

**Cantor Colburn Client Alert:
USPTO Increases Fees and Adds New Fees for FY2025,
Requiring Many Applicants to Adjust Filing and Prosecution Strategies**

The United States Patent and Trademark Office (USPTO) has announced fee increases for patents and trademarks to take place on January 18, 2025, for trademarks, and January 19, 2025, for patents.

What This Means for You

The increase in fees and the introduction of new fees by the USPTO is significant, necessitating careful budget considerations. **If you are within the filing window for a submission and wish to take advantage of the lower fees in 2024, we would be happy to accommodate those instructions.** If you have questions about these fees and how to adjust your strategy to minimize their impact in the short term, please contact Cantor Colburn.

Patent Fee Increases and New Fees

On the patent side, the updated fee structure is intended to support new discounts enacted under the Unleashing American Innovators Act for small businesses, independent inventors, and others who qualify as "small entities" or "micro entities," as well as support ongoing operations of the USPTO and its 14,000+ employees.

Notable are fees the USPTO proposed but are not implementing, which include a new fee for the After Final Consideration Pilot 2.0 requests, a program which is instead being sunset this month; a targeted increase to the patent term adjustment fee; and terminal disclaimer tiered fees. On the other hand, three adopted fee changes include the introduction of a fee schedule related to the timing for filing continuing applications; an increase in applications for a patent term extension; and an elimination of the proposed price tiers for third and subsequent requests for continued examination (RCEs), and corresponding adjustments to the existing fee for second and subsequent RCE submissions.

The following represents some of the fee increases and new fees:

- RCE fees (undiscounted) will jump to \$1,500 for the first RCE, and \$2,860 for each subsequent RCE, the latter representing a 43% increase.
- Excess claim fees, during regular and reexamination proceedings, will increase between 25% and 100%. Design application filing fees will increase by 36%.
- A new tiered fee schedule for filing continuation applications more than six years from the earliest benefit date (EBD) for the claims of the continuation application will range from (undiscounted) \$2,700 for applications filed 6-9 years from the EBD, to \$4,000 for applications filed post 9 years from the EBD.

- Applicants for a patent term extension will see an increase of between 100% and 200% in the associated application fees.
- Another new tiered fee schedule is introduced for IDS filings, depending on how many references are cited, ranging from \$200 (if there are over 50 references) to \$800 (if there are over 200 references).
- America Invents Act (AIA) trial fees will increase 25%.
- A new fee for director review of a PTAB decision, following the Supreme Court's decision in *US v. Arthrex, Inc.* 141 S. Ct. 1970 (2021), will be \$452.
- In addition, there will be a 7.5% adjustment on all otherwise nontargeted fees.

In addition, applicants will now be able to expressly abandon National Stage applications prior to examination and receive a refund on search and excess claim fees; this mechanism has already been available to applicants of U.S. priority applications.

Some other targeted fee adjustments can be found here [Federal Register: Setting and Adjusting Patent Fees During Fiscal Year 2025](#).

Trademark Fee Increases and New Fees

The USPTO is eliminating the existing two-tiered system and increasing the costs for filing new trademark applications. The new fees are as follows:

- Base application (per class): \$350
- Fee for insufficient information (per class): \$100
- Fee to use free-form text box for goods/services description (per class): \$200
- Each additional group of 1,000 characters after first 1,000 (per class): \$200

For national applications with filing bases under Section 1(b) intent-to-use, Section 1(a) use-based, or Section 44(e) foreign registration, the base application fee will be \$350. The USPTO has eliminated the \$250 TEAS Plus option. The USPTO is adding separate fees for (i) insufficient information, (ii) use of free-form text box for description, and (iii) over 1,000 characters for description. The USPTO is charging applicants more when an application has details that require more review time from USPTO Examining Attorneys.

The insufficient information fee will be requested via an Office Action if the applicant has not provided the following information at the time of filing:

- If the mark includes color, a statement naming the color and describing where the color appears on the mark, and a claim that the color is a feature of the mark.
- If the mark includes non-English wording, an English translation of that wording.
- If the mark includes non-Latin characters, a transliteration of those characters.
- If the mark includes an individual's name or likeness, either: a statement that identifies the living individual whose name or likeness the mark comprises and written consent of

the individual; or a statement that the name or likeness does not identify a living individual.

The 1,000+ characters surcharge is straightforward. If an applicant has a longer identification, the USPTO is now charging \$200 per additional set of 1,000. This surcharge will automatically be added within the TEAS form if a free-form text box includes over 1,000 characters. Note: if items are only selected from the USPTO's ID Manual, a surcharge will not be incurred even if the description exceeds 1,000 characters. We note that as of now, this fee will also not be charged if the description of goods and services is amended later in the prosecution process and happens to jump over the 1,000-character threshold.

The USPTO is not applying the above changes to Section 66(a) applications, also referred to as Madrid Protocol extensions of protection, or U.S. designations from a WIPO International Registration. Instead, the USPTO opted to raise the existing fee for Section 66(a) applications from \$500 to \$600 per class.

The USPTO has also increased its fees for several other filing submissions, summarized below:

Filing Type	Current Fee	2025 Fee	USD Increase	% Increase
§ 9 registration renewal application, per class	\$300	\$325	\$25	8%
§ 8 or § 71 declaration, per class	\$225	\$325	\$100	44%
§ 15 declaration, per class	\$200	\$250	\$50	25%
Amendment to Allege Use/Statement of Use, per class	\$100	\$150	\$50	50%
Letter of Protest	\$50	\$150	\$100	200%
Petition to Director	\$250	\$400	\$150	60%
Petition to Revive an Application	\$150	\$250	\$100	67%

For Further Information and Assistance

Cantor Colburn is one of the largest and most productive intellectual property law firms in the United States, with practices groups dedicated to patents and trademarks, who have substantial experience representing clients in all aspects of these types of matters. Please do not hesitate to [contact your Cantor Colburn attorney](#) with any questions you may have regarding this matter and your IP in general.

This client alert was written by [David Bomzer](#) and [Ali Caless](#), with contributions from [Michelle Ciotola](#).

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.