

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