**JUSTIFICATION FOR NONMATERIAL/NONSUBSTANTIVE CHANGE**

**Post Allowance and Refiling**

**OMB Control Number 0651-0033**

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 0651-0033 (Post Allowance and Refiling) that are affected by the rulemaking RIN 0651-AD66. There are 22 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**  |
| 3 | Basic filing fee – Reissue | $160 (small entity)$80 (micro entity) | $128 (small entity)$64 (micro entity) | -$32 (small entity)-$16 (micro entity) |
| 3 | Basic Filing Fee – Reissue (Design CPA) | $160 (small entity)$80 (micro entity) | $128 (small entity)$64 (micro entity) | -$32 (small entity)-$16 (micro entity) |
| 3 | Reissue Search Fee or Reissue Design CPA Search Fees | $350 (small entity)$175 (micro entity) | $280 (small entity)$140 (micro entity) | -$70 (small entity)-$35 (micro entity) |
| 3 | Reissue independent claims in excess of three | $240 (small entity)$120 (micro entity) | $192 (small entity)$96 (micro entity) | -$48 (small entity)-$24 (micro entity) |
| 3 | Reissue claims in excess of 20 | $50 (small entity)$25 (micro entity) | $40 (small entity)$20 (micro entity) | -$10 (small entity)-$5 (micro entity) |
| 3, 4 | Reissue Application Size Fee – for each additional 50 sheets that exceeds 100 sheets | $210 (small entity)$105 (micro entity) | $168 (small entity)$84 (micro entity) | -$42 (small entity)-$21 (micro entity) |
| 3 | Reissue Examination Fee or Reissue Design CPA Examination Fee | $1,160 (small entity)$580 (micro entity) | $928 (small entity)$464 (micro entity) | -$232 (small entity)-$116 (micro entity) |
| 9 | Utility issue fee | $600 (small entity)$300 (micro entity) | $480 (small entity)$240 (micro entity) | -$120 (small entity)-$60 (micro entity) |
| 9 | Design issue fee | $370 (small entity)$185 (micro entity) | $296 (small entity)$148 (micro entity) | -$74 (small entity)-$37 (micro entity) |
| 9 | Plant issue fee | $420 (small entity)$210 (micro entity) | $336 (small entity)$168 (micro entity) | -$84 (small entity)-$42 (micro entity) |
| 9 | Reissue Issue fee | $600 (small entity)$300 (micro entity) | $480 (small entity)$240 (micro entity) | -$120 (small entity)-$60 (micro entity) |

**Table 2: Proposed Burden**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **IC No.** | **Item** | **Responses****(a)** | **Proposed Fee****(b)** | **Proposed Cost****(a) x (b) = (c)** |
| 3 | Basic filing fee – Reissue | 528 (small entity)65 (micro entity) | $128 (small entity)$64 (micro entity) | $67,584 (small entity)$4,160 (micro entity) |
| 3 | Basic Filing Fee – Reissue (Design CPA) | 5 (small entity)5 (micro entity) | $128 (small entity)$64 (micro entity) | $640 (small entity)$320 (micro entity) |
| 3 | Reissue Search Fee or Reissue Design CPA Search Fees | 580 (small entity)72 (micro entity) | $280 (small entity)$140 (micro entity) | $162,400 (small entity)$10,080 (micro entity) |
| 3 | Reissue independent claims in excess of three | 176 (small entity)21 (micro entity) | $192 (small entity)$96 (micro entity) | $33,792 (small entity)$2,016 (micro entity) |
| 3 | Reissue claims in excess of 20 | 1,495 (small entity)115 (micro entity) | $40 (small entity)$20 (micro entity) | $59,800 (small entity)$2,300 (micro entity) |
| 3, 4 | Reissue Application Size Fee – for each additional 50 sheets that exceeds 100 sheets | 10 (small entity)8 (micro entity) | $168 (small entity)$84 (micro entity) | $1,680 (small entity)$672 (micro entity) |
| 3 | Reissue Examination Fee or Reissue Design CPA Examination Fee | 577 (small entity)70 (micro entity) | $928 (small entity)$464 (micro entity | $535,456 (small entity)$32,480 (micro entity) |
| 9 | Utility issue fee | 79,574 (small entity)9,678 (micro entity) | $480 (small entity)$240 (micro entity) | $38,195,520 (small entity)$2,322,720 (micro entity) |
| 9 | Design issue fee | 14,600 (small entity)6,228 (micro entity) | $296 (small entity)$148 (micro entity) | $4,321,600 (small entity)$921,744 (micro entity) |
| 9 | Plant issue fee | 598 (small entity)7 (micro entity) | $336 (small entity)$168 (micro entity) | $200,928 (small entity)$1,176 (micro entity) |
| 9 | Reissue Issue fee | 120 (small entity)6 (micro entity) | $480 (small entity)$240 (micro entity) | $57,600 (small entity)$1,440 (micro entity) |
|  | **Totals** | **114,538** | **- - -** | **$46,936,108** |

**Table 3: Changes in Cost**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **IC No.** | **Items**  | **Current Cost** | **Proposed Cost** | **Change in Cost** |
| 3 | Basic filing fee – Reissue | $84,480 (small entity)$5,200 (micro entity) | $67,584 (small entity)$4,160 (micro entity) | -$16,896 (small entity)-$1,040 (micro entity) |
| 3 | Basic Filing Fee – Reissue (Design CPA) | $800 (small entity)$400 (micro entity) | $640 (small entity)$320 (micro entity) | -$160 (small entity)-$80 (micro entity) |
| 3 | Reissue Search Fee or Reissue Design CPA Search Fees | $203,000 (small entity)$12,600 (micro entity) | $162,400 (small entity)$10,080 (micro entity) | -$40,600 (small entity)-$2,520 (micro entity) |
| 3 | Reissue independent claims in excess of three | $42,240 (small entity)$2,520 (micro entity) | $33,792 (small entity)$2,016 (micro entity) | -$8,448 (small entity)-$504 (micro entity) |
| 3 | Reissue claims in excess of 20 | $74,750 (small entity)$2,875 (micro entity) | $59,800 (small entity)$2,300 (micro entity) | -$14,950 (small entity)-$575 (micro entity) |
| 3,4 | Reissue Application Size Fee – for each additional 50 sheets that exceeds 100 sheets | $2,100 (small entity)$840 (micro entity) | $1,680 (small entity)$672 (micro entity) | -$420 (small entity)-$168 (micro entity) |
| 3 | Reissue Examination Fee or Reissue Design CPA Examination Fee | $669,320 (small entity)$40,600 (micro entity) | $535,456 (small entity)$32,480 (micro entity) | -$133,864 (small entity)-$8,120 (micro entity) |
| 9 | Utility issue fee | $47,744,400 (small entity)$2,903,400 (micro entity) | $38,195,520 (small entity)$2,322,720 (micro entity) | -$9,548,880 (small entity)-$580,680 (micro entity) |
| 9 | Design issue fee | $5,402,000 (small entity)$1,152,180 (micro entity) | $4,321,600 (small entity)$921,744 (micro entity) | -$1,080,400 (small entity)-$230,436 (micro entity) |
| 9 | Plant issue fee | $251,160 (small entity)$1,470 (micro entity) | $200,928 (small entity)$1,176 (micro entity) | -$50,232 (small entity)-$294 (micro entity) |
| 9 | Reissue Issue fee | $72,000 (small entity)$1,800 (micro entity) | $57,600 (small entity)$1,440 (micro entity) | -$14,400 (small entity)-$360 (micro entity) |
|  | **Totals** | **$58,670,135** | **$46,936,108** | **-$11,734,027** |

Summary of Changes

The aforementioned legislation results in the revision of 22 fees, and a decrease of $11,734,027 in annual (non-hourly) costs to collection 0651-0033.

Changes in Burden

|  |  |  |  |
| --- | --- | --- | --- |
| **Burden Type** | **Currently Approved** | **Proposed Change** | **New Estimate** |
| Non-hourly Cost Burden | $434,518,228 | -$11,734,027 | $422,784,201 |

0651-0033’s revised burden is as follows:

* 426,301 in annual responses (unchanged)
* 373,568 in annual hourly burden (unchanged)
* $422,784,201 in annual (non-hourly) costs