

The Price of Success

After the all the rejections, objections and restrictions are worked through, eventually it happens. The patent applicant opens the mail and gets the prize: A Notice of Allowance and Fee Due. This is the letter informing inventors that the USPTO is willing to issue a patent for their invention.

For a fee.

Once the Notice of Allowance and Fee Due is sent, the Issue Fee becomes due and Maintenance Fees come into play. While the fees are subject to change, the structure and timing are pretty stable.

The issue fee is due within 90 days of the issue date of the Notice of Allowance. The current Issue Fee (without discounts) is \$960. Failure to pay this fee will prevent a patent from issuing.

Three Maintenance Fees are due at 3.5 years, 7.5 years, and 11.5 years after the issue date of the patent. While the law prohibits the USPTO from accepting maintenance fees early, there is currently a six month grace period for payment. The amount due for each payment will be published in the USPTO Fee Schedule that is current at the time payment is due. Failure to pay these fees will cause the patent to lapse.

For reference, the current fee structure is \$1,600 due at 3.5 years, \$3,200 due at 7.5 years, and \$7,400 due at 11.5 years. Including the issue fee, this works out to \$14,120 over the life of the patent.

The important thing to remember about Issue and Maintenance Fees is to pay them on time. Missed and late payments can quickly result in the loss of a holder's patent rights. The USPTO has little flexibility regarding late payments at this point in the process.

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