Notice of Waiver of Trademark-Related Timing Deadlines under the Coronavirus Aid, Relief, and Economic Security Act

In accordance with section 12004 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), the United States Patent and Trademark Office (USPTO or Office) is extending the time to file certain trademark-related documents or fees which otherwise would have been due on or after March 27, 2020.

CARES Act

Subsection 12004(a) of the CARES Act provides that the USPTO may toll, waive, adjust, or modify, any timing deadline established by the Trademark Act, or regulations promulgated thereunder, in effect during the emergency period described in subsection 12004(e) of the CARES Act, if the Director of the USPTO determines that the emergency related to such period: (1) materially affects the functioning of the Patent and Trademark Office; (2) prejudices the rights of applicants, registrants, patent and trademark owners, or others appearing before the Office; or (3) prevents applicants, registrants, patent and trademark owners, or others appearing before the Office from filing a document or fee with the Office.

On March 13, 2020, the President declared a national emergency under the National Emergencies Act as a result of the COVID-19 outbreak. The Director of the USPTO has determined that the emergency has prejudiced the rights of applicants, registrants, trademark owners, or others appearing before the Office in trademark matters, and has prevented applicants, registrants, trademark owners, or others appearing before the Office in trademark matters from filing a document or fee with the Office. Among other things, the spread of the virus has significantly disrupted the operations of numerous businesses and law firms. Accordingly, a person who is unable to meet trademark-related timing deadlines due to the COVID-19 outbreak may be eligible for a waiver of certain deadlines, as further described below.

Relief for Trademark Applicants, Registrants, and Parties to TTAB Proceedings

(a) The due date for any:

i. response to an Office action, including a notice of appeal from a final refusal, under 15 U.S.C. §1062(b) and 37 C.F.R. §§ 2.62(a) and 2.141(a);
ii. statement of use or request for extension of time to file a statement of use under 15 U.S.C. § 1051(d) and 37 C.F.R. §§ 2.88(a) and 2.89(a);
iii. notice of opposition or request for extension of time to file a notice of opposition under 15 U.S.C. § 1063(a) and 37 C.F.R. §§ 2.101(c) and § 2.102(a);
iv. priority filing basis under 15 U.S.C. § 1126(d)(1) and 37 C.F.R. § 2.34(a)(4)(i);
v. priority filing basis under 15 U.S.C. § 1141g and 37 C.F.R. § 7.27(c);
vi. transformation of an extension of protection to the United States into a U.S. application under 15 U.S.C. § 1141j(c) and 37 C.F.R. § 7.31(a);
vii. affidavit of use or excusable nonuse under 15 U.S.C. § 1058(a) and 37 C.F.R. § 2.160(a);
viii. renewal application under 15 U.S.C. § 1059(a) and 37 C.F.R. § 2.182; or

ix. affidavit of use or excusable nonuse under 15 U.S.C. § 1141k(a) and 37 C.F.R. § 7.36(b)

that was due between, and inclusive of, both March 27, 2020 and April 30, 2020, will be extended 30 days from the initial date it was due, provided that the filing is accompanied by a statement that the delay in filing or payment was due to the COVID-19 outbreak as defined in subsection (b), below.

(b) A delay in filing or payment is due to the COVID-19 outbreak for the purposes of this notice if a practitioner, applicant, registrant, 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 family illness, or similar circumstances, such that the outbreak materially interfered with timely filing or payment.

TTAB Situations Not Covered Above

For all other situations where the COVID-19 outbreak has prevented or interfered with a filing before the Board, a request (in ex parte appeals) or motion (for trial cases) for an extension or reopening of time, as appropriate, can be made.

The USPTO Remains Open for Filing Documents and Fees

The USPTO is open for the filing of trademark and TTAB documents and fees. As the USPTO remains open for the filing of trademark documents and fees, the waiver set forth in this notice is available only if the delay was due to the COVID-19 outbreak as defined above. The USPTO will continue to evaluate the evolving situation around COVID-19 and the impact on the USPTO's operations and stakeholders.

The existing procedures to revive an abandoned application or reinstate a canceled/expired registration pursuant to 37 CFR §§ 2.66 and 2.146 remain available to applicants and registrants whose applications and registrations were abandoned or canceled/expired due to inability to timely respond to a trademark-related Office communication as a result of the COVID-19 outbreak. As described in the Office's March 16, 2020 "Relief Available to Patent and Trademark Applicants, Patentees and Trademark Owners" notice, fees for such petitions are waived.

Comments and Contact Information

Comments and trademark-related inquiries concerning this notice may be addressed to TMPolicy@uspto.gov. If email submission of comments is not feasible due to lack of access to a computer and/or the internet, please call the Trademark Office of Petitions at (571) 272-8950 for special instructions. For TTAB-related inquiries contact Cheryl Butler at Cheryl.Butler@uspto.gov or (571) 272-4259 or Denise DelGizzi at Denise.DelGizzi@uspto.gov or (571) 272-4265.

Date: 3/31/2020

Andrei Iancu

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Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office