

*Patent Laws and Regulations***CHAPTER 3—PRACTICE BEFORE PATENT AND TRADEMARK  
OFFICE**

Sec.

- 31 Regulations for agents and attorneys.
- 32 Suspension or exclusion from practice.
- 33 Unauthorized representation as practitioner.

**35 U.S.C. 31 Regulations for agents and attorneys.**

The Commissioner, subject to the approval of the Secretary of Commerce, may prescribe regulations governing the recognition and conduct of agents, attorneys, or other persons representing applicants or other parties before the Patent and Trademark Office, and may require them, before being recognized as representatives of applicants or other persons, to show that they are of good moral character and reputation and are possessed of the necessary qualifications to render to applicants or other persons, valuable service, advice, and assistance in the presentation or prosecution of their applications or other business before the Office.

*(Amended Jan. 2, 1975, Public Law 93-596, sec. 1, 88 Stat. 1949.)*

**35 U.S.C. 32 Suspension or exclusion from practice.**

The Commissioner may, after notice and opportunity for a hearing, suspend or exclude, either generally or in any particular case, from further practice before the Patent and Trademark Office, any person, agent, or attorney shown to be incompetent or disreputable, or guilty of gross misconduct, or who does not comply with the regulations established under section 31 of this title, or who shall, by word, circular, letter, or advertising, with intent to defraud in any manner, deceive, mislead, or threaten any applicant or prospective applicant, or other person having immediate or prospective business before the Office. The reasons for any such suspension or exclusion shall be duly recorded. The United States District Court for the District of Columbia, under such conditions and upon such proceedings as it by its rules determines, may review the action of the Commissioner upon the petition of the person so refused recognition or so suspended or excluded.

*(Amended Jan. 2, 1975, Public Law 93-596, sec. 1, 88 Stat. 1949.)*

**35 U.S.C. 33 Unauthorized representation as practitioner.**

Whoever, not being recognized to practice before the Patent and Trademark Office, holds himself out or permits himself to be held out as so recognized, or as being qualified to prepare or prosecute applications for patent, shall be fined not more than \$1,000 for each offense.

*(Amended Jan. 2, 1975, Public Law 93-596, sec. 1, 88 Stat. 1949.)*

*Patent Laws and Regulations***CHAPTER 4—PATENT FEES; FUNDING; SEARCH SYSTEMS**

Sec.

41 Patent fees; patent and trademark search systems.

42 Patent and Trademark Office funding.

**35 U.S.C. 41 Patent fees; patent and trademark search systems.**

(a) The Commissioner shall charge the following fees:

- (1) (A) On filing each application for an original patent, except in design or plant cases, \$500 [\$750].  
 (B) In addition, on filing or on presentation at any other time, \$52 [\$78] for each claim in independent form which is in excess of 3, \$14 [\$22] for each claim (whether independent or dependent) which is in excess of 20, and \$160 [\$250] for each application containing a multiple dependent claim.
- (C) On filing each provisional application for an original patent, \$150.
- (2) For issuing each original or reissue patent, except in design or plant cases, \$820 [\$1,250].
- (3) In design and plant cases:
  - (A) on filing each design application, \$200 [\$310];
  - (B) on filing each plant application, \$330 [\$510];
  - (C) on issuing each design patent, \$290 [\$430]; and
  - (D) on issuing each plant patent, \$410 [\$630];
- (4) (A) On filing each application for the reissue of a patent, \$500 [\$750].  
 (B) In addition, on filing or on presentation at any other time, \$52 [\$78] for each claim in independent form which is in excess of the number of independent claims of the original patent, and \$14 [\$22] for each claim (whether independent or dependent) which is in excess of 20 and also in excess of the number of claims of the original patent.
- (5) On filing each disclaimer, \$78 [\$110].
- (6) (A) On filing an appeal from the examiner to the Board of Patent Appeals and Interferences, \$190 [\$290].  
 (B) In addition, on filing a brief in support of the appeal, \$190 [\$290], and on requesting an oral hearing in the appeal before the Board of Patent Appeals and Interferences, \$160 [\$250].
- (7) On filing each petition for the revival of an unintentionally abandoned application for a patent or for the unintentionally delayed payment of the fee for issuing each patent, \$820 [\$1,210], unless the petition is filed under section 133 or 151 of this title, in which case the fee shall be \$78 [\$110].
- (8) For petitions for 1-month extensions of time to take actions required by the Commissioner in an application:
  - (A) on filing a first petition, \$78 [\$110];
  - (B) on filing a second petition, \$172 [\$380]; and
  - (C) on filing a third or subsequent petition, \$340 [\$900].
- (9) Basic national fee for an international application where the Patent and Trademark Office was the International Preliminary Examining Authority and the International Searching Authority, \$450 [\$680].

*Patent Laws and Regulations*

- (10) Basic national fee for an international application where the Patent and Trademark Office was the International Searching Authority but not the International Preliminary Examining Authority, \$500 [\$750].
- (11) Basic national fee for an international application where the Patent and Trademark Office was neither the International Searching Authority nor the International Preliminary Examining Authority, \$670 [\$1,010].
- (12) Basic national fee for an international application where the international preliminary examination has been paid to the Patent and Trademark Office, and the international preliminary examination report states that the provisions of Article 33(2), (3), and (4) of the Patent Cooperation Treaty have been satisfied for all claims in the application entering the national stage, \$66 [\$94].
- (13) For filing or later presentation of each independent claim in the national stage of an international application in excess of 3, \$52 [\$78].
- (14) For filing or later presentation of each claim (whether independent or dependent) in a national stage of an international application in excess of 20, \$14 [\$22].
- (15) For each national stage of an international application containing a multiple dependent claim, \$160 [\$250].

For the purpose of computing fees, a multiple dependent claim as referred to in section 112 of this title or any claim depending therefrom shall be considered as separate dependent claims in accordance with the number of claims to which reference is made. Errors in payment of the additional fees may be rectified in accordance with regulations of the Commissioner.

(b) The Commissioner shall charge the following fees for maintaining in force all patents based on applications filed on or after December 12, 1980:

- (1) 3 years and 6 months after grant, \$650 [\$990].
- (2) 7 years and 6 months after grant, \$1,310 [\$1,990].
- (3) 11 years and 6 months after grant, \$1,980 [\$2,990].

Unless payment of the applicable maintenance fee is received in the Patent and Trademark Office on or before the date the fee is due or within a grace period of six months thereafter, the patent will expire as of the end of such grace period. The Commissioner may require the payment of a surcharge as a condition of accepting within such six-month grace period the late payment of the applicable maintenance fee. No fee will be established for maintaining a design or plant patent in force.

(c)(1) The Commissioner may accept the payment of any maintenance fee required by subsection (b) of this section which is made within twenty-four months after the six-month grace period if the delay is shown to the satisfaction of the Commissioner to have been unintentional, or at any time after the six-month grace period if the delay is shown to the satisfaction of the Commissioner to have been unavoidable. The Commissioner may require the payment of a surcharge as a condition of accepting payment of any maintenance fee after the six-month grace period. If the Commissioner accepts payment of a maintenance fee after the six-month grace period, the patent shall be considered as not having expired at the end of the grace period.

- (2) A patent, the term of which has been maintained as a result of the acceptance of a payment of a maintenance fee under this subsection, shall not abridge or affect the right of any person or that person's successors in business who made, purchased, offered to sell, or used anything protected by the patent within the United States, or imported anything protected by the patent into the United States after the 6-month grace period but prior to the acceptance of a maintenance fee under this subsection, to continue the use of, to offer for sale, or to sell to others to be used, offered for sale, or sold, the specific thing so made, purchased, offered for sale, used, or imported. The court before which such matter is in question may provide for the continued manufacture, use, offer for sale, or sale of the thing made,

*Patent Laws and Regulations*

purchased, offered for sale, or used within the United States, or imported into the United States, as specified, or for the manufacture, use, offer for sale, or sale in the United States of which substantial preparation was made after the 6-month grace period but before the acceptance of a maintenance fee under this subsection, and the court may also provide for the continued practice of any process that is practiced, or for the practice of which substantial preparation was made, after the 6-month grace period but before the acceptance of a maintenance fee under this subsection, to the extent and under such terms as the court deems equitable for the protection of investments made or business commenced after the 6-month grace period but before the acceptance of a maintenance fee under this subsection.

(d) The Commissioner shall establish fees for all other processing, services, or materials relating to patents not specified in this section to recover the estimated average cost to the Office of such processing, services, or materials, except that the Commissioner shall charge the following fees for the following services:

- (1) For recording a document affecting title, \$40, per property.
- (2) For each photocopy, \$.25 per page.
- (3) For each black and white copy of a patent, \$3.

The yearly fee for providing a library specified in section 13 of this title with uncertified printed copies of the specifications and drawings for all patents issued in that year shall be \$50.

(e) The Commissioner may waive the payment of any fee for any service or material related to patents in connection with an occasional or incidental request made by a department or agency of the Government, or any officer thereof. The Commissioner may provide any applicant issued a notice under section 132 of this title with a copy of the specifications and drawings for all patents referred to in that notice without charge.

(f) The fees established in subsections (a) and (b) of this section may be adjusted by the Commissioner on October 1, 1992, and every year thereafter, to reflect any fluctuations occurring during the previous 12 months in the Consumer Price Index, as determined by the Secretary of Labor. Changes of less than 1 per centum may be ignored.

(g) No fee established by the Commissioner under this section shall take effect until at least 30 days after notice of the fee has been published in the Federal Register and in the Official Gazette of the Patent and Trademark Office.\*

(h)(1) Fees charged under subsection (a) or (b) shall be reduced by 50 percent with respect to their application to any small business concern as defined under section 3 of the Small Business Act, and to any independent inventor or nonprofit organization as defined in regulations issued by the Commissioner of Patents and Trademarks.

- (2) With respect to its application to any entity described in paragraph (1), any surcharge or fee charged under subsection (c) or (d) shall not be higher than the surcharge or fee required of any other entity under the same or substantially similar circumstances.

- (i)(1) The Commissioner shall maintain, for use by the public, paper or microform collections of United States patents, foreign patent documents, and United States trademark registrations arranged to permit search for and retrieval of information. The Commissioner may not impose fees directly for the use of such collections, or for the use of the public patent and trademark search rooms or libraries.

- (2) The Commissioner shall provide for the full deployment of the automated

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Note: Fees established by the Commissioner of Patents and Trademarks under section 41(d) of title 35, United States Code, during fiscal year 1992 may take effect on or after 1 day after such fees are published in the Federal Register. Section 41(g) of title 35, United States Code, and section 553 of title 5, United States Code, shall not apply to the establishment of such fees during fiscal year 1992.

*Patent Laws and Regulations*

search systems of the Patent and Trademark Office so that such systems are available for use by the public, and shall assure full access by the public to, and dissemination of, patent and trademark information, using a variety of automated methods, including electronic bulletin boards and remote access by users to mass storage and retrieval systems.

- (3) The Commissioner may establish reasonable fees for access by the public to the automated search systems of the Patent and Trademark Office. If such fees are established, a limited amount of free access shall be made available to users of the systems for purposes of education and training. The Commissioner may waive the payment by an individual of fees authorized by this subsection upon a showing of need or hardship, and if such waiver is in the public interest.
- (4) The Commissioner shall submit to the Congress an annual report on the automated search systems of the Patent and Trademark Office and the access by the public to such systems. The Commissioner shall also publish such report in the Federal Register. The Commissioner shall provide an opportunity for the submission of comments by interested persons on each such report.

*(Subsection (a)(6) amended Nov. 8, 1984, Public Law 98-622, sec. 204(a), 98 Stat. 3388.)*

*(Subsection (g) amended Dec. 12, 1980, Public Law 96-517, sec. 2, 94 Stat. 3017; Aug. 27, 1982, Public Law 97-247, sec. 3, 96 Stat. 317.)*

*(Subsection (h) added Nov. 6, 1986, Public Law 99-607, sec. 1(b)(2).)*

*(Subsections (a), (b), (d), (f), and (g) amended Dec. 10, 1991, Public Law 102-204, sec. 5, 105 Stat. 1637.)*

*(Subsections (a)(9) - (15) and (i) added Dec. 10, 1991, Public Law 102-204, sec. 5, 105 Stat. 1637.)*

*(Subsection (c)(1) amended Oct. 23, 1992, Public Law 102-444, sec. 1, 106 Stat. 2245)*

*(Subsection (a)(1)(C) added Dec. 8, 1994, Public Law 103-465, sec. 532, 108 Stat. 4809, effective June 8, 1995.)*

*(Subsection (c)(2) amended, Dec. 8, 1994, Public Law 103-465, sec. 533, 108 Stat. 4809, effective Jan. 1, 1996.)*

### **35 U.S.C. 42 Patent and Trademark Office funding.**

(a) All fees for services performed by or materials furnished by the Patent and Trademark Office will be payable to the Commissioner.

(b) All fees paid to the Commissioner and all appropriations for defraying the costs of the activities of the Patent and Trademark Office will be credited to the Patent and Trademark Office Appropriation Account in the Treasury of the United States, the provisions of section 725e of title 31, United States Code, notwithstanding.

(c) Revenues from fees shall be available to the Commissioner to carry out, to the extent provided in appropriation Acts, the activities of the Patent and Trademark Office. Fees available to the Commissioner under section 31 of the Trademark Act of 1946 may be used only for the processing of trademark registrations and for other activities, services and materials relating to trademarks and to cover a proportionate share of the administrative costs of the Patent and Trademark Office.

(d) The Commissioner may refund any fee paid by mistake or any amount paid in excess of that required.

(e) The Secretary of Commerce shall, on the day each year on which the President submits the annual budget to the Congress, provide to the Committees on the Judiciary of the Senate and the House of Representatives:

- (1) a list of patent and trademark fee collections by the Patent and Trademark Office during the preceding fiscal year;
- (2) a list of activities of the Patent and Trademark Office during the preceding fiscal