

(r) through (t), if revised as proposed, would adjust fees established therein to reflect fluctuations in the CPI.

37 CFR 1.18 Patent Post Allowance (Including Issue) Fees

Section 1.18, paragraphs (a) through (c), if revised as proposed, would adjust fees established therein to reflect fluctuations in the CPI.

37 CFR 1.20 Post Issuance Fees

Section 1.20, paragraphs (e) through (g), if revised as proposed, would adjust fees established therein to reflect fluctuations in the CPI.

37 CFR 1.492 National Stage Fees

Section 1.492, paragraphs (a)(1) through (a)(3), (a)(5), (b), and (d), if revised as proposed, would adjust fees established therein to reflect fluctuations in the CPI.

Other Considerations

This proposed rule contains no information collection requirements within the meaning of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* This proposed rule has been determined to be not significant for purposes of Executive Order 12866. This proposed rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (August 4, 1999).

The Deputy General Counsel for General Law of the United States Patent and Trademark Office has certified to the Chief Counsel for Advocacy, Small Business Administration, that the proposed rule change would not have a significant economic impact on a substantial number of small entities (Regulatory Flexibility Act, 5 U.S.C. 605(b)). The proposed rule change increases fees to reflect the change in the CPI as authorized by 35 U.S.C. 41(f). Further, the principal impact of the major patent fees has already been taken into account in 35 U.S.C. 41(h)(1), which provides small entities with a fifty-percent reduction in the major patent fees. We received roughly 111,000 patent applications (approximately 33 percent of total patent applications) last year from small entities. Since the average small entity fee would increase by less than \$10, with a minimum increase of \$1 and a maximum increase of \$35, there would not be a significant economic impact on a substantial number of small entities due to this proposed rule change.

List of Subjects in 37 CFR Part 1

Administrative practice and procedure, Patents.

For the reasons set forth in the preamble, we are proposing to amend title 37 of the Code of Federal Regulations, part 1, as set forth below.

PART 1—RULES OF PRACTICE IN PATENT CASES

1. The authority citation for 37 CFR part 1 would continue to read as follows:

Authority: 35 U.S.C. 2, unless otherwise noted.

2. Section 1.16 is proposed to be amended by revising paragraphs (a), (b), (d), and (f) through (i) to read as follows:

§ 1.16 National application filing fees.

- (a) Basic fee for filing each application for an original patent, except provisional, design, or plant applications:
- | | |
|-------------------------------------|----------|
| By a small entity (§ 1.27(a)) | \$385.00 |
| By other than a small entity | \$770.00 |
- (b) In addition to the basic filing fee in an original application, except provisional applications, for filing or later presentation of each independent claim in excess of 3:
- | | |
|-------------------------------------|---------|
| By a small entity (§ 1.27(a)) | \$43.00 |
| By other than a small entity | \$86.00 |
- (d) In addition to the basic filing fee in an original application, except provisional applications, if the application contains, or is amended to contain, a multiple dependent claim(s), per application:
- | | |
|-------------------------------------|----------|
| By a small entity (§ 1.27(a)) | \$145.00 |
| By other than a small entity | \$290.00 |
- (f) Basic fee for filing each design application:
- | | |
|-------------------------------------|----------|
| By a small entity (§ 1.27(a)) | \$170.00 |
| By other than a small entity | \$340.00 |
- (g) Basic fee for filing each plant application, except provisional applications:
- | | |
|-------------------------------------|----------|
| By a small entity (§ 1.27(a)) | \$265.00 |
| By other than a small entity | \$530.00 |
- (h) Basic fee for filing each reissue application:
- | | |
|-------------------------------------|----------|
| By a small entity (§ 1.27(a)) | \$385.00 |
| By other than a small entity | \$770.00 |
- (i) In addition to the basic filing fee in a reissue application, for filing or later presentation of each independent claim which is in excess of the number of independent claims in the original patent:
- | | |
|-------------------------------------|---------|
| By a small entity (§ 1.27(a)) | \$43.00 |
| By other than a small entity | \$86.00 |

3. Section 1.17 is proposed to be amended by revising paragraphs (a)(2) through (a)(5), (b) through (e), (m), and (r) through (t) to read as follows:

§ 1.17 Patent application and reexamination processing fees.

- (a) * * *
- (2) For reply within second month:
- | | |
|-------------------------------------|----------|
| By a small entity (§ 1.27(a)) | \$210.00 |
| By other than a small entity | \$420.00 |
- (3) For reply within third month:
- | | |
|-------------------------------------|----------|
| By a small entity (§ 1.27(a)) | \$475.00 |
|-------------------------------------|----------|

- | | |
|------------------------------------|----------|
| By other than a small entity | \$950.00 |
|------------------------------------|----------|
- (4) For reply within fourth month:
- | | |
|-------------------------------------|------------|
| By a small entity (§ 1.27(a)) | \$740.00 |
| By other than a small entity | \$1,480.00 |
- (5) For reply within fifth month:
- | | |
|-------------------------------------|------------|
| By a small entity (§ 1.27(a)) | \$1,005.00 |
| By other than a small entity | \$2,010.00 |
- (b) For filing a notice of appeal from the examiner to the Board of Patent Appeals and Interferences:
- | | |
|-------------------------------------|----------|
| By a small entity (§ 1.27(a)) | \$165.00 |
| By other than a small entity | \$330.00 |
- (c) In addition to the fee for filing a notice of appeal, for filing a brief in support of an appeal:
- | | |
|-------------------------------------|----------|
| By a small entity (§ 1.27(a)) | \$165.00 |
| By other than a small entity | \$330.00 |
- (d) For filing a request for an oral hearing before the Board of Patent Appeals and Interferences in an appeal under 35 U.S.C. 134:
- | | |
|-------------------------------------|----------|
| By a small entity (§ 1.27(a)) | \$145.00 |
| By other than a small entity | \$290.00 |
- (e) To request continued examination pursuant to § 1.114:
- | | |
|-------------------------------------|----------|
| By a small entity (§ 1.27(a)) | \$385.00 |
| By other than a small entity | \$770.00 |
- * * * *
- (m) For filing a petition for the revival of an unintentionally abandoned application, for the unintentionally delayed payment of the fee for issuing a patent, or for the revival of an unintentionally terminated reexamination proceeding under 35 U.S.C. 41(a)(7) (§ 1.137(b)):
- | | |
|-------------------------------------|------------|
| By a small entity (§ 1.27(a)) | \$665.00 |
| By other than a small entity | \$1,330.00 |
- * * * *
- (r) For entry of a submission after final rejection under § 1.129(a):
- | | |
|-------------------------------------|----------|
| By a small entity (§ 1.27(a)) | \$385.00 |
| By other than a small entity | \$770.00 |
- (s) For each additional invention requested to be examined under § 1.129(b):
- | | |
|-------------------------------------|----------|
| By a small entity (§ 1.27(a)) | \$385.00 |
| By other than a small entity | \$770.00 |
- (t) For the acceptance of an unintentionally delayed claim for priority under 35 U.S.C. 119, 120, 121, or 365(a) or (c) (§§ 1.55 and 1.78)
 \$1,330.00 |

4. Section 1.18 is proposed to be amended by revising paragraphs (a) through (c) to read as follows:

§ 1.18 Patent post allowance (including issue) fees.

- (a) Issue fee for issuing each original or reissue patent, except a design or plant patent:
- | | |
|-------------------------------------|------------|
| By a small entity (§ 1.27(a)) | \$665.00 |
| By other than a small entity | \$1,330.00 |
- (b) Issue fee for issuing a design patent:
- | | |
|-------------------------------------|----------|
| By a small entity (§ 1.27(a)) | \$240.00 |
| By other than a small entity | \$480.00 |
- (c) Issue fee for issuing a plant patent:
- | | |
|-------------------------------------|----------|
| By a small entity (§ 1.27(a)) | \$320.00 |
| By other than a small entity | \$640.00 |
- * * * *

5. Section 1.20 is proposed to be amended by revising paragraphs (e) through (g) to read as follows:

§ 1.20 Post issuance fees.

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