

Proposed regulations to add excess claims fees and fees beyond third office actions

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Proposed changes to Canadian patent rules were published for public comment in July 2021. While the final version of the new rules has yet to be confirmed, these new rules are expected to alter prosecution strategies and to have significant cost consequences for patent applicants in Canada. The final new rules are expected to be announced soon and may come into effect as early as July 2022.

The most significant of the proposed new rules are:

- Excess claims fees of \$100 CAD per claim over 20 will be introduced. The excess claim fees will be payable calculated at the time of requesting examination and again at the time the issue fee is paid.
- Requests for Continued Examination (RCE) and an RCE fee of \$816 CAD will be required to continue examination and respond to the third Examiner's Report and every second Examiner's Report thereafter. This is expected to include Examiner's Reports in which the only objection was a lack of unity objection.

The proposed new rules will not affect applications for which examination has already been requested or applications for which examination is requested within 30 days of the coming into force of the proposed new rules. It is possible that the final new rules may differ from those currently proposed, or that implementation may be delayed.

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