

USPTO Grants Further Limited Relief in Light of COVID-19

May 28, 2020

On May 27, 2020, the U.S. Patent and Trademark Office (USPTO) granted additional, limited relief to those most impacted by COVID-19 for certain patent and trademark-related fees and deadlines. This relief is far more limited than the previous relief and aims primarily to assist individuals and small businesses.

As previously reported, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) authorized the Director of the USPTO to grant certain extensions due to COVID-19. On March 31, 2020, the USPTO granted 30-day extensions for certain patent and trademark-related deadlines that fell on or between March 27, 2020, and April 30, 2020, if the delay was “due to the COVID-19 outbreak.” On April 28, 2020, the USPTO extended this relief to June 1, 2020.

The latest relief offered by the USPTO focuses primarily on individuals and small businesses impacted by the COVID-19 outbreak, but does offer additional relief to anyone that lost a pending application, registered trademark, or issued patent due to a missed deadline caused by COVID-19.

Trademark-Related Relief

For trademarks, the latest announcement by the USPTO makes clear that the previous relief granting extensions “will expire on May 31, 2020.” The USPTO recognizes, however, that, “[a]s businesses begin to reopen or resume operations, some stakeholders will continue to require relief, particularly small businesses, and individuals.” As a result, the USPTO will be assessing additional relief “on a case-by-case basis” as follows:

- Trademark Applicants who were unable to submit a timely response or fee in response to an Office communication should file a petition to revive the application.
- Trademark Applicants who missed the 36-month statutory deadline for filing a Statement of Use, and therefore their application has been abandoned, should use the TEAS “Petition to the Director” form.
- Registrants who missed a statutory deadline, resulting in a canceled/expired registration, or who were unable to submit a timely response or fee in response to an Office communication regarding a registration, should use the TEAS “Petition to the Director” form.
- The USPTO will continue to waive the petition fees for the foregoing petitions until June 30, 2020.

Patent-Related Relief

For patents, the USPTO further extended filing deadlines outlined in its April 28, 2020, Notice to July 1, 2020, ***but only for micro-entities and small entities***. After May 31, 2020, large entities

"should seek relief on a case-by-case basis through the filing of a petition for an extension of time or a petition to revive, accompanied by the required fee." For all entities, the petition fees to revive applications that abandoned before June 30, 2020, will continue to be waived. Again, the USPTO noted that it "recognizes the COVID-19 pandemic continues to impose various hardships, especially on small businesses and individual inventors."

Monitor Your IP Deadlines

With so many rule changes and notices from around the world impacting, waiving, extending or maintaining intellectual property filing deadlines, it is important to stay in touch with your IP counsel to ensure that deadlines in your IP portfolio are being met or, if necessary, to determine whether you qualify for any extensions or relief from filing fees as a result of the COVID-19 outbreak. If you have any questions about this new announcement and how it may impact your patent or trademark matter, please contact [Andrew O'Connor](#), [Andrew Ferren](#), or any member of our [IP practice team](#).