USPTO PRIORITIZED PILOT PROGRAMS & MORE
NOW AVAILABLE TO RESEARCHERS!

Speakers

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

Hope Shimabuku
Regional Director, Texas Regional Office, United States Patent and Trademark Office

Les Nichols
Director, Office of Technology Commercialization
The University of Texas at Austin
The USPTO’s response to COVID-19
COVID-19 Response Resource Center
The United States Patent and Trademark Office (USPTO) has posted all COVID-19 resources and updates on a page dedicated solely to COVID-19. The COVID-19 Response Resource Center webpage is accessible via the USPTO homepage.
Response Resource Center

Patent and licensing resources:

- The USPTO’s Patent Pro Bono Program
- Patents 4 Partnerships platform
- Other special resources for inventors and entrepreneurs
Response Resource Center

Innovation incentives:

- COVID-19 Prioritized Examination Pilot Program
- Voluntary early publication of patent applications
- Deferred-Fee Provisional Patent Application Pilot Program
Response Resource Center

Trademarks, counterfeiting, and fraud:

• COVID-19 Prioritized Trademark Examination Program
• Federal government resources
• How to report fraud and counterfeiting
Response Resource Center

International updates:

• The World Intellectual Property Organization’s COVID-19 IP Policy Tracker
• Patent Cooperation Treaty updates
• Madrid Protocol updates
• Hague Agreement updates
• Links to other patent offices
Patents 4 Partnerships
Patents 4 Partnerships

A searchable repository of patents and published patent applications related to the COVID-19 pandemic that are indicated as available for licensing.
Patents 4 Partnerships

- Currently, listings are limited to those technologies that the owner believes are reasonably related to the prevention, treatment, diagnosis, protection from, or alleviation of the symptoms of coronaviruses in general, and COVID-19, in particular.
- You can search and sort the information by keyword, inventor name, assignee, and issue date.
- Content has been drawn from:
  - USPTO
  - Federal Laboratory Consortium for Technology Transfer (FLC Business)
  - AUTM Innovation Marketplace (AIM)
  - Universities
  - National Institutes of Health
  - Department of Energy
  - National Aeronautics and Space Administration
  - Food and Drug Administration
  - Centers for Disease Control and Prevention
  - Department of Defense
  - Department of Veterans Affairs databases
COVID-19 Prioritized Examination Pilot Programs
Patent Prioritized Examination Pilot Program

For COVID-19 related patent applications:

• The USPTO will grant requests for prioritized examination to patent applicants that qualify for small or micro entity status without payment of the typical fees associated with other prioritized examinations.

• The aim is to provide final disposition of applications in this program within six months if applicants respond promptly to communications from the USPTO.
Criteria of the pilot program:

• There are no fees required to participate in the program.

• Applications must contain one or more claims related to COVID-19 and must be subject to an applicable Food and Drug Administration approval for COVID-19 use.

• Applicants must certify that they qualify for either small or micro entity status.

• Applicants should file the Pilot Program Form PTO/SB/450 using the USPTO patent electronic filing system, EFS-Web.

Applications granted prioritized examination status for this pilot as of **October 29, 2020**: 374 filed / 222 granted / 278 available

**Questions:**

- For questions regarding the COVID-19 Prioritized Examination Pilot Program, please contact Robert Clarke at 571-272-7735 or via email at COVID19PrioritizedExamPilot@uspto.gov.

- For questions about EFS-Web or the PAIR system, please contact the Patent Electronic Business Center at 866-217-9197.
Trademark Prioritized Examination Program

For trademark applications related to COVID-19:

• The USPTO will accept petitions to advance the initial examination of applications for marks used to identify qualifying COVID-19 medical-related products and services and waive the petition fee.

• The goal is to expedite the initial examination process by approximately two months if the petition is granted and applicants promptly respond to the examining attorney.

Trademark Prioritized Examination Program

Criteria of the program:

• There are no fees required to participate in the program.

• Applicants must first file the application and then file a Petition to the Director that includes the assigned serial number.

• The application must be for COVID-19 medical-related goods or services subject to FDA approval.
Deferred-Fee Provisional Pilot Program
Deferred-Fee Provisional Pilot Program

For COVID-19 related provisional patent applications:

- The USPTO will permit applicants to defer payment of the provisional filing fee until the filing of a non-provisional if the applicant agrees to publication of the provisional on the Office’s searchable collaboration database.

- The goal is to provide a cost-effective means for inventors to disclose ideas quickly to facilitate collaborations, partnerships, or joint ventures.

Deferred-Fee Provisional Pilot Program

Criteria of the pilot program:

- Certification that the product or process is related to COVID-19 and subject to applicable FDA approval.

- Agree to public disclosure of the technical subject matter via the Office’s searchable collaboration database.

- Applicants should file the Pilot Program Form PTO/SB/452 using the USPTO patent electronic filing system, EFS-Web.
Stakeholder support
Remote interviews and hearings

Interviews, oral hearings, and in-person meetings have all been conducted remotely by video or telephone since March 13:

- For interviews, applicants should contact the patent examiner or managing attorney directly.

- For Patent Trial and Appeal Board (PTAB) oral hearings, practitioners should contact PTABHearings@uspto.gov.
  - The PTAB has also given a Boardside Chat Webinar discussing everything practitioners need to know about appearing before the PTAB.

- For Trademark Trial and Appeal Board (TTAB) oral hearings, practitioners should contact TTABHearings@uspto.gov.
Remote hearings generally

- The PTAB addressed the logistics for virtual proceedings and public remote viewing of hearings on May 1, 2020 in their Boardside Chat Webinar.
- Oral hearings for appeals are by telephone.
- Oral hearings for AIA trials are by video or telephone.
- Parties will receive a Hearing Order with relevant instructions.
  - Appeals: a few days before oral hearing date
  - AIA trials: approximately three weeks before oral hearing date
- You can email questions or special requests to PTABHearings@uspto.gov.
- You can request public access to hearings at least three business days prior to the oral hearing date.
Waivers

The USPTO considers the effects of the COVID-19 outbreak to be an “extraordinary situation” within the meaning of 37 CFR § 1.183. As a result, the USPTO has:

- Waived the original handwritten signature requirement of 37 CFR § 1.4(e)(1) and (2)
  - eSignature = typed name between two forward slashes (e.g., /Dr. James T. Jones, Jr./)
- Allowed the filing of plant patent applications and correspondence via the patent electronic filing system, EFS-Web or Patent Center

The USPTO considers the effects of the COVID-19 outbreak to be an “extraordinary situation” within the meaning of 37 CFR § 1.183. As a result, the USPTO has:

- Permitted patentees to file **initial patent term extension applications** that meet certain criteria via EFS-Web or Patent Center
- Extended the time period for petitioning for **certain rights of priority or benefit** and waived the associated petition fee

The USPTO has published FAQs: Extension of Deadlines under the CARES Act that provide further guidance on the relief provided for both Patents and Trademarks.
CARES Act relief, PTAB

• The PTAB addressed timing considerations for filings and the CARES Act relief in May's Boardside Chat Webinar.

• For filings due after April 30, 2020, contact the PTAB to request relief:
  – By telephone at 571-272-9797
  – By email at:
    • For AIA trials: Trials@uspto.gov
    • For PTAB appeals: PTAB_Appeals_Suggestions@uspto.gov
    • For interferences: InterferenceTrialSection@uspto.gov

With regard to proceedings before the TTAB, if the COVID-19 outbreak has prevented or interfered with a filing, **parties can make a request** (in ex parte appeals) or **motion** (for trial cases) for an extension or reopening of time, as appropriate.

You can send TTAB-related inquiries to TTABInfo@uspto.gov.

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**May 2020 Update Regarding Certain Trademark-Related Timing Deadlines under the Coronavirus Aid, Relief, and Economic Security Act and Other Relief Available to Applicants, Registrants, and Others**

The United States Patent and Trademark Office (USPTO) recognizes that the COVID-19 pandemic has imposed significant hardships on many of our stakeholders. As a result, the USPTO has waived certain fees under existing authority, through the March 16, 2020 Notice, and has extended certain Trademark and Trademark Trial and Appeal Board (TTAB) deadlines twice under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), through the March 31, 2020 Notice and the April 28, 2020 Notice. This relief will expire on May 31, 2020.

As businesses begin to reopen or resume operations, some stakeholders will continue to require relief, particularly small businesses and individuals. By this notice, under the CARES Act authority and its existing authority in Trademark and TTAB matters, the USPTO will begin to direct relief as described below.

- Applicants who were unable to submit a timely response or fee in response to an Office communication should file a petition to revive the application. See 37 CFR §§ 2.6(a)(15), 2.66.

- Applicants who missed the 36-month statutory deadline for filing a Statement of Use, and therefore their application has been abandoned, should use the TEAS "Petition to the Director" form. See 37 CFR § 2.146.

- Registrants who missed a statutory deadline, resulting in a cancelled/expired registration, or who were unable to submit a timely response or fee in response to an Office communication regarding a registration, should use the TEAS "Petition to the Director" form. See 37 CFR § 2.146.

The USPTO will continue to waive the petition fee for petitions to revive applications or reinstate registrations that became abandoned or expired/cancelled as a result of the COVID-19 outbreak, with a statement that the delay in filing or payment was due to the COVID-19 outbreak. Thus, by this notice, the relief waiving the petition fee provided in the April 28, 2020 Notice will continue until June 30, 2020.

With regard to proceedings before the TTAB, if the COVID-19 outbreak has prevented or interfered with a filing, parties can make a request (in ex parte appeals) or motion (for trial cases) for an extension or reopening of time, as appropriate.
Patent and Trademark Resource Center (PTRC)

• McKinney Engineering Library, The University of Texas at Austin
  – Contact information: Librarian Larayne Dallas at ldallas@austin.utexas.edu or 512-495-4503