

May 2020

## **USPTO COVID-19 Relief**

Overview: During the COVID-19 outbreak, the USPTO announces relief for applicants/owners, including extendible deadlines, and waiver of fees for some petitions to revive. The late filing or payment **must** include a strict statement that a relevant person was **personally** affected by COVID-19 and unable to meet the deadline.

### **Deadlines for fees and/or documents due between March 27 and May 31 Extendible to June 1, 2020**

#### Patents

- Reply to a pre-examination office notice by a small entity or micro entity.
- Reply to an office notice or final or non-final office action or Notice to File Corrected Application Papers during examination or patent publication processing.
- Payment of issue fee.
- Patent Trial and Appeal Board (PTAB) documents and fees including notice of appeal, appeal brief, reply brief, appeal forwarding fee, request for oral hearing, and/request for re-hearing of PTAB decision.
- Response to a substitute Examiner's Answer.
- Amendment when prosecution is reopened by a PTAB decision that includes a new ground of rejection.
- Maintenance fee filed by small entity or micro entity.

#### Trademarks

- Response to an office action, and/or notice of appeal from final refusal.
- Statement of Use or request for Extension of Time to file Statement of Use.
- Notice of Opposition or Extension of Time to file Notice of Opposition.
- Priority filing basis claim.
- Transformation of extension of protection for International Registration.
- Affidavit of Use, and/or Renewal.

### **Revival for Untimely Filing/Payment Due to COVID-19 Outbreak**

Fees for some revival petitions are waived. An untimely filing/fee must be promptly filed (deadlines may apply), with (i) a Petition to Revive, and (ii) the Statement of Delay Due to COVID-19 Outbreak, in a situation that:

- A patent applicant was unable to submit a timely fee or filing having a due date of May 31, 2020 or earlier (taking into account all available extensions of time), so the application is **abandoned**.
- The trademark application/registration became **abandoned/canceled/expired** on/before May 31, 2020.

### **Required Statement of Delay Due to COVID-19 Outbreak**

The delay in filing or payment means that "A practitioner, applicant, patent owner, petitioner, third-party requestor, inventor, or other person associated with the filing or fee was **personally affected** by COVID-19 outbreak, including, without limitation, through office closures, cash flow interruptions, inaccessibility of files or other materials, travel delays, personal or family illness, or similar circumstances, such that the outbreak materially interfered with timely filing or payment." The USPTO provides a Statement of Delay form.

We wish you, your teams and your loved ones health and safety during this difficult time.

For further details or questions, please contact Cynthia Stephenson at Posz Law Group (cstephenson@poszlaw.com)