

JUSTIFICATION FOR NONMATERIAL/NONSUBSTANTIVE CHANGE
Patent Reexaminations, Supplemental Examinations, and Post Patent Submissions
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 factoring in the cost of the respective services.

This request is to update the fees for small and micro entities attached to collection 0651-0064 (Patent Reexaminations, Supplemental Examinations, and Post Patent Submissions) that are affected by the rulemaking RIN 0651-AD66. There are 18 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	Supplemental Examination Request	\$2,310 (small entity) \$1,155 (micro entity)	\$1,848 (small entity) \$924 (micro entity)	-\$462 (small entity) -\$231 (micro entity)
1	Supplemental Examination Reexamination	\$6,350 (small entity) \$3,175 (micro entity)	\$5,080 (small entity) \$2,540 (micro entity)	-\$1,270 (small entity) -\$525 (micro entity)
1	Supplemental Examination document size fees, 21-50 documents	\$90 (small entity) \$45 (micro entity)	\$72 (small entity) \$36 (micro entity)	-\$18 (small entity) -\$9 (micro entity)
1	Supplemental examination document size fees, each additional 50 documents	\$150 (small entity) \$75 (micro entity)	\$120 (small entity) \$60 (micro entity)	-\$30 (small entity) -\$15 (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	\$240 (small entity) \$120 (micro entity)	\$192 (small entity) \$96 (micro entity)	-\$48 (small entity) -\$24 (micro entity)
2	Reexamination claims in excess of 20 and also in excess of the number of claims in the patent under reexamination	\$50 (small entity) \$25 (micro entity)	\$40 (small entity) \$20 (micro entity)	-\$10 (small entity) -\$5 (micro entity)
2	Ex Parte Reexamination (§1.510(a)) Streamlined	\$3,150 (small entity) \$1,575 (micro entity)	\$2,520 (small entity) \$1,260 (micro entity)	-\$630 (small entity) -\$315 (micro entity)
2	Ex Parte Reexamination (§1.510(a)) Non-Streamlined	\$6,300 (small entity) \$3,150 (micro entity)	\$5,040 (small entity) \$2,520 (micro entity)	-\$1,260 (small entity) -\$630 (micro entity)
3	Petitions in a reexamination proceeding, except for those specifically enumerated in 37 CFR 1.550(i) and 1.937(d)	\$1,020 (small entity) \$510 (micro entity)	\$816 (small entity) \$408 (micro entity)	-\$204 (small entity) -\$102 (micro entity)

Table 2: Proposed Burden

IC No	Item	Responses (a)	Proposed Fee (b)	Proposed Cost (a) x (b) = (c)
1	Supplemental Examination Request	14 (small entity) 1 (micro entity)	\$1,848 (small entity) \$924 (micro entity)	\$25,872 (small entity) \$924 (micro entity)
1	Supplemental Examination Reexamination	15 (small entity) 1 (micro entity)	\$5,080 (small entity) \$2,540 (micro entity)	\$76,200 (small entity) \$2,540 (micro entity)
1	Supplemental Examination document size fees, 21-50 documents	3 (small entity) 1 (micro entity)	\$72 (small entity) \$36 (micro entity)	\$216 (small entity) \$36 (micro entity)
1	Supplemental examination document size fees, each additional 50 documents	1 (small entity) 1 (micro entity)	\$120 (small entity) \$60 (micro entity)	\$120 (small entity) \$60 (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	12 (small entity) 1 (micro entity)	\$192 (small entity) \$96 (micro entity)	\$2,304 (small entity) \$96 (micro entity)
2	Reexamination claims in excess of 20 and also in excess of the number of claims in the patent under reexamination	17 (small entity) 1 (micro entity)	\$40 (small entity) \$20 (micro entity)	\$680 (small entity) \$20 (micro entity)
2	Ex Parte Reexamination (§1.510(a)) Streamlined	40 (small entity) 2 (micro entity)	\$2,520 (small entity) \$1,260 (micro entity)	\$100,800 (small entity) \$2,520 (micro entity)
2	Ex Parte Reexamination (§1.510(a)) Non-Streamlined	56 (small entity) 14 (micro entity)	\$5,040 (small entity) \$2,520 (micro entity)	\$282,240 (small entity) \$35,280 (micro entity)
3	Petitions in a reexamination proceeding, except for those specifically enumerated in 37 CFR 1.550(i) and 1.937(d)	11 (small entity) 1 (micro entity)	\$816 (small entity) \$408 (micro entity)	\$8,976 (small entity) \$408 (micro entity)
	Totals	192	---	\$539,292

Table 3: Changes in Cost

IC No.	Items	Current Cost	Proposed Cost	Change in Cost
1	Supplemental Examination Request	\$32,340 (small entity) \$1,155 (micro entity)	\$25,872 (small entity) \$924 (micro entity)	-\$3,180 (small entity) -\$530 (micro entity)
1	Supplemental Examination Reexamination	\$95,250 (small entity) \$3,175 (micro entity)	\$76,200 (small entity) \$2,540 (micro entity)	-\$1,050 (small entity) -\$525 (micro entity)
1	Supplemental Examination document size fees, 21-50 documents	\$270 (small entity) \$45 (micro entity)	\$216 (small entity) \$36 (micro entity)	-\$3,180 (small entity) -\$530 (micro entity)
1	Supplemental examination document size fees, each additional 50 documents	\$150 (small entity) \$75 (micro entity)	\$120 (small entity) \$60 (micro entity)	-\$1,050 (small entity) -\$525 (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	\$2,880 (small entity) \$120 (micro entity)	\$2,304 (small entity) \$96 (micro entity)	-\$3,180 (small entity) -\$530 (micro entity)
2	Reexamination claims in excess of 20 and also in excess of the number of claims in the patent under reexamination	\$850 (small entity) \$25 (micro entity)	\$680 (small entity) \$20 (micro entity)	-\$1,050 (small entity) -\$525 (micro entity)
2	Ex Parte Reexamination (\$1.510(a)) Streamlined	\$126,000 (small entity) \$3,150 (micro entity)	\$100,800 (small entity) \$2,520 (micro entity)	-\$3,180 (small entity) -\$530 (micro entity)
2	Ex Parte Reexamination (\$1.510(a)) Non-Streamlined	\$352,800 (small entity) \$44,100 (micro entity)	\$282,240 (small entity) \$35,280 (micro entity)	-\$1,050 (small entity) -\$525 (micro entity)
3	Petitions in a reexamination proceeding, except for those specifically enumerated in 37 CFR 1.550(i) and 1.937(d)	\$11,220 (small entity) \$510 (micro entity)	\$8,976 (small entity) \$408 (micro entity)	-\$3,180 (small entity) -\$530 (micro entity)
Totals		\$674,115	\$539,292	-\$134,823

Summary of Changes

The aforementioned legislation results in the revision of 18 fees and a decrease of \$134,823 in annual (non-hourly) costs to collection 0651-0064.

Changes in Burden

Burden Type	Currently Approved	Proposed Change	New Estimate
Non-hourly Cost Burden	\$2,439,335	-\$134,823	\$2,304,512

0651-0064's revised burden is as follows:

- 880 in annual responses (unchanged)
- 23,574 in annual hourly burden (unchanged)
- \$2,304,512 in annual (non-hourly) costs