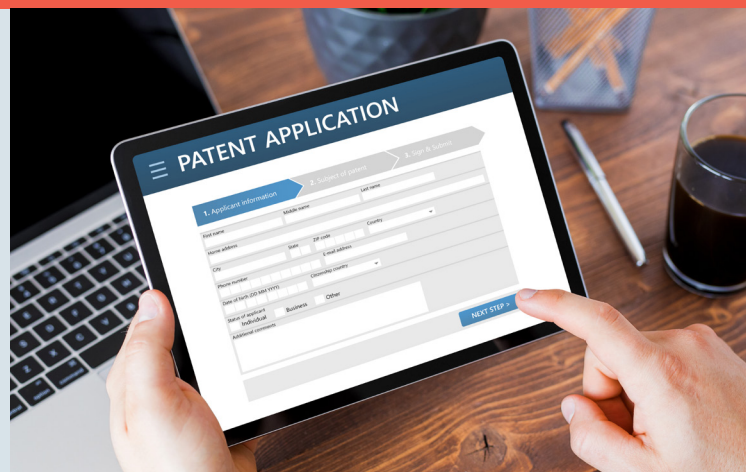


USPTO and USCO Continue Adapting to COVID-19

by Andrew L. Goldstein

A FREEBORN & PETERS LLP CLIENT ALERT

As an update to prior Freeborn IP COVID-19 alerts (available [here](#), [here](#), [here](#), and [here](#)), both the United States Patent and Trademark Office (“USPTO”) and the United States Copyright Office (“USCO”) announced new pandemic-related guidelines. As discussed in detail below, the USPTO initiated a Pilot Prioritized Review Program for Appeals Related to COVID-19 affecting appeals to and oppositions in the Trademark Trial and Appeal Board (“TTAB”) which involve applications examined under the COVID-19 Prioritized Trademark Examination Program; and, the USCO further extended temporary adjustments to certain timing provisions under the Copyright Act for persons affected by the pandemic.



UNITED STATES PATENT AND TRADEMARK OFFICE

In June of 2020, in response to the COVID-19 pandemic, and in view of the critical need to develop and help speed to market medical products and services to combat COVID-19, the USPTO initiated the COVID-19 Prioritized Trademark Examination Program. Pursuant to this program, the USPTO began accepting petitions to advance the initial examination of applications for marks used to identify qualifying COVID-19 medical products and services, and it waived the usual fee for such petitions. See [here](#) and [here](#) for further details on the USPTO’s COVID-19 Prioritized Trademark Examination Program.

To further support efforts to combat COVID-19, the USPTO is now initiating a Pilot Prioritized Review Program for Appeals Related to COVID-19, in which the TTAB will expedite the review and issuance of appeal decisions for applications examined under the COVID-19 Prioritized Trademark Examination Program. In addition, the USPTO is initiating a Conference Pilot Program for Oppositions Against Applications Related to COVID-19.

USPTO Appeals

Under the USPTO Pilot Prioritized Review Program for Appeals Related to COVID-19, the TTAB will identify appeals of applications examined under the COVID-19 Prioritized Trademark Examination Program. Once the notice of appeal is filed, the applicant does not need to take further action to submit its appeal to the program for expedited review and issuance of an appeal decision.

Under this pilot program, the TTAB aims to issue the appeal decision for an application examined under the COVID-19 Prioritized Trademark Examination Program within six months of the filing of the notice of appeal, provided (1) the applicant does not file a request for reconsideration, (2) no requests for remand are filed and granted, and (3) no extensions of time to file the briefs are requested.

USPTO Oppositions

Under the Conference Pilot Program for Oppositions Against Applications Related to COVID-19, once an answer is filed in a TTAB opposition which involves an application filed under the COVID-19 Prioritized Trademark Examination Program, the assigned interlocutory attorney may contact the parties to inform them that the TTAB will participate in their discovery conference. During the conference, the parties will be expected to be prepared to address, at a minimum, the following topics: (1) the nature and basis of their claims and defenses; (2) the possibility of promptly settling, or at least narrowing the scope of claims or defenses; (3) arrangements for disclosures, discovery, and the preservation of discoverable information; and (4) the introduction of evidence at trial. In addition, the parties are expected to be prepared to explore accelerated case resolution options and any other topics that may promote settlement or an efficient adjudication to the proceeding.

UNITED STATES COPYRIGHT OFFICE

The USCO previously announced that it extended certain timing adjustments due to the COVID-19 pandemic. These adjustments extend deadlines relating to the registration of copyrights, which determines whether certain remedies, such as the ability to recover attorney's fees and costs and statutory damages, are available in an infringement action. The adjustments also extend deadlines for notices of termination of assignments or transfers of copyrights. See [here](#) and [here](#) for further details on these adjustments.

These timing adjustments were set to expire on May 10, 2021. However, the USCO announced that it is further extending these adjustments for an additional sixty days, through July 9, 2021.

Please note that the USPTO's and the USCO's policies may evolve in the coming weeks, and Freeborn & Peters LLP is continuously monitoring the COVID-19 impact on intellectual property rights and regulations. If you have any questions, please contact Andrew Goldstein or another member of Freeborn & Peters LLP's Intellectual Property Practice Group. Stay tuned for further developments on [Freeborn's COVID-19 webpage](#).

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Andrew focuses his practice in the area of Intellectual Property and Information Technology. He has extensive experience in the areas of intellectual property law, including trademark, copyright, trade dress; internet, website, cloud computing, technology, outsourcing, IoT and computer law in general; advertising, marketing, and promotion law; and entertainment law, including video production, theater and dance-related matters.

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