for example in the preamble on pages 91907 through 91913, and in the responses to comments on pages 91941 through 91947. More information about the CAF is also available in the Quick Reference Guide to the Continuing Application Fee (CAF), which is available on the USPTO website at www.uspto.gov/patents/apply/forms.

5. Where can I find more information about the new Information Disclosure Statement (IDS) size fee and size fee assertion requirements?

Answer: The new IDS size fee and size fee assertion requirements are set forth in amended 37 CFR 1.97 and 1.98. The new requirements are explained in the Fee Rule itself, for example in the preamble on pages 91923 through 91926, and in the responses to comments on pages 91950 through 91952. More information about the IDS size fee and size fee assertion requirements is also available in the Quick Reference Guide to the Information Disclosure Statement (IDS) Size Fee and Size Fee Assertion. The USPTO has also revised the Information Disclosure Statement-Patent Center-auto-load version (SB/08a-Patent Center) and Information Disclosure Statement Size Fee - Written Assertion Under 37 CFR 1.98 (SB/08c) forms to account for these new requirements. The guide and forms are available on the USPTO website at www.uspto.gov/patents/apply/forms.

6. Where can I find the new fee amounts?

Answer: The USPTO Fee Schedule will be updated on January 18, 2025 with the new fee amounts effective on January 19, 2025. The USPTO Fee Schedule is available on the USPTO website at www.uspto.gov/sites/default/files/documents/USPTO-fee-schedule_current.pdf. Before January 19, 2025, please consult the Fee Rule for the new fee amounts.

7. Will the USPTO forms show the new fee amounts?

Answer: Yes. The USPTO is updating commonly-used forms to include the new fee amounts, and will post the updated forms on the USPTO website at www.uspto.gov/patents/apply/forms on January 19, 2025.

- Updated forms include the Information Disclosure Statement-Patent Center-auto-load version (SB/08a-Patent Center), the Provisional Application for Patent Cover Sheet (SB/16), the Fee Transmittal (SB/17), the Petition for Extension of Time under 37 CFR 1.136(a) for Nonprovisional Applications only (SB/22 and AIA/22), the Reissue Application Fee Transmittal (SB/56), and many petition forms.
- The USPTO is also issuing two new forms. The first is the Petition for Extension of Time under 37 CFR 1.136(a) for Provisional Applications only (AIA/22p), and the second is the Information Disclosure Statement Size Fee - Written Assertion Under 37 CFR 1.98 (SB/08c).

8. I was mailed a notice before January 19, 2025 that requires a fee payment. If I wait to respond until after January 19, 2025, which fee amount do I pay - the amount shown on the notice, or the amount shown on the USPTO Fee Schedule?

Answer: If the notice is a Notice of Allowance (form PTOL-85), you should pay the amount of the issue fee and any required publication fee that are shown on the Notice of Allowance. For all other fees, the applicable fee amount is the fee amount in effect on the day the fee is paid in full. See MPEP 509 for information about the payment of fees generally, and MPEP 1306 for information about fees shown on a Notice of Allowance.

9. When is a fee considered to be received (paid) at the USPTO?

Answer: The day a fee is paid is the date of receipt of the fee payment in the USPTO under 37 CFR 1.6, or the date reflected on a proper certificate of mailing or transmission on the fee payment, where such a certificate is authorized under 37 CFR 1.8. For more information, see MPEP 502 about depositing correspondence, MPEP 505 about the date of receipt, MPEP 512 about certificate of mailing practice, and MPEP 513 for deposit as Priority Mail Express® with the U.S. Postal Service. See also the following scenarios.

Fee Payment Scenarios

The following scenarios illustrate several situations that may arise in connection with the fee adjustments effective on January 19, 2025. For purposes of these scenarios, the basic filing fee and three-month extension of time fee are used as exemplary fees, but the rationales discussed in the scenarios are not limited to such fees. Effective Sunday January 19, 2025, the Fee Rule increases the undiscounted fee amount for a three-month extension of time under 37 CFR 1.17(a)(3) from \$1480 to \$1590, and increases the undiscounted basic filing fee for utility applications under 37 CFR 1.16(a) from \$320 to \$350.

Please note, all scenarios refer only to the undiscounted fee amounts for the sake of simplicity. Discounts are available for most patent fees, as shown in the Fee Rule and on the USPTO Fee Schedule.

References in these scenarios to first class mail and Priority Mail Express® services should be understood as referring to the U.S. Postal Service (USPS) First-Class Mail® and Priority Mail Express® Post Office to Addressee services, respectively.

Scenario 1: Response filed via Patent Center on Tuesday January 21, 2025

An Office action rejecting applicant's claims was mailed on July 18, 2024, and set a 3-month shortened statutory period for reply. The statutory six-month period for response expires on Saturday January 18, 2025 without considering 35 U.S.C. 21(b). Because January 18, 2025 is a Saturday and January 20, 2025 is a federal holiday, under 35 U.S.C. 21(b) the time period to reply with a three-month extension of time and the extension of time fee is extended until Tuesday January 21, 2025.

Applicant files a reply on January 21, 2025, accompanied by a petition for a three-month extension of time and the three-month extension of time fee via the USPTO's patent electronic filing system (Patent Center).

Applicant's papers are received by the USPTO on January 21, 2025. Because these papers are entitled to the benefit of 35 U.S.C. 21(b), the papers will be considered as a timely reply to the Office action. However, for purposes of determining the fee amount to be paid, the date of receipt in the USPTO controls. Thus, the amount of the extension of time fee due will be \$1590, because January 21, 2025 is after the effective date of the Fee Rule.

Scenario 2: Response deposited on Saturday January 18, 2025 via Priority Mail Express®

An Office action rejecting applicant's claims was mailed on July 18, 2024, and set a 3-month shortened statutory period for reply. The statutory six-month period for response expires on Saturday January 18, 2025 without considering 35 U.S.C. 21(b).

Applicant files a reply on January 18, 2025, accompanied by a petition for a three-month extension of time and the three-month extension of time fee via USPS Priority Mail Express®. The USPS enters January 18, 2025 as the "date accepted" by the USPS on the Priority Mail Express® mailing label.

Applicant's papers are received by the USPTO on January 21, 2025. Because these papers are entitled to the benefit of their "date accepted" by the USPS under 37 CFR 1.10, the papers will be considered as a timely reply to the Office action. Additionally, the papers will be treated as received by the USPTO on their "date accepted" by the USPS (January 18, 2025) for purposes including determining the fee amount to be paid. See MPEP 513. Thus, the amount of the extension of time fee due will be \$1480.

Scenario 3: Response mailed on Saturday January 18, 2025 with certificate of mailing

An Office action rejecting applicant's claims was mailed on July 18, 2024, and set a 3-month shortened statutory period for reply. The statutory six-month period for response expires on Saturday January 18, 2025 without considering 35 U.S.C. 21(b).

Applicant files a reply on January 18, 2025, accompanied by a petition for a three-month extension of time and the three-month extension of time fee via USPS first-class mail. The papers are accompanied by an appropriate certificate of mailing under 37 CFR 1.8.

Applicant's papers are received by the USPTO on January 23, 2025. Because these papers are entitled to the benefit of the certificate of mailing under 37 CFR 1.8, the papers will be considered as a timely reply to the Office action. Additionally, for purposes of determining the fee amount to be paid, the date of mailing indicated on the certificate of mailing (here, January 18, 2025) will be considered to be the date of receipt in the USPTO. Thus, the amount of the extension of time fee due will be \$1480.

Scenario 4: Response mailed on Tuesday January 21, 2025 with certificate of mailing

An Office action rejecting applicant's claims was mailed on July 18, 2024, and set a 3-month shortened statutory period for reply. The statutory six-month period for response expires on Saturday January 18, 2025 without considering 35 U.S.C. 21(b). Because January 18, 2025 is a Saturday and January 20, 2025 is a federal holiday, under 35 U.S.C. 21(b) the time period to reply with a three-month extension of time and the extension of time fee is extended until Tuesday January 21, 2025.

Applicant files a reply on January 21, 2025, accompanied by a petition for a three-month extension of time and the three-month extension of time fee via USPS first-class mail. The papers are accompanied by an appropriate certificate of mailing under 37 CFR 1.8.

Applicant's papers are received by the USPTO on January 24, 2025. Because these papers are entitled to the benefit of the certificate of mailing under 37 CFR 1.8, the papers will be considered as a timely reply to the Office action. Additionally, for purposes of determining the fee amount to be paid, the date of mailing indicated on the certificate of mailing (here, January 21, 2025) will be considered to be the date of receipt in the USPTO. Thus, the amount of the extension of time fee due will be \$1590, because January 21, 2025 is after the effective date of the Fee Rule.

Scenario 5: New application mailed on Saturday January 18, 2025 with certificate of mailing

Applicant files a new utility nonprovisional patent application on January 18, 2025 via USPS first-class mail. The patent application is accompanied by a certificate of mailing under 37 CFR 1.8.

Applicant's papers are received by the USPTO on January 23, 2025. Because certificates of mailing do not apply to the filing of national patent applications for purposes of obtaining an application filing date, the papers are not entitled to the benefit of the certificate of mailing under 37 CFR 1.8. The application will thus be accorded its receipt date (January 23, 2025) as its filing date. Moreover, the amount of the basic filing fee due will be \$350, because the application was received on January 23, 2025, which is after the effective date of the Fee Rule.

NOTE: To avoid the outcome shown in Scenario 5 of having to pay a higher basic filing fee, applicants are encouraged to file new patent applications electronically via Patent Center. If electronic filing is not possible,

then applicants are encouraged to use the Priority Mail Express® procedure set forth in 37 CFR 1.10(a), and to include the number of the Priority Mail Express® mailing label on the application paper(s) as an added safeguard. See 37 CFR 1.10(e)(2).

While Scenario 5 is limited to addressing the inapplicability of certificate of mailing procedure under 37 CFR 1.8 for new patent application filings, applicants should also note that filing a new patent application via non-electronic means such as the mail will incur two additional surcharges. The first is a surcharge set forth in 37 CFR 1.16(t) for non-electronic filings, and the second is a surcharge set forth in 37 CFR 1.16(u) for filing an application where the specification, claims, and/or abstract do not conform to the USPTO requirements for submission in DOCX format. The Fee Rule did not change the amount of the 1.16(t) surcharge, which remains \$400 for undiscounted entities (\$200 for both small and micro entities), but did increase the amount of the 1.16(u) surcharge to \$430 for undiscounted entities (\$172 for small entities and \$86 for micro entities).