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**CLIENT ALERT**

# USPTO Relief Based on the CARES Act

The United States Patent and Trademark Office has announced several changes to assist trademark owners and applicants suffering from hardship as a consequence of COVID-19. Effective March 31, 2020, the Office is offering extensions of time in connection with statutory deadlines that meet certain criteria. This is in addition to the relief provided in the Office's earlier March 16 notice, about which Winterfeldt IP Group previously circulated an update, waiving certain petition fees that might apply where applicants or owners had missed a deadline.

The Office is offering a thirty-day extension on certain deadlines, provided that:

- The original deadlines fall on or after March 27, 2020;
- The original deadlines fall on or before April 30, 2020; and
- The submission that would otherwise miss a deadline includes a statement that the delay in filing was due to the COVID-19 outbreak.

The office will accept that the outbreak caused the delay if a person associated with making the submission was personally affected by the outbreak. Affected persons could include a trademark practitioner, an applicant or a registrant. The statement may cite a variety of reasons, for example: an office closure of an affected person due to COVID-19, an interruption in cash flow, a lack of access to needed files, a delay in travel, or COVID-19 related illness of an affected person or a family member of the affected person.

The extension may be used in connection with the following types of submissions:

- Claims of priority under the Paris Convention based on a foreign application or registration;
- Claims of priority under the Madrid Protocol based on a basic application or registration;
- Responses to Office actions;
- Requests for Reconsideration of Final Refusals
- Ex Parte Appeals to the Trademark Trial and Appeal Board from Final Refusals;
- Notices of Opposition or Requests for Extensions of Time to file Notices of Opposition;

- Statements of Use or Requests for Extensions of Time to File Statements of Use;
- Affidavits or Declarations of Use or Excusable Non-Use (due the sixth and every ten years after registration);
- Applications to Renew (due every tenth year after registration); and
- Transformations of Extensions of Protection to the United States into United States Applications.

Deadlines that passed prior to March 27, 2020 may potentially be addressed through either a petition to the director or a petition to revive, depending on the circumstances, and the Office had previously waived the fees for these submissions.

This relief from the Office was only possible thanks to Section 12004(a) of the Coronavirus Aid, Relief and Economic Security Act (CARES Act) passed on March 27, 2020, which gave the Office expanded authority to toll, waive, adjust or modify deadlines set in the Trademark Act and regulations based on it. This authority will last as long as the state of emergency resulting from the outbreak of COVID-19, and for another sixty days thereafter, for a total period of up to a maximum of two years, so it is possible that the Office will issue additional or extended relief after April 30, 2020.

We are closely monitoring the effect of COVID-19 on trademark operations around the world and we will continue to keep you informed of any important developments that affect our clients. Please feel free to reach out to us if you have any questions or if you need additional trademark support in light of the current crisis. Although we have moved to remote work in line with social distancing guidelines, our team's operations have not affected by the outbreak and we would be more than happy to provide any assistance or guidance you may need.

If you have any questions regarding this update or wish to discuss it in more detail, please contact any of the following Winterfeldt IP Group team members:

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