



Patent Reform 2011:

USPTO Fees/Funding

USPTO allowed to set fees, but can only use the total amount appropriated by Congress.

Fee collected in excess of Congressional appropriation will be held in special account, supposedly for use solely by USPTO, if and when Congress grants a new appropriation.

- A 15% increase in most USPTO fees will be effective 10 days after enactment, i.e., September 26, 2011. This includes patent application filing fees, issue fees and maintenance fees.
- A 75% reduction in most fees for public and non-profit universities and other “institutes of higher education, as well as for a new category of patent applicant designated as “micro entities” to take effect upon enactment. A micro entity is an applicant that:
 - Qualifies as a small entity;
 - Has not been named as an inventor in more than 4 previously filed US non-provisional patent applications (excluding inventions assigned based upon prior employment);
 - Does not have an income of more than 3 times the median US household income (\$50k for 2009); and
 - Has not conveyed/licensed or is not contractually obligated to convey/license rights in the application to another that has an income of more than 3x the median US household income.
- The ability to elect “prioritized examination” with the payment of a \$4800 fee (reduced by 50% for small entities) in addition to general USPTO fees, will be available 10 days after enactment for nonprovisional applications for original utility or plant patents. Applications will be entitled to “fast track” examination, meaning “final disposition” (allowed, abandoned, or subject to a “final rejection” (which can then be appealed)) of the application within 12 months of filing. The requirements include:
 - the application must be filed electronically and prioritized examination must be requested at the time of filing;
 - the application must be filed “complete;” and
 - the application may contain no more than four independent and thirty total claims.

Potential impact of increased USPTO Funding:

- Hiring of more examiners and establishing of satellite office(s)
- Implementation of expedited patent review programs
- Faster patent issuances

- An additional \$400 fee (reduced by 50% for small entities) will be charged for nonprovisional patent applications not electronically filed. This surcharge will take place 60 days after enactment.