

**From:** Lester Rules <lessfonrules@gmail.com>  
**Sent:** Wednesday, September 05, 2012 6:15 PM  
**To:** fee.setting  
**Subject:** Proposed "Excess" claim fees / Cost of determining/proving one qualifies for small or micro entity status.

Dear Fee.setting -

There has been, and from what we have heard of the proposed new fees, there will continue to be, an inherent unfairness in the the fees that are charged for claims. We pointed this out previously and you have failed to address our concern.

Currently, for the basic filing, examination and search fees an applicant may present for examination 20 total claims with 3 of those claims being independent. Exceeding either of those thresholds triggers the requirement to pay additional fees, ostensibly to cover the cost of examining additional claims.

However, this fee policy leads to the following unfair absurdity.

Consider the applicant that files an application with 3 independent claims and 17 dependent claims, with each dependent claim depending directly from an independent claim.

After prosecution, an examiner may find that all 17 of the dependent claims are allowable but that the 3 original independent claims read on the prior art and are rejected.

In order to accept the allowed subject matter, rather than argue for the allowability of the 3 original independent claims through filing and RCE or Appeal and to receive the protection that the office agrees she is entitled, the applicant must place all 17 claims in independent form. This means she must pay excess independent claim fees for 14 claims, **even though no further examination will be done** on those claims other than verifying that the presented amendments do actually simply place the dependent claims in independent form.

At the large entity fee of your most recent proposal, that amounts to 14 x \$420 or **\$5,880**. Even at the micro entity rate, the applicant would be required to pay 14 x \$105 or **\$1470!**. You have not justified these outrageous charges for placing **already identified as allowable claims** in independent form. Indeed, it is respectfully submitted that there can be no justification for such charges.

Wont such outrages charges increase the burden on the examining corp and the Board of Appeals as applicants find the relative cost of Appeal or continued prosecution to be low compared to excess claim fees?

We respectfully submit that this is inherently unfair and respectfully request that the fee schedule be changed to indicate that there is never a claim fee charged **for simply placing an already allowable dependent claim in independent form**. Alternatively, we would ask that you justify a \$5880 fee for placing allowable claims in independent form.

We would also ask that you estimate and consider how much it would cost or costs a micro entity or small entity to determine that one could rightly claim such status.

Thank you,

Lester Rules