

Trademark Office Extends Certain Filing Deadlines in Response to COVID-19 Crisis

April 1, 2020

On March 31, 2020, the United States Patent and Trademark Office announced that its Director was extending certain filing deadlines under the authority permitted through the Coronavirus Aid Relief, and Economic Security Act (CARES Act). The extended deadlines include those pertaining to any:

- Response to an Office action, including a notice of appeal from a final refusal;
- Statement of use or a request for additional time to file a statement of use;
- Notice of opposition or a request for additional time to file a notice of opposition;
- Priority filing basis under 15 U.S.C. section 1126(d)(1) or 1141g;
- Transformation of an extension of protection to the United States into a U.S. application for registration;
- Affidavit of use or excusable nonuse; and
- Renewal application.

Any due date pertaining to such items that was from March 27, 2020 through and including April 30, 2020, will be extended thirty (30) days from its initial due date, provided that the ultimate filing is accompanied by a statement that the delay in payment or filing was due to the COVID-19 outbreak. This provision is to be read broadly; it can be based on any practitioner, registrant, applicant or other person associated with the filing or fee being personally affected by the outbreak, including office closures, cash flow interruptions, inaccessibility of documents or files, travel delays, or illness, such that it materially interfered with timely filing or payment. Additionally, requests for extensions can be made in individual Trademark Trial and Appeals Board matters.

Notwithstanding the above, the Trademark Office remains open for filing and the payment of fees. Thus, trademark owners should only utilize these deadlines if they qualify for the extension and otherwise need them, especially inasmuch as rights in connection with trademark registrations – from seniority to incontestability – will continue to be determined in connection with the filing date. Therefore, any filings should be made promptly when they are permitted and the filer is ready to move forward.

If you have any questions concerning the protection of your valuable marks and brands, please contact *Jakob Halpern* or any member of our trademark practice group.