

## Trademark Office Excuses Certain Filing Deadlines and Fees in Response to COVID-19

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### COVID-19 Intellectual Property Alert

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The United States Patent and Trademark Office (USPTO) recently issued several notices excusing certain filing deadlines and fees to ease the burden on trademark filers during the COVID-19 pandemic. But because these relief measures do not apply to **all** deadlines and fees, it is important to understand what is covered—and what is not—so that you can take the proper steps to protect your trademarks during this time. The key relief measures to date on trademark filings are summarized below.

## COVID-19 Trademark Relief

Waiver of the petition fee set by regulation for applications or registrations that were abandoned or canceled due to inability to timely reply to a trademark-related Trademark Office communication.

A 30-day extension of the following types of deadlines falling between and including March 27, 2020, and April 30, 2020:

- Responses to Office Actions, including notices of appeal from a final refusal
- Statements of use or requests for extensions to file such statements
- Notices of opposition or requests for extensions to file such notices
- Priority filing basis under 15 U.S.C. §§ 1126(d)(1) or 1141(g) or 37 C.F.R. §§ 2.34(a)(4)(i) or 7.27(c)
- Transformation of an extension of protection to the United States into a U.S. application
- Renewal applications under 15 U.S.C. § 1059(a) and 37 C.F.R. § 2.182
- Affidavit of use or excusable nonuse under 15 U.S.C. § 1141(k) and C.F.R. § 7.36(b)

Extensions of certain Trademark Trial and Appeal Board deadlines not listed in the notices may be available upon request.

Those who can should still attempt to meet their original deadlines so as to avoid any needless debate about whether relief was truly justified or authorized under these notices. But for those truly affected by the COVID-19 outbreak, these measures are a welcome relief. Before relying on any of these procedures, contact your trademark counsel at McCarter & English to confirm that relief is available and has not further changed in this ever-dynamic environment.

The COVID-19 pandemic has forced changes to usual trademark procedures. McCarter's trademark attorneys are available to advise you on the best course of action for your trademark portfolio.

For more information about the USPTO's separate relief measures on patent filings and fees, click [here](#).

## How to Get It

When timely filing the TEAS "Petition to Revive Application" or "Petition to the Director" as applicable pursuant to the [March 16, 2020 Trademark Notice](#), the petition must include a statement explaining how "the failure to respond to the Office communication was due to the effects of the Coronavirus outbreak."

File a statement accompanying the late filing that "the delay in filing or payment" was "**due to the COVID-19 outbreak**" as defined in the [March 31, 2020 Trademark Notice](#).

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