IP Alert | 2025 U.S. Patent Fee Changes

On November 19, 2024, the U.S. Patent and Trademark Office announced its final rule to update its patent fee schedule effective **January 19, 2025**. While most of the fees increase by a standard 7.5% adjustment, the increase in particular fees is significant. Further, new fees will be assessed for common practices in U.S. patent prosecution.

The combination of the significant increases in the particular fees and the new fees will change how Applicants pursue U.S. patent protection in both individual applications and across patent families.

The following summarizes the increases and new fees relative to undiscounted entity size.

Impactful Changes to New/Pending Applications

- **What types of new applications will be affected by increases to existing fees?**
  - Design applications will face the largest increase in existing standard filing and grant fees. Utility applications will also be affected but not to the same degree
- **What types of fees will affect how applications are filed and prosecuted?**
  - New fees will be assessed based on the oldest benefit claim of new applications (e.g., 6-8 years and 9 or more years)
  - New fees will be assessed when the quantities of citations exceed 50, 100, and 200 citations
  - Existing Request for Continued Examination (RCE) fees significantly increase

Impactful Changes to Applications and Registrations

- **What new fees will be imposed?**
  - Applications will be assessed new fees based on the oldest benefit claim of 6 or more years. Where the oldest benefit claim is 6-8 years old, the new fee is $2700. Where the oldest benefit claim is 9 or more years old, the new fee is $4000.
  - Applications with prior art citations will now be assessed additional fees once the total quantity of citations reaches the following thresholds: 50 citations, 100 citations, and 200 citations:
    - 50 or more citations: $200

        - 100 or more citations: additional $300
        - 200 or more citations: additional $300

- **Which existing fees will be raised?**
    - **Standard Filing and Grant Fees**
        - For design applications, the combination of the initial fees due on filing and grant fees increases by $840 (47.7%).
        - Utility applications will also see an increase in standard fees closer to the standard 7.5% adjustment. For utility applications, the combination of the initial fees and grant fees increases by $270 (8.9%).
    - **Additional Utility Application Claim Fees**
        - The fee for each claim over 20 doubles from $100 to $200
        - The fee for each independent claim over 3 increases from $480 to $600
    - **Requests for Continued Examination:**
        - The first RCE fee increases by $140 from $1360 to $1500
        - The second and subsequent RCE fee increases by $860 from $2000 to $2860

Key Takeaways

- Design patent Applicants may need to reevaluate the quantity of separate design patent applications being filed for common concepts. Instead, they may seek to consolidate filings to reduce the quantities of separate applications.
- Serial prosecution of related patent applications is discouraged by the benefit claim fees at 6-8 and 9+ years. At least for divisional applications, Applicants will see significant savings prosecuting related applications in parallel – e.g., filing divisional applications upon receiving a Restriction or Election of Species requirement.
- Because of the sharp increase in the cost of filing the second and subsequent RCEs, Applicants may reduce the cost of prosecution by filing continuations instead of the second RCEs.
- Some Applicants file new applications as Continuations-in-Part of earlier applications. Because of the new benefit claim fees, filing CIPs merely for the option to claim the subject matter of an original application at a later date will become increasingly costly. Filing CIPs with no immediate purpose will likely no longer be the default filing option for large patent families.
- Keeping at least one patent application pending in large patent families will become increasingly costly. While there is a benefit to keeping an application pending in those patent families that are expected to enter litigation or are currently in litigation, Applicants are being pressured by the new benefit claim fees to reduce strings of follow-on applications.
- Cross-citing references across patent families will become increasingly costly in short order. Applicants are being encouraged to cite fewer documents.