

CLIENT ALERT

April 2020

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INTELLECTUAL PROPERTY ALERT
UPDATED: TEMPORARY AUTHORITY OF DIRECTOR OF THE USPTO DURING THE COVID-19 EMERGENCY
by Steven D. Lustig

The U.S. Congress, as part of its Coronavirus Aid, Relief, and Economic Security (CARES) Act, passed a measure giving the Director of the USPTO the authority to toll, waive, adjust, or modify, any timing deadline under the Trademark Act and the America Invents Act. The Director's authority is temporary and lasts for the duration of the COVID-19/coronavirus emergency. The bill was signed into law March 27th.

The Director has been authorized to take such action if it is determined that: 1) the emergency materially affects the functioning of the Patent and Trademark Office; 2) prejudices the rights of applicants, registrants, patent owners, or others appearing before the Office; or 3) prevents applicants, registrants, patent owners, or others appearing before the Office from filing a document or fee with the Office.

Pursuant to this authority, the Director published a notice on March 31st, that can be found here: <https://www.uspto.gov/coronavirus>.

For **trademarks, deadlines that would have fallen between March 27th and April 30th will be extended 30 days**, provided that the filing is accompanied by a statement that the delay was due to the COVID-19 outbreak. **The 30 day extension is not automatic and will only be applied where the filing is accompanied by a statement that the delay was due to the COVID-19 outbreak.** The 30 day extension includes the following: Responses to office actions; Notices of Appeal; Statements of use or corresponding extension requests, Declarations of use or excusable non-use; Renewal applications; Notices of opposition or corresponding extension requests, Paris convention application priority deadlines; and Madrid protocol transformation deadlines. For further details relating to trademark proceedings, click [here](#).

For **patents, deadlines that would have fallen between March 27th and April 30th will be extended 30 days**, provided that the filing is accompanied by a statement that the delay was due to the COVID-19 outbreak. **The 30 day extension is not automatic and will only be applied where the filing is accompanied by a statement that the delay was due to the COVID-19 outbreak.** The 30 day extension includes the following: Responses to office actions during examination or pre-examination; Issue fees; Notices of Appeal; Appeal Briefs; Requests for oral hearings; Responses to a substitute examiner's answer; Amendments in response to, or a request for rehearing; maintenance fees; and Requests for rehearing of a PTAB decision. For further details relating to patent proceedings, click [here](#).

Similar authority has been given to the Register of Copyrights.

Dickinson Wright will update this Client Alert as more information becomes available. Updated USPTO notices related to the COVID-19/coronavirus emergency can be found at this link: <https://www.uspto.gov/coronavirus>.

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