

**Notice of Extended Waiver of Trademark-Related Timing Deadlines  
under the Coronavirus Aid, Relief, and Economic Security Act and Other Relief Available  
to Trademark Applicants and Trademark Owners**

In accordance with section 12004 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), the United States Patent and Trademark Office (USPTO or Office) is further extending the time to file certain trademark-related documents or fees that would otherwise have been due on or after March 27, 2020.

In addition, the USPTO is clarifying the relief available for trademark applicants or trademark owners who were unable to timely submit a filing or payment in reply to an Office communication due to the COVID-19 outbreak, which resulted in the application being held abandoned or the registration being canceled/expired.

This notice supersedes the March 31, 2020, notice titled “Notice of Waiver of Trademark-Related Timing Deadlines under the Coronavirus Aid, Relief, and Economic Security Act.” This notice also supersedes the March 16, 2020, notice titled “Relief Available to Patent and Trademark Applicants, Patentees and Trademark Owners Affected by the Coronavirus Outbreak” to the extent discussed below.

**I. CARES Act**

Subsection 12004(a) of the CARES Act provides that the USPTO may toll, waive, adjust, or modify any timing deadline established by the Trademark Act, or regulations promulgated thereunder, in effect during the emergency period described in subsection 12004(e) of the CARES Act, if the Director of the USPTO determines that the emergency related to such period: (1) materially affects the functioning of the Office; (2) prejudices the rights of applicants, registrants, patent and trademark owners, or others appearing before the Office; or (3) prevents applicants, registrants, patent and trademark owners, or others appearing before the Office from filing a document or fee with the Office.

On March 13, 2020, the President declared a national emergency under the National Emergencies Act as a result of the COVID-19 outbreak. The Director of the USPTO has determined that the emergency has prejudiced the rights of applicants, registrants, trademark owners, or others appearing before the Office in trademark matters and has prevented applicants, registrants, trademark owners, or others appearing before the Office in trademark matters from filing a document or fee with the Office. Among other things, the spread of the virus has significantly disrupted the operations of numerous businesses and law firms. Accordingly, a person who is unable to meet trademark-related timing deadlines due to the COVID-19 outbreak may be eligible for a waiver of certain deadlines, as further described below.

**(1) CARES Act Relief for Trademark Applicants, Registrants, and Parties to Trademark Trial and Appeal Board (TTAB or Board) Proceedings**

(a) Any:

- i. response to an Office action, including a notice of appeal from a final refusal, under 15 U.S.C. § 1062(b) and 37 C.F.R. §§ 2.62(a) and 2.141(a);
- ii. statement of use or request for extension of time to file a statement of use under 15 U.S.C. § 1051(d) and 37 C.F.R. §§ 2.88(a) and 2.89(a);
- iii. notice of opposition or request for extension of time to file a notice of opposition under 15 U.S.C. § 1063(a) and 37 C.F.R. §§ 2.101(c) and § 2.102(a);
- iv. priority filing basis under 15 U.S.C. § 1126(d)(1) and 37 C.F.R. § 2.34(a)(4)(i);
- v. priority filing basis under 15 U.S.C. § 1141g and 37 C.F.R. § 7.27(c);
- vi. transformation of an extension of protection to the United States into a U.S. application under 15 U.S.C. § 1141j(c) and 37 C.F.R. § 7.31(a);
- vii. affidavit of use or excusable nonuse under 15 U.S.C. § 1058(a) and 37 C.F.R. § 2.160(a);
- viii. renewal application under 15 U.S.C. § 1059(a) and 37 C.F.R. § 2.182; or
- ix. affidavit of use or excusable nonuse under 15 U.S.C. § 1141k(a) and 37 C.F.R. § 7.36(b)

due between, and inclusive of, both March 27, 2020, and May 31, 2020, will be considered timely if filed on or before June 1, 2020, provided that the filing is accompanied by a statement that the delay in filing or payment was due to the COVID-19 outbreak as defined in subsection (b) below.

- (b) A delay in filing or payment is due to the COVID-19 outbreak for the purposes of this notice if a practitioner, applicant, registrant, or other person associated with the filing or fee was personally affected by the COVID-19 outbreak, including, without limitation, through office closures, cash flow interruptions, inaccessibility of files or other materials, travel delays, personal or family illness, or similar circumstances, such that the outbreak materially interfered with timely filing or payment.

**(2) TTAB Situations Not Covered Above**

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

## **II. Other Relief Available to Trademark Applicants and Owners—Petitions**

The following incorporates and supersedes the “Trademark-Related Correspondence” section of the March 16, 2020, notice titled “Relief Available to Patent and Trademark Applicants, Patentees and Trademark Owners Affected by the Coronavirus Outbreak” as described below. In this section, the USPTO continues to provide relief in the form of a waiver of the petition fee to revive abandoned applications or reinstate canceled/expired registrations, but limits the eligible abandoned applications and canceled/expired registrations to those that became abandoned (or canceled/expired) on or before May 31, 2020, as a result of the COVID-19 outbreak. This section also harmonizes the statement that must be provided to take advantage of the petition fee waiver with the statement that must be provided to take advantage of the above CARES Act relief, i.e., the statement as defined in subsection I.1.b above.

The USPTO considers the effects of the COVID-19 outbreak to be an “extraordinary situation” within the meaning of 37 C.F.R. § 2.146 for affected trademark applicants and trademark owners.

For trademark applicants and trademark owners who, because of the COVID-19 outbreak, were unable to timely submit a filing or payment in reply to an Office communication having a due date of May 31, 2020, or earlier, such that the application became abandoned or the registration was canceled/expired, the USPTO will waive the petition fee (set by regulation, rather than statute) to revive the abandoned application or reinstate the canceled/expired registration. For abandoned applications, the applicants should use the Trademark Electronic Application System (TEAS) “Petition to Revive Abandoned Application” form. For canceled/expired registrations, trademark owners should use the TEAS “Petition to the Director” form. In all cases, the petition must include a statement that the delay in filing or payment was due to the COVID-19 outbreak, as defined in subsection (1)(b) above. The inclusion of the statement that the delay in filing or payment was due to the COVID-19 outbreak will be treated as a request for a waiver of the petition fee under 37 C.F.R. § 2.6(a)(15). The petition must be filed not later than two months after the issue date of the notice of abandonment or cancellation. 37 C.F.R. §§ 2.66(a)(1), 2.146(d)(1). If the applicant or registrant did not receive a notice of abandonment or cancellation, the petition must be filed not later than six months after the date the trademark electronic records system indicates that the application is abandoned or the registration is canceled/expired. 37 C.F.R. §§ 2.66(a)(2), 2.146(d)(2).

## **III. The USPTO Remains Open for Filing Documents and Fees**


The USPTO is open for the filing of trademark and TTAB documents and fees. As the USPTO remains open for the filing of trademark documents and fees, the waiver set forth in this notice is available only if the delay was due to the COVID-19 outbreak as defined above. The USPTO

will continue to evaluate the evolving situation around the COVID-19 outbreak and the impact on the USPTO's operations and stakeholders.

#### IV. Comments and Contact Information

Comments and trademark-related inquiries concerning this notice may be addressed to [TMPolicy@uspto.gov](mailto:TMPolicy@uspto.gov). If email submission of comments is not feasible due to lack of access to a computer and/or the internet, please call the Trademark Office of Petitions at (571) 272-8950 for special instructions. TTAB-related inquiries may be addressed to [TTABInfo@uspto.gov](mailto:TTABInfo@uspto.gov).

Date: APR 28 2020

A handwritten signature in blue ink that reads "Andrei Iancu". The signature is written in a cursive style with a long horizontal flourish at the end.

Andrei Iancu  
Under Secretary of Commerce for Intellectual Property and  
Director of the United States Patent and Trademark Office