



Trademarks and Trademark Trial and Appeal Board (TTAB) FAQs: Extension of Deadlines under the CARES Act

Trademarks and TTAB Joint FAQs

Question 1: How do I take advantage of the 30-day extension of time for certain Trademark- and TTAB-related deadlines?

If an eligible document or fee was or is due between (and inclusive of) March 27, 2020, and April 30, 2020, the filing will be considered timely if made within 30 days of the original due date, provided that the filing is accompanied by a statement that the delay in filing or payment was due to the COVID-19 outbreak. See [Notice of Waiver of Trademark-Related Timing Deadlines under the Coronavirus Aid, Relief, and Economic Security Act. \(/sites/default/files/documents/TM-Notice-CARES-Act.pdf\)](https://www.uspto.gov/sites/default/files/documents/TM-Notice-CARES-Act.pdf).

Question 2: Does the statement that the delay in filing or payment was due to the COVID-19 outbreak need to be verified or in the form of a declaration or affidavit?

No, the statement need not be verified or provided in affidavit or declaration form. The statement may be provided in the relevant TEAS or ESTTA form or included in the document being filed. People providing such statements to the Office are reminded that they constitute a certification under 37 CFR § 11.18(b) and that violations of 37 CFR § 11.18(b) may be subject to sanctions pursuant to 37 CFR §§ 11.18(c) and (d).

Question 3: What is the standard for determining whether the delay in filing or payment was due to the COVID-19 outbreak?

A delay in filing or payment is due to the COVID-19 outbreak if the outbreak materially interfered with timely filing or payment.

Question 4: What circumstances qualify as materially interfering with timely filing or payment?

Circumstances that qualify as materially interfering with timely filing or payment include, without limitation, office closures, cash flow interruptions, lack of access to files or other materials, travel delays, personal or family illness, or similar circumstances.

Question 5: Who must have been affected in order to take advantage of the 30-day extension of time?

The person affected by the outbreak may be a practitioner, applicant, registrant, or other person associated with the filing or fee.

Question 6: How do I determine my new Trademark or TTAB filing deadline?

You can determine your new filing deadline by adding 30 calendar days to your original filing deadline if the original due date was between (and inclusive of) March 27, 2020, and April 30, 2020. If the new deadline falls on a Saturday, Sunday, or a **federal holiday**, [_\(https://www.opm.gov/policy-data-oversight/pay-leave/federal-holidays/#url=2020\)](https://www.opm.gov/policy-data-oversight/pay-leave/federal-holidays/#url=2020), your new filing deadline will be the next business day.

Question 7: Will the USPTO extend the CARES Act relief beyond April 30?

The USPTO will continue to evaluate the evolving situation around COVID-19 and the impact on the USPTO's operations and stakeholders. If the USPTO extends the CARES Act relief, the USPTO will provide timely notice.

Question 8: Will these FAQs be modified?

The USPTO will continue to evaluate the evolving situation and will update these FAQs as needed.

Trademarks-specific FAQs

Question 9: What Trademark filings are eligible for the 30-day extension of time if the delay was due to the COVID-19 outbreak?

The following filings are eligible for the 30-day extension of time:

- response to an Office action, including a notice of appeal from a final refusal under 15 U.S.C. § 1062(b) and 37 C.F.R. §§ 2.62(a) and 2.141(a)
- statement of use or request for extension of time to file a statement of use under 15 U.S.C. § 1051(d) and 37 C.F.R. §§ 2.88(a) and 2.89(a)
- priority filing basis under 15 U.S.C. § 1126(d)(l) and 37 C.F.R. § 2.34(a)(4)(i)
- priority filing basis under 15 U.S.C. § 1141g and 37 C.F.R. § 7.27(c)
- transformation of an extension of protection to the United States into a U.S. application under 15 U.S.C. § 1141j(c) and 37 C.F.R. § 7.31(a)
- affidavit of use or excusable nonuse under 15 U.S.C. § 1058(a) and 37 C.F.R. § 2.160(a)
- renewal application under 15 U.S.C. § 1059(a) and 37 C.F.R. § 2.182
- affidavit of use or excusable nonuse under 15 U.S.C. § 1141k(a) and 37 C.F.R. § 7.36(b)

Question 10: Will TEAS accept a filing made under the CARES Act extension?

Yes. TEAS will accept your filing. Locate the **TEAS form** (</trademarks-application-process/filing-online/index-all-teas-forms>) for the filing you need to make, enter the required information for the filing, and add a statement that the delay in filing or payment was due to the COVID-19 outbreak in the "Miscellaneous Statement" field of the form you are filing. Contact TEAS@uspto.gov (<mailto:TEAS@uspto.gov>) if you have questions about how to submit the filing.

Question 11: Is the USPTO open for filing Trademark documents and fees even though its offices are closed to the public?

Yes, the USPTO is open for the filing of Trademark documents and fees. Use TEAS for all Trademark application and post-registration filings. For more information, see the [mandatory electronic filing webpage \(/trademark/laws-regulations/mandatory-electronic-filing\)](https://trademark.laws-regulations/mandatory-electronic-filing).

Question 12: Has the USPTO provided any other relief for Trademark filers in view of the COVID-19 outbreak?

Yes. For Trademark applications that were abandoned and registrations that were canceled/expired due to an inability to timely respond to a Trademark-related Office communication as a result of the effects of the COVID-19 outbreak, the USPTO waived the petition fee to revive the abandoned application or reinstate the canceled/expired registration.

For abandoned applications, the [TEAS Petition to Revive Abandoned Application - Failure to Respond Timely to Office Action \(https://teas.uspto.gov/poa\)](https://teas.uspto.gov/poa) form or [Petition to Revive Abandoned Application - Failure to File Timely Statement of Use or Extension Request \(https://teas.uspto.gov/pse/\)](https://teas.uspto.gov/pse/) form should be used. The first of these two forms should be used to indicate that a notice of appeal to the TTAB from a final Office action is also being filed. For canceled/expired registrations, the TEAS [Petition to Director \(https://teas.uspto.gov/office/pgp\)](https://teas.uspto.gov/office/pgp) form should be used.

In all cases, the petition must include a statement explaining how the failure to respond to the Office communication was due to the COVID-19 outbreak. The petition must be filed not later than two months after the issue date of the notice of abandonment or cancellation. 37 CFR §§ 2.66(a)(I), 2.146(d)(I). If the applicant or registrant did not receive a notice of abandonment or cancellation, the petition must be filed not later than six months after the date the Trademark electronic records system indicates that the application is abandoned or the registration is canceled/expired. 37 CFR §§ 2.66(a)(2), 2.146(d)(2).

For more information, see the Office's March 16, 2020, [Relief Available to Patent and Trademark Applicants, Patentees, and Trademark Owners Affected by the Coronavirus Outbreak \(/sites/default/files/documents/coronavirus_relief_notice_03162020.pdf\)](https://sites/default/files/documents/coronavirus_relief_notice_03162020.pdf) notice.

Question 13: If I have a question about CARES Act extensions, whom do I contact?

The USPTO welcomes inquiries regarding this notice:

- Send an email to: [TMPolicy@uspto.gov \(mailto:TMPolicy@uspto.gov\)](mailto:TMPolicy@uspto.gov).
- If email submission is not feasible, please call the Trademark Office of Petitions at 571-272-8950.

TTAB-specific FAQs

Question 14: What TTAB deadlines are eligible for the 30-day extension of time if the delay was due to the COVID-19 outbreak?

The deadlines for the following TTAB filings are eligible for the 30-day extension of time:

- a notice of appeal from a final refusal under 15 U.S.C. § 1062(b) and 37 C.F.R. § 2.62(a)
- a notice of opposition or request for extension of time to file a notice of opposition under 15 U.S.C. § 1063(a) and 37 C.F.R. §§ 2.101(c) and § 2.102(a)

For all other situations where the COVID-19 outbreak has prevented or interfered with a filing before the Board, you can make a request (in ex parte appeals) or file a motion (for trial cases) for an extension or reopening of time, as appropriate.

Question 15: Will ESTTA accept a filing made under the CARES Act extension?

Yes. ESTTA will accept your filing. Locate the **ESTTA form** (<https://estta.uspto.gov/>), you need to file, enter the required information for the filing, add any necessary attachment, and add a statement that the delay in filing or payment was due to the COVID-19 outbreak in the attachment or appropriate field of the form you are filing. Contact TTABInfo@uspto.gov (<mailto:TTABInfo@uspto.gov>) if you have questions about how to submit the filing.

Question 16: Is the USPTO open for filing TTAB documents and fees even though its offices are closed to the public?

Yes, the USPTO is open for the filing of TTAB documents and fees. TTAB judges, interlocutory attorneys, and paralegals are teleworking. Your TTAB electronic filings are being processed by ESTTA, and **TTAB correspondence** (<https://tbmp.uspto.gov/RDMS/TBMP/current#/current/sec-43479980-0efc-4562-9717-af8ca14743a7.html>) to you is being sent electronically by email. To ensure receipt of electronic communications from the Board, make sure your application or registration includes an email address that can be used for correspondence.

Question 17: What do I need to do to obtain an extension for a TTAB filing?

Filing through **ESTTA** (<https://estta.uspto.gov/>) is required. See TTAB information on **mandatory electronic filing** ([/trademarks-application-process/trademark-trial-and-appeal-board/estta-help](https://trademarks-application-process/trademark-trial-and-appeal-board/estta-help)). Include a statement that the delay in filing or payment was due to the COVID-19 outbreak.

Question 18: Will the TTAB grant a final 60-day extension of time to oppose because of the COVID-19 outbreak?

The effects of the COVID-19 outbreak are considered good cause in support of a second extension of time to oppose, if the first extension was a 30-day extension of time to oppose, or in support of an initial extension of 90 days to oppose, when a longer initial extension is desired. The effects of the COVID-19 outbreak also are considered extraordinary circumstances in support of the final 60-day extension of time to oppose. Fees for an extension requiring a showing of good cause or extraordinary circumstances are still required, even though the filing may be made later than when it would otherwise be due, if the delay in filing is due to the COVID-19 outbreak. When specifying the good cause or extraordinary circumstances, the statement that the delay was due to the COVID-19 outbreak can be included in the "other" basis for the extension.

Question 19: If I have a question about CARES Act extensions, whom do I contact?

The USPTO welcomes inquiries regarding this notice:

- Send an email to: TTABInfo@uspto.gov (<mailto:TTABInfo@uspto.gov>).
- If email submission is not feasible, please call the TTAB at 571-272-8500.



Patents and Patent Trial and Appeal Board (PTAB) FAQs: Extension of Deadlines under the CARES Act

Patents and PTAB Joint FAQs

Question 1: How do I take advantage of the 30-day extension of time for certain Patent- and PTAB-related deadlines?

If an eligible document or fee was or is due between (and inclusive of) March 27, 2020, and April 30, 2020, the filing will be considered timely if made within 30 days of the original due date, **provided that** the filing is accompanied by a statement that the delay in filing or payment was due to the COVID-19 outbreak. See **Notice of Waiver of Patent-Related Timing Deadlines under the Coronavirus Aid, Relief, and Economic Security Act** (<https://www.uspto.gov/sites/default/files/documents/Patents%20CARES%20Act.pdf>).

Question 2: Does the statement that the delay in filing or payment was due to the COVID-19 outbreak need to be verified or in the form of a declaration or affidavit?

No, the statement need not be verified or provided in affidavit or declaration form. People providing such statements to the Office are reminded that, pursuant to 37 CFR § 1.4(d)(4), they constitute a certification under 37 CFR § 11.18(b) and that violations of 37 CFR § 11.18(b) may be subject to sanctions pursuant to 37 CFR § 11.18(c).

Question 3: What is day 1 of the 30-day extension of time?

Day 1 of the 30-day extension of time is the first day after the original due date, i.e., the first day after the due date that would be in effect without the 30-day extension of time.

Question 4: What if the 30-day extension of time ends on a Saturday, Sunday, or federal holiday?

If the 30-day extension of time ends on a Saturday, Sunday, or federal holiday, the period for taking action is further extended to the next succeeding business day.

Question 5: Can the statement that you were personally affected by the COVID-19 outbreak be included in the paper you are filing, such as in the last paragraph of a response to an Office action, or must it be included in a separate paper?

In order to assist the Office in identifying a request for the 30-day extension of time, it is preferred that the statement be included in a separate paper. If the statement is in the paper you are filing, it will be accepted; however, it should be made in a conspicuous manner.

Question 6: What appeal-related filings are eligible for a 30-day extension of time?

The following appeal-related filings are eligible for a 30-day extension of time:

- notice of appeal
- appeal brief
- reply brief
- appeal forwarding fee
- request for an oral hearing before the PTAB
- response to a substitute examiner's answer
- amendment in connection with a new ground of rejection by the PTAB
- request for rehearing of a PTAB appeal decision

Question 7: Are all entities entitled to all CARES Act extensions?

No. Certain forms of relief are limited to small and micro entities. Please review the **Notice of Waiver of Patent-Related Timing Deadlines under the Coronavirus Aid, Relief, and Economic Security Act** (<https://www.uspto.gov/sites/default/files/documents/Patents%20CARES%20Act.pdf>) for details.

Question 8: Are all entities entitled to a 30-day extension of time for payment of an issue fee?

Yes.

Question 9: What filings and fees are eligible for a 30-day extension of time *only if made by a small or micro entity*?

- replies to an Office notice issued during pre-examination processing, e.g.:
 - reply to a notice of omitted items
 - reply to a notice to file corrected application papers
 - reply to a notice of incomplete application
 - reply to a notice to comply with nucleotide sequences requirements
 - reply to a notice to file missing parts of application (including, without limitation, the payment of the filing fees)
 - reply to a notification of missing requirements
- a maintenance fee payment

Question 10: What PTAB filings are eligible for a 30-day extension of time?

- request for rehearing of a PTAB decision in an AIA trial or interference proceeding
- petition to the Chief Judge
- patent owner preliminary response in a trial proceeding, or any related responsive filings

In the event that the USPTO extends a deadline for a patent owner preliminary response or any related filings, the PTAB may also extend the deadlines provided in 35 U.S.C. §§ 314(b) and 324(c).

For all other situations where the COVID-19 outbreak has prevented or interfered with a filing before the Board, a request for an extension of time can be made by contacting the PTAB.

Question 11: How do I obtain a 30-day extension of time for a PTAB filing?

For the specific PTAB filings enumerated above, the PTAB will provide a 30-day extension of time, **provided that** the filing is accompanied by a statement that the delay in filing or payment was due to the COVID-19 outbreak.

For all other situations, a request for an extension of time should be made before the expiration of the deadline sought to be extended. The request can be made by contacting the PTAB at 571-272-9797 or by email at:

- Trials@uspto.gov (<mailto:Trials@uspto.gov>) (for AIA trials)
- PTAB_Appeals_Suggestions@uspto.gov (mailto:PTAB_Appeals_Suggestions@uspto.gov) (for PTAB appeals)
- InterferenceTrialSection@uspto.gov (<mailto:InterferenceTrialSection@uspto.gov>) (for interferences)

Question 12: What PTAB filings are not eligible for an extension of time?

At this time, PTAB is not extending any statutory deadlines for filing an AIA petition under either 35 U.S.C. §§ 315(b) or 321(c).

Question 13: Will the PTAB extend the one-year deadline for issuing a final written decision under 35 U.S.C. §§ 316(a)(11) and 326(a)(11)?

In general, the PTAB is not extending the one-year deadline for issuing a final written decision, except that such deadlines may be extended for good cause shown for not more than six months, as provided for in 35 U.S.C. §§ 316(a)(11) and 326(a)(11). Such good cause may include situations to accommodate parties' requests for extensions due to the COVID-19 outbreak preventing or interfering with a filing or appearance before the Board or, due to such extensions, the Board cannot otherwise meet the one-year deadline.

Question 14: What is the standard for determining whether the delay in filing or payment was due to the COVID-19 outbreak?

A delay is due to the COVID-19 outbreak when the outbreak materially interfered with the filing of a paper or fee.

Question 15: What circumstances qualify as a material interference with the filing of a paper or fee?

Circumstances that qualify as materially interfering include, without limitation, office closures, cash flow interruptions, lack of access to files or other materials, travel delays, personal or family illness, or other similar circumstances.

Question 16: Who must have been affected in order to take advantage of the 30-day extension of time?

The person affected by the outbreak may be a practitioner, applicant, patent owner, petitioner, third-party requester, inventor, or other person associated with the filing or fee.

Question 17: Is the USPTO open for filing documents and fees even though its offices are closed to the public?

Yes, the USPTO is open for filing documents and fees. The USPTO **strongly encourages** customers to file documents and fees via EFS-Web. For information on EFS-Web and other forms of filing, see **General Information and Correspondence on the USPTO website (<https://www.uspto.gov/patents-getting-started/general-information-concerning-patents#heading-7>)**.

Question 18: Has the USPTO provided any other relief in view of the COVID-19 outbreak?

Yes. The USPTO has:

- waived the fee for petitions to revive applications that became abandoned because applicants could not meet the deadline for responding to an Office communication due to the COVID-19 outbreak; see the **Office's notice of March 16, 2020** (https://www.uspto.gov/sites/default/files/documents/coronavirus_relief_notice_03162020.pdf)
- waived the requirements for an original handwritten signature for certain correspondence with the Office of Enrollment and Discipline and certain payments by credit card; see the **Office's notice of March 30, 2020** (<https://www.uspto.gov/sites/default/files/documents/85%20FR%2017502.pdf>)

Question 19: If I have a question about CARES Act extensions, whom do I contact?

The USPTO welcomes comments or inquiries regarding this notice. Please use the following:

- Send an email to: **Covid19PatentsRelief@uspto.gov** (<mailto:Covid19PatentsRelief@uspto.gov>)
- If email submission is not feasible, please call the Office of Patent Legal Administration at 571-272-7704 (or 571-272-7703 for reexamination)

Question 20: Will the USPTO extend the CARES Act relief beyond April 30?

The USPTO will continue to evaluate the evolving situation around COVID-19 and the impact on the USPTO's operations and stakeholders. If the USPTO extends the CARES Act relief, the USPTO will provide timely notice.

Question 21: Will these FAQs be modified?

The USPTO will continue to evaluate the evolving situation and will update these FAQs as needed.

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