

Following CARES Act, USPTO and Copyright Office Directors Extend Certain IP Filing Deadlines

By Suzanne K. Ketler

Both the U.S. Patent and Trademark Office (“USPTO”) and the U.S. Copyright Office have now announced that certain intellectual property filing deadlines and fees will be extended during the COVID-19 pandemic. In doing so, both Offices have cited special provisions included in the \$2 trillion Coronavirus Aid, Relief, and Economic Security (CARES) Act enacted last week, which provides the Directors of both Offices with the temporary authority to toll, waive, adjust, or modify filing deadlines.

Patent and trademark application deadlines, as well as other filings required in both patent and trademark proceedings, along with associated fees, are extendible by 30 days, “provided the filing is accompanied by a statement that the delay in filing or payment was due to the COVID-19 outbreak,” as set forth in relevant USPTO notices.

Copyright registration deadlines are also similarly extendible, provided that copyright owners give similar statements. Additionally, under these temporary changes, individuals who are prevented from serving or recording notices of copyright termination (which allow a copyright owner or their heirs to terminate the assignment or license of a copyright within a certain time frame) will be permitted additional time.

These new temporary rules will stay in place for 60 days after the end of the renewable emergency period that began on March 13, 2020, and the Directors’ temporary authority will expire two years following the date of enactment of the CARES Act.

COVID-19 has disrupted both businesses and individuals, as well as the law firms that assist them with their IP requirements. The pandemic may also prevent trademark owners, patent owners, and copyright owners from accessing certain physical documents – specimens of trademark use, copyright deposits, and similar – needed to file applications and maintain registrations. As such, these temporary rules will allow the USPTO and the Copyright Office to provide more flexibility and protection to IP owners. If you have specific questions concerning how to best protect and maintain your intellectual property rights during this time, please contact one of our attorneys.

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