



Intellectual Property ADVISORY ■

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New Initiatives Benefiting Small Businesses at the U.S. Patent and Trademark Office

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Reduced Fees for Small and Micro Entities

On December 29, 2022, President Biden signed into law the latest omnibus spending bill and, with it, enacted the Unleashing American Innovators Act of 2022. This new law has established a number of initiatives aimed at expanding access to the U.S. Patent and Trademark Office (USPTO), including increasing the discounts on USPTO fees for small entities from 50% to 60% of standard, undiscounted rates and increasing the discounts on USPTO fees for micro entities from 75% to 80%.

Longer Lookback Periods to Qualify

Dovetailing with the new IP law, a June 2022 Small Business Administration (SBA) rule change increased the number of businesses that will qualify for small-entity status. Businesses may qualify for reduced fees if they have fewer than 500 employees, including affiliates, and have not licensed their rights to a large entity. The SBA sets procedural rules that govern small-entity status for other federal agencies, including the USPTO.

Before the June rule change, the USPTO and SBA calculated this number of employees as the average number of employees per pay period for the preceding 12 months. The June 2022 rule extends this period to the average over the preceding completed **24 calendar months**. With the longer lookback period, businesses that are growing can wait longer before paying undiscounted fees.

If you are interested in taking advantage of the new small business initiatives, please do not hesitate to reach out to our team of experienced IP attorneys.

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