

JUSTIFICATION FOR NONMATERIAL/NONSUBSTANTIVE CHANGE
Initial Patent Application
OMB Control Number 0651-0031

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 0651-0031 (#) that are affected by the rulemaking RIN 0651-AD66. There are 28 fees in this collection being reduced as a result of the *Unleashing American Innovators Act of 2022*. This update also includes the addition of 8 fees that were not included in the current renewal, and the removal of three fees that are no longer applicable to this information collection.

Table 1: Increases in Fee Amount

IC No.	Item	Current Fee	New Fee	Changes in Fee Amount
1	Information Disclosure Statements that require the fee set forth in 37 CFR 1.17(p)	\$130 (small entity) \$65 (micro entity)	\$104 (small entity) \$52 (micro entity)	-\$26 (small entity) -\$13 (micro entity)
3	One-month Extension of Time under 37 CFR 1.136(a)	\$110 (small entity) \$55 (micro entity)	\$88 (small entity) \$44 (micro entity)	-\$22 (small entity) -\$11 (micro entity)
3	Two-month Extension of Time under 37 CFR 1.136(a)	\$320 (small entity) \$160 (micro entity)	\$256 (small entity) \$128 (micro entity)	-\$64 (small entity) -\$32 (micro entity)
3	Three-month Extension of Time under 37 CFR 1.136(a)	\$740 (small entity) \$370 (micro entity)	\$592 (small entity) \$296 (micro entity)	-\$148 (small entity) -\$74 (micro entity)
3	Four-month Extension of Time under 37 CFR 1.136(a)	\$1,160 (small entity) \$580 (micro entity)	\$928 (small entity) \$464 (micro entity)	-\$232 (small entity) -\$116 (micro entity)
3	Five-month Extension of Time under 37 CFR 1.136(a)	\$1,580 (small entity) \$790 (micro entity)	\$1,264 (small entity) \$632 (micro entity)	-\$316 (small entity) -\$158 (micro entity)
6	Request for Expedited Examination of a Design Application	\$800 (small entity) \$400 (micro entity)	\$640 (small entity) \$320 (micro entity)	-\$160 (small entity) -\$80 (micro entity)
7	Petition for Revival of an Application for Patent Abandoned Unintentionally	\$1,050 (small entity) \$525 (micro entity)	\$840 (small entity) \$420 (micro entity)	-\$210 (small entity) -\$105 (micro entity)
8	Petition for revival of an application for patent abandoned for failure to notify the office of a foreign or international filing	\$1,050 (small entity) \$525 (micro entity)	\$840 (small entity) \$420 (micro entity)	-\$210 (small entity) -\$105 (micro entity)

18	Request for Continued Examination (RCE) Transmittal (First Request)	\$680 (small entity) \$340 (micro entity)	\$544 (small entity) \$272 (micro entity)	-\$136 (small entity) -\$68 (micro entity)
18	Request for Continued Examination (RCE) Transmittal (Second and Subsequent Requests)	\$1,000 (small entity) \$500 (micro entity)	\$800 (small entity) \$400 (micro entity)	-\$200 (small entity) -\$100 (micro entity)
19	Request for Suspension of Action or Deferral of Examination Under 37 CFR 1.103(b), (c), or (d)	\$110 (small entity) \$55 (micro entity)	\$88 (small entity) \$44 (micro entity)	-\$22 (small entity) -\$11 (micro entity)
22	Processing Fee Under 37 CFR 1.17(i) Transmittal	\$70 (small entity) \$35 (micro entity)	\$56 (small entity) \$28 (micro entity)	-\$14 (small entity) -\$7 (micro entity)
29	Request for prioritized examination	\$4,200 (undiscounted entity) \$2,100 (small entity) \$1,050 (micro entity)	\$4,200 (undiscounted entity) \$1,680 (small entity) \$840 (micro entity)	N/A (undiscounted entity) -\$420 (small entity) -\$210 (micro entity)
30	For each additional invention to be examined (see 37 CFR 1.129(b))	\$880 (undiscounted entity) \$440 (small entity) \$220 (micro entity)	\$880 (undiscounted entity) \$352 (small entity) \$176 (micro entity)	N/A (undiscounted entity) -\$88 (small entity) -\$44 (micro entity)
30	Filing a submission after final rejection (see 37 CFR 1.129(a))	\$880 (undiscounted entity) \$440 (small entity) \$220 (micro entity)	\$880 (undiscounted entity) \$352 (small entity) \$176 (micro entity)	N/A (undiscounted entity) -\$88 (small entity) -\$44 (micro entity)
31	Correction of inventorship after first office action on the merits	\$320 (small entity) \$160 (micro entity)	\$256 (small entity) \$128 (micro entity)	-\$64 (small entity) -\$32 (micro entity)

Table 2: Proposed Burden

IC No.	Item	Responses (a)	Proposed Fee (b)	Proposed Cost (a) x (b) = (c)
1	Information Disclosure Statements that require the fee set forth in 37 CFR 1.17(p)	27,198 (small entity) 770 (micro entity)	\$104 (small entity) \$52 (micro entity)	\$2,828,592 (small entity) \$40,040 (micro entity)
3	One-month Extension of Time under 37 CFR 1.136(a)	34,564 (small entity) 4,035 (micro entity)	\$88 (small entity) \$44 (micro entity)	\$3,041,632 (small entity) \$177,540 (micro entity)
3	Two-month Extension of Time under 37 CFR 1.136(a)	19,728 (small entity) 2,346 (micro entity)	\$256 (small entity) \$128 (micro entity)	\$5,050,368 (small entity) \$300,288 (micro entity)
3	Three-month Extension of Time under 37 CFR 1.136(a)	30,442 (small entity) 3,227 (micro entity)	\$592 (small entity) \$296 (micro entity)	\$18,021,664 (small entity) \$955,192 (micro entity)
3	Four-month Extension of Time under 37 CFR 1.136(a)	2,366 (small entity) 294 (micro entity)	\$928 (small entity) \$464 (micro entity)	\$2,195,648 (small entity) \$136,416 (micro entity)
3	Five-month Extension of Time under 37 CFR 1.136(a)	2,257 (small entity) 182 (micro entity)	\$1,264 (small entity) \$632 (micro entity)	\$2,852,848 (small entity) \$115,024 (micro entity)
6	Request for Expedited Examination of a Design Application	468 (small entity) 218 (micro entity)	\$640 (small entity) \$320 (micro entity)	\$299,520 (small entity) \$69,760 (micro entity)
7	Petition for Revival of an Application for Patent Abandoned	3,730 (small entity) 1,167 (micro entity)	\$840 (small entity) \$420 (micro entity)	\$3,133,200 (small entity) \$490,140 (micro entity)

	Unintentionally			
8	Petition for revival of an application for patent abandoned for failure to notify the office of a foreign or international filing	22 (small entity) 14 (micro entity)	\$840 (small entity) \$420 (micro entity)	\$18,480 (small entity) \$5,880 (micro entity)
18	Request for Continued Examination (RCE) Transmittal (First Request)	26,592 (small entity) 5,218 (micro entity)	\$544 (small entity) \$272 (micro entity)	\$14,466,048 (small entity) \$1,419,296 (micro entity)
18	Request for Continued Examination (RCE) Transmittal (Second and Subsequent Requests)	13,241 (small entity) 2,648 (micro entity)	\$800 (small entity) \$400 (micro entity)	\$10,592,800 (small entity) \$1,059,200 (micro entity)
19	Request for Suspension of Action or Deferral of Examination Under 37 CFR 1.103(b), (c), or (d)	215 (small entity) 42 (micro entity)	\$88 (small entity) \$44 (micro entity)	\$18,920 (small entity) \$1,848 (micro entity)
22	Processing Fee Under 37 CFR 1.17(i) Transmittal	12,993 (small entity) 1,629 (micro entity)	\$56 (small entity) \$28 (micro entity)	\$727,608 (small entity) \$45,612 (micro entity)
29	Request for prioritized examination	5,857 (undiscounted entity) 7,251 (small entity) 973 (micro entity)	\$4,200 (undiscounted entity) \$1,680 (small entity) \$840 (micro entity)	\$24,599,400 (undiscounted entity) \$12,181,680 (small entity) \$817,320 (micro entity)
30	For each additional invention to be examined (see 37 CFR 1.129(b))	1 (undiscounted entity) 44 (small entity) 5 (micro entity)	\$880 (undiscounted entity) \$352 (small entity) \$176 (micro entity)	\$880 (undiscounted entity) \$15,488 (small entity) \$880 (micro entity)
30	Filing a submission after final rejection (see 37 CFR 1.129(a))	1 (small entity) 1 (micro entity)	\$352 (small entity) \$176 (micro entity)	\$352 (small entity) \$176 (micro entity)
31	Correction of inventorship after first office action on the merits	793 (small entity) 62 (micro entity)	\$256 (small entity) \$128 (micro entity)	\$203,008 (small entity) \$7,936 (micro entity)
	Totals	210,595	- - -	\$105,891,564

Table 3: Changes in Cost

IC No.	Items	Current Cost	Proposed Cost	Change in Cost
1	Information Disclosure Statements that require the fee set forth in 37 CFR 1.17(p)	\$3,535,740 (small entity) \$50,050 (micro entity)	\$2,828,592 (small entity) \$40,040 (micro entity)	-\$707,148 (small entity) -\$10,010 (micro entity)
3	One-month Extension of Time under 37 CFR 1.136(a)	\$3,802,040 (small entity) \$221,925 (micro entity)	\$3,041,632 (small entity) \$177,540 (micro entity)	-\$760,408 (small entity) -\$44,385 (micro entity)
3	Two-month Extension of Time under 37 CFR 1.136(a)	\$6,312,960 (small entity) \$375,360 (micro entity)	\$5,050,368 (small entity) \$300,288 (micro entity)	-\$1,262,592 (small entity) -\$75,072 (micro entity)
3	Three-month Extension of Time under 37 CFR 1.136(a)	\$22,527,080 (small entity) \$1,193,990 (micro entity)	\$18,021,664 (small entity) \$955,192 (micro entity)	-\$4,505,416 (small entity) -\$238,798 (micro entity)
3	Four-month Extension of Time under 37 CFR 1.136(a)	\$2,744,560 (small entity) \$170,520 (micro entity)	\$2,195,648 (small entity) \$136,416 (micro entity)	-\$548,912 (small entity) -\$34,104 (micro entity)
3	Five-month Extension of Time under 37 CFR 1.136(a)	\$3,566,060 (small entity) \$143,780 (micro entity)	\$2,852,848 (small entity) \$115,024 (micro entity)	-\$713,212 (small entity) -\$28,756 (micro entity)
6	Request for Expedited Examination of a Design Application	\$374,400 (small entity) \$87,200 (micro entity)	\$299,520 (small entity) \$69,760 (micro entity)	-\$74,880 (small entity) -\$17,440 (micro entity)

7	Petition for Revival of an Application for Patent Abandoned Unintentionally	\$3,916,500 (small entity) \$612,675 (micro entity)	\$3,133,200 (small entity) \$490,140 (micro entity)	-\$783,300 (small entity) -\$122,535 (micro entity)
8	Petition for revival of an application for patent abandoned for failure to notify the office of a foreign or international filing	\$23,100 (small entity) \$7,350 (micro entity)	\$18,480 (small entity) \$5,880 (micro entity)	-\$4,620 (small entity) -\$1,470 (micro entity)
18	Request for Continued Examination (RCE) Transmittal (First Request)	\$18,082,560 (small entity) \$1,808,120 (micro entity)	\$14,466,048 (small entity) \$1,419,296 (micro entity)	-\$3,616,512 (small entity) -\$388,824 (micro entity)
18	Request for Continued Examination (RCE) Transmittal (Second and Subsequent Requests)	\$13,241,000 (small entity) \$1,324,000 (micro entity)	\$10,592,800 (small entity) \$1,059,200 (micro entity)	-\$2,648,200 (small entity) -\$264,800 (micro entity)
19	Request for Suspension of Action or Deferral of Examination Under 37 CFR 1.103(b), (c), or (d)	\$23,650 (small entity) \$2,310 (micro entity)	\$18,920 (small entity) \$1,848 (micro entity)	-\$4,730 (small entity) -\$462 (micro entity)
22	Processing Fee Under 37 CFR 1.17(i) Transmittal	\$0 (small entity) \$0 (micro entity)	\$727,608 (small entity) \$45,612 (micro entity)	\$727,608 (small entity) \$45,612 (micro entity)
29	Request for prioritized examination	\$0 (undiscounted entity) \$0 (small entity) \$0 (micro entity)	\$24,599,400 (undiscounted entity) \$12,181,680 (small entity) \$817,320 (micro entity)	\$24,599,400 (undiscounted entity) \$12,181,680 (small entity) \$817,320 (micro entity)
30	For each additional invention to be examined (see 37 CFR 1.129(b))	\$0 (undiscounted entity) \$19,360 (small entity) \$1,100 (micro entity)	\$880 (undiscounted entity) \$15,488 (small entity) \$880 (micro entity)	+\$880 (undiscounted entity) -\$3,872 (small entity) -\$220 (micro entity)
30	Filing a submission after final rejection (see 37 CFR 1.129(a))	\$0 (small entity) \$0 (micro entity)	\$352 (small entity) \$176 (micro entity)	\$352 (small entity) \$176 (micro entity)
31	Correction of inventorship after first office action on the merits	\$253,760 (small entity) \$9,920 (micro entity)	\$203,008 (small entity) \$7,936 (micro entity)	-\$50,752 (small entity) -\$1,984 (micro entity)
32	Request for correction in a patent application relating to inventorship or an inventor name, or order of names, other than in a reissue application (37 CFR 1.48)	\$2,667,340 (undiscounted entity) \$476,320 (small entity) \$47,645 (micro entity)	\$0 (undiscounted entity) \$0 (small entity) \$0 (micro entity)	-\$2,667,340 (undiscounted entity) -\$476,320 (small entity) -\$47,645 (micro entity)
	Totals	\$87,622,375	\$105,890,684	\$18,268,309

Summary of Changes

The Patent Fee Reviews results in the revision of 28 fees, the addition of eight fees, the removal of three fees, and an overall increase of \$18,268,309 in annual (non-hourly) costs to collection 0651-0031.

Changes in Burden

Burden Type	Currently Approved	Proposed Change	New Estimate
Non-hourly Cost Burden	\$ 408,845,999	\$18,268,309	\$427,114,308

0651-0031's revised burden is as follows:

- 3,669,397 in annual responses (unchanged)
- 3,187,341 in annual hourly burden (unchanged)
- \$427,114,308 in annual (non-hourly) costs