

Publication

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USPTO Trademark Deadline Extensions Under the CARES Act

The United States Patent and Trademarks Office (USPTO) is continuing to respond to the COVID-19 outbreak by offering various forms of relief for certain trademark-related deadlines. On April 28, 2020, the USPTO issued its most recent notice on extensions for trademark-related deadlines. Under this notice, certain Trademark Trial and Appeal Board (TTAB) deadlines due from March 27, 2020 through May 31, 2020 can be extended upon filing a qualifying COVID-19 statement.

A summary of the permitted trademark-related deadline extensions by the USPTO and other relief available is detailed below:

Which deadlines falling from March 27, 2020 to May 31, 2020 can be extended?

- Responses to Office actions, including notices of appeal from final refusals;
- Statements of use or requests for an extension of time to file a statement of use for intent to use applications;
- Notices of oppositions or requests for an extension of time to file a notice of opposition;
- Affidavits of use or excusable nonuse for registrations;
- Renewal applications;

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- Affidavits of use or excusable nonuse for extension of protections of International Registrations;
- Priority filing basis based on requesting an extension of protection of an international registration, or priority filing based on a foreign application; and
- Transformation of an extension of protection to the United States into a U.S. Application after cancellation of the International Registration.

These filings will be considered timely if filed on or before June 1, 2020, provided that the filing is accompanied by a qualifying COVID-19 statement.

A qualifying COVID-19 statement must include a statement that the filing or payment was delayed because the outbreak materially interfered with the party's ability to meet the deadline, for example, due to office closures, cash flow interruptions, inaccessibility of files or other materials, travel delays, personal or family illness, or similar circumstances caused by the COVID-19 outbreak.

Extensions for other TTAB situations not listed above.

For all other situations where the COVID-19 outbreak has prevented or interfered with a filing before the Board, a request or motion for an extension of time can be filed with the TTAB.

What if a trademark application becomes abandoned or a registration is canceled/expired?

If, as a result of the COVID-19 outbreak, a trademark applicant or registrant is unable to make a filing or payment due by May 31, 2020, and the application subsequently becomes abandoned or the registration is canceled/expired, the USPTO will waive the petition fee to revive the application or reinstate the registration. Any such petition must include a qualifying COVID-19



statement, and must be filed no later than two (2) months after the notice of abandonment or cancellation.

If you have any questions regarding USPTO deadline extensions for trademark matter or other intellectual property issues, please do not hesitate to contact Tom McDonough, Michael Kelber, Andrea Fuelleman, Abigail Flores, or your Neal Gerber Eisenberg attorney.

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