CLIENT ADVISORY

# USPTO Announces Its COVID-19 Prioritized Examination Program

*The United States Patent and Trademark Office announced this week that it will begin accepting requests to expedite the initial examination of trademark applications covering qualifying COVID-19 medical products and services under its new COVID-19 Prioritized Examination Program.*

Applicants may now file a Petition to the Director to advance the initial examination of the application out of its regular order without having to pay the fees normally associated with such a filing. In order to qualify for this expedited examination, the application must seek registration for one or more of the following qualifying COVID-19 medical goods or services:

- pharmaceutical products or medical devices such as diagnostic tests, ventilators, and personal protective equipment, including surgical masks, face shields, gowns, and gloves,. that prevent, diagnose, treat, or cure COVID-19 and are subject to approval by the United States Food and Drug Administration; or
- medical services or medical research services for the prevention, diagnosis, treatment of, or cure for COVID-19.

The FDA approvals referenced above may include, but are not limited to, an Investigational New Drug (IND) application, an Investigational Device Exemption (IDE), a New Drug Application (NDA), a Biologics License Application (BLA), a Premarket Approval (PMA), or an Emergency Use Authorization (EUA).

Applicants wishing to expedite the initial examination through the USPTO's COVID-19 Prioritized Examination Program must first file the application and then file a Petition to the Director that includes:

- The application's newly assigned serial number
- A statement of facts, supported by an affidavit or declaration under 37 CFR § 2.20, setting forth the applicant's COVID-19 medical goods or services;
- An explanation of why the goods or services are of a type that qualify for prioritized examination; and
- The section of the Code of Federal Regulations (CFR) under which the goods are regulated.

If the Petition is approved, the application will be immediately assigned to an examining attorney after it is filed, which accelerates the application process by 2-3 months. However, the 30-day opposition period following the publication of an approved trademark application will remain in place and the public will still be able to file oppositions or extensions of time to oppose.

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*We are continuing to closely monitor the effect of COVID-19 on trademark operations around the world and 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 been 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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