

U.S. Patent and Trademark Office Temporarily Extends Filing Deadlines

By Suzanne K. Ketler

Businesses – currently facing immediate crises arising from the COVID-19 pandemic - may be temporarily distracted from issues that, in more ordinary times, would be important to them, such as protecting and maintaining their valuable intellectual property rights. IP owners, therefore, will be happy to learn that the \$2 trillion coronavirus relief bill just enacted by both houses of Congress and signed into law by the President will provide a respite to them by temporarily expanding the U.S. Patent and Trademark Office (“USPTO”) Director's power to extend filing deadlines for both patents and trademarks.

The Coronavirus Aid, Relief and Economic Security Act provides temporary authority to the USPTO Director in "tolling, waiving, adjusting or modifying a timing deadline" under the relevant patent and trademark statutes. The Director may extend the statutory filing deadlines if the pandemic: (i) “materially affects the functioning of the Patent and Trademark Office”; (ii) “prejudices the rights of applicants, registrants, patent owners or others appearing before the Office”; or (iii) “prevents users from filing a document or paying a fee timely.” These measures will become effective immediately, and will remain effective until 60 days after the end of the renewable emergency period that began on March 13, 2020. The Director's authority to make these changes and extensions will expire two years after enactment.

While previously in response to COVID-19, the USPTO had already waived certain fees associated with filing petitions to revive both patent and trademark applications abandoned due to missed deadlines demonstrably caused by the pandemic, the Office had indicated it was unable to provide further relief without action from Congress. Fortunately, the new law will now allow the USPTO to provide more flexibility and protection to IP owners. Other countries and regions, such as Canada, the European Union, and Australia, have also put similar measures into place to protect the rights of IP owners.

If you have specific questions concerning the US response (or the response of any other country) to intellectual property issues raised by the current pandemic, or IP issues more generally, please contact one of our attorneys.

Christopher Reuscher

Practice Group Manager

Corporate, Tax and Transactional

330.762.7994 | creuscher@ralaw.com

Suzanne K. Ketler Ph.D.

330.849.6641 | sketler@ralaw.com

Craig Koenigs

202.216.8317 | ckoenigs@ralaw.com

Ron Kopp

330.849.6644 | rkopp@ralaw.com

Terry Link

330.849.6755 | tlink@ralaw.com

Jessica Lopez

330.849.6778 | jlopez@ralaw.com

Steven Howard Roth

216.615.4849 | sroth@ralaw.com

Joseph Ruscak

330.849.6716 | jruscak@ralaw.com

This alert is informational only and should not be construed as legal advice. ©2020 Roetzel & Andress LPA. All rights reserved. For more information, please contact Roetzel's Marketing Department at 330.762.7725