



CLIENT ALERT

April 1, 2020

USPTO EXTENDS STATUTORY DEADLINES BY 30 DAYS

As you may know, the federal government signed into law the Coronavirus Aid, Relief, and Economic Security, or “CARES Act,” to mitigate harms posed by the COVID-19 pandemic. As part of the CARES Act, the U.S. Patent and Trademark Office (“USPTO”) was given authority to temporarily extend statutory deadlines. On March 31, the USPTO issued a notice extending certain deadlines by 30 days.

Occurrences qualifying for a delay include if a practitioner, applicant, registrant, or other person associated with the filing or fee was personally affected by the COVID-19 outbreak, including, but not limited to, through office closures, cash flow interruptions, inaccessibility of files or other materials, travel delays, personal or family illness, or similar circumstances, such that the outbreak materially interfered with timely filing or payment.

Trademark Deadline Extensions

Trademark deadlines for the following events that fall between March 27 and April 30, 2020 are extended by 30 days, provided that the filing includes a statement that the delay was caused by the COVID-19 pandemic:

- Response to an Office action, including a notice of appeal
- Statement of use or request for extension to file a statement of use
- Notice of opposition or request for extension to file a notice of opposition
- Priority filing basis for applications under Section 44(d) or Section 67
- Transformation of an extension of protection to the United States into a United States application under Section 70(c)
- Section 8 declarations and Section 9 renewals
- Affidavit of use or excusable nonuse under Section 71(a)

Patent Deadline Extensions

A similar extension for 30 days was made for patent deadlines falling between March 27 and April 30, 2020, provided that the filing includes a statement that the delay was caused by the COVID-19 pandemic:

- Reply to an Office notice issued during pre-examination processing by a small or micro entity
- Reply to an Office notice or action issued during examination or patent publication processing
- Issue fee
- Notice of appeal, appeal, or reply brief
- Appeal forwarding fee
- Request for oral hearing before the Patent Trial and Appeal Board (PTAB)
- Response to substitute examiner’s answer
- Amendment when reopening prosecution in response to, or request for re-hearing of, a PTAB decision designated as including a new ground of rejection
- Maintenance fee, filed by a small or micro entity
- Request for rehearing of a PTAB decision under 37 C.F.R. § 41.52

For more information, please contact:

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Upon a request to the USPTO affirming that a filing is delayed that was or is due between March 27 and April 30, 2020 because of COVID-19, the PTAB will also provide a 30 day extension for:

- Request for rehearing of a PTAB decision under 37 C.F.R. §§ 41.125(c), 41.127(d) or 42.71(d)
- Petition to the Chief Judge
- A patent owner preliminary response in a trial proceeding under 37 C.F.R. §§ 42.107 or 42.207 or any related responsive filings

Situations Not Covered Above

For all other situations where COVID-19 has prevented or interfered with a filing, a request or motion for an extension or reopening of time may be made.

We Are Here For You

As Director of the USPTO Andrei Iancu stated, “Ultimately, our goal is to ensure not only that inventors and entrepreneurs can weather the storm, but that they can hit the ground running once it passes.”

Oved & Oved LLP recognizes that this is a challenging time. Our expert attorneys are available to help guide you through the evolving law as governments respond to this unprecedented crisis. For assistance or questions on this topic, please contact a member of our team.

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