



# THINK FORWARD

## Patent Office's New Fee Structure Begins March 19, 2013

February 07, 2013

The Leahy-Smith America Invents Act (AIA) provided the USPTO with new fee-setting authority. The authority specifically permits the USPTO to set fees to recover the cost of patent operations, reduce the current patent application backlog, decrease patent application pendency, improve patent quality, and upgrade infrastructure. The Office also has interpreted the authority as permitting it to set fees to further key policy considerations, such as fostering innovation, encouraging activities by applicants to improve the operation of the patent system and providing flexible and cost-effective options for seeking patent protection. After a lengthy process involving notice of proposed new fees, public hearings and opportunities for public comment, the USPTO recently published its final rules on fees: Patent Fees Final Rule (78 Fed. Reg. 4212, January 18, 2013). Most of the fee changes are effective on March 19, 2013.

In addition to expanding the number of fees that are reduced 50% for small entities, the Office also introduced the fee schedule for micro entities. Micro entities fees are reduced 75%. Fees for large entities have mostly increased, with some notable exceptions. Some of the highlights are identified below.

### Reducing Basic Front-End Fees

Many fees for items early in the patenting process have been reduced as shown below:

Fee Description	Current Fee	New Fee
Filing of utility application	\$390	\$280
Search of utility application	\$620	\$600
Request for prioritized examination	\$4,800	\$4,000
Utility or reissue issue	\$1,770	\$960*
Publication	\$300	\$0*

\*These new fees go into effect on Jan. 14, 2014.

There are some exceptions to this. For example, the fee for examination of a utility application has been increased from \$250 to \$720.

### Increasing Basic Back-End Fees

Many fees for items late in the patenting process have been increased as shown below:

<b>Fee Description</b>	<b>Current Fee</b>	<b>New Fee</b>
Request for continued examination	\$930	\$1,200 (\$1,700 for second and subsequent requests)
Appeal to PTAB	\$1,260 (for notice and filing a brief)	\$2,800 (for notice and forwarding to Board)
Extensions of time	\$150-\$2,730	\$200-\$3,000
Maintenance fees	\$1,150-\$4,810	\$1,600-\$7,400

### **New or Post-Grant Proceedings**

Initial fees set last year for the new or post-grant proceedings have been reduced or modified. For example, the fee for a request for ex parte reexamination has been reduced by \$5,750. Fees for inter partes review, post-grant review and covered business method patent review have been reduced by 15% and modified so that the fees will be staged and based on the number of claims.

If you have any questions or wish to discuss how the AIA legislation may impact you, please contact your attorney at Brinks Gilson & Lione or visit the Patent Reform section of our website at [www.brinksgilson.com](http://www.brinksgilson.com).

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