

U.S. Patent and Trademark Office makes certain deadlines extendible



Madeline T. Schlederer

414.287.9605

mschlederer@gklaw.com

On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) was signed into law. Section 12004 of the CARES Act grants the Director of the U.S. Patent and Trademark Office (USPTO) statutory authority to adjust patent and trademark deadlines during an emergency period, as defined in the section. Shane Delsman, one of Godfrey & Kahn's intellectual property shareholders, served on the ABA committee that contributed to the drafting of this legislation. The Director has invoked this authority based on the state of emergency declared by President Donald Trump, issuing notices for both patents and trademarks.

When the deadline extension applies

Under the current notices issued by the USPTO, deadlines on or between March 27, 2020, and May 31, 2020, will be considered satisfied if met on or before June 1, 2020, provided both of the following are true:

1. The filing or fee is one of the filings or fees specifically identified in the CARES Act, which are listed in the notices for [patents](#) and [trademarks](#); and
2. The delay in making the filing or paying the fee by deadline was a result of the COVID-19 outbreak.

In order to receive the June 1, 2020, extension, the filing or fee, when made or paid, must include a statement that the delay in making the filing or paying the fee by deadline was a result of the COVID-19 outbreak. A delay is caused by the COVID-19 outbreak if an attorney, applicant, inventor, patent owner, trademark registrant, petitioner, third party requestor or other person associated with the filing or fee was personally affected by the COVID-19 outbreak, such that the outbreak materially interfered with timely filing or payment, including, without limitation, through:

- Office closures,
- Cash flow interruptions,
- Inaccessibility of files or other materials,
- Travel delays,
- Personal or family illness, or
- Similar circumstances.

The USPTO remains open for the filing of patent and trademark documents and the payment of fees. If you do not meet the above requirements, continue to file and pay fees as usual.

For matters involving proceedings before the USPTO's Patent Trial and Appeal Board or Trademark Trial and Appeal Board, deadline relief due to the COVID-19 outbreak may be sought by contacting the relevant Board.

The information contained herein is based on a summary of legal principles. It is not to be construed as legal advice and does not create an attorney-client relationship. Individuals should consult with legal counsel before taking any action based on these principles to ensure their applicability in a given situation.