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CLIENT INFORMATION SHEET

Are you a Micro-Entity?

The America Invents Act, passed by Congress in late 2012, includes a provision which carves out a new group of inventors who can pay 75% less in government fees when obtaining and maintaining their patents.

Standard government fees, apply to "large entities". Standard fees apply to most patent applicants who are businesses, or who assign their inventions to their businesses/employers.

A second group of entities, typically referred to as "small entities", are entitled to pay government fees which are reduced by 50% relative to the fees paid by large entities.

The 2011 America Invents Act created a third group of entities, identified as "micro entities", who will be entitled to pay government fees which are reduced by 75% relative to the fees paid by large entities.

The basic questions that apply to all named inventors and applicants are:

1. Have you or any joint inventor filed more than four US non-provisional patent applications? (If yes, then you are not a micro-entity, unless those applications were from a prior employment and assigned to the prior employer)
2. Did the applicant or any listed inventor have gross income for the past year that was greater than three times the median household income (\$150,000 for 2013)? (If yes, then you are not a micro-entity). This number will change annually based upon median US household income.
3. Have rights in the application been promised or licensed to a non-micro-entity? (If yes, then you are not a micro-entity)

Penalties for mis-stating status, and for paying lower fees than entitled to, can be severe. Patents have been invalid because of such intentional mis-claimed status.

However, in good faith mistakes, once the patent owner realizes that small entity status has been claimed incorrectly, the situation can be easily corrected by paying the additional amounts for the correct entity, and providing documents which attest to the lack of deceptive intent in earlier paying the small entity fees.

The USPTO has certification forms to be filed once in any application to give the applicant "Micro Entity" status. There are separate forms for qualification under Experience and Income status (SB15A) and under Institute of Higher Education status (SB15B).

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Paul B. Heynssens is the Managing Member and registered patent attorney with a substantial background in electrical engineering. He counsels clients in a variety of intellectual property and technology matters including patent prosecution and portfolio management, preparation of patent validity and infringement opinions, and preparation of licensing agreements, non-disclosure agreements and other intellectual property agreements. Mr. Heynssens has prepared and prosecuted many patent applications in the area of electronics, software, semiconductors, lasers and computers, among others.

Paul B. Heynssens Attorney at Law, PLC prepares Client Information Sheets to provide information about legal developments that may affect or be of interest to our clients. The information and opinions contained in this Client Information Sheet do not constitute legal advice.

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