

Covid-19 and Intellectual Property Law

America and the world is facing an unprecedented time of solidarity in the face of adversity. Everyone is coming together for the common good and well-being of humanity. There are many people and entities that are using their gifts and ingenuity to invent new solutions to combat the spread of this novel Coronavirus. Some of these include ways to reduce and prevent contamination, while others include much needed diagnostic and therapeutic inventions. Doctors, scientists, and many corporations are pledging not to enforce patents against individuals and companies using products and services directed to addressing the fallout from the Covid-19 pandemic.

On March 27th the President signed into law The CARES ACT, which provides the US Patent and Trademark Office and the Copyright Office with the ability to extend due dates in response to the COVID-19 outbreak. Intellectual Property holders are eagerly awaiting such actions by the respective Directors.

However, in the interim, it is important to remember that the United States Patent and Trademark Office is continuing to operate under its exacting rules and deadlines regarding protecting inventions; whether just initiated or already in the process of examination. However, in some circumstances the U.S. Patent and Trademark Office is waving petition fees due to a delay caused by the Coronavirus. For example, the petition fee that accompanies a petition to revive may be waived, in the event a patent owner was unable to meet a deadline and an application was abandoned because the practitioner, applicant, or at least one inventor was personally affected by the Coronavirus outbreak such that a timely reply was not possible. For a trademark application, a petition must include a statement explaining how the failure to respond was due to the effects of the Coronavirus outbreak. These procedures should only be used as a last resort, since there will still be a period of abandonment that may affect the resulting intellectual property rights after the application is revived.

In addition, while the U.S. Patent and Trademark Office remains closed to the public, all in person hearings and interviews will be conducted remotely by video or telephone.

Until new interim orders are issued by the Directors of the U.S. Patent and Trademark Office and the Copyright Office, it is still imperative to operate under the traditional rules and regulations regarding deadlines.

Other Patent and Trademark Offices around the world are similarly evaluating how best to address these issues. Below is a summary of what some foreign patent office are doing:

- Canada – The [Canadian Intellectual Property Office](#) (CIPO) has extended all deadlines falling between March 16th and April 30th to May 1st, but CIPO still warns that significant delays are still expected.
- China – The Chinese National Intellectual Property Administration (CNIPA) has waived late fees for missed patent annuity payments if the delay was related to COVID-19.

- Europe – The [European Patent Office](#) (EPO) has extended all deadlines that fall on or after March 15th to April 17th. The EPO has excluded the deadline for filing a divisional and other procedural acts from this exemption however.
- Europe – The European Union Intellectual Property Office (EUIPO) has extended its deadlines between March 9th and April 30th until May 1st.
- India – The Office of Controller General of Patents, Designs and Trademarks (CGPDTM) has extended all due dates from March 25th to April 15th.

Buchalter has a full team of attorneys working remotely that can handle any patent, trademark, and copyright action during this time of crisis and cover any actions that need immediate attention.

If we can be of assistance and to discuss various options and specific situations, please feel free to contact any of the Buchalter Intellectual Property Attorneys below.



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