

JUSTIFICATION FOR NONMATERIAL/NONSUBSTANTIVE CHANGE
Initial Patent Application
OMB Control Number 0651-0032

Background

The United States Patent and Trademark Office (USPTO) administers the Leahy-Smith America Invents Act (AIA), Section 10, which sets or adjusts patent fees established authorized, or charged under Title 35, United States Code (U.S.C.). Section 10 prescribes that fees may be set or adjusted only to recover the aggregate estimated costs to the Office for processing, activities, services, and materials related to patent. Section 10 authorities also includes flexibility to set individual fees in a way that furthers key policies factors, while taking into account the cost of the respective services.

The request is to update the fees attached to this collection that are affected by the rulemaking NPRM 0651-AD02, and also to incorporate fees were not counted in pervious approvals. Respondent numbers are also changing due to agency discretion in conjunction with the rule.

There are fifteen fees, which are broken down by entity status, being adjusted as a result of the 2017 Patent Biennial Fee Review.

Table 1: Updated Cost Burden

| IC # | Item | Responses | Updated Fee | Updated Non-hour Burden (\$) |
|-------------|--|------------------|--------------------|-------------------------------------|
| 4 | Basic Filing Fee – Utility (Paper Filing – Also Requires Non-Electronic Filing Fee under 1.16(t)) (large entity) | 235,200 | \$300 | \$70,560,000.000 |
| 4 | Basic Filing Fee – Utility (Paper Filing – Also Requires Non-Electronic Filing Fee under 1.16(t)) (small entity) | 80,500 | \$150 | \$12,075,000.00 |
| 4 | Basic Filing Fee – Utility (Paper Filing – Also Requires Non-Electronic Filing Fee under 1.16(t)) (micro entity) | 17,000 | \$75 | \$1,275,000.00 |
| 4 | Basic Filing Fee (electronic filing) (small entities) | 80,500 | \$75 | \$6,037,500.00 |
| 4 | Each Independent Claim in Excess of Three (large entity) | 55,100 | \$460 | \$25,346,000.00 |
| 4 | Each Independent Claim in Excess of Three (small entity) | 20,500 | \$230 | \$4,715,000.00 |
| 4 | Each Independent Claim in Excess of Three (micro entity) | 1,900 | \$115 | \$218,500.00 |
| 4 | Utility Search Fee (large entity) | 233,900 | \$660 | \$154,374,000.00 |
| 4 | Utility Search Fee (small entity) | 79,600 | \$330 | \$26,268,000.00 |
| 4 | Utility Search Fee (micro entity) | 16,700 | \$165 | \$2,755,500.00 |
| 4 | Utility Examination Fee (large entity) | 234,900 | \$760 | \$178,524,000.00 |
| 4 | Utility Examination Fee (small entity) | 80,000 | \$380 | \$30,400,000.00 |
| 4 | Utility Examination Fee (micro entity) | 16,800 | \$190 | \$3,192,000.00 |
| 5 | Basic Filing Fee – Plant (large entity) | 570 | \$200 | \$114,000.00 |

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|----|--|------------------|-------|-------------------------|
| 5 | Basic Filing Fee – Plant (small entity) | 580 | \$100 | \$58,000.00 |
| 5 | Basic Filing Fee – Plant (micro entity) | 10 | \$50 | \$500.00 |
| 5 | Each Claim in Excess of 20 (large entity) | 362,900 | \$100 | \$36,290,000.00 |
| 5 | Each Claim in Excess of 20 (small entity) | 199,400 | \$50 | \$9,970,000.00 |
| 5 | Each Claim in Excess of 20 (micro entity) | 12,600 | \$25 | \$315,000.00 |
| 5 | Plant Search Fee (large entity) | 570 | \$420 | \$239,400.00 |
| 5 | Plant Search Fee (small entity) | 575 | \$210 | \$120,750.00 |
| 5 | Plant Search Fee (micro entity) | 10 | \$105 | \$1,050.00 |
| 5 | Plant Examination Fee (large entity) | 560 | \$620 | \$347,200.00 |
| 5 | Plant Examination Fee (small entity) | 570 | \$310 | \$176,700.00 |
| 5 | Plant Examination Fee (micro entity) | 10 | \$155 | \$1,550.00 |
| 6 | Basic Filing Fee – Design (large entity) | 20,100 | \$200 | \$4,020,000.00 |
| 6 | Basic Filing Fee – Design (small entity) | 17,900 | \$100 | \$1,790,000.00 |
| 6 | Basic Filing Fee – Design (micro entity) | 4,700 | \$50 | \$235,000.00 |
| 6 | Basic Filing Fee – Design (CPA) (large entity) | 550 | \$200 | \$110,000.00 |
| 6 | Basic Filing Fee – Design (CPA) (small entity) | 340 | \$100 | \$34,000.00 |
| 6 | Basic Filing Fee – Design (CPA) (micro entity) | 90 | \$50 | \$4,500.00 |
| 6 | Multiple Dependent Claim (large entity) | 1,200 | \$820 | \$984,000.00 |
| 6 | Multiple Dependent Claim (small entity) | 800 | \$410 | \$328,000.00 |
| 6 | Multiple Dependent Claim (micro entity) | 90 | \$205 | \$18,450.00 |
| 6 | Design Search Fee (large entity) | 20,400 | \$160 | \$3,264,000.00 |
| 6 | Design Search Fee (small entity) | 18,000 | \$80 | \$1,440,000.00 |
| 6 | Design Search Fee (micro entity) | 4,600 | \$40 | \$184,000.00 |
| 6 | Design Examination Fee (large entity) | 20,200 | \$600 | \$12,120,000.00 |
| 6 | Design Examination Fee (small entity) | 17,800 | \$300 | \$5,340,000.00 |
| 6 | Design Examination Fee (micro entity) | 4,600 | \$150 | \$690,000.00 |
| 15 | Provisional Application Filing Fee (large entity) | 56,100 | \$280 | \$15,708,000.00 |
| 15 | Provisional Application Filing Fee (small entity) | 68,800 | \$140 | \$9,632,000.00 |
| 15 | Provisional Application Filing Fee (micro entity) | 30,000 | \$70 | \$2,100,000.00 |
| 16 | Surcharge - Late Filing Fee, Search Fee, Examination Fee, Inventor's Oath or Declaration, or Application Filed Without at least One Claim or by Reference (large entity) | 86,400 | \$160 | \$13,824,000.00 |
| 16 | Surcharge - Late Filing Fee, Search Fee, Examination Fee, Inventor's Oath or Declaration, or Application Filed Without at least One Claim or by Reference (small entity) | 38,200 | \$80 | \$3,056,000.00 |
| 16 | Surcharge - Late Filing Fee, Search Fee, Examination Fee, Inventor's Oath or Declaration, or Application Filed Without at least One Claim or by Reference (micro entity) | 4,500 | \$40 | \$180,000.00 |
| | Totals | 2,146,325 | | \$638,436,600.00 |

Table 2: Increases in Fee Amounts

| IC # | Item | Current Fee | Proposed Fee | Fee Increase |
|------|------|-------------|--------------|--------------|
|------|------|-------------|--------------|--------------|

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|----|---|--|--|--|
| 4 | Basic Filing Fee – Utility (Paper Filing – Also Requires Non-Electronic Filing Fee under 1.16(t)) | \$280 (large entity) \$140 (small entity) \$70 (micro entity) | \$300 (large entity) \$150 (small entity) \$75 (micro entity) | \$20 (large entity) \$10 (small entity) \$5 (micro entity) |
| 4 | Basic Filing Fee (electronic filing) (small entities) | New fee | \$75 | New fee |
| 4 | Each Independent Claim in Excess of Three | \$420 (large entity) \$210 (small entity) \$105 (micro entity) | \$460 (large entity) \$230 (small entity) \$115 (micro entity) | \$40 (large entity) \$20 (small entity) \$10 (micro entity) |
| 4 | Utility Search Fee | \$600 (large entity) \$300 (small entity) \$150 (micro entity) | \$660 (large entity) \$330 (small entity) \$165 (micro entity) | \$60 (large entity) \$30 (small entity) \$15 (micro entity) |
| 4 | Utility Examination Fee | \$720 (large entity) \$360 (small entity) \$180 (micro entity) | \$760 (large entity) \$380 (small entity) \$190 (micro entity) | \$40 (large entity) \$20 (small entity) \$10 (micro entity) |
| 5 | Basic Filing Fee – Plant | \$180 (large entity) \$90 (small entity) \$45 (micro entity) | \$200 (large entity) \$100 (small entity) \$50 (micro entity) | \$20 (large entity) \$10 (small entity) \$5 (micro entity) |
| 5 | Each Claim in Excess of 20 | \$80 (large entity) \$40 (small entity) \$20 (micro entity) | \$100 (large entity) \$50 (small entity) \$25 (micro entity) | \$20 (large entity) \$10 (small entity) \$5 (micro entity) |
| 5 | Plant Search Fee | \$380 (large entity) \$190 (small entity) \$95 (micro entity) | \$420 (large entity) \$210 (small entity) \$105 (micro entity) | \$40 (large entity) \$20 (small entity) \$10 (micro entity) |
| 5 | Plant Examination Fee | \$580 (large entity) \$290 (small entity) \$145 (micro entity) | \$620 (large entity) \$310 (small entity) \$155 (micro entity) | \$40 (large entity) \$20 (small entity) \$10 (micro entity) |
| 6 | Basic Filing Fee – Design | \$180 (large entity) \$90 (small entity) \$45 (micro entity) | \$200 (large entity) \$100 (small entity) \$50 (micro entity) | \$20 (large entity) \$10 (small entity) \$5 (micro entity) |
| 6 | Basic Filing Fee – Design (CPA) | \$180 (large entity) \$90 (small entity) \$45 (micro entity) | \$200 (large entity) \$100 (small entity) \$50 (micro entity) | \$20 (large entity) \$10 (small entity) \$5 (micro entity) |
| 6 | Multiple Dependent Claim | \$780 (large entity) \$390 (small entity) \$195 (micro entity) | \$820 (large entity) \$410 (small entity) \$205 (micro entity) | \$40 (large entity) \$20 (small entity) \$10 (micro entity) |
| 6 | Design Search Fee | \$120 (large entity) \$60 (small entity) \$30 (micro entity) | \$160 (large entity) \$80 (small entity) \$40 (micro entity) | \$40 (large entity) \$20 (small entity) \$10 (micro entity) |
| 6 | Design Examination Fee | \$460 (large entity) \$230 (small entity) \$115 (micro entity) | \$600 (large entity) \$300 (small entity) \$150 (micro entity) | \$140 (large entity) \$70 (small entity) \$35 (micro entity) |
| 15 | Provisional Application Filing Fee | \$260 (large entity) \$130 (small entity) \$65 (micro entity) | \$280 (large entity) \$140 (small entity) \$70 (micro entity) | \$20 (large entity) \$10 (small entity) \$5 (micro entity) |
| 16 | Surcharge - Late Filing Fee, Search Fee, Examination Fee, | \$140 (large entity) \$70 (small entity) | \$160 (large entity) \$80 (small entity) | \$20 (large entity) \$10 (small entity) |

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|--|---|---------------------|---------------------|--------------------|
| | Inventor's Oath or Declaration, or Application Filed Without at least One Claim or by Reference | \$35 (micro entity) | \$40 (micro entity) | \$5 (micro entity) |
|--|---|---------------------|---------------------|--------------------|

Table 3: Increases in Non-Hourly Costs (Fees)

| IC # | Item | Current Cost | Proposed Cost | Increase |
|------|--|------------------|------------------|-----------------|
| 4 | Basic Filing Fee – Utility (Paper Filing – Also Requires Non-Electronic Filing Fee under 1.16(t)) (large entity) | \$65,856,000.00 | \$70,560,000.000 | \$4,704,000.00 |
| 4 | Basic Filing Fee – Utility (Paper Filing – Also Requires Non-Electronic Filing Fee under 1.16(t)) (small entity) | \$11,270,000.00 | \$12,075,000.00 | \$805,000.00 |
| 4 | Basic Filing Fee – Utility (Paper Filing – Also Requires Non-Electronic Filing Fee under 1.16(t)) (micro entity) | \$1,190,000.00 | \$1,275,000.00 | \$85,000.00 |
| 4 | Basic Filing Fee (electronic filing) (small entities) | New fee | \$6,037,500.00 | \$6,037,500.00 |
| 4 | Each Independent Claim in Excess of Three (large entity) | \$23,142,000.00 | \$25,346,000.00 | \$2,204,000.00 |
| 4 | Each Independent Claim in Excess of Three (small entity) | \$4,305,000.00 | \$4,715,000.00 | \$410,000.00 |
| 4 | Each Independent Claim in Excess of Three (micro entity) | \$199,500.00 | \$218,500.00 | \$19,000.00 |
| 4 | Utility Search Fee (large entity) | \$140,340,000.00 | \$154,374,000.00 | \$14,034,000.00 |
| 4 | Utility Search Fee (small entity) | \$23,880,000.00 | \$26,268,000.00 | \$2,388,000.00 |
| 4 | Utility Search Fee (micro entity) | \$2,505,000.00 | \$2,755,500.00 | \$250,500.00 |
| 4 | Utility Examination Fee (large entity) | \$169,128,000.00 | \$178,524,000.00 | \$9,396,000.00 |
| 4 | Utility Examination Fee (small entity) | \$28,800,000.00 | \$30,400,000.00 | \$1,600,000.00 |
| 4 | Utility Examination Fee (micro entity) | \$3,024,000.00 | \$3,192,000.00 | \$168,000.00 |
| 5 | Basic Filing Fee – Plant (large entity) | \$102,600.00 | \$114,000.00 | \$11,400.00 |
| 5 | Basic Filing Fee – Plant (small entity) | \$52,200.00 | \$58,000.00 | \$5,800.00 |
| 5 | Basic Filing Fee – Plant (micro entity) | \$450.00 | \$500.00 | \$50.00 |
| 5 | Each Claim in Excess of 20 (large entity) | \$29,032,000.00 | \$36,290,000.00 | \$7,258,000.00 |
| 5 | Each Claim in Excess of 20 (small entity) | \$7,976,000.00 | \$9,970,000.00 | \$1,994,000.00 |
| 5 | Each Claim in Excess of 20 (micro entity) | \$252,000.00 | \$315,000.00 | \$63,000.00 |

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|----|--|-----------------|-----------------|----------------|
| | entity) | | | |
| 5 | Plant Search Fee (large entity) | \$216,600.00 | \$239,400.00 | \$22,800.00 |
| 5 | Plant Search Fee (small entity) | \$109,250.00 | \$120,750.00 | \$11,500.00 |
| 5 | Plant Search Fee (micro entity) | \$950.00 | \$1,050.00 | \$100.00 |
| 5 | Plant Examination Fee (large entity) | \$324,800.00 | \$347,200.00 | \$22,400.00 |
| 5 | Plant Examination Fee (small entity) | \$165,300.00 | \$176,700.00 | \$11,400.00 |
| 5 | Plant Examination Fee (micro entity) | \$1,450.00 | \$1,550.00 | \$100.00 |
| 6 | Basic Filing Fee - Design (large entity) | \$3,618,000.00 | \$4,020,000.00 | \$402,000.00 |
| 6 | Basic Filing Fee - Design (small entity) | \$1,611,000.00 | \$1,790,000.00 | \$179,000.00 |
| 6 | Basic Filing Fee - Design (micro entity) | \$211,500.00 | \$235,000.00 | \$23,500.00 |
| 6 | Basic Filing Fee - Design (CPA) (large entity) | \$99,000.00 | \$110,000.00 | \$11,000.00 |
| 6 | Basic Filing Fee - Design (CPA) (small entity) | \$30,600.00 | \$34,000.00 | \$3,400.00 |
| 6 | Basic Filing Fee - Design (CPA) (micro entity) | \$1,350.00 | \$4,500.00 | \$3,150.00 |
| 6 | Multiple Dependent Claim (large entity) | \$936,000.00 | \$984,000.00 | \$48,000.00 |
| 6 | Multiple Dependent Claim (small entity) | \$312,000.00 | \$328,000.00 | \$16,000.00 |
| 6 | Multiple Dependent Claim (micro entity) | \$17,550.00 | \$18,450.00 | \$900.00 |
| 6 | Design Search Fee (large entity) | \$2,448,000.00 | \$3,264,000.00 | \$816,000.00 |
| 6 | Design Search Fee (small entity) | \$1,080,000.00 | \$1,440,000.00 | \$360,000.00 |
| 6 | Design Search Fee (micro entity) | \$138,000.00 | \$184,000.00 | \$46,000.00 |
| 6 | Design Examination Fee (large entity) | \$9,292,000.00 | \$12,120,000.00 | \$2,828,000.00 |
| 6 | Design Examination Fee (small entity) | \$4,094,000.00 | \$5,340,000.00 | \$1,246,000.00 |
| 6 | Design Examination Fee (micro entity) | \$529,000.00 | \$690,000.00 | \$161,000.00 |
| 15 | Provisional Application Filing Fee (large entity) | \$14,586,000.00 | \$15,708,000.00 | \$1,122,000.00 |
| 15 | Provisional Application Filing Fee (small entity) | \$8,944,000.00 | \$9,632,000.00 | \$688,000.00 |
| 15 | Provisional Application Filing Fee (micro entity) | \$1,950,000.00 | \$2,100,000.00 | \$150,000.00 |
| 16 | Surcharge - Late Filing Fee, Search Fee, Examination Fee, Inventor's Oath or Declaration, or Application Filed Without at least One Claim or | \$12,096,000.00 | \$13,824,000.00 | \$1,728,000.00 |

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| | by Reference (large entity) | | | |
| 16 | Surcharge - Late Filing Fee, Search Fee, Examination Fee, Inventor's Oath or Declaration, or Application Filed Without at least One Claim or by Reference (small entity) | \$2,674,000.00 | \$3,056,000.00 | \$382,000.00 |
| 16 | Surcharge - Late Filing Fee, Search Fee, Examination Fee, Inventor's Oath or Declaration, or Application Filed Without at least One Claim or by Reference (micro entity) | \$157,500.00 | \$180,000.00 | \$22,500.00 |
| | Totals | \$576,698,600.00 | \$638,436,600.00 | \$61,738,000.00 |

Summary of Changes

The revision of fifteen fees (broken up into large entities, small entities, and micro entities) and an increase of \$61,738,000 in non-hourly costs to collection 0651-0032 account for changes that follow the rulemaking action NPRM 0651-AD02.

Changes in Burden

| Burden Type | Currently Approved | Proposed | New Estimate |
|--------------------|---------------------------|-----------------|---------------------|
| Non-hour Costs | \$1.127.541.339.53 | \$61,738,000.00 | \$1,189,279,339.53 |

The 0651-0032 revised total burden is as follows:

- \$1,189,279,339.53 in non-hourly cost burden