

JUSTIFICATION FOR NONMATERIAL/NONSUBSTANTIVE CHANGE
Patent Trial and Appeal Board (PTAB) Actions
OMB Control Number 0651-0063

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 a fee (Forwarding an Appeal in an Application or Ex Parte Reexamination Proceeding to the Board) attached to this collection that is being updated as a result of the rulemaking action NPRM 0651-AD02.

Table 1: Total Fee Increases

IC #	Item	Respondents	Proposed Fee	Non-hour Burden (\$)
2	Forwarding an Appeal in an Application or Ex Parte Reexamination Proceeding to the Board (large entity)	11,341	\$2,240	\$25,403,840
2	Forwarding an Appeal in an Application or Ex Parte Reexamination Proceeding to the Board (small entity)	4,051	\$1,120	\$4,537,120
2	Forwarding an Appeal in an Application or Ex Parte Reexamination Proceeding to the Board (micro entity)	810	\$560	\$453,600
	Total	---	---	\$30,394,560

Table 2: Increases in Fee Amounts

IC #	Item	Current Fee	Proposed Fee	Fee Increase
2	Forwarding an Appeal in an Application or Ex Parte Reexamination Proceeding to the Board	\$2,000 (large entity) \$1,000 (small entity) \$500 (micro entity)	\$2,240 (large entity) \$1,120 (small entity) \$560 (micro entity)	\$240 (large entity) \$120 (small entity) \$60 (micro entity)

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

IC #	Item	Current Total Cost	Proposed Total Cost	Proposed Cost Increase
2	Forwarding an Appeal in an Application or Ex Parte Reexamination Proceeding to the Board (large entity)	\$22,682,000	\$25,403,840	\$2,721,840
2	Forwarding an Appeal in an Application or Ex Parte Reexamination Proceeding to the Board (small entity)	\$4,051,000	\$4,537,120	\$486,120

2	Forwarding an Appeal in an Application or Ex Parte Reexamination Proceeding to the Board (micro entity)	\$405,000	\$453,600	\$48,600
Totals		\$27,138,000	\$30,394,560	\$3,256,560

Summary of Changes

The revision of one fee in this collection and the addition of \$3,256,560 in non-hourly costs to collection 0651-0063 account for the changes following the rulemaking action NPRM 0651-AD02.

Changes in Burden

Burden Type	Currently Approved	Proposed Change	New Estimate
Respondents	23,660	0	23,660
Hourly Burden	555,098	0	555,098
Non-hourly Costs	\$45,260,187.65	\$3,256,560.00	\$48,516,747.65

The 0651-0063 revised total burden is as follows:

- 23,660 responses
- 555,098 hourly burden
- \$48,516,747.65 in non-hourly cost burden