

CORONAVIRUS INFORMATION & UPDATES

April 1, 2020

Extension of USPTO Deadlines Under the CARES Act

On March 31, 2020, the United States Patent and Trademark Office (USPTO) issued [guidance](#) permitting 30-day extensions to the time allowed to file certain patent-related documents and to pay certain required fees. These actions are an exercise of temporary authority provided to the USPTO by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), which went into effect on March 27.

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The guidance applies to certain filing deadlines falling between March 27, 2020 and April 30, 2020, inclusive. The 30-day extensions are available upon request to parties and practitioners affected by the COVID-19 outbreak. The guidance simply requires a statement that the party or practitioner was personally affected by the outbreak, but quite generously defines those potentially affected.

Certain PTAB deadlines may be extended, including patent owner preliminary responses (POPRs). These extensions may delay institution decisions as the PTAB has discretion to further extend institution decisions. The guidance does not provide automatic extensions of PTAB trial schedules, as parties are always free to stipulate to new dates, but specific requests might be made to extend trial schedules beyond 12 months in limited circumstances. Many patent prosecution and reexamination deadlines, including replies to office actions, are also eligible for 30-day extensions. Notably, however, application filing deadlines are not identified as eligible for extension under this guidance.

The PTO's earlier [guidance](#) issued on March 16, 2020 (prior to passage of the CARES Act) remains in effect. That guidance waived fees for petitions to revive patent and trademark applications that had lapsed due to the COVID-19 outbreak, but without Congressional authorization, the PTO could not extend statutory deadlines. The PTO's new guidance, authorized by the CARES Act, fills that gap.

The PTO also issued [guidance](#) permitting similar extensions for filing trademark-related documents and fees.