

JUSTIFICATION FOR NONMATERIAL/NONSUBSTANTIVE CHANGE
Patent Trial and Appeal Board (PTAB) Appeals
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 factoring in the cost of the respective services.

This request is to update the fees for small and micro entities attached to collection 0651-0063 (Patent Trial and Appeal Board Appeals) that are affected by the rulemaking RIN 0651-AD66. There are eight fees in this collection being reduced as a result of the *Unleashing American Innovators Act of 2022*.

Table 1: Increases in Fee Amount

IC No.	Item	Current Fee	New Fee	Changes in Fee Amount
1	Notice of appeal	\$420 (small entity) \$210 (micro entity)	\$336 (small entity) \$168 (micro entity)	-\$84 (small entity) -\$42 (micro entity)
2	Filing a brief in support of an appeal in an inter partes reexamination proceeding	\$1,050 (small entity) \$525 (micro entity)	\$840 (small entity) \$420 (micro entity)	-\$210 (small entity) -\$105 (micro entity)
4	Forwarding an Appeal in an Application or Ex Parte Reexamination Proceeding to the Board	\$1,180 (small entity) \$590 (micro entity)	\$944 (small entity) \$472 (micro entity)	-\$236 (small entity) -\$118 (micro entity)
7	Request for oral hearing	\$680 (small entity) \$340 (micro entity)	\$544 (small entity) \$272 (micro entity)	-\$136 (small entity) -\$68 (micro entity)

Table 2: Proposed Burden

IC No.	Item	Responses (a)	Proposed Fee (b)	Proposed Cost (a) x (b) = (c)
1	Notice of appeal	5,439 (small entity) 1,133 (micro entity)	\$336 (small entity) \$168 (micro entity)	\$1,827,504 (small entity) \$190,344 (micro entity)
2	Filing a brief in support of an appeal in an inter partes reexamination proceeding	2 (small entity) 1 (micro entity)	\$840 (small entity) \$420 (micro entity)	\$1,680 (small entity) \$420 (micro entity)
4	Forwarding an Appeal in an Application or Ex Parte Reexamination Proceeding to the Board	3,837 (small entity) 799 (micro entity)	\$944 (small entity) \$472 (micro entity)	\$3,622,128 (small entity) \$377,128 (micro entity)

7	Request for oral hearing	180 (small entity) 37 (micro entity)	\$544 (small entity) \$272 (micro entity)	\$97,920 (small entity) \$10,064 (micro entity)
	Totals	11,211	---	\$6,127,188

Table 3: Changes in Cost

IC No.	Items	Current Cost	Proposed Cost	Change in Cost
1	Notice of appeal	\$2,284,380 (small entity) \$237,930 (micro entity)	\$1,827,504 (small entity) \$190,344 (micro entity)	-\$456,876 (small entity) -\$47,586 (micro entity)
2	Filing a brief in support of an appeal in an inter partes reexamination proceeding	\$2,100 (small entity) \$525 (micro entity)	\$1,680 (small entity) \$420 (micro entity)	-\$420 (small entity) -\$105 (micro entity)
4	Forwarding an Appeal in an Application or Ex Parte Reexamination Proceeding to the Board	\$4,527,660 (small entity) \$471,410 (micro entity)	\$3,622,128 (small entity) \$377,128 (micro entity)	-\$905,532 (small entity) -\$94,282 (micro entity)
7	Request for oral hearing	\$122,400 (small entity) \$12,580 (micro entity)	\$97,920 (small entity) \$10,064 (micro entity)	-\$24,480 (small entity) -\$2,516 (micro entity)
	Totals	\$7,658,985	\$6,127,188	-\$1,531,797

Summary of Changes

The aforementioned legislation results in the revision of eight fees and a decrease of \$1,531,797 in annual (non-hourly) costs to collection 0651-0063.

Changes in Burden

Burden Type	Currently Approved	Proposed Change	New Estimate
Non-hourly Cost Burden	\$48,712,078	-\$1,531,797	\$47,180,281

0651-0063's revised burden is as follows:

- 48,886 in annual responses (unchanged)
- 565,927 in annual hourly burden (unchanged)
- \$47,180,281 in annual (non-hourly) costs