

September 2, 2026

The Honorable Darrell Issa
Chairman
Subcommittee on Courts, Intellectual Property, Artificial Intelligence, and the Internet
Committee on the Judiciary
U.S. House of Representatives

The Honorable Henry C. "Hank" Johnson
Ranking Member
Subcommittee on Courts, Intellectual Property, Artificial Intelligence, and the Internet
Committee on the Judiciary
U.S. House of Representatives

Re: Hearing on "Renewal of USPTO Fee Setting Authority: Giving Full Effect to the America Invents Act"

Dear Chairman Issa, Ranking Member Johnson, and Members of the Subcommittee:

US Inventor submits this statement regarding renewal of the United States Patent and Trademark Office's fee-setting authority.

Independent inventors understand that the USPTO must be adequately funded. A functioning patent system requires qualified examiners, modern information systems, timely examination, reliable records, competent administration, and sufficient resources to carry out the duties Congress has assigned to the Office.

Patent applicants and patent owners therefore should pay reasonable fees necessary to support those functions.

But the underlying principle should remain simple:

Patent fees should recover the reasonable costs of administering the patent system — and no more.

USPTO fees should not become a revenue-generating mechanism, should not be diverted away from the patent system, and should not impose disproportionate barriers on independent inventors, startups, small businesses, and other resource-constrained innovators.

US Inventor therefore urges Congress to preserve three principles in any renewal of USPTO fee-setting authority.

I. Patent Fees Should Be Based on the Cost of Operating the Patent System

The patent system is not intended to function as a profit center.

Applicants pay fees because the USPTO performs services necessary to examine applications, issue patents, maintain records, administer proceedings, and operate the patent system.

Those fees should collectively be sufficient to perform those functions effectively and efficiently.

They should not be set for the purpose of generating revenue beyond what is reasonably necessary to operate the patent system.

Current law already reflects part of this principle. Under Section 10 of the America Invents Act, aggregate patent-fee revenue may recover only the aggregate estimated cost of patent operations, including administrative costs.

US Inventor believes Congress should preserve and strengthen that principle.

Fee-setting should begin with a transparent assessment of what it actually costs to operate the patent system and provide USPTO services.

Where the USPTO sets a particular fee materially above the cost associated with the service being provided, the Office should explain why that additional charge is necessary and how it relates to the cost of administering the patent system.

Applicants should not be treated as a convenient source of revenue simply because the USPTO possesses authority to increase particular fees.

The guiding principle should be:

Determine what it reasonably costs to operate an effective patent system, and establish fees sufficient to cover those costs.

No more.

II. Fees Collected From Inventors Should Remain Available to the USPTO

There is a corresponding obligation on Congress.

If inventors and businesses are required to pay fees to fund the USPTO, those fees should be used for the patent system for which they were collected.

Patent applicants should not be asked to pay higher fees only to have those funds withheld, redirected, or used for unrelated governmental purposes.

Current law provides that patent fees and surcharges may be used only for patent-related USPTO expenses and a proportionate share of the Office's administrative expenses. It also establishes the Patent and Trademark Fee Reserve Fund for collections exceeding amounts initially appropriated to the Office.

US Inventor supports the principle underlying those protections.

Congress should ensure that:

- patent fees are used for patent operations;
- excess collections remain available to the USPTO;
- funds collected from patent applicants are not diverted to unrelated government programs; and
- the Office has reliable access to the revenue Congress has authorized it to collect.

Fee diversion is fundamentally unfair to patent applicants.

An applicant who pays a filing fee, examination fee, issue fee, maintenance fee, or other USPTO charge reasonably expects that money to support the patent system.

Congress should honor that expectation.

II. Small and Micro Entities Should Continue to Receive Substantially Reduced Fees

A uniform patent fee does not impose a uniform burden.

A multinational corporation and a first-time independent inventor may both pay the same nominal amount, but the economic significance of that charge can be dramatically different.

For an established corporation, several thousand dollars may be a minor operating expense.

For an individual inventor or early-stage startup, the same amount may determine whether an invention is patented at all.

Congress has long recognized this reality through reduced fees for small and micro entities.

Under current law, qualifying small entities generally receive substantial reductions on many patent fees, while qualifying micro entities receive even larger reductions.

US Inventor strongly supports maintaining those protections.

Indeed, when Congress reviews future fee-setting authority, it should ensure that small and micro entity reductions remain meaningful as overall fee levels change.

A percentage discount loses much of its value if the underlying fee increases to a level that is still unaffordable after the discount.

Congress and the USPTO therefore should consider not only the nominal percentage reduction but also the real-world cost of entering and remaining in the patent system.

IV. Patent Fees Should Not Become a Barrier to Access

The patent system serves an important constitutional and economic purpose: encouraging inventors to disclose new technologies in exchange for enforceable, time-limited property rights.

That system depends on access.

A patent right that technically exists but is financially inaccessible to ordinary inventors cannot serve that purpose effectively.

Excessive fees can discourage:

- filing an initial patent application;
- continuing prosecution;

- seeking appropriate claim scope;
- appealing erroneous examination decisions;
- obtaining issuance;
- maintaining an issued patent; and
- defending legitimate patent rights.

Every one of those consequences deserves consideration when fees are increased.

The United States benefits when individual inventors, startups, universities, small businesses, and established companies all have meaningful access to the patent system.

Fee policy should advance that objective rather than undermine it.

V. Transparency Should Accompany Fee-Setting Authority

If Congress renews broad fee-setting authority, the USPTO should continue to provide meaningful transparency regarding the basis for proposed fees.

For significant fee increases, the public and Congress should be able to understand:

- the estimated cost of the relevant USPTO activity;
- the amount of revenue the fee is expected to generate;
- whether the fee exceeds the cost of providing the particular service;
- how any excess revenue will be used;
- the effect on small and micro entities; and
- whether the fee is expected to materially affect applicant behavior or access to the patent system.

Transparency does not prevent the USPTO from managing its operations.

It helps ensure that Congress, patent applicants, and the public understand why particular fees are necessary.

VI. An Effective USPTO and Affordable Patent System Are Complementary Goals

US Inventor does not support underfunding the USPTO.

Independent inventors suffer when examination backlogs grow, when examiner resources are insufficient, when information technology fails, or when patent quality suffers because the Office lacks adequate resources.

A well-funded Patent Office is therefore in the interest of inventors.

But adequate funding and reasonable fees are not competing objectives.

Congress can provide the USPTO with sufficient resources while maintaining financial discipline and protecting access for smaller innovators.

The appropriate balance is straightforward:

The USPTO should receive the resources reasonably necessary to perform its statutory mission.

Patent applicants should pay reasonable fees supporting that mission.

Money collected for the patent system should remain with the patent system.

Small and micro entities should receive meaningful fee reductions so that participation does not become limited to those with substantial financial resources.

Conclusion

As Congress considers renewal of USPTO fee-setting authority, US Inventor respectfully urges the Subcommittee to preserve the following principles:

1. **Cost-Based Funding.** Patent fees should be designed to recover the reasonable costs of administering an effective patent system, rather than to generate revenue beyond those needs.
2. **No Fee Diversion.** Patent fees should remain available for USPTO patent operations and should not be redirected for unrelated governmental purposes.
3. **Protection for Small and Micro Entities.** Independent inventors, small businesses, startups, and qualifying micro entities should continue to receive substantial and meaningful fee reductions.
4. **Transparency.** Significant fee increases should be supported by transparent cost and revenue information so applicants and Congress can understand why they are necessary.

The patent system should be financially sustainable without becoming financially exclusionary.

The people who create new technologies should help support the institution that examines and protects those inventions.

They should not be treated as a source of surplus government revenue.

Respectfully submitted,



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