

USPTO Proposes Fee Hikes And New Fees

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The USPTO has taken another major step in the fee-setting process for fee adjustments it expects to implement in January 2021, and published the proposed fees in the [Federal Register](#). The major changes are the same as those originally proposed in [August of 2018](#), and include two new fees that will impact all applicants and practitioners. As before, all fees not specifically targeted for adjustment will increase by about 5%. Public comments are due by September 30, 2019.

USPTO Fee-Setting Process

Under the Leahy-Smith America Invents Act (AIA) the USPTO fee-setting process is a multi-step process that requires input from the Patent Public Advisory Committee (PPAC), a public hearing, and a public notice and comment period. We are now at the public notice and comment period.

Proposed Fee Adjustments

Detailed information on the proposed fee adjustments are available on the USPTO's [Fee-Setting web page](#). This USPTO [slide deck](#) provides an overview of key changes.

Higher Patent Trial Fees

The petition and institution fees for patent trials (IPR, PGR, and CBM proceedings) will increase by about 25%, bring the total fees due upon filing to over \$40K for an IPR and over \$50K for a PGR or CBM, not including the fees for challenging more than 20 claims, which also are increasing by about 25%

There also will be a new \$250 “pro hac vice” fee for non-registered patent attorneys admitted to practice before the PTAB in a patent trial. The fee will be due on a per-proceeding basis, and will cover admission for the duration of the proceeding.

Higher Issue Fees and Maintenance Fees

Issue fees will increase by 20%, to \$1200 for a large entity. The 3.5 year maintenance fee will increase by 25%, to \$2000 for a large entity. The surcharge for late maintenance fee payments will increase by 213% to \$500 for a large entity.

Higher Fees to Expedite Examination of Design Applications

The fee for expedited examination of a design application will increase 122%, to \$2000 for a large entity.

New Surcharge To Encourage DOCX Application Format

The USPTO is moving forward with a new \$400 surcharge for not filing a utility application in DOCX format.

New Annual Practitioner Fee

The USPTO is moving forward with a new annual registration fee for registered practitioners, set at \$340 for active practitioners and \$70 for “voluntarily inactive” practitioners. Active practitioners who meet certain continuing legal education (CLE) requirements can pay a reduced fee of \$240.

Provide Your Feedback

In response to input from the Patent Public Advisory Committee (PPAC), the USPTO did not raise the late maintenance fee payment surcharge as much as it originally proposed, and provided more justification for 122% increase in the fee for expediting examination of a design application.

As set forth in the July 31, 2019 Federal Register Notice, the USPTO will consider written comments sent to fee.setting@uspto.gov by September 30, 2019.

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