

JUSTIFICATION FOR NONMATERIAL/NONSUBSTANTIVE CHANGE
Rules for Patent Maintenance Fees
OMB Control Number 0651-0016

Background

The United States Patent and Trademark Office (USPTO) administers the Leahy-Smith America Invents Act (AIA), 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 the patent and trademark processes. 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.

This request is to update the fees attached to collection 0651-0016 (Rules for Patent Maintenance Fees) that are affected by the rulemaking NPRM **Rulemaking Number**. There are seven fees being adjusted as a result of the 2019 Patent Biennial Fee Review.

Table 1: Increases in Fee Amounts

IC #	Item	Current Fee Amount	Proposed Fee Amount	Change in Fee Amount
1	For Maintaining an Original or Any Reissue Patent, Due at 3.5 Years (large entity)	\$1,600	\$2,000	\$400
1	For Maintaining an Original or Any Reissue Patent, Due at 3.5 Years (small entity)	\$800	\$1,000	\$200
1	For Maintaining an Original or Any Reissue Patent, Due at 3.5 Years (micro entity)	\$400	\$500	\$100
1	For Maintaining an Original or Any Reissue Patent, Due at 7.5 Years (large entity)	\$3,600	\$3,760	\$160
1	For Maintaining an Original or Any Reissue Patent, Due at 7.5 Years (small entity)	\$1,800	\$1,880	\$80
1	For Maintaining an Original or Any Reissue Patent, Due at 7.5 Years (micro entity)	\$900	\$940	\$40
1	For Maintaining an Original or Any Reissue Patent, Due at 11.5 Years (large entity)	\$7,400	\$7,700	\$300
1	For Maintaining an Original or Any Reissue Patent, Due at 11.5 Years (small entity)	\$3,700	\$3,850	\$150
1	For Maintaining an Original or Any Reissue Patent, Due at 11.5 Years (micro entity)	\$1,850	\$1,925	\$75
1	Surcharge - 3.5 year - Late Payment Within 6 Months (large entity)	\$160	\$500	\$340
1	Surcharge - 3.5 year - Late Payment Within 6 Months (small entity)	\$80	\$250	\$170
1	Surcharge - 3.5 year - Late Payment Within 6 Months (micro entity)	\$40	\$125	\$85
1	Surcharge -7.5 year - Late Payment Within 6 Months (large entity)	\$160	\$500	\$340

1	Surcharge -7.5 year - Late Payment Within 6 Months (small entity)	\$80	\$250	\$170
1	Surcharge -7.5 year - Late Payment Within 6 Months (micro entity)	\$40	\$125	\$85
1	Surcharge - 11.5 year - Late Payment Within 6 Months (large entity)	\$160	\$500	\$340
1	Surcharge - 11.5 year - Late Payment Within 6 Months (small entity)	\$80	\$250	\$170
1	Surcharge - 11.5 year - Late Payment Within 6 Months (micro entity)	\$40	\$125	\$85
3	Petition for the Delayed Payment of the Fee for Maintaining a Patent in Force (large entity)	\$2,000	\$2,100	\$100
3	Petition for the Delayed Payment of the Fee for Maintaining a Patent in Force (small entity)	\$1,000	\$1,050	\$50
3	Petition for the Delayed Payment of the Fee for Maintaining a Patent in Force (micro entity)	\$500	\$525	\$25

Table 2: Proposed Burden Change

IC #	Item	Responses	Proposed Fee	Proposed Cost
1	For Maintaining an Original or Any Reissue Patent, Due at 3.5 Years (large entity)	188,800	\$2,000	\$377,600,000
1	For Maintaining an Original or Any Reissue Patent, Due at 3.5 Years (small entity)	40,800	\$1,000	\$40,800,000.00
1	For Maintaining an Original or Any Reissue Patent, Due at 3.5 Years (micro entity)	2,600	\$500	\$1,300,000.00
1	For Maintaining an Original or Any Reissue Patent, Due at 7.5 Years (large entity)	96,000	\$3,760	\$360,960,000.00
1	For Maintaining an Original or Any Reissue Patent, Due at 7.5 Years (small entity)	16,200	\$1,880	\$30,456,000.000
1	For Maintaining an Original or Any Reissue Patent, Due at 7.5 Years (micro entity)	900	\$940	\$846,000.00
1	For Maintaining an Original or Any Reissue Patent, Due at 11.5 Years (large entity)	61,700	\$7,700	\$475,090,000.00
1	For Maintaining an Original or	9,800	\$3,850	\$37,730,000.00

	Any Reissue Patent, Due at 11.5 Years (small entity)			
1	For Maintaining an Original or Any Reissue Patent, Due at 11.5 Years (micro entity)	500	\$1,925	\$962,500.00
1	Surcharge - 3.5 year - Late Payment Within 6 Months (large entity)	3,500	\$500	\$1,750,000
1	Surcharge - 3.5 year - Late Payment Within 6 Months (small entity)	6,200	\$250	\$1,550,000
1	Surcharge - 3.5 year - Late Payment Within 6 Months (micro entity)	700	\$125	\$87,500
1	Surcharge -7.5 year - Late Payment Within 6 Months (large entity)	2,000	\$500	\$1,000,000
1	Surcharge -7.5 year - Late Payment Within 6 Months (small entity)	2,500	\$250	\$625,000
1	Surcharge -7.5 year - Late Payment Within 6 Months (micro entity)	300	\$125	\$37,500
1	Surcharge - 11.5 year - Late Payment Within 6 Months (large entity)	2,200	\$500	\$1,100,000
1	Surcharge - 11.5 year - Late Payment Within 6 Months (small entity)	1,700	\$250	\$425,000
1	Surcharge - 11.5 year - Late Payment Within 6 Months (micro entity)	200	\$125	\$25,000
3	Petition for the Delayed Payment of the Fee for Maintaining a Patent in Force (large entity)	500	\$2,100	\$1,050,000
3	Petition for the Delayed Payment of the Fee for Maintaining a Patent in Force (small entity)	1,200	\$1,050	\$1,260,000.00
3	Petition for the Delayed Payment of the Fee for Maintaining a Patent in Force (micro entity)	100	\$525	\$52,500.00
	Totals	438,400		\$1,334,707,000

Table 3: Changes in Burden

IC #	Item	Current Fee Cost	Proposed Fee Cost	Change in Fee Cost
1	For Maintaining an Original or Any Reissue Patent, Due at 3.5 Years (large entity)	\$302,080,000.00	\$377,600,000	\$75,520,000
1	For Maintaining an Original or Any Reissue Patent, Due at 3.5 Years (small entity)	\$32,640,000.00	\$40,800,000.00	\$8,160,000.00
1	For Maintaining an Original or Any Reissue Patent, Due at 3.5 Years (micro entity)	\$1,040,000.00	\$1,300,000.00	\$260,000.00
1	For Maintaining an Original or Any Reissue Patent, Due at 7.5 Years (large entity)	\$345,600,000.00	\$360,960,000.00	\$15,360,000.00
1	For Maintaining an Original or Any Reissue Patent, Due at 7.5 Years (small entity)	\$29,160,000.00	\$30,456,000.000	\$1,296,000.00
1	For Maintaining an Original or Any Reissue Patent, Due at 7.5 Years (micro entity)	\$810,000.00	\$846,000.00	\$36,000.00
1	For	\$456,580,000.00	\$475,090,000.00	\$18,510,000.00

	Maintaining an Original or Any Reissue Patent, Due at 11.5 Years (large entity)			
1	For Maintaining an Original or Any Reissue Patent, Due at 11.5 Years (small entity)	\$36,260,000.00	\$37,730,000.00	\$1,470,000.00
1	For Maintaining an Original or Any Reissue Patent, Due at 11.5 Years (micro entity)	\$925,000.00	\$962,500.00	\$37,500.00
1	Surcharge - 3.5 year - Late Payment Within 6 Months (large entity)	\$560,000.00	\$1,750,000	\$1,190,000
1	Surcharge - 3.5 year - Late Payment Within 6 Months (small entity)	\$496,000.00	\$1,550,000	\$1,054,000
1	Surcharge - 3.5 year - Late Payment Within 6 Months (micro entity)	\$28,000.00	\$87,500	\$59,500
1	Surcharge - 7.5 year - Late Payment Within 6 Months (large entity)	\$320,000.00	\$1,000,000	\$680,000
1	Surcharge - 7.5 year - Late Payment	\$200,000.00	\$625,000	\$425,000

	Within 6 Months (small entity)			
1	Surcharge - 7.5 year - Late Payment Within 6 Months (micro entity)	\$12,000.00	\$37,500	\$25,500
1	Surcharge - 11.5 year - Late Payment Within 6 Months (large entity)	\$352,000.00	\$1,100,000	\$748,000
1	Surcharge - 11.5 year - Late Payment Within 6 Months (small entity)	\$136,000.00	\$425,000	\$289,000
1	Surcharge - 11.5 year - Late Payment Within 6 Months (micro entity)	\$8,000.00	\$25,000	\$17,000
3	Petition for the Delayed Payment of the Fee for Maintaining a Patent in Force (large entity)	\$1,000,000.00	\$1,050,000.000	\$50,000.000
3	Petition for the Delayed Payment of the Fee for Maintaining a Patent in Force (small entity)	\$1,200,000.00	\$1,260,000.00	\$60,000.00
3	Petition for the Delayed Payment of the Fee for	\$50,000.00	\$52,500.00	\$2,500.00

	Maintaining a Patent in Force (micro entity)			
	Totals	\$1,209,457,000.00	\$1,334,707,000	\$125,250,000.000

Summary of Changes

The Patent Fee Review results in seven fees being updated and an increase of \$125,250,000.00 in non-hourly costs to collection 0651-0016.

Changes in Burden

Burden Type	Current Amount	Proposed Change	New Estimate
Non-Hourly Costs	\$1,209,457,960	\$125,250,000.00	\$1,334,707,957

0651-0016's revised total burden is as follows:

- \$1,334,707,959.5in annual (non-hourly) costs