

COVID-19 Relief from the USPTO

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The U.S. Patent and Trademark Office has announced relief from certain deadlines and fee due dates for patent and trademark applicants.

Deadlines for those certain instances will be extended 30 days under temporary authority provided by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) signed by President Donald Trump on Friday.

The director of the USPTO has determined that the emergency caused by the COVID-19 outbreak has prejudiced the rights of applicants, patent owners or others appearing before the office in patent and trademark matters. He said it's also prevented applicants, patent owners, trademark owners or others from filing a document or fee with the office. Because the virus has significantly disrupted the operations of numerous businesses, law firms and inventors, a person or business who is unable to meet deadlines due to the COVID-19 outbreak may be eligible for a waiver of certain deadlines.

Deadlines from the USPTO that fell between March 27 and April 30 will be extended 30 days, as long as the filing is accompanied by a statement that the delay in filing or payment was due to the COVID-19 outbreak.

The deadlines for patent applications and Patent Trial and Appeal Board (PTAB) proceedings included in the relief are:

- 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 brief
- Reply brief
- Appeal forwarding fee
- Request for an oral hearing before the PTAB
- Response to a substitute examiner's answer
- Amendment when reopening prosecution in response to, or request for rehearing 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

For trademark applications and Trademark Trial and Appeal Board proceedings, the following deadlines between March 27 and April 30 will be extended 30 days, provided that the filing is accompanied by a statement that the delay in filing or payment was due to the COVID-19 outbreak:

- Response to an office action, including a notice of appeal from a final refusal
- Statement of use or request for extension of time to file a statement of use
- Notice of opposition or request for extension of time to file a notice of opposition
- Priority filing basis under certain circumstances
- Transformation of an extension of protection to the United States into a U.S. application
- Affidavit of use or excusable nonuse under certain circumstances
- Renewal application

For purposes of these extensions, a delay in filing or payment is due to the COVID-19 outbreak if a practitioner, applicant, registrant, or other person associated with the filing or fee was personally affected by the COVID-19 outbreak, including through office closures, cash flow interruptions, inaccessibility of files or other materials, travel delays, personal or family illness, or similar circumstances where the outbreak materially interfered with timely filing or payment.

For further details see the official [Patent](#) and [Trademark](#) notices issued by the USPTO.

If you have any questions about these new deadlines, please [contact me](#) or any member of the [Barley Snyder Intellectual Property Group](#).

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