

CANTOR COLBURN CLIENT ALERT

New Final Rule Set to Increase USPTO Fees

The U.S. Patent and Trademark Office (USPTO) issued a Final Rule that will increase patent fees for the upcoming year. It is set to go into effect on January 16, 2018 and will require a slight increase in the fees to obtain a patent (i.e., filing, search, examination, and issue fee) relative to the current fee schedule.¹ Based on these fee increases, we recommend filing applications or for an *Inter Partes* Review (IPR) prior to January 16, 2018 to take advantage of lower fees.

The USPTO is allowed to periodically adjust its fees to recover costs incurred by the Office for patent operations. Part of the purpose of these fee increases includes improving patent quality, reducing the patent application backlog, decreasing patent application pendency, delivering high quality and timely Patent and Trial and Appeal Board (PTAB) decisions, investing in modernizing the patent business IT capability and infrastructure, and implementing a sustainable funding model.²

While most USPTO fees will see around a 10% increase, there are some notable increases in procedures commonly used by patent applicants. A table is provided below comparing the current fees with those going into effect for some of the more common filings. Fees associated with the submission of an Information Disclosure Statement after First Action on the Merits will see a 33% increase. Further, there will now be fees associated with the submission of sequence listings that are larger than 300 MB in size.

Service	Current Fee Schedule	Fee effective January 16, 2018 (Large Entity)	Percent Change (Increase)
US Utility Filing	\$1,600	\$1,720	7.5%
US Design Filing	\$760	\$960	26%
IDS	\$180	\$240	33%
Appeals	\$2,000	\$2,240	12%
US Utility Issue Fees	\$960	\$1,000	4%
US Design Issue Fees	\$560	\$700	25%
Certificates of Correction	\$100	\$150	50%
<i>Inter Partes</i> Review	\$9,000	\$15,000	72%
Post Grant Review	\$12,000	\$16,000	33%
Covered Business Method (CBM) Review	\$12,000	\$16,000	33%
Ex Parte Reexamination (New Streamlined Procedure)		\$6,000	

¹ 37 C.F.R. §§ 1, 41 - 42

² *Id.*



Another area of major increases in the Final Rule deals with IPRs. The popular post-grant proceeding will see a significant raise in the price of filing a petition. The USPTO is raising the petition fees associated with IPRs by 72%, from \$9,000 to \$15,500.³ It should be noted that while this is a significant amount, the USPTO maintains the price is still significantly less than the cost of judicial court proceedings. Covered Business Method (CBM) review also went up 33%.

Another area that will see a significant increase in fees involves design patents. As part of this fee increase, the USPTO raised the Large Entity fees rate associated with obtaining a design patent by 26%. Notably, a design search fee for Large Entities will see a 33% increase and a design examination fee will see a 30% increase⁴.

The USPTO believes that the Final Rule will result in an approximately 4% increase in fee collections, in line with inflation, and allow the USPTO to improve the quality and efficiency of the patent operation. More information about the Final Rule can be found here: <https://www.uspto.gov/about-us/performance-and-planning/fee-setting-and-adjusting>.

For Further Information and Assistance

Please do not hesitate to contact your Cantor Colburn attorney with any questions you may have regarding the fee increases and your IP in general.

Attorney Adam Bercowetz is available for further questions at abercowetz@cantorcolburn.com and +1 (860) 286-2929.

Please note that each situation has its own unique circumstances and ramifications. This Client Alert is for informational purposes only and is not legal advice.

³ https://www.uspto.gov/sites/default/files/documents/Final_Rule_Patents_At-a-Glance.PPTX

⁴ *Id.*