

1.5 Years Later, Patent Applicants Can Finally Take Advantage of Micro Entity Fees

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Legal Update

Although the provisions of the Leahy-Smith American Invents Act creating the micro entity status went into effect on September 16, 2011, patent applicants poised to benefit from the newly created status could not obtain the 75% discount because fee schedules including the reduced rates had not been issued by the United States Patent and Trademark Office. Starting March 19, 2013, however, applicants qualifying as micro entities **can** pay reduced fees for many filings, including: prioritized examinations, utility application filing fees, requests for continued examination, notices of appeal, *ex parte* reexaminations, supplemental examinations, issue fees, maintenance fees, excess claim fees, and extension fees.

Applicants can be certified as micro entities in one of two ways. In one instance, applicants can typically claim micro entity status if: (1) each applicant qualifies as a small entity; (2) each applicant has not been named as an inventor on more than four previously filed U.S. utility applications, unless those applications were assigned to a previous employer; (3) each applicant did not have a gross income exceeding three times the median household income for the preceding calendar year (for calendar year 2011, three times the median household income is \$150,162); and (4) each applicant has not or is not under an obligation to convey its ownership interests to an entity having a gross income that does not qualify. In the other instance, applicants can claim micro entity status if they are a qualified institution of higher education or if applicants have conveyed their ownership interests to a qualified institution of higher education. Further details about the requirements for qualifying as a micro entity can be found in the November 2011 edition of the Nutter IP Bulletin. Although the article was written before the final rules issued, the information about who can qualify as a micro entity remains accurate.

Patent applicants that may qualify as micro entities should speak with their patent counsel to more fully understand whether they can take advantage of these reduced rates. For example, applicants qualifying as a micro entity who are interested in obtaining a patent quickly should give serious consideration to paying \$1,000 for prioritized examination. Prioritized examination will typically lead to a quicker decision on the patent, and, even in view of the up-front fee of \$1,000, often reduces the overall cost of patent prosecution.

To read the final rules related to claiming micro entity status, [click here](#).

To see the table of new fees, including micro entity fees, [click here](#).

This advisory was prepared by Nutter's Intellectual Property practice. For more information, please contact your Nutter attorney at 617.439.2000.

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Practice Areas

Intellectual Property