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## USPTO Finalizes New Patent Fee Schedule

The United States Patent and Trademark Office (USPTO) finalized the patent fees that will take effect March 19, 2013, under the America Invents Act (AIA). Section 10 of the AIA authorizes the USPTO to set or adjust any patent fee under Title 35 of the United States Code for any services performed (or materials furnished) by the USPTO. This fee schedule, part of the USPTO's final rule published in the Jan. 18, 2013, [Federal Register \(Vol. 78, No. 13\)](#) is projected to generate sufficient revenue to recover the USPTO's aggregate costs - about \$2.5 billion in FY 2013, and about \$11.5 billion from FY 2014 through FY 2017.

The fees are intended to provide the USPTO with revenue sufficient to cover its cost of operations while reducing the current patent application backlog, improving patent quality, and upgrading the USPTO's information technology capability and infrastructure. The USPTO estimates that the aggregate revenue derived from the fee schedule will decrease patent application pendency over each of the next five years, "permitting a patentee to obtain a patent sooner than he or she would have" under the old fee schedule. 78 Fed. Reg. 4212 (Jan. 18, 2013).

Some of the impressive projections from the USPTO include:

- the current 32.4-month average application pendency is expected to drop to 18.8 months by FY 2017;
- the current 21.9-month average first-action patent application pendency is expected to drop to 10.0 months by FY 2017; and
- the current backlog of 608,300 applications is expected to drop to 358,500 by FY 2017.

Some examples of the adjusted fees include:

- decreases for the Basic Filing Fee and the Utility Search Fee, but an increase for the Utility Examination Fee, resulting in a Total Basic Filing, Search, and Examination Fee increase of 27 percent (\$1,600 - up from \$1,260);
- adjusted fees for the newly established Inter Partes, Post-Grant, and Covered Business Method reviews;
- a decrease in the Utility Issue Fee but increases for each of the three Maintenance Fees; and
- a large fee increase for each independent claim in excess of three (up 68 percent - from \$250 to \$420).

The new fee schedule extends the 50 percent discount for small entities and establishes a fee reduction of 75 percent for newly designated micro entities.

The new patent fee schedule will take effect March 19, 2013, immediately following the March 16, 2013 switch from a first-to-invent to a first-to-file regime under the AIA.

The current USPTO fee schedule (effective through March 18, 2013) is on the USPTO website at <http://www.uspto.gov/web/offices/ac/qs/ope/fee100512.htm>.

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### *Patent Litigation Department*

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BRIAN G. ARNOLD	BARNOLD@LOEB.COM	310.282.2160
LANA CARNEL	LCARNEL@LOEB.COM	312.464.3191
KATHLEEN M. GERSH	KGERSH@LOEB.COM	212.407.4287
JOHN M. GRIEM, JR.	JGRIEM@LOEB.COM	212.407.4182
JOSHUA H. HARRIS	JHARRIS@LOEB.COM	212.407.4275
MICHAEL W. JAHNKE	MJAHNKE@LOEB.COM	212.407.4285
ADAM G. KELLY	AKELLY@LOEB.COM	312.464.3138
WILLIAM J. KRAMER	WKRAMER@LOEB.COM	312.464.3350
EVELYN M. KWON	EKWON@LOEB.COM	212.407.4038

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JULIE L. LANGDON	JLANGDON@LOEB.COM	312.464.3196
LEILY LASHKARI	LLASHKARI@LOEB.COM	212.407.4962
WARREN K. MACRAE	WMACRAE@LOEB.COM	212.407.4098
JORDAN A. SIGALE	JSIGALE@LOEB.COM	312.464.3109
JENNIFER B. STRONG	JSTRONG@LOEB.COM	212.407.4111
CHRIS M. SWICKHAMER	CSWICKHAMER@LOEB.COM	312.464.3136
WILLIAM J. VOLLER III	WVOLLER@LOEB.COM	312.464.3143
MARK E. WADDELL	MWADDELL@LOEB.COM	212.407.4127
LAURA A. WYTSMA	LWYTSMA@LOEB.COM	310.282.2251

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