

JUSTIFICATION FOR NONMATERIAL/NONSUBSTANTIVE CHANGE
Post Allowance and Refiling
OMB Control Number 0651-0033

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 previous approvals. Respondent numbers are also changing due to agency discretion in conjunction with the rule.

There are eleven fees (most broken down into large entities, small entities, and micro entities) being added or adjusted as a result of the 2017 Patent Biennial Fee Review.

Table 1: Updated Annual (Non-hour) Burden

IC #	Item	Responses	Updated Fee	Updated Non-hour Burden
1	Certificate of Correction	12,200	\$160.00	\$1,952,000.00
3	Basic Filing Fee – Reissue (large entity)	850	\$350.00	\$297,500.00
3	Basic Filing Fee – Reissue (small entity)	250	\$160.00	\$40,000.00
3	Basic Filing Fee – Reissue (micro entity)	10	\$80.00	\$800.00
3	Basic Filing Fee – Reissue (CPA) (large entity)	850	\$320.00	\$272,000.00
3	Basic Filing Fee – Reissue (CPA) (small entity)	250	\$160.00	\$40,000.00
3	Basic Filing Fee – Reissue (CPA) (micro entity)	10	\$80.00	\$800.00
3	Each Reissue Independent Claim in Excess of Three (large entity)	1,150	\$480.00	\$552,000.00
3	Each Reissue Independent Claim in Excess of Three (small entity)	200	\$240.00	\$48,000.00
3	Each Reissue Independent Claim in Excess of Three (micro entity)	15	\$120.00	\$1,800.00
3	Each Reissue Claim in Excess of 20 (large entity)	7,535	\$100.00	\$753,500.00
3	Each Reissue Claim in Excess of 20 (small entity)	2,030	\$50.00	\$101,500.00
3	Each Reissue Claim in Excess of 20 (micro entity)	90	\$25.00	\$2,250.00
3	Reissue Search Fee (large entity)	840	\$700.00	\$588,000.00
3	Reissue Search Fee (small entity)	245	\$350.00	\$85,750.00
3	Reissue Search Fee (micro entity)	10	\$175.00	\$1,750.00
4	Reissue Examination Fee (large entity)	840	\$2,320.00	\$1,948,800.00
4	Reissue Examination Fee (small entity)	245	\$1,160.00	\$284,200.00

4	Reissue Examination Fee (micro entity)	10	\$580.00	\$5,800.00
9	Utility Issue Fee (large entity)	236,390	\$1,200.00	\$283,668,000.00
9	Utility Issue Fee (small entity)	57,830	\$600.00	\$34,698,000.00
9	Utility Issue Fee (micro entity)	5,625	\$300.00	\$1,687,500.00
9	Reissue Issue Fee (large entity)	265	\$1,200.00	\$318,000.00
9	Reissue Issue Fee (small entity)	90	\$600.00	\$54,000.00
9	Reissue Issue Fee (micro entity)	5	\$300.00	\$1,500.00
9	Design Issue Fee (large entity)	15,230	\$740.00	\$11,270,200.00
9	Design Issue Fee (small entity)	11,150	\$370.00	\$4,125,500.00
9	Design Issue Fee (micro entity)	2,210	\$185.00	\$408,850.00
9	Plant Issue Fee (large entity)	610	\$840.00	\$512,400.00
9	Plant Issue Fee (small entity)	655	\$420.00	\$275,100.00
9	Plant Issue Fee (micro entity)	10	\$210.00	\$2,100.00
	Totals	357,700		\$343,997,600.00

Table 2: Increase in Fee Amounts

IC #	Item	Existing Fee	Proposed Fee	Fee Increase
1	Certificate of Correction	\$100	\$160	\$60
3	Basic Filing Fee - Reissue	\$280 (large entity) \$140 (small entity) \$70 (micro entity)	\$350 (large entity) \$160 (small entity) \$80 (micro entity)	\$70 (large entity) \$20 (small entity) \$10 (micro entity)
3	Basic Filing Fee - Reissue (CPA)	\$280 (large entity) \$140 (small entity) \$70 (micro entity)	\$320 (large entity) \$160 (small entity) \$80 (micro entity)	\$40 (large entity) \$20 (small entity) \$10 (micro entity)
3	Each Reissue Independent Claim in Excess of three	\$420 (large entity) \$210 (small entity) \$105 (micro entity)	\$480 (large entity) \$240 (small entity) \$120 (micro entity)	\$60 (large entity) \$30 (small entity) \$15 (micro entity)
3	Each Reissue 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)
3	Reissue Search Fee	\$600 (large entity) \$300 (small entity) \$150 (micro entity)	\$700 (large entity) \$350 (small entity) \$175 (micro entity)	\$100 (large entity) \$50 (small entity) \$25 (micro entity)
4	Reissue Examination Fee	\$2,160 (large entity) \$1,080 (small entity) \$540 (micro entity)	\$2,320 (large entity) \$1,160 (small entity) \$580 (micro entity)	\$160 (large entity) \$80 (small entity) \$40 (micro entity)
9	Utility Issue Fee	\$960 (large entity) \$480 (small entity) \$240 (micro entity)	\$1,200 (large entity) \$600 (small entity) \$300 (micro entity)	\$240 (large entity) \$120 (small entity) \$60 (micro entity)
9	Reissue Issue Fee	\$960 (large entity) \$480 (small entity) \$240 (micro entity)	\$1,200 (large entity) \$600 (small entity) \$300 (micro entity)	\$240 (large entity) \$120 (small entity) \$60 (micro entity)
9	Design Issue Fee	\$560 (large entity) \$280 (small entity) \$140 (micro entity)	\$740 (large entity) \$370 (small entity) \$185 (micro entity)	\$180 (large entity) \$90 (small entity) \$45 (micro entity)

9	Plant Issue Fee	\$760 (large entity) \$380 (small entity) \$190 (micro entity)	\$840 (large entity) \$420 (small entity) \$210 (micro entity)	\$80 (large entity) \$40 (small entity) \$20 (micro entity)
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Table 3: Increases in Hourly Burden Respondents

IC #	Item	Current Annual Responses	Proposed Annual Responses	Increases in Responses
3	Basic Filing Fee – Reissue (CPA) (large entity)	0	850	850
3	Basic Filing Fee – Reissue (CPA) (small entity)	0	250	250
3	Basic Filing Fee – Reissue (CPA) (micro entity)	0	10	10
	Totals	0	1110	1110

Table 4: Increases in Non-Hourly Costs (Fees)

IC #	Item	Current Total Cost (\$)	Proposed Total Cost (\$)	Total Cost Increase
1	Certificate of Correction	\$1,220,000.00	\$1,952,000.00	\$732,000.00
3	Basic Filing Fee – Reissue (large entity)	\$238,000.00	\$297,500.00	\$59,500.00
3	Basic Filing Fee – Reissue (small entity)	\$35,000.00	\$40,000.00	\$5,000.00
3	Basic Filing Fee – Reissue (micro entity)	\$700.00	\$800.00	\$100.00
3	Basic Filing Fee – Reissue (CPA) (large entity)	\$238,000.00	\$272,000.00	\$34,000.00
3	Basic Filing Fee – Reissue (CPA) (small entity)	\$35,000.00	\$40,000.00	\$5,000.00
3	Basic Filing Fee – Reissue (CPA) (micro entity)	\$700	\$800.00	\$100.00
3	Each Reissue Independent Claim in Excess of Three (large entity)	\$483,000.00	\$552,000.00	\$69,000.00
3	Each Reissue Independent Claim in Excess of Three (small entity)	\$42,000.00	\$48,000.00	\$6,000.00
3	Each Reissue Independent Claim in Excess of Three (micro entity)	\$1,575.00	\$1,800.00	\$225.00
3	Each Reissue Claim in Excess of 20 (large entity)	\$602,800.00	\$753,500.00	\$150,700.00
3	Each Reissue Claim in Excess of 20 (small entity)	\$81,200.00	\$101,500.00	\$20,300.00
3	Each Reissue Claim in Excess of 20 (micro entity)	\$1,800.00	\$2,250.00	\$450.00
3	Reissue Search Fee (large entity)	\$510,000.00	\$588,000.00	\$78,000.00
3	Reissue Search Fee (small entity)	\$75,000.00	\$85,750.00	\$10,750.00
3	Reissue Search Fee (micro entity)	\$1,500.00	\$1,750.00	\$250.00
4	Reissue Examination Fee (large entity)	\$1,814,400.00	\$1,948,800.00	\$134,400.00

4	Reissue Examination Fee (small entity)	\$264,600.00	\$284,200.00	\$19,600.00
4	Reissue Examination Fee (micro entity)	\$5,400.00	\$5,800.00	\$400.00
9	Utility Issue Fee (large entity)	\$226,934,400.00	\$283,668,000.00	\$56,733,600.00
9	Utility Issue Fee (small entity)	\$27,758,400.00	\$34,698,000.00	\$6,939,600.00
9	Utility Issue Fee (micro entity)	\$13,500.00	\$1,687,500.00	\$1,674,000.00
9	Reissue Issue Fee (large entity)	\$254,400.00	\$318,000.00	\$63,600.00
9	Reissue Issue Fee (small entity)	\$43,200.00	\$54,000.00	\$10,800.00
9	Reissue Issue Fee (micro entity)	\$1,200.00	\$1,500.00	\$300.00
9	Design Issue Fee (large entity)	\$8,528,000.00	\$11,270,200.00	\$2,742,200.00
9	Design Issue Fee (small entity)	\$3,122,000.00	\$4,125,500.00	\$1,003,500.00
9	Design Issue Fee (micro entity)	\$309,400.00	\$408,850.00	\$99,450.00
9	Plant Issue Fee (large entity)	\$463,600.00	\$512,400.00	\$48,500.00
9	Plant Issue Fee (small entity)	\$248,900.00	\$275,100.00	\$26,200.00
9	Plant Issue Fee (micro entity)	\$1,900.00	\$2,100.00	\$200.00
	Totals	\$273,329,575.00	\$343,997,600.00	\$70,668,025.00

Summary of Changes

The addition of one new fee and the revision of ten existing fees in collection 0651-0031 resulted in an increase of \$71,911,025.00 in annual (non-hour) costs.

Changes in Burden

Item	Current Total	Proposed Increase	Proposed Total
Annual Non-Hour Cost Burden	\$289,370,613.00	\$54,626,987.00	\$343,997,600.00

The 0651-0033 revised total burden is as follows:

- \$343,997,600.00 in annual (non-hour) cost burden