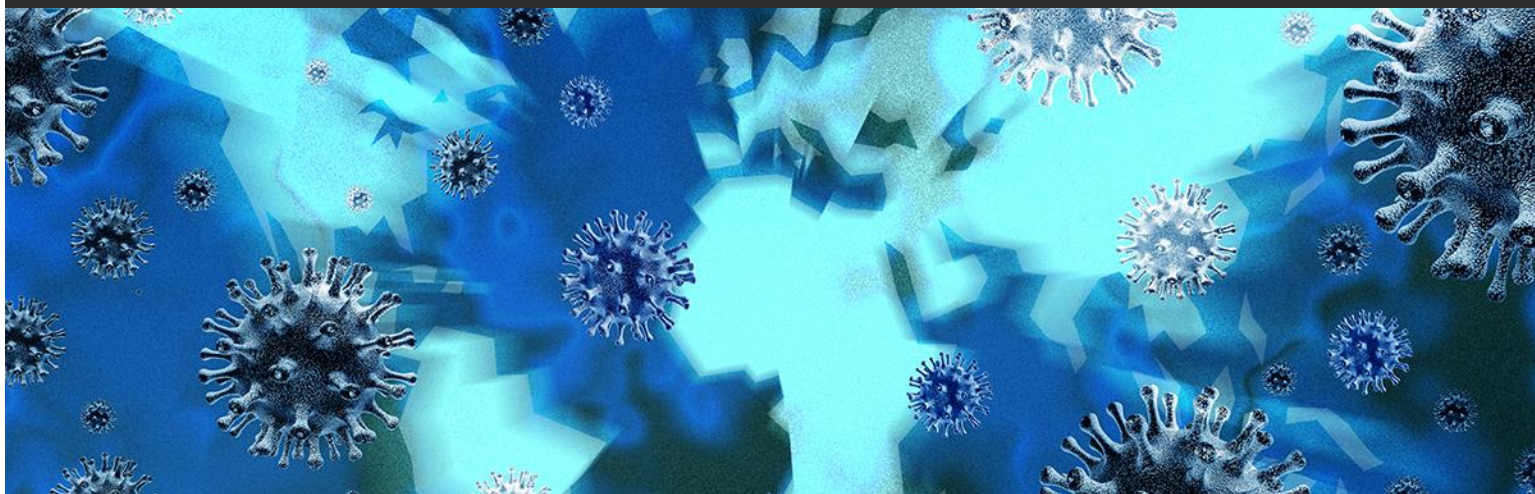


Alert | Health Emergency Preparedness Task Force: Coronavirus Disease 2019/COVID-19 Economic Stimulus



May 4, 2020

USPTO Announces Extensions Under CARES Act

On April 28, 2020, the United States Patent and Trademark Office (USPTO) announced a new extension of certain submissions and fees under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). This announcement supersedes the **previously announced extensions of March 31, 2020**, and the notice of March 16, 2020.

If the following steps are met, then the USPTO shall provide the extension of time to June 1, 2020:

- STEP 1 Are you affected by the COVID-19 outbreak?
- STEP 2 When is the submission or fee due?
- STEP 3 What is the submission or fee that is due?

Please note that the USPTO provides for other situations to be considered as well (i.e., the relief under the CARES Act is not necessarily limited only to the steps detailed below).

STEP 1 - Are you affected by the COVID-19 outbreak?

Is “a person associated with the filing or payment of fee” to the USPTO “personally affected by the COVID-19 outbreak”?

Examples of “person associated” include, but is not limited to, the following: the patent attorney, the patent agent, the applicant, the patent owner, the petitioner, the third-party requester, the inventor, etc.

Examples of “personally affected include, but is not limited to, the following: office closures, cash flow interruptions, inaccessibility of files or other materials, travel delays, personal or family illness, etc.

If the answer to STEP 1 is YES, then proceed to STEP 2.

STEP 2 - When is the submission or fee due?

Is there a submission or a fee that is due for a patent application or a patent at the USPTO between and inclusive of both, March 27, 2020, and May 31, 2020?

If the answer to STEP 2 is NO, then you may not qualify for the time extension under the CARES Act (as notified by the USPTO on April 28, 2020).

If the answer to STEP 2 is YES, then proceed to STEP 3.

STEP 3 - What is the submission or fee that is due?

For all entity types of applicants and patent owners, the following submissions and fees qualify for the relief:

1. Reply to an Office notice or action issued during examination or patent publication processing;
2. Payment of issue fee;
3. Notice of appeal;
4. Appeal brief;
5. Reply brief;
6. Appeal forwarding fee;
7. Request for an oral hearing before the PTAB;
8. Response to a substitute examiner’s answer;
9. Amendment when reopening prosecution in response to, or request for rehearing of, a PTAB decision designated as including a new ground of rejection;
10. Request for rehearing of a PTAB decision under 37 C.F.R. §§ 41.52, 41.125(c), or 41.127(d); or
11. Petition to the Chief Judge under 37 C.F.R. § 41.3.

Additionally, if the applicant or the patent owner is a small or micro entity, the following submissions and fees also qualify for the relief:

1. Reply to an Office notice issued during pre-examination processing by the USPTO; or
2. Maintenance fee.

If the answer to STEP 3 is a YES, then the USPTO will consider such filings to be timely if filed on or before June 1, 2020, provided that the filing or payment is accompanied by a statement that the delay in filing or payment was due to the COVID-19 outbreak.

Even where one or more of the answers to the above is NO, it might still be possible to qualify for an extension of time under the CARES Act by contacting the PTAB directly.

Further, for applications that has become abandoned due to the COVID-19 outbreak situations, it might be possible to get the petition fee in 37 C.F.R. § 1.17(m) waived by the USPTO.

For more information and updates on the developing situation, visit [GT's Health Emergency Preparedness Task Force: Coronavirus Disease 2019](#) or [GT's COVID-19 Economic Stimulus Team](#).

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