

USPTO Extends Filing Deadlines For COVID-19 Related Delays, Again

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On April 28, 2020, the U.S. Patent and Trademark Office (USPTO) announced extensions to the time allowed to file certain (but not all) patent and trademark related documents and to pay certain required fees. The USPTO had previously extended by 30 days the due date for filings due between March 27, 2020 and April 30, 2020. The new announcement extends to June 1, 2020, the due date for certain filings due between March 27, 2020 and May 31, 2020.

The extension for filing and payment for trademarks and patents, is contingent upon an accompanying statement demonstrating that the delay in filing or payment was due to the COVID-19 outbreak. The USPTO characterizes, in their announcement, that a delay in filing or payment is due to the COVID-19 outbreak if a practitioner, applicant, patent owner, trademark registrant, petitioner, third party requester, inventor or other person associated with the filing or fee was personally affected by the COVID-19 outbreak, including, without limitation, through office closures, cash flow interruptions, inaccessibility of files or other materials, travel delays, personal or other illness, or similar circumstances, such that the outbreak materially interfered with timely payment or filing.

Trademarks

For the trademark filings listed below that are due on or between March 27, 2020 and April 30, 2020, inclusive, the USPTO has extended the due date for the filing and any associated fee payment 30 days from the initial due date, so long as the delay in filing or payment was due to the COVID-19 outbreak:

- Responses to Office Actions (including a notice of appeal from a final refusal);
- Statements of Use or Requests for Extensions of Time in order to file a Statement of Use;
- Request for a priority filing basis under the Paris Convention or under the Madrid Protocol;
- Section 8 and Section 71 Declarations of Use of Excusable Nonuse
- Transformation of an extension of protection to the U.S. to a U.S. trademark application
- Notice of Opposition, or a request for extension of time in which to file a Notice of Opposition.

Deadlines for other filings, such as filings during grace periods or responses to audit inquiries, are not extended.

Requests for extensions in appeal and contested proceedings before the Trademark Trial and Appeal Board can be made by filing a motion.

Patents

For the patent filings listed below that are due on or between March 27, 2020 and April 30, 2020, inclusive, the due date for the filing and any associated fee payment will be extended 30 days from the initial due date, so long as the delay in filing or payment was due to the COVID-19 outbreak:

- Replies to Office Notices issued during pre-examination proceedings by a small or micro entity (including, for example, a Notice of Omitted Items, Notice to File Corrected Application Papers, Notice of Incomplete Application, Notice to Comply with Nucleotide Sequence Requirements, Notice to File Missing Parts of Application, and Notification of Missing Requirements);
- Replies to Office Notices or actions issued during examination (including, for example, final Office actions and Notices of Non-Compliant Amendment)
- Replies to Office Notices or actions issued during patent publication processing (including, for example,

- a Notice to File Corrected Application Papers);
- Issue fees
- Maintenance fees, filed by small or micro entities
- Notices of appeal, appeal briefs and reply briefs;
- Appeal forwarding fees;
- Requests for oral hearing before the Patent Trial and Appeal Board
- Responses to substitute examiner's answers
- Amendments when reopening prosecution in response to or request for rehearing of, a PTAB decision designated as including a new ground of rejection; and
- Requests for rehearing of a PTAB decision.

Deadlines for other filings and payments, such as maintenance fees to be paid by large entities, are not extended.

USPTO Remains Open

The USPTO remains open for online filings and payments relating to patents and trademarks. Because of this, the waivers and extensions discussed above are only available for COVID-19 related delays.

The notice relating to trademarks can be found [here](#). The notice relating to patents can be found [here](#).

Partridge Snow & Hahn Partner and Chair of the firm's Intellectual Property & Technology Practice, [John Ottaviani](#), is ready to answer questions and advise on the topic. For additional information and resources, visit the Partridge Snow & Hahn [COVID-19 Advisory Group](#) page.

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