

Intellectual Property Law Alert

USPTO Will Increase Patent Fees in Two Weeks

On Oct. 2, 2020, the United States Patent and Trademark Office (USPTO) will adjust a variety of fees associated with the patent prosecution process. It will be the first fee adjustment for patents in three years.

In general, the USPTO will raise fees across the board by about 5 percent. A complete listing to the fee changes is accessible through the [Table of Patent Fee Adjustments](#). Aside from maintenance fees and post issuance fees, the increases are generally between \$20 and \$40, though some range higher.

In the case of pre-examination fees, there are three categories that are each increasing:

1. Filing
2. Search
3. Examination

The net result (detailed in the [chart on the next page](#)) is that new utility applications will have a modest increase of \$100/\$45/\$25 (large/small/micro entity).

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Description	Current Fees			Final Patent Fee Schedule Fees			Increase/(Decrease)		
	Large Entity Fee	Small Entity Fee	Micro Entity Fee	Large Entity Fee	Small Entity Fee	Micro Entity Fee	Large Entity Fee	Small Entity Fee	Micro Entity Fee
Provisional Application Filing Fee	\$280	\$140	\$70	\$300	\$150	\$75	\$20	\$10	\$5
Basic filing fee - Utility (electronic filing)	\$300	\$75	\$75	\$320	\$80	\$80	\$20	\$5	\$5
Utility Search Fee	\$660	\$330	\$165	\$700	\$350	\$175	\$40	\$20	\$10
Utility Examination Fee	\$760	\$380	\$190	\$800	\$400	\$200	\$40	\$20	\$10
TOTAL	\$1,720	\$785	\$430	\$1,820	\$830	\$455	\$100	\$45	\$25
Basic Filing Fee - Design	\$200	\$100	\$50	\$220	\$110	\$55	\$20	\$10	\$5
Design Search Fee	\$160	\$80	\$40	no change			no change		
Design Examination Fee	\$600	\$300	\$150	\$640	\$320	\$160	\$40	\$20	\$10
TOTAL	\$960	\$480	\$240	\$860	\$430	\$215	\$60	\$30	\$15

With respect to maintenance fees, the USPTO is increasing fees substantially. Both the base payment for each of the 3.5-, 7.5- and 11.5-year maintenance fees will be going up. The maintenance surcharge for paying within the grace period will also increase. The changes are shown in the table below.

Description	Current Fees			Final Patent Fee Schedule Fees			Increase/(Decrease)		
	Large Entity Fee	Small Entity Fee	Micro Entity Fee	Large Entity Fee	Small Entity Fee	Micro Entity Fee	Large Entity Fee	Small Entity Fee	Micro Entity Fee
For Maintaining an Original or Any Reissue Patent, Due at 3.5 years	\$1,600	\$800	\$400	\$2,000	\$1,000	\$500	\$400	\$200	\$100
For Maintaining an Original or Any Reissue Patent, Due at 7.5 years	\$3,600	\$1,800	\$900	\$3,760	\$1,880	\$940	\$160	\$80	\$40
For Maintaining an Original or Any Reissue Patent, Due at 11.5 years	\$7,400	\$3,700	\$1,850	\$7,700	\$3,850	\$1,925	\$300	\$150	\$75
Surcharge - 3.5 year - Late Payment Within 6 Months	\$160	\$80	\$40	\$500	\$250	\$125	\$340	\$170	\$85
Surcharge - 7.5 year - Late Payment Within 6 Months	\$160	\$80	\$40	\$500	\$250	\$125	\$340	\$170	\$85
Surcharge - 11.5 year - Late Payment Within 6 Months	\$160	\$80	\$40	\$500	\$250	\$125	\$340	\$170	\$85

New Fees

In addition to the increase in fees, the USPTO will also be adding some new fees. For years the USPTO allowed patent applications to be filed in .pdf format. Recently, the Office added the option to file the specification, abstract and claims of the application in .DOCX format. Beginning Jan. 1, 2022, the Office will add a surcharge of \$400/\$200/\$100 (large/small/micro entity) for non-.DOCX filings. Fortunately, avoiding the surcharge should be relatively easy as it simply requires appropriately formatting filing documents to fit the new .DOCX requirement.

If you have any questions about this Alert, please contact the author listed below or the [Aronberg Goldgehn attorney](#) with whom you normally consult.

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