

(b) Appropriate action will be taken against any person who violates any discrimination prohibition contained in paragraph (a) of this section. However, this section does not create any legal rights enforceable against the Department of the Treasury, its officers, or employees, or any other person. Although this section does not create any enforceable rights, actions in violation of the section may still result in civil or criminal action in accordance with applicable laws.

#### **§ 700.14 Smoking.**

Smoking of cigarettes, cigars and pipes is prohibited in all FLETC buildings and vehicles.

**Ralph W. Basham,**

*Director.*

[FR Doc. 98-19493 Filed 7-23-98; 8:45 am]

BILLING CODE 4810-32-M

## **DEPARTMENT OF COMMERCE**

### **Patent and Trademark Office**

#### **37 CFR Part 1**

[Docket No. 980713170-8170-01]

RIN 0651-AA96

#### **Revision of Patent Fees for Fiscal Year 1999**

**AGENCY:** Patent and Trademark Office, Commerce.

**ACTION:** Final rule.

**SUMMARY:** The Patent and Trademark Office (PTO) is amending the rules of practice in patent cases, Part 1 of title 37, Code of Federal Regulations, to adjust patent statutory fee amounts to reflect the expiration of the surcharge established by the Omnibus Budget Reconciliation Act of 1990, as amended, and fluctuations in the Consumer Price Index (CPI). Also, a few fees that track statutory fees are being correspondingly adjusted, and a non-statutory fee is being reduced to recover cost.

Patent statutory fees consist of a fee amount pursuant to title 35, United States Code; annual adjustments to reflect fluctuations in the CPI; and a surcharge, established by the Omnibus Budget Reconciliation Act of 1990, as amended. The intent of the surcharge was to finance the cost of operating the PTO from user fees, rather than from taxes paid to the general fund of the United States Treasury. In fiscal year 1998, the surcharge will raise \$119,000,000. The surcharge will expire at the end of fiscal year 1998. To replace the surcharge and to ensure continued user-fee funding of PTO's operations,

legislation has been introduced in the Congress, namely, H.R. 3989 and H.R. 3723. Should either legislation or an alternative be enacted, the PTO will publish a document in the **Federal Register** to ensure that this final rule and the fees established herein will not take effect.

This final rule assumes that no legislative change to patent fees will take place before October 1, 1998. This final rule adjusts patent fees to reflect the expiration of the surcharge established by the Omnibus Budget Reconciliation Act of 1990, as amended, and to reflect fluctuations in the CPI over the previous twelve months.

**EFFECTIVE DATE:** October 1, 1998.

**FOR FURTHER INFORMATION CONTACT:**

Matthew Lee by telephone at (703) 305-8051, fax at (703) 305-8007, or by mail marked to his attention and addressed to the Commissioner of Patents and Trademarks, Office of Finance, Crystal Park 1, Suite 802, Washington, D.C. 20231.

**SUPPLEMENTARY INFORMATION:** This final rule adjusts PTO fees in accordance with the applicable provisions of title 35, United States Code, and the Patent and Trademark Office Authorization Act of 1991 (Public Law 102-204).

Legislation has been introduced in the Congress, namely H.R. 3989 and H.R. 3723, to replace the surcharge and to ensure continued user-fee funding of PTO's operations. H.R. 3989 would re-establish patent statutory fees at the fiscal year 1998 fee levels. For patent customers, H.R. 3989 would not change fee levels; it would simply include the current surcharge and previous years' annual inflation adjustments within the statutory fees, in accordance with the President's budget. The President's budget further proposes to rescind \$66,342,000 of PTO's fiscal year 1998 budget authority, and an additional \$50,000,000 in fees collected in fiscal year 1999, for a total rescission of \$116,342,000.

H.R. 3723 would re-establish patent statutory fees below the levels proposed in H.R. 3989. The total amount collected under H.R. 3723 is expected to be \$50,000,000 less than would be collected under H.R. 3989. H.R. 3723 does not assume rescission of PTO budget authority from fees collected in fiscal year 1999. (A comparison of fee amounts for fiscal year 1998, this final rule for fiscal year 1999, H.R. 3723, and H.R. 3989 is included as an Appendix to this final rule.)

In the absence of the enactment of these bills, or any other positive action by the Congress before October 1, 1998, certain patent fees will revert to their

statutory levels, as adjusted for previous years' annual fluctuations in the CPI. Should this occur, and PTO not increase fees by CPI for fiscal year 1999, PTO fee collections in fiscal year 1999 would be \$182,000,000 less than would be collected under H.R. 3989 and the President's budget proposal, and \$132,000,000 less than would be collected under H.R. 3723.

This final rule assumes that these bills—and any other statutory change to patent fees—will not be enacted before October 1, 1998. This final rule adjusts patent fees to reflect the expiration of the surcharge established by the Omnibus Budget Reconciliation Act of 1990, as amended, and to reflect fluctuations in the CPI over the previous twelve months. Fees collected under this final rule in fiscal year 1999 would be \$171,000,000 less than would be collected under H.R. 3989 and the President's budget proposal, and \$121,000,000 less than would be collected under H.R. 3723.

Patent customers should be aware that legislative changes to patent fees superseding this final rule may occur. If such changes occur the PTO will publish a document in the **Federal Register** to ensure that this final rule and the fees established herein will not take effect. Patent customers may wish to refer to the official PTO website ([www.uspto.gov](http://www.uspto.gov)) for the most current fee amounts. Official notices of any fee changes will appear in the **Federal Register** and the Official Gazette of the Patent and Trademark Office.

### **Background**

#### *Statutory Provisions*

Patent fees are authorized by 35 U.S.C. 41 and 35 U.S.C. 376. A fifty percent reduction in the fees paid under 35 U.S.C. 41(a) and (b) by independent inventors, small business concerns, and nonprofit organizations who meet prescribed definitions is required by 35 U.S.C. 41(h).

Subsection 41(f) of title 35, United States Code, provides that fees established under 35 U.S.C. 41(a) and (b) may be adjusted on October 1, 1992, and every year thereafter, to reflect fluctuations in the Consumer Price Index (CPI) over the previous twelve months.

Subsection 41(d) of title 35, United States Code, authorizes the Commissioner to establish fees for all other processing, services, or materials related to patents to recover the average cost of providing these services or materials, except for the fees for recording a document affecting title, for each photocopy, for each black and

white copy of a patent, and for library services.

Section 376 of title 35, United States Code, authorizes the Commissioner to set fees for patent applications filed under the Patent Cooperation Treaty (PCT).

Subsection 41(g) of title 35, United States Code, provides that new fee amounts established by the Commissioner under section 41 may take effect thirty days after notice in the **Federal Register** and the Official Gazette of the Patent and Trademark Office.

#### *Fee Adjustment Level*

The patent fees established by 35 U.S.C. 41 (a) and (b) will be adjusted on October 1, 1998, to reflect fluctuations occurring during the previous twelve months in the Consumer Price Index for all urban consumers (CPI-U), and CPI-U adjustments, where applicable, from fiscal years 1992 through 1997. In calculating these fluctuations, the Office of Management and Budget (OMB) has determined that the PTO should use CPI-U data as determined by the Secretary of Labor. However, the Department of Labor does not make public the CPI-U until approximately twenty-one days after the end of the month being calculated. Therefore, the latest CPI-U information available is for the month of May 1998. In accordance with previous rulemaking methodology, the PTO will use the Administration's projected CPI-U for the twelve-month period ending September 30, 1998, which is 2.2 percent. Based on this projection, patent statutory fees will be adjusted by 2.2 percent.

Four patent service fees that are set by statute will not be adjusted. The four fees that are not being adjusted are the assignment recording fee, printed patent copy fee, photocopy charge fee, and library service fee.

The final fee amounts were rounded by applying standard arithmetic rules so that the amounts rounded would be convenient to the user. Fees were rounded to an even number so that any comparable small entity fee would be a whole number.

#### *General Procedures*

Any fee amount paid on or after the effective date of the final fee adjustment will be subject to the new fees then in effect. For purposes of determining the amount of the fee to be paid, the date of mailing indicated on a proper Certificate of Mailing or Transmission, where authorized under 37 CFR 1.8, will be considered to be the date of receipt in the PTO. A Certificate of Mailing or Transmission under 37 CFR

1.8(a)(1) is not proper for items that are specifically excluded under 37 CFR 1.8(a)(2). 37 CFR 1.8(a)(2) should be consulted to determine those items for which a Certificate of Mailing or Transmission is not proper. Such items include, among other things, the filing of national and international applications for patents and the filing of trademark applications. In addition, the provisions of 37 CFR 1.10 relating to filing papers and fees using the "Express Mail" service of the United States Postal Service (USPS) do apply to any paper or fee (including patent and trademark applications) to be filed in the PTO. If an application or fee is filed by "Express Mail" with a date of deposit with the USPS (shown by the "date in" on the "Express Mail" mailing label) which is based on or after the effective date of the rules, as amended, the amount of the fee to be paid would be the fee established by the amended rules.

#### **Discussion of Specific Rules**

##### *37 CFR 1.16 National Application Filing Fees*

Section 1.16, paragraphs (a) through (d), and (f) through (j), is revised to adjust fees established therein to reflect the expiration of the patent fee surcharge established by the Omnibus Budget Reconciliation Act of 1990, as amended, and fluctuations in the CPI.

##### *37 CFR 1.17 Patent Application Processing Fees*

Section 1.17, paragraphs (a) through (d), (l), (m), (r), and (s), is revised to adjust fees established therein to reflect the expiration of the patent fee surcharge established by the Omnibus Budget Reconciliation Act of 1990, as amended, and fluctuations in the CPI.

##### *37 CFR 1.18 Patent Issue Fees*

Section 1.18, paragraphs (a) through (c), is revised to adjust fees established therein to reflect the expiration of the patent fee surcharge established by the Omnibus Budget Reconciliation Act of 1990, as amended, and fluctuations in the CPI.

##### *37 CFR 1.20 Post-issuance Fees*

Section 1.20, paragraphs (d) through (g), is revised to adjust fees established therein to reflect the expiration of the patent fee surcharge established by the Omnibus Budget Reconciliation Act of 1990, as amended, and fluctuations in the CPI.

##### *37 CFR 1.21 Miscellaneous Fees and Charges*

Section 1.21, paragraph (a)(6)(ii), is revised to adjust fees established therein to recover costs.

##### *37 CFR 1.492 National Stage Fees*

Section 1.492, paragraphs (a) through (d), is revised to adjust fees established therein to reflect the expiration of the patent fee surcharge established by the Omnibus Budget Reconciliation Act of 1990, as amended, and fluctuations in the CPI.

#### **Other Considerations**

This final rule contains no information collection within the meaning of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* This final rule has been determined to be not significant for purposes of Executive Order 12866.

Prior notice and opportunity for public comment for patent fee changes is not required by the patent statutes or the Administrative Procedure Act. While the patent statutes specifically require that changes to patent fees shall not 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," 35 U.S.C. 41(g), they do not require any additional publication of proposed fee changes. In addition, changes in patent fees are exempted from the notice of proposed rulemaking requirements of the Administrative Procedure Act under 5 U.S.C. 553(a)(2) as the establishment of fee amounts is a matter related to agency management.

As prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

A comparison of fee amounts for fiscal year 1998, this final rule for fiscal year 1999, H.R. 3723, and H.R. 3989 are included as an Appendix to this final rule.

#### **List of Subjects in 37 CFR Part 1**

Administrative practice and procedure, Inventions and patents, Reporting and recordkeeping requirements, Small businesses.

#### **PART 1—RULES OF PRACTICE IN PATENT CASES**

1. The authority citation for 37 CFR part 1 continues to read as follows:

**Authority:** 35 U.S.C. 6, unless otherwise noted.

2. Section 1.16 is amended by revising paragraphs (a) through (d), and (f) through (j) to read as follows:

**§ 1.16 National application filing fees.**

(a) Basic fee for filing each application for an original patent, except provisional, design or plant applications:	
By a small entity (§ 1.9(f)) ...	\$305.00
By other than a small entity	\$610.00
(b) In addition to the basic filing fee in an original application, except provisional applications, for filing or later presentation of each independent claim in excess of 3:	
By a small entity (§ 1.9(f)) ...	\$32.00
By other than a small entity	\$64.00
(c) In addition to the basic filing fee in an original application, except provisional applications, for filing or later presentation of each claim in excess of 20:	
By a small entity (§ 1.9(f)) ...	\$7.00
By other than a small entity	\$14.00
(d) In addition to the basic filing fee in an original application, except provisional applications, if the application contains, or is amended to contain, a multiple dependent claim(s), per application:	
By a small entity (§ 1.9(f)) ...	\$105.00
By other than a small entity	\$210.00
* * * * *	
(f) Basic fee for filing each design application:	
By a small entity (§ 1.9(f)) ...	\$130.00
By other than a small entity	\$260.00
(g) Basic fee for filing each plant application, except provisional applications:	
By a small entity (§ 1.9(f)) ...	\$195.00
By other than a small entity	\$390.00
(h) Basic fee for filing each reissue application:	
By a small entity (§ 1.9(f)) ...	\$305.00
By other than a small entity	\$610.00
(i) In addition to the basic filing fee in a reissue application, for filing or later presentation of each independent claim which is in excess of the number of independent claims in the original patent:	
By a small entity (§ 1.9(f)) ...	\$32.00
By other than a small entity	\$64.00
(j) In addition to the basic filing fee in a reissue application, for filing or later presentation of each claim in excess of 20 and also in excess of the number of claims in the original patent:	
By a small entity (§ 1.9(f)) ...	\$7.00
By other than a small entity	\$14.00
* * * * *	

3. Section 1.17 is amended by revising paragraphs (a) (1) through (5), (b) through (d), (1), (m), (r), and (s) to read as follows:

**§ 1.17 Patent application processing fees.**

(a) * * *	
(1) For reply within first month:	
By a small entity (§ 1.9(f))	\$45.00
By other than a small entity	90.00
(2) For reply within second month:	
By a small entity (§ 1.9(f))	\$155.00
By other than a small entity	\$310.00
(3) For reply within third month:	
By a small entity (§ 1.9(f))	\$355.00
By other than a small entity	\$710.00
(4) For reply within fourth month:	
By a small entity (§ 1.9(f))	\$550.00
By other than a small entity	\$1,100.00
(5) For reply within fifth month:	
By a small entity (§ 1.9(f))	\$750.00
By other than a small entity	\$1,500.00
(b) For filing a notice of appeal from the examiner to the Board of Patent Appeals and Interferences:	
By a small entity (§ 1.9(f))	\$125.00
By other than a small entity	\$250.00
(c) In addition to the fee for filing a notice of appeal, for filing a brief in support of an appeal:	
By a small entity (§ 1.9(f))	\$125.00
By other than a small entity	\$250.00
(d) For filing a request for an oral hearing before the Board of Patent Appeals and Interferences in an appeal under 35 U.S.C. 134:	
By a small entity (§ 1.9(f))	\$105.00
By other than a small entity	\$210.00
* * * * *	
(l) For filing a petition:	
(1) For the revival of an unavoidably abandoned application under 35 U.S.C. 111, 133, 364, or 371, or	
(2) For delayed payment of the issue fee under 35 U.S.C. 151:	
By a small entity (§ 1.9(f))	\$45.00
By other than a small entity	\$90.00
(m) For filing a petition:	
(1) For revival of an unintentionally abandoned application, or	
(2) For the unintentionally delayed payment of the fee for issuing a patent:	
By a small entity (§ 1.9(f))	\$490.00

By other than a small entity	\$980.00
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* * * * *	
(r) For entry of a submission after final rejection under § 1.129(a):	
By a small entity (§ 1.9(f))	\$305.00
By other than a small entity	\$610.00
(s) For each additional invention requested to be examined under § 1.129(b):	
By a small entity (§ 1.9(f))	\$305.00
By other than a small entity	\$610.00

4. Section 1.18 is revised to read as follows:

**§ 1.18 Patent issue fees.**

(a) Issue fee for issuing each original or reissue patent, except a design or plant patent:	
By a small entity (§ 1.9(f)) ...	\$490.00
By other than a small entity	\$980.00
(b) Issue fee for issuing a design patent:	
By a small entity (§ 1.9(f)) ...	\$175.00
By other than a small entity	\$350.00
(c) Issue fee for issuing a plant patent:	
By a small entity (§ 1.9(f)) ...	\$235.00
By other than a small entity	\$470.00

5. Section 1.20 is amended by revising paragraphs (d) through (g) to read as follows:

**§ 1.20 Post issuance fees.**

* * * * *	
(d) For filing each statutory disclaimer (§ 1.321):	
By a small entity (§ 1.9(f)) ...	\$45.00
By other than a small entity	\$90.00
(e) For maintaining an original or reissue patent, except a design or plant patent, based on an application filed on or after December 12, 1980, in force beyond four years; the fee is due by three years and six months after the original grant:	
By a small entity (§ 1.9(f)) ...	\$385.00
By other than a small entity	\$770.00
(f) For maintaining an original or reissue patent, except a design or plant patent, based on an application filed on or after December 12, 1980, in force beyond eight years; the fee is due by seven years and six months after the original grants:	
By a small entity (§ 1.9(f)) ...	\$770.00
By other than a small entity	\$1,540.00

(g) For maintaining an original or reissue patent, except a design or plant patent, based on an application filed on or after December 12, 1980, in force beyond twelve years; the fee is due by eleven years and six months after the original grant:

By a small entity (§ 1.9(f)) ... \$1,180.00  
By other than a small entity \$2,360.00

\* \* \* \* \*

6. Section 1.21 is amended by revising paragraph (a)(6)(ii) to read as follows:

**§ 1.21 Miscellaneous fees and charges.**

\* \* \* \* \*

(a) \* \* \*

(6) \* \* \*

(ii) Regrading of afternoon section (Claim Drafting) \$230.00

\* \* \* \* \*

7. Section 1.492 is amended by revising paragraphs (a) through (d) to read as follows:

**§ 1.492 National stage fees.**

\* \* \* \* \*

(a) The basic national fee:

(1) Where an international preliminary examination fee as set forth in § 1.482 has been paid on the international application to the United States Patent and Trademark Office:  
By a small entity (§ 1.9(f)) \$270.00  
By other than a small entity \$540.00

(2) Where no international preliminary examination fee as set forth in § 1.482 has been paid to the United States Patent and Trademark Office, but an international search fee as set forth in § 1.445(a)(2) has been paid on the international application to the United States Patent and Trademark Office as an International Searching Authority:  
By a small entity (§ 1.9(f)) \$305.00  
By other than a small entity \$610.00

(3) Where no international preliminary examination fee as set forth in § 1.482 has been paid and no international search fee as set forth in § 1.445(a)(2) has been paid on the international application to the United States Patent and Trademark Office.  
By a small entity (§ 1.9(f)) \$395.00  
By other than a small entity \$790.00

(4) Where an international preliminary examination fee as set forth in § 1.482 has been paid to the United States Patent and Trademark Office and the international preliminary examination report states that the criteria of novelty, inventive step (non-obviousness), and industrial applicability, as defined in PCT Article 33 (1) to (4) have been satisfied for all the claims presented in the application entering the national stage (see § 1.496(b)):  
By a small entity (§ 1.9(f)) \$39.00  
By other than a small entity \$78.00

(5) Where a search report on the international application has been prepared by the European Patent Office or the Japanese Patent Office:

By a small entity (§ 1.9(f)) \$395.00  
By other than a small entity \$790.00

(b) In addition to the basic national fee, for filing or later presentation of each independent claim in excess of 3:

By a small entity (§ 1.9(f)) \$32.00  
By other than a small entity \$64.00

(c) In addition to the basic national fee, for filing or later presentation of each claim (whether independent or dependent) in excess of 20.

(Note that § 1.75(c) indicates how multiple dependent claims are considered for fee calculation purposes.):

By a small entity (§ 1.9(f)) \$7.00  
By other than a small entity \$14.00

(d) In addition to the basic national fee, if the application contains, or is amended to contain, a multiple dependent claim(s), per application:

By a small entity (§ 1.9(f)) \$105.00  
By other than a small entity \$210.00

\* \* \* \* \*

July 17, 1998.

**Bruce A. Lehman,**

*Assistant Secretary of Commerce and  
Commissioner of Patents and Trademarks.*

**Note**—The following Appendix is provided as a courtesy to the public, and is not a substitute for the rules. It will not appear in the Code of Federal Regulations.

**APPENDIX A.—COMPARISON OF EXISTING AND REVISED FEE AMOUNTS**

37 CFR	Description	Pre-Oct 1998	Final rule Oct 1998	H.R. 3723	H.R. 3989
1.16(a)	Basic Filing Fee .....	\$790	\$610	\$760	—
1.16(a)	Basic Filing Fee (Small Entity) .....	395	305	380	—
1.16(b)	Independent Claims .....	82	64	78	—
1.16(b)	Independent Claims (Small Entity) .....	41	32	39	—
1.16(c)	Claims in Excess of 20 .....	22	14	18	—
1.16(c)	Claims in Excess of 20 (Small Entity) .....	11	7	9	—
1.16(d)	Multiple Dependent Claims .....	270	210	260	—
1.16(d)	Multiple Dependent Claims (Small Entity) .....	135	105	130	—
1.16(e)	Surcharge—Late Filing Fee .....	130	—	—	—
1.16(e)	Surcharge—Late Filing Fee (Small Entity) .....	65	—	—	—
1.16(f)	Design Filing Fee .....	330	260	310	—
1.16(f)	Design Filing Fee (Small Entity) .....	165	130	155	—
1.16(g)	Plant Filing Fee .....	540	390	480	—
1.16(g)	Plant Filing Fee (Small Entity) .....	270	195	240	—
1.16(h)	Reissue Filing Fee .....	790	610	760	—
1.16(h)	Reissue Filing Fee (Small Entity) .....	395	305	380	—
1.16(i)	Reissue Independent Claims .....	82	64	78	—
1.16(i)	Reissue Independent Claims (Small Entity) .....	41	32	39	—
1.16(j)	Reissue Claims in Excess of 20 .....	22	14	18	—

## APPENDIX A.—COMPARISON OF EXISTING AND REVISED FEE AMOUNTS—Continued

37 CFR	Description	Pre-Oct 1998	Final rule Oct 1998	H.R. 3723	H.R. 3989
1.16(j)	Reissue Claims in Excess of 20 (Small Entity) .....	11	7	9	—
1.16(k)	Provisional Application Filing Fee .....	150	—	—	—
1.16(k)	Provisional Application Filing Fee (Small Entity) .....	75	—	—	—
1.16(l)	Surcharge—Incomplete Provisional App. Filed .....	50	—	—	—
1.16(l)	Surcharge—Incomplete Provisional App. Filed (Small Entity) .....	25	—	—	—
1.17(a)(1)	Extension—First Month .....	110	90	—	—
1.17(a)(1)	Extension—First Month (Small Entity) .....	55	45	—	—
1.17(a)(2)	Extension—Second Month .....	400	310	380	—
1.17(a)(2)	Extension—First Month (Small Entity) .....	200	155	190	—
1.17(a)(3)	Extension—Third Month .....	950	710	870	—
1.17(a)(3)	Extension—Third Month (Small Entity) .....	475	355	435	—
1.17(a)(4)	Extension—Fourth Month .....	1,510	1,100	1,360	—
1.17(a)(4)	Extension—Fourth Month (Small Entity) .....	755	550	680	—
1.17(a)(5)	Extension—Fifth Month .....	2,060	1,500	1,850	—
1.17(a)(5)	Extension—Fifth Month (Small Entity) .....	1,030	750	925	—
1.17(b)	Notice of Appeal .....	310	250	300	—
1.17(b)	Notice of Appeal (Small Entity) .....	155	125	150	—
1.17(c)	Filing a Brief .....	310	250	300	—
1.17(c)	Filing a Brief (Small Entity) .....	155	125	150	—
1.17(d)	Request for Oral Hearing .....	270	210	260	—
1.17(d)	Request for Oral Hearing (Small Entity) .....	135	105	130	—
1.17(h)	Petition—Not All Inventors .....	130	—	—	—
1.17(h)	Petition—Correction of Inventorship .....	130	—	—	—
1.17(h)	Petition—Decision on Questions .....	130	—	—	—
1.17(h)	Petition—Suspend Rules .....	130	—	—	—
1.17(h)	Petition—Expedited License .....	130	—	—	—
1.17(h)	Petition—Scope of License .....	130	—	—	—
1.17(h)	Petition—Retroactive License .....	130	—	—	—
1.17(h)	Petition—Refusing Maintenance Fee .....	130	—	—	—
1.17(h)	Petition—Refusing Maintenance Fee—Expired Patent .....	130	—	—	—
1.17(h)	Petition—Interference .....	130	—	—	—
1.17(h)	Petition—Reconsider Interference .....	130	—	—	—
1.17(h)	Petition—Late Filing of Interference .....	130	—	—	—
1.20(b)	Petition—Correction of Inventorship .....	130	—	—	—
1.17(h)	Petition—Refusal to Publish SIR .....	130	—	—	—
1.17(j)	Petition—For Assignment .....	130	—	—	—
1.17(i)	Petition—For Application .....	130	—	—	—
1.17(i)	Petition—Late Priority Papers .....	130	—	—	—
1.17(i)	Petition—Suspend Action .....	130	—	—	—
1.17(i)	Petition—Divisional Reissues to Issue Separately .....	130	—	—	—
1.17(i)	Petition—For Interference Agreement .....	130	—	—	—
1.17(i)	Petition—Amendment After Issue .....	130	—	—	—
1.17(i)	Petition—Withdrawal After Issue .....	130	—	—	—
1.17(i)	Petition—Defer Issue .....	130	—	—	—
1.17(i)	Petition—Issue to Assignee .....	130	—	—	—
1.17(i)	Petition—Accord a Filing Date Under § 1.53 .....	130	—	—	—
1.17(i)	Petition—Accord a Filing Date Under § 1.62 .....	130	—	—	—
1.17(i)	Petition—Make Application Special .....	130	—	—	—
1.17(j)	Petition—Public Use Proceeding .....	1,510	—	—	—
1.17(k)	Non-English Specification .....	130	—	—	—
1.17(l)	Petition—Revive Abandoned Application .....	110	90	—	—
1.17(l)	Petition—Revive Abandoned Application (Small Entity) .....	55	45	—	—
1.17(m)	Petition—Revive Unintentionally Abandoned Application .....	1,320	980	1,210	—
1.17(m)	Petition—Revive Unintentionally Abandoned Application (Small Entity) .....	660	490	605	—
1.17(n)	SIR—Prior to Examiner's Action .....	920	—	—	—
1.17(o)	SIR—After Examiner's Action .....	1,840	—	—	—
1.17(p)	Submission of an Information Disclosure Statement (§ 1.97) .....	240	—	—	—
1.17(q)	Petition—Correction of Inventorship (Prov. App.) .....	50	—	—	—
1.17(q)	Petition—Accord a filing date (Prov. App.) .....	50	—	—	—
1.17(q)	Petition—Entry of submission after final rejection (Prov. App.) .....	50	—	—	—
1.17(r)	Filing a submission after final rejection (1.129(a)) .....	790	610	760	—
1.17(r)	Filing a submission after final rejection (1.129(a)) (Small Entity) .....	395	305	380	—
1.17(s)	Per add'l invention to be examined (1.129(b)) .....	790	610	760	—
1.17(s)	Per add'l invention to be examined (1.129(b)) (Small Entity) .....	395	305	380	—
1.18(a)	Issue Fee .....	1,320	980	1,210	—
1.18(a)	Issue Fee (Small Entity) .....	660	490	605	—
1.18(b)	Design Issue Fee .....	450	350	430	—
1.18(b)	Design Issue Fee (Small Entity) .....	225	175	215	—
1.18(c)	Plant Issue Fee .....	670	470	580	—
1.18(c)	Plant Issue Fee (Small Entity) .....	335	235	290	—
1.19(a)(1)(i)	Copy of Patent .....	3	—	—	—

## APPENDIX A.—COMPARISON OF EXISTING AND REVISED FEE AMOUNTS—Continued

37 CFR	Description	Pre-Oct 1998	Final rule Oct 1998	H.R. 3723	H.R. 3989
1.19(a)(1)(ii)	Patent Copy—Overnight delivery to PTO Box or overnight tax .....	6	—	—	—
1.19(a)(1)(iii)	Patent Copy Ordered by Expedited Mail or Fax—Exp. service .....	25	—	—	—
1.19(a)(2)	Plant Patent Copy .....	15	—	—	—
1.19(a)(3)(i)	Copy of Utility Patent or SIR in Color .....	25	—	—	—
1.19(b)(1)(i)	Certified Copy of Patent Application as Filed .....	15	—	—	—
1.19(b)(1)(ii)	Certified Copy of Patent Application as Filed, Expedited .....	30	—	—	—
1.19(b)(2)	Cert. or Uncert. Copy of Patent-Related File Wrapper/Contents .....	150	—	—	—
1.19(b)(3)	Cert. or Uncert. Copies of Office Records, per Document .....	25	—	—	—
1.19(b)(4)	For Assignment Records, Abstract of Title and Certification .....	25	—	—	—
1.19(c)	Library Service .....	50	—	—	—
1.19(d)	List of Patents in Subclass .....	3	—	—	—
1.19(e)	Uncertified Statement-Status of Maintenance Fee Payment .....	10	—	—	—
1.19(f)	Copy of Non-U.S. Patent Document .....	25	—	—	—
1.19(g)	Comparing and Certifying Copies, Per Document, Per Copy .....	25	—	—	—
1.19(h)	Duplicate or Corrected Filing Receipt .....	25	—	—	—
1.20(a)	Certificate of Correction .....	100	—	—	—
1.20(c)	Reexamination .....	\$2,520	—	—	—
1.20(d)	Statutory Disclaimer .....	110	90	—	—
1.20(d)	Statutory Disclaimer (Small Entity) .....	55	45	—	—
1.20(e)	Maintenance Fee—3.5 Years .....	1,050	770	940	—
1.20(e)	Maintenance Fee—3.5 Years (Small Entity) .....	525	385	470	—
1.20(f)	Maintenance Fee—7.5 Years .....	2,100	1,540	1,900	—
1.20(f)	Maintenance Fee—7.5 Years (Small Entity) .....	1,050	770	950	—
1.20(g)	Maintenance Fee—11.5 Years .....	3,160	2,360	2,910	—
1.20(g)	Maintenance Fee—11.5 Years (Small Entity) .....	1,580	1,180	1,455	—
1.20(h)	Surcharge—Maintenance Fee—6 Months .....	130	—	—	—
1.20(h)	Surcharge—Maintenance Fee—6 Months (Small Entity) .....	65	—	—	—
1.20(i)(1)	Surcharge—Maintenance After Expiration—Unavoidable .....	700	—	—	—
1.20(i)(2)	Surcharge—Maintenance After Expiration—Unintentional .....	1,640	—	—	—
1.20(j)(1)	Extension of Term of Patent Under 1.740 .....	1,120	—	—	—
1.20(j)(2)	Initial Application for Interim Extension Under 1.790 .....	420	—	—	—
1.20(j)(3)	Subsequent Application for Interim Extension Under 1.790 .....	210	—	—	—
1.21(a)(1)(i)	Application Fee (non-refundable) .....	40	—	—	—
1.21(a)(1)(ii)	Registration examination fee .....	310	—	—	—
1.21(a)(2)	Registration to Practice .....	100	—	—	—
1.21(a)(3)	Reinstatement to Practice .....	40	—	—	—
1.21(a)(4)	Certificate of Good Standing .....	10	—	—	—
1.21(a)(4)	Certificate of Good Standing, Suitable Framing .....	20	—	—	—
1.21(a)(5)	Review of Decision of Director, OED .....	130	—	—	—
1.21(a)(6)(i)	Regrading of A.M. section (PTO Practice and Procedure) .....	230	—	—	—
1.21(a)(6)(ii)	Regrading of P.M. section (Claim Drafting) .....	230	—	—	—
1.21(b)(1)	Establish Deposit Account .....	10	—	—	—
1.21(b)(2)	Service Charge Below Minimum Balance .....	25	—	—	—
1.21(b)(3)	Service Charge Below Minimum Balance .....	25	—	—	—
1.21(c)	Filing a Disclosure Document .....	10	—	—	—
1.21(d)	Box Rental .....	50	—	—	—
1.21(e)	International Type Search Report .....	40	—	—	—
1.21(g)	Self-Service Copy Charge .....	25	—	—	—
1.21(h)	Recording Patent Property .....	40	—	—	—
1.21(i)	Publication in the <i>Official Gazette</i> .....	25	—	—	—
1.21(j)	Labor Charges for Services .....	40	—	—	—
1.21(k)	Unspecified Other Services .....	1	—	—	—
1.21(k)	Terminal Use APS—CSIR (per hour) .....	50	—	—	—
1.21(l)	Retaining abandoned application .....	130	—	—	—
1.21(m)	Processing Returned Checks .....	50	—	—	—
1.21(n)	Handling Fee—Incomplete Application .....	130	—	—	—
1.21(o)	Terminal Use APS—TEXT .....	40	—	—	—
1.24	Coupons for Patent and Trademark Copies .....	3	—	—	—
1.296	Handling Fee—Withdrawal SIR .....	130	—	—	—
1.445(a)(1)	Transmittal Fee .....	240	—	—	—
1.445(a)(2)(i)	PCT Search Fee—Prior U.S. Application .....	450	—	—	—
1.445(a)(2)(ii)	PCT Search Fee—No U.S. Application .....	700	—	—	—
1.445(a)(3)	Supplemental Search .....	210	—	—	—
1.482(a)(1)(i)	Preliminary Exam Fee .....	490	—	—	—
1.482(a)(1)(ii)	Preliminary Exam Fee .....	750	—	—	—
1.482(a)(2)(i)	Additional invention .....	140	—	—	—
1.482(a)(2)(ii)	Additional invention .....	270	—	—	—
1.492(a)(1)	Preliminary Examining Authority .....	720	540	670	—
1.492(a)(1)	Preliminary Examining Authority (Small Entity) .....	360	270	335	—
1.492(a)(2)	Searching Authority .....	790	610	760	—
1.492(a)(2)	Searching Authority (Small Entity) .....	395	305	380	—

## APPENDIX A.—COMPARISON OF EXISTING AND REVISED FEE AMOUNTS—Continued

37 CFR	Description	Pre-Oct 1998	Final rule Oct 1998	H.R. 3723	H.R. 3989
1.492(a)(3)	PTO Not ISA nor IPEA .....	1,070	790	970	—
1.492(a)(3)	PTO Not ISA nor IPEA (Small Entity) .....	535	395	485	—
1.492(a)(4)	Claims—IPEA .....	98	78	96	—
1.492(a)(4)	Claims—IPEA (Small Entity) .....	49	39	48	—
1.492(a)(5)	Filing with EPO/JPO Search Report .....	930	790	—	—
1.492(a)(5)	Filing with EPO/JPO Search Report (Small Entity) .....	465	395	—	—
1.492(b)	Claims—Extra Individual (Over 3) .....	82	64	78	—
1.492(b)	Claims—Extra Individual (Over 3) (Small Entity) .....	41	32	39	—
1.492(c)	Claims—Extra Total (Over 20) .....	22	14	18	—
1.492(c)	Claims—Extra Total (Over 20) (Small Entity) .....	11	7	9	—
1.492(d)	Claims—Multiple Dependents .....	270	210	260	—
1.492(d)	Claims—Multiple Dependents (Small Entity) .....	135	105	130	—
1.492(e)	Surcharge .....	130	—	—	—
1.492(e)	Surcharge (Small Entity) .....	65	—	—	—
1.492(f)	English Translation—After 20 Months .....	130	—	—	—
2.6(a)(1)	Application for Registration, Per Class .....	245	—	—	—
2.6(a)(2)	Amendment to Allege Use, Per Class .....	100	—	—	—
2.6(a)(3)	Statement of Use, Per Class .....	100	—	—	—
2.6(a)(4)	Extension for Filing Statement of Use, Per Class .....	100	—	—	—
2.6(a)(5)	Application for Renewal, Per Class .....	300	—	—	—
2.6(a)(6)	Surcharge for Late Renewal, Per Class .....	100	—	—	—
2.6(a)(7)	Publication of Mark Under § 12(c), Per Class .....	100	—	—	—
2.6(a)(8)	Issuing New Certificate of Registration .....	100	—	—	—
2.6(a)(9)	Certificate of Correction of Registrant's Error .....	100	—	—	—
2.6(a)(10)	Filing Disclaimer to Registration .....	100	—	—	—
2.6(a)(11)	Filing Amendment to Registration .....	100	—	—	—
2.6(a)(12)	Filing Affidavit Under Section 8, Per Class .....	100	—	—	—
2.6(a)(13)	Filing Affidavit Under Section 15, Per Class .....	100	—	—	—
2.6(a)(14)	Filing Affidavit Under Sections 8 & 15, Per Class .....	200	—	—	—
2.6(a)(15)	Petitions to the Commissioner .....	100	—	—	—
2.6(a)(16)	Petition to Cancel, Per Class .....	200	—	—	—
2.6(a)(17)	Notice of Opposition, Per Class .....	200	—	—	—
2.6(a)(18)	Ex Parte Appeal to the TTAB, Per Class .....	100	—	—	—
2.6(a)(19)	Dividing an Application, Per New Application Created .....	100	—	—	—
2.6(b)(1)(i)	Copy of Registered Mark .....	3	—	—	—
2.6(b)(1)(ii)	Copy of Registered Mark, overnight delivery to PTO box or fax .....	6	—	—	—
2.6(b)(1)(iii)	Copy of Reg. Mark Ordered Via Exp. Mail or Fax, Exp. Svc .....	25	—	—	—
2.6(b)(2)(i)	Certified Copy of TM Application as Filed .....	15	—	—	—
2.6(b)(2)(ii)	Certified Copy of TM Application as Filed, Expedited .....	30	—	—	—
2.6(b)(3)	Cert. or Uncert. Copy of TM-Related File Wrapper/Contents .....	50	—	—	—
2.6(b)(4)(i)	Cert. Copy of Registered Mark, Title or Status .....	15	—	—	—
2.6(b)(4)(ii)	Cert. Copy of Registered Mark, Title or Status—Expedited .....	30	—	—	—
2.6(b)(5)	Certified or Uncertified Copy of TM Records .....	25	—	—	—
2.6(b)(6)	Recording Trademark Property, Per Mark, Per Document .....	40	—	—	—
2.6(b)(6)	For Second and subsequent Marks in Same Document .....	25	—	—	—
2.6(b)(7)	For Assignment Records, Abstracts of Title and Cert .....	25	—	—	—
2.6(b)(8)	Terminal Use X-SEARCH .....	40	—	—	—
2.6(b)(9)	Self-Service Copy Charge .....	0.25	—	—	—
2.6(b)(10)	Labor Charges for Services .....	40	—	—	—
2.6(b)(11)	Unspecified Other Services .....	( <sup>1</sup> )	—	—	—
2.7(a)	Recordal application fee .....	20	—	—	—
2.7(b)	Renewal application fee .....	20	—	—	—
2.7(c)	Late fee renewal application .....	20	—	—	—

—Indicates fees remain at pre-October 1998 amount.

<sup>1</sup> At cost.

[FR Doc. 98–19722 Filed 7–23–98; 8:45 am]

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## LIBRARY OF CONGRESS

## Copyright Office

## 37 CFR Parts 201 and 256

[Docket No. RM 98–4]

Cable Compulsory Licenses:  
Application of the 3.75% Rate

AGENCY: Copyright Office, Library of Congress.

ACTION: Final rule.

**SUMMARY:** The Copyright Office is amending its rules in order to clarify how a cable system shall calculate its royalty fees when it carries a distant signal which under the former Federal Communications Commission's regulations would be considered a permitted signal in some communities and a non-permitted signal in others. These amendments also make clear that both the base rate fee and the 3.75% fee