

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), 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 0651-0063 (Patent Trial and Appeal Board (PTAB) Actions). There are four fees being adjusted as a result of the 2020 Patent Biennial Fee Review.

Table 1: Increases in Fee Amount

IC #	Item	Current Fees	Proposed Fees	Changes in Cost
1	Filing a Brief in Support of an Appeal in an Application or Ex Parte Reexamination Proceeding to the Board	\$0	No change	No change
2	Filing a brief in support of an appeal in an inter partes reexamination proceeding	\$2,000 (large entity) \$1,000 (small entity) \$500 (micro entity)	\$2,100 (large entity) \$1,050 (small entity) \$525 (micro entity)	\$100 (large entity) \$50 (small entity) \$25 (micro entity)
3	Forwarding an Appeal in an Application or Ex Parte Reexamination Proceeding to the Board	\$2,240 (large entity) \$1,120 (small entity) \$560 (micro entity)	\$2,360 (large entity) \$1,180 (small entity) \$590 (micro entity)	\$120 (large entity) \$60 (small entity) \$30 (micro entity)

Table 2: Proposed Burden Cost

IC #	Item	Responses	Proposed Fee	Proposed Total
2	Filing a brief in support of an appeal in an inter partes reexamination proceeding (large entity)	10	\$2,100.00	\$21,000.00
2	Filing a brief in support of an appeal in an inter partes reexamination proceeding (small entity)	1	\$1,050.00	\$1,050.00
2	Filing a brief in support of an appeal in an inter partes reexamination proceeding (micro entity)	4	\$525.00	\$2,100.00
3	Forwarding an Appeal in an Application or Ex Parte Reexamination Proceeding to the Board (large entity)	11,341	\$2,360.00	\$26,764,760.00
3	Forwarding an Appeal in an Application or Ex	4,051	\$1,180.00	\$4,780,180.00

	Parte Reexamination Proceeding to the Board (small entity)			
3	Forwarding an Appeal in an Application or Ex Parte Reexamination Proceeding to the Board (micro entity)	810	\$590.00	\$477,900.00
	Totals	16217		\$32,046,990.00

Table 3: Changes in Cost

IC #	Item	Current Cost	Proposed Cost	Estimated Change
2	Filing a brief in support of an appeal in an inter partes reexamination proceeding (large entity)	\$20,000.00	\$21,000.00	\$1,000.00
2	Filing a brief in support of an appeal in an inter partes reexamination proceeding (small entity)	\$1,000.00	\$1,050.00	\$50.00
2	Filing a brief in support of an appeal in an inter partes reexamination proceeding (micro entity)	\$500.00	\$525.00	\$25.00
3	Forwarding an Appeal in an Application or Ex Parte Reexamination Proceeding to the Board (large entity)	\$22,682,000.00	\$26,764,760.00	\$4,082,760.00
3	Forwarding an Appeal in an Application or Ex Parte Reexamination Proceeding to the Board (small entity)	\$4,051,000.00	\$4,780,180.00	\$729,180.00
3	Forwarding an Appeal in an Application or Ex Parte Reexamination Proceeding to the Board (micro entity)	\$405,000.00	\$477,900.00	\$72,900.00
	Totals	\$27,159,500.00	\$32,045,415.00	\$4,885,915.00

Summary of Changes

The Patent Fee Review results in a revision of four forms and an increase of \$4,885,915.00 in annual (non-hourly) costs for collection 0651-0063.

Changes in Burden

Burden Type	Currently Approved	Proposed Change	New Estimate
Non-hourly Costs	\$48,516,748	\$4,885,915.00	\$53,402,663

0651-0063's revised burden is as follows:

- \$53,402,663 in annual (non-hourly) costs