

REPORT

USPTO PATENT FEE INCREASES

November 25, 2024

The U.S. Patent and Trademark Office (USPTO) issued a final rule to adjust certain patent fees effective Sunday, January 19, 2025. The new fee schedule increases a broad range of patent fees including filing fees, extra claims fees, RCE fees, IDS fees, appeal fees, and maintenance fees. In general, most affected patent fees will increase by about 7.5%, although new utility application filing fees will increase by about 10%, and new design application filing fees will increase by about 27%. The new fee schedule also introduces a number of new fees, including new graduated fee structures for continuing applications and IDSs.

The attached chart shows the current fees as well as the new fees effective January 19. The chart reflects the more common fees that are increasing. A full listing of the current and new fees can be found on the USPTO website [here](#).

The following sections address several important aspects and new fees of the fee increase. While the following refer almost exclusively to the large entity fee amounts, there are commensurate increases in the small and micro entity fee amounts unless otherwise noted.

I. Continuing Applications and Delayed Benefit Claims

A new feature of the upcoming USPTO fee schedule is a new fee for filing a continuing

application (including continuation, divisional, and continuation-in-part applications) that claims the filing date benefit of older applications or presenting a delayed benefit claim that would have the same effect. This fee is in addition to the relevant filing or petition fee, and will vary depending upon how many years have passed since the earliest benefit date. The "earliest benefit date" (EBD) is the earliest effective U.S. filing date of the application. This includes the earliest effective international PCT filing date or earliest U.S. non-provisional filing date, but not any earlier foreign priority and/or U.S. provisional filing date. This EBD also corresponds to the date used to calculate the patent term of an issued patent.

For filing a continuing application or presenting a delayed benefit claim less than six years after the EBD, the regular filing or petition fees will apply. However, additional tiered increased fees will apply for filing a continuing application or presenting a delayed benefit claim (1) more than six years after the EBD, and (2) more than nine years after the EBD. These fees are as follows:

Filing continuing application or delayed benefit claim:	Large entity fee
More than six years after EBD	\$2,700
More than nine years after EBD	\$4,000

II. Design Application Filing Fees

The filing and issue fees for design applications are increasing at a much higher rate than the fees for utility, plant, and reissue applications. The USPTO's rationale is that historically, the fees assessed for design applications did not recover the cost for their examination. The filing fees are increasing by about 27%, and the issue fee is increasing by about 76%.

III. Information Disclosure Statements

The USPTO is introducing new fees related to Information Disclosure Statement (IDS) filings, based on the cumulative number of references cited by the Applicant in an application.

Previously the USPTO did not have any charges related to the number of references cited, and only assessed fees related to the timeliness of filing an IDS. In general, new fees are due when filing an IDS causes the cumulative number of Applicant-cited references to exceed 50, 100, or 200. The number of references cited by the Examiner does not count in this consideration. These fees are as follows:

Submission of an IDS where cumulative number of references:	Fee
Exceeds 50	\$200
Exceeds 100	\$500, less any of above fee paid
Exceeds 200	\$800, less any of above fees paid

There is no small or micro entity discount for these fees.

IV. Request for Continued Examination

Previously, the USPTO charged \$1,360 for a first Request for Continued Examination (RCE) or \$2,000 for a second or subsequent RCE. While the first RCE fee is increasing by 10% to \$1,500, the fee for a second or subsequent RCE is increasing more substantially, by 43% to \$2,860.

V. Items From the Proposed Rule That Were Not Adopted

Several items were included in the USPTO's original proposed rule that were not adopted in the final rule. These items include:

- 1) A fee was proposed for filing an request under the After Final Consideration Pilot (AFCP) 2.0 program. However, as the USPTO has discontinued the AFCP program (effective December 14, 2024), the proposed fee was not adopted.
- 2) The USPTO proposed a sliding tiered structure for fees for filing a Terminal Disclaimer, where the fee would depend upon how far examination has progressed in the application or patent. That tiered structure was not adopted. Instead, the fee for filing a Terminal Disclaimer is increased from \$170 to \$183, with no small or micro entity discounts. (A separate proposed rule affecting the filing of Terminal Disclaimers remains pending.)
- 3) The USPTO proposed an increased fee for filing a third or subsequent RCE. Instead, the USPTO has retained the current structure described above of one fee for the first RCE and a second, higher fee for the second or subsequent RCE.

VI. Recommendation

We recommend that your short-term planning be based at least on the enclosed revised fee schedule, which includes the fee increase effective on January 19.

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Oloff PLC is a full-service Intellectual Property law firm based in historic Alexandria, Virginia. The firm specializes in patent, copyright, trademark, and antitrust law and litigation, and represents a large and diverse group of domestic and international clients, including businesses ranging from large multinational corporations to small privately owned companies, major universities, and individual entrepreneurs.

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REPORT

USPTO Patent Fee Increases

Type of Fee	Current Fees			New Fees		
	Large Entity Fee	Small Entity Fee	Micro Entity Fee	Large Entity Fee	Small Entity Fee	Micro Entity Fee
PROVISIONAL PATENT APPLICATION FEES						
Filing Fee	\$300	\$120	\$60	\$325	\$130	\$65
UTILITY PATENT APPLICATION FEES						
Basic Filing fee	\$320	\$128	\$64	\$350	\$140	\$70
Search Fee	\$700	\$280	\$140	\$770	\$308	\$154
Examination Fee	\$800	\$320	\$160	\$880	\$352	\$176
Total Utility Patent Application Fees	\$1,820	\$728	\$364	\$2,000	\$800	\$400
PCT NATIONAL PHASE APPLICATION FEES						
Basic Filing fee	\$320	\$128	\$64	\$350	\$140	\$70
Search Fee (with Search Report provided to USPTO)	\$540	\$216	\$108	\$580	\$232	\$116
Examination Fee	\$800	\$320	\$160	\$880	\$352	\$176
Total PCT National Phase Application Fees	\$1,660	\$664	\$332	\$1,810	\$724	\$362
DESIGN PATENT APPLICATION FEES						
Basic Filing fee	\$220	\$88	\$44	\$300	\$120	\$60
Search Fee	\$160	\$64	\$32	\$300	\$120	\$60
Examination Fee	\$640	\$256	\$128	\$700	\$280	\$140
Total Design Patent Application Fees	\$1,020	\$408	\$204	\$1,300	\$520	\$260
PLANT PATENT APPLICATION FEES						
Basic Filing fee	\$220	\$88	\$44	\$240	\$96	\$48
Search Fee	\$440	\$176	\$88	\$485	\$194	\$97
Examination Fee	\$660	\$264	\$132	\$725	\$290	\$145
Total Plant Patent Application Fees	\$1,320	\$528	\$264	\$1,450	\$580	\$290
REISSUE PATENT APPLICATION FEES						
Basic Filing fee	\$320	\$128	\$64	\$350	\$140	\$70
Search Fee	\$700	\$280	\$140	\$770	\$308	\$154
Examination Fee	\$2,320	\$928	\$464	\$2,550	\$1,020	\$510
Total Reissue Patent Application Fees	\$3,340	\$1,336	\$668	\$3,670	\$1,468	\$734
APPLICATIONS THAT EXCEED 100 SHEETS OF PAPER (Each additional 50 sheets or fraction thereof)						
	\$420	\$168	\$84	\$450	\$180	\$90
EXCESS CLAIMS FEES						
Each Independent Claim in Excess of Three	\$480	\$192	\$96	\$600	\$240	\$120
Each Claim in Excess of 20	\$100	\$40	\$20	\$200	\$80	\$40
Multiple Dependent Claim (per application)	\$860	\$344	\$172	\$925	\$370	\$185

Type of Fee	Current Fees			New Fees		
	Large	Small	Micro	Large	Small	Micro
FILING CONTINUATION APPLICATION OR DELAYED BENEFIT CLAIM						
More than six years after earliest benefit date	n/a			\$2,700	\$1,080	\$540
More than nine years after earliest benefit date	n/a			\$4,000	\$1,600	\$800
ISSUE FEES						
Utility Issue Fee	\$1,200	\$480	\$240	\$1,290	\$516	\$258
Design Issue Fee	\$740	\$296	\$148	\$1,300	\$520	\$260
Plant Issue Fee	\$840	\$336	\$168	\$905	\$362	\$181
Reissue Issue Fee	\$1,200	\$480	\$240	\$1,290	\$516	\$258
EXTENSION OF TIME FEES						
Extension for Response Within First Month	\$220	\$88	\$44	\$235	\$94	\$47
Extension for Response Within Second Month	\$640	\$256	\$128	\$690	\$276	\$138
Extension for Response Within Third Month	\$1,480	\$592	\$296	\$1,590	\$636	\$318
Extension for Response Within Fourth Month	\$2,320	\$928	\$464	\$2,495	\$998	\$499
Extension for Response Within Fifth Month	\$3,160	\$1,264	\$632	\$3,395	\$1,358	\$679
APPEAL FEES						
Notice of Appeal	\$840	\$336	\$168	\$905	\$362	\$181
Request for Oral Hearing	\$1,360	\$544	\$272	\$1,460	\$584	\$292
Forwarding an Appeal to the Board	\$2,360	\$944	\$472	\$2,535	\$1,014	\$507
MAINTENANCE FEES						
Maintenance Fee - Due at 3-1/2 years	\$2,000	\$800	\$400	\$2,150	\$860	\$430
Maintenance Fee - Due at 7-1/2 years	\$3,760	\$1,504	\$752	\$4,040	\$1,616	\$808
Maintenance Fee - Due at 11-1/2 years	\$7,700	\$3,080	\$1,540	\$8,280	\$3,312	\$1,656
Surcharge - Late Payment Within 6 Months	\$500	\$200	\$100	\$540	\$216	\$108
MISCELLANEOUS FEES						
Petition to Revive Unintentionally Abandoned Application/Patent - abandoned two years or less	\$2,100	\$840	\$420	\$2,260	\$904	\$452
Petition to Revive Unintentionally Abandoned Application/Patent - abandoned more than two years	\$2,100	\$840	\$420	\$3,000	\$1,200	\$600
Request for Continued Examination - 1st Request	\$1,360	\$544	\$272	\$1,500	\$600	\$300
Request for Continued Examination - 2nd and Subsequent Request	\$2,000	\$800	\$400	\$2,860	\$1,144	\$572
Request for Expedited Examination of a Design Application	\$1,600	\$640	\$320	\$1,720	\$688	\$344
Submission of an Information Disclosure Statement (IDS)	\$260	\$104	\$52	\$280	\$112	\$56
Filing IDS - cumulative references exceeds 50	n/a			\$200	\$200	\$200
Filing IDS - cumulative references exceeds 100	n/a			\$500	\$500	\$500
Filing IDS - cumulative references exceeds 200	n/a			\$800	\$800	\$800