

Insights: Alerts

CARES Act | US Patent and Trademark Office - Additional Extensions Available

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Please note: The below information may require updating, including additional clarification, as the COVID-19 pandemic continues to develop. Please monitor our main [COVID-19 Task Force page](#) and/or your email for updates.

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act), enacted last week, contains several provisions which are intended to provide resources and assistance for a number of businesses impacted by the current pandemic as various Federal, State and local government agencies enforce mandatory closures of these businesses.

Section 12004 of the CARES Act allows the director of the United States Patent & Trademark Office (USPTO) (under certain conditions) to provide temporary relief from certain USPTO filing deadlines and fees.

The USPTO has now determined that the CARES Act conditions are met, and has published Notices¹ of eligibility for 30-day extensions of a number of patent, PTAB, and trademark timing deadlines that fell due between (or on) March 27 and April 30, 2020. Any delayed filing (whether patent or trademark) must be accompanied by a statement that the delay in filing or payment was due to the COVID-19 pandemic. The many deadlines that can be extended are listed in the Notices, but primarily relate to certain responses to USPTO requirements, responses, and payments. No extensions are available for any of the statutory deadlines (claiming priority, and the like) excluded from the USPTO's waiver of fees for certain petitions for extensions of time. See [COVID-19-Related Delays in Filing Patent and Trademark Documents](#).

The USPTO will consider filing or payment delays, for the purposes of the CARES Act, for any a practitioner, applicant patent owner, petitioner, third party requester, inventor or other person associated with the filing or fee who was *personally* affected by the COVID-19 pandemic, including, without limitation, through office closures, cash flow interruption, 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.

For Patent Trial and Appeal Board (PTAB) situations not listed above, a request for an extension of time, where the COVID-19 pandemic has prevented or interfered with a filing before the PTAB, can be made by contacting the PTAB at 571-272-9797 or by email at Trials@uspto.gov (for AIA trials),

[PTAB Appeals Suggestions@uspto.gov](mailto:PTAB_Appeals_Suggestions@uspto.gov) (for PTAB appeals) or InterferenceTrialSection@uspto.gov (for

interferences). For Trademark Trial and Appeal Board (TTAB) situations not listed above, a request (in *ex parte* appeals) or motion (for trial cases) for an extension or reopening of time, as appropriate, can be made.

Late-filings accompanied by the required statement should be avoided. Given the lack of guidance as to what statements would be accepted, any determination that the statement is insufficient would necessarily mean that the particular deadline passed without any permitted extension. Further, even if accepted, any statement that was not based on preserved evidence could, at least in theory, be attacked at a later date.

Footnotes

¹The patent-related Notice is available [here](#). The trademark Notice is available [here](#).

Related People



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