

Opportunity for Immediate Benefit from Patent Reform

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Micro-Entity Status Offers Major Cost Savings to Eligible Applicants

Today President Obama signed into law the Leahy-Smith America Invents Act, considered by many to be the most sweeping reform of the United States patent system in 60 years. Among many changes, one which takes immediate effect is the creation of a new “Micro-entity” status which offers qualified applicants a 75% reduction in many Patent Office fees. The Micro-entity status is available to universities as well as to some very early stage companies and individual inventors.

Previously, a 50% reduction in certain fees was available for “small entities.” Micro-entities will get a 75% reduction in those fees. There are two ways to qualify as a Micro-entity. The first is to meet four criteria, and will be of interest to start-ups and individual inventors:

- The applicant is a small entity under the current rules. Current rules permit small entity status for a person, a small business concern having no more than 500 employees, a university, or a 501(c)(3) nonprofit organization, none of which may be under an obligation to assign or license the invention to a non-qualifying entity.
- The applicant is a named inventor on no more than four previous patent applications. (The four-application limit includes applications for ordinary utility patents, design patents and plant patents, but does not count provisional applications, international PCT applications that do not enter the US national stage, or foreign applications. The four-application limit also does not count applications owned by a previous employer.)
- The applicant had a gross income in the previous year of less than three times the median household income reported by the Bureau of the Census (for 2010, $3 \times \$49,445 = \$148,335$).
- And, if the application is assigned, then the owner (e.g., a start-up company) had a gross income in the previous year of less than three times the median household income. Note that this is the gross income of the start-up, not the net income.

The second way to qualify for Micro-entity status is by relationship with an Institution of Higher Learning. An Institution of Higher Learning is defined by 20 U.S.C. 1001(a) as a public or non-profit accredited institution that admits post-secondary students for programs of not less than 2 years. The applicant qualifies for Micro-entity status if either:

- The majority of the applicant’s income is from employment at an Institution of Higher Learning.
- Or, the applicant has assigned, or is obliged to assign, an ownership interest to an Institution of Higher Learning.

Take Prompt Action

To receive Micro-entity status, an applicant simply files, with a patent application, a statement certifying that the relevant criteria are met.

Patent Office fees are expected to increase sharply within the next month, so applicants are advised to take advantage of Micro-entity status promptly.

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