

JUSTIFICATION FOR NONMATERIAL/NONSUBSTANTIVE CHANGE
Patent Reexamination and Supplemental Examinations
OMB Control Number 0651-0064

The United States Patent and Trademark Office (USPTO) administers the Leahy-Smith America Invents Act (AIA), Section 10, 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 patent. Section 10 authorities also includes flexibility to set individual fees in a way that furthers key policies factors, while taking into account the cost of the respective services.

The request is to update the fees attached to this collection that are affected by the rulemaking NPRM 0651-AD02, and also to incorporate fees were not counted in previous approvals. There are two fees (Reexamination In Excess of Three, etc., Reexamination Claims in Excess of 20, etc.) being adjusted as a result of the 2017 Patent Biennial Fee Review. Two additional fees (Ex Parte Reexamination (§ 1.510(a)) Streamlined and Non-Streamlined) are being added to this collection that were not previously counted.

Table 1: New Fees

IC #	Item	Responses	Fee	Non-hour Burden (\$)
4	Ex Parte Reexamination (§ 1.510(a)) Streamlined (large entity)	42	\$6,000	\$252,000
4	Ex Parte Reexamination (§ 1.510(a)) Streamlined (small entity)	27	\$3,000	\$81,000
4	Ex Parte Reexamination (§ 1.510(a)) Streamlined (micro entity)	1	\$1,500	\$1,500
4	Ex Parte Reexamination (§ 1.510(a)) Non-Streamlined (large entity)	78	\$12,000	\$936,000
4	Ex Parte Reexamination (§ 1.510(a)) Non-Streamlined (small entity)	51	\$6,000	\$306,000
4	Ex Parte Reexamination (§ 1.510(a)) Non-Streamlined (micro entity)	1	\$3,000	\$3,000
	Totals	#	---	\$1,579,500

Table 2: Increase in Fee Amounts

IC #	Item	Current Fee	Proposed Fee	Fee Increase
2	Each Reexamination Independent Claim in Excess of Three and Also in Excess of the Number of Such Claims in the Patent Under Reexamination	\$420 (large entity) \$210 (small entity) \$105 (micro entity)	\$460 (large entity) \$230 (small entity) \$115 (micro entity)	\$40 (large entity) \$20 (small entity) \$10 (micro entity)

2	Each Reexamination Claim in Excess of 20 and Also in Excess of the Number of Claims in the Patent Under Reexamination	\$80 (large entity) \$40 (small entity) \$20 (micro entity)	\$100 (large entity) \$50 (small entity) \$25 (micro entity)	\$20 (large entity) \$10 (small entity) \$5 (micro entity)
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Table 3: Existing Fee Increases

IC #	Item	Responses	Proposed Fee	Non-hour Burden (\$)
2	Each Reexamination Independent Claim in Excess of Three and Also in Excess of the Number of Such Claims in the Patent Under Reexamination (large entity)	350	\$460.00	\$161,000
2	Each Reexamination Independent Claim in Excess of Three and Also in Excess of the Number of Such Claims in the Patent Under Reexamination (small entity)	130	\$230.00	\$29,900
2	Each Reexamination Independent Claim in Excess of Three and Also in Excess of the Number of Such Claims in the Patent Under Reexamination (micro entity)	26	\$115.00	\$2,990
2	Each Reexamination Claim in Excess of 20 and Also in Excess of the Number of Claims in the Patent Under Reexamination (large entity)	2,915	\$100.00	\$291,500
2	Each Reexamination Claim in Excess of 20 and Also in Excess of the Number of Claims in the Patent Under Reexamination (small entity)	1,060	\$50.00	\$53,000
2	Each Reexamination Claim in Excess of 20 and Also in Excess of the Number of Claims in the Patent Under Reexamination (micro entity)	265	\$25.00	\$6,625
	Totals	4,746	---	\$545,015

Table 4: Increases in Non-Hourly Costs (Fees)

IC #	Item	Current Total Cost (\$)	Proposed Total Cost (\$)	Total Cost Change
2	Each Reexamination Independent Claim in Excess of Three and Also in Excess of the Number of Such Claims in the Patent Under Reexamination (large entity)	\$196,770* (Cost not broken into large/small/micro)	\$161,000	-\$2,880
2	Each Reexamination Independent Claim in Excess of Three and Also in Excess of the Number of Such Claims in the Patent Under Reexamination (small entity)		\$29,900	

2	Each Reexamination Independent Claim in Excess of Three and Also in Excess of the Number of Such Claims in the Patent Under Reexamination (micro entity)		\$2,990	
2	Each Reexamination Claim in Excess of 20 and Also in Excess of the Number of Claims in the Patent Under Reexamination (large entity)	\$322,480* (Cost not broken into large/small/micro)	\$291,500	\$28,645
2	Each Reexamination Claim in Excess of 20 and Also in Excess of the Number of Claims in the Patent Under Reexamination (small entity)		\$53,000	
2	Each Reexamination Claim in Excess of 20 and Also in Excess of the Number of Claims in the Patent Under Reexamination (micro entity)		\$6,625	
2	Ex Parte Reexamination (§ 1.510(a)) Streamlined (large entity)	\$0	\$252,000	\$252,000
2	Ex Parte Reexamination (§ 1.510(a)) Streamlined (small entity)	\$0	\$81,000	\$81,000
2	Ex Parte Reexamination (§ 1.510(a)) Streamlined (micro entity)	\$0	\$1,500	\$1,500
2	Ex Parte Reexamination (§ 1.510(a)) Non-Streamlined (large entity)	\$0	\$936,000	\$936,000
2	Ex Parte Reexamination (§ 1.510(a)) Non-Streamlined (small entity)	\$0	\$306,000	\$306,000
2	Ex Parte Reexamination (§ 1.510(a)) Non-Streamlined (micro entity)	\$0	\$3,000	\$3,000
	Totals	\$519,250	\$2,124,515	\$1,605,265

Summary of Changes

The revision of two fees and the addition of two fees led to the increase of \$1,605,265 in non-hourly costs to collection 0651-0064. This is to account for changes following the rulemaking action NPRM 0651-AD02.

Changes in Burden

Burden Type	Currently Approved	Proposed Change	New Estimate
Respondents	13,814	0	13,814
Hourly Burden	196,099	0	196,099
Non-Hour Costs	\$33,157,075	\$1,605,265	\$34,762,340

The 0651-0064 revised total burden is as follows:

- 13,814 responses
- 196,099 burden hours
- \$34,762,340 in annual non-hourly costs