

JUSTIFICATION FOR NONMATERIAL/NONSUBSTANTIVE CHANGE
Patent Reexamination and Supplemental Examinations
OMB Control Number 0651-0064

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.

The request is to update the fees attached to this collection that are affected by the rulemaking NPRM 0651-AD02. There are seven fees being adjusted as a result of the 2019 Patent Biennial Fee Review.

Table 1: Proposed Fees

IC #	Item	Current Fees	Proposed Fees	Changes in Fees
2	Supplemental Examination Request	\$4,400 (large entity) \$2,200 (small entity) \$1,100 (micro entity)	\$4,620 (large entity) \$2,310 (small entity) \$1,155 (micro entity)	\$220 (large entity) \$110 (small entity) \$55 (micro entity)
2	Supplemental Examination Reexamination	\$12,100 (large entity) \$6,050 (small entity) \$3,025 (micro entity)	\$12,700 (large entity) \$6,350 (small entity) \$3,175 (micro entity)	\$600 (large entity) \$300 (small entity) \$150 (micro entity)
2	Supplemental Examination document size fees, 21-50 documents	\$180 (large entity) \$90 (small entity) \$45 (micro entity)	No change	No change
2	Supplemental examination document size fees, each additional 50 documents	\$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)
2	Reexamination independent claims in excess of three and also in excess of the number of such claims in the patent under reexamination	\$460 (large entity) \$230 (small entity) \$115 (micro entity)	\$480 (large entity) \$240 (small entity) \$120 (micro entity)	\$20 (large entity) \$10 (small entity) \$5 (micro entity)
2	Reexamination claims in excess of 20 and also in excess of the number of claims in the patent under reexamination	\$100 (large entity) \$50 (small entity) \$25 (micro entity)	No change	No change
4	Ex Parte Reexamination	\$6,000 (large entity)	\$6,300 (large entity)	\$300 (large entity)

	(\$1.510(a)) Streamlined	\$3,000 (small entity) \$1,500 (micro entity)	\$3,150 (small entity) \$1,575 (micro entity)	\$150 (small entity) \$75 (micro entity)
4	Ex Parte Reexamination (\$1.510(a)) Non-Streamlined	\$12,000 (large entity) \$6,000 (small entity) \$3,000 (micro entity)	\$12,600 (large entity) \$6,300 (small entity) \$3,150 (micro entity)	\$600 (large entity) \$300 (small entity) \$150 (micro entity)
5	Petitions in a reexamination proceeding, except for those specifically enumerated in 37 CFR 1.550(i) and 1.937(d)	\$1,940 (large entity) \$970 (small entity) \$485 (micro entity)	\$2,040 (large entity) \$1,020 (small entity) \$510 (micro entity)	\$100 (large entity) \$50 (small entity) \$25 (micro entity)

Table 2: Proposed Burden

IC #	Item	Responses	Proposed Fee	Proposed Cost
2	Supplemental Examination Request (large entity)	55	\$4,620.00	\$254,100.00
2	Supplemental Examination Request (small entity)	15	\$2,310.00	\$34,650.00
2	Supplemental Examination Request (micro entity)	5	\$1,155.00	\$5,775.00
2	Supplemental Examination Reexamination (large entity)	35	\$12,700.00	\$444,500.00
2	Supplemental Examination Reexamination (small entity)	10	\$6,350.00	\$63,500.00
2	Supplemental Examination Reexamination (micro entity)	1	\$3,175.00	\$3,175.00
2	Supplemental examination document size fees, each additional 50 documents (large entity)	10	\$300.00	\$3,000.00
2	Supplemental examination document size fees, each additional 50 documents (small entity)	1	\$150.00	\$150.00
2	Supplemental examination document size fees, each additional 50 documents (micro entity)	1	\$75.00	\$75.00
2	Reexamination independent claims in excess of three and also in excess of the number of such claims in the patent under reexamination (large entity)	35	\$480.00	\$16,800.00
2	Reexamination independent claims in excess of three and also in excess of the number of such claims in the patent under reexamination (small entity)	10	\$240.00	\$2,400.00
2	Reexamination independent claims in excess of three and also in excess of the number of such claims in the patent under reexamination (micro entity)	5	\$120.00	\$600.00
4	Ex Parte Reexamination (\$1.510(a))	42	\$6,300.00	\$264,600.00

	Streamlined (large entity)			
4	Ex Parte Reexamination (§1.510(a)) Streamlined (small entity)	27	\$3,150.00	\$85,050.00
4	Ex Parte Reexamination (§1.510(a)) Streamlined (micro entity)	1	\$1,575.00	\$1,575.00
4	Ex Parte Reexamination (§1.510(a)) Non-Streamlined (large entity)	78	\$12,600.00	\$982,800.00
4	Ex Parte Reexamination (§1.510(a)) Non-Streamlined (small entity)	51	\$6,300.00	\$321,300.00
4	Ex Parte Reexamination (§1.510(a)) Non-Streamlined (micro entity)	1	\$3,150.00	\$3,150.00
5	Petitions in a reexamination proceeding, except for those specifically enumerated in 37 CFR 1.550(i) and 1.937(d) (large entity)	180	\$2,040.00	\$367,200.00
5	Petitions in a reexamination proceeding, except for those specifically enumerated in 37 CFR 1.550(i) and 1.937(d) (small entity)	20	\$1,020.00	\$20,400.00
5	Petitions in a reexamination proceeding, except for those specifically enumerated in 37 CFR 1.550(i) and 1.937(d) (micro entity)	1	\$510.00	\$510.00
	Totals	422		\$2,544,830.00

Table 3: Change in Cost

IC #	Item	Current Cost	Proposed Cost	Change in Cost
2	Supplemental Examination Request (large entity)	\$242,000.00	\$254,100.00	\$12,100.00
2	Supplemental Examination Request (small entity)	\$33,000.00	\$34,650.00	\$1,650.00
2	Supplemental Examination Request (micro entity)	\$5,500.00	\$5,775.00	\$275.00
2	Supplemental Examination Reexamination (large entity)	\$423,500.00	\$444,500.00	\$21,000.00
2	Supplemental Examination Reexamination (small entity)	\$60,500.00	\$63,500.00	\$3,000.00
2	Supplemental Examination Reexamination (micro entity)	\$3,025.00	\$3,175.00	\$150.00
2	Supplemental examination document size fees, each additional 50 documents (large entity)	\$2,800.00	\$3,000.00	\$200.00
2	Supplemental examination document size fees, each additional 50 documents (small entity)	\$140.00	\$150.00	\$10.00
2	Supplemental examination document size fees, each additional 50 documents (micro entity)	\$70.00	\$75.00	\$5.00

	entity)			
2	Reexamination independent claims in excess of three and also in excess of the number of such claims in the patent under reexamination (large entity)	\$16,100.00	\$16,800.00	\$700.00
2	Reexamination independent claims in excess of three and also in excess of the number of such claims in the patent under reexamination (small entity)	\$2,300.00	\$2,400.00	\$100.00
2	Reexamination independent claims in excess of three and also in excess of the number of such claims in the patent under reexamination (micro entity)	\$575.00	\$600.00	\$25.00
4	Ex Parte Reexamination (§1.510(a)) Streamlined (large entity)	\$252,000.00	\$264,600.00	\$12,600.00
4	Ex Parte Reexamination (§1.510(a)) Streamlined (small entity)	\$81,000.00	\$85,050.00	\$4,050.00
4	Ex Parte Reexamination (§1.510(a)) Streamlined (micro entity)	\$1,500.00	\$1,575.00	\$75.00
4	Ex Parte Reexamination (§1.510(a)) Non-Streamlined (large entity)	\$936,000.00	\$982,800.00	\$46,800.00
4	Ex Parte Reexamination (§1.510(a)) Non-Streamlined (small entity)	\$306,000.00	\$321,300.00	\$15,300.00
4	Ex Parte Reexamination (§1.510(a)) Non-Streamlined (micro entity)	\$3,000.00	\$3,150.00	\$150.00
5	Petitions in a reexamination proceeding, except for those specifically enumerated in 37 CFR 1.550(i) and 1.937(d) (large entity)	\$349,200.00	\$367,200.00	\$18,000.00
5	Petitions in a reexamination proceeding, except for those specifically enumerated in 37 CFR 1.550(i) and 1.937(d) (small entity)	\$19,400.00	\$20,400.00	\$1,000.00
5	Petitions in a reexamination proceeding, except for those specifically enumerated in 37 CFR 1.550(i) and 1.937(d) (micro entity)	\$485.00	\$510.00	\$25.00
	Totals	\$2,738,095.00	\$2,875,310.00	\$137,215.00

Summary of Changes

The Patent Fee Review resulted in a revision of seven fees and an increase of \$137,215 in annual (non-hourly) costs.

Changes in Burden

Burden Type	Currently Approved	Proposed Change	New Estimate
Non-hourly Costs	\$2,747,178	\$137,215	\$2,884,393

0651-0064's revised burden is as follows:

- \$2,884,393 in annual (non-hourly) costs