

Trademark Trial and Appeal Board to Offer Relief for Applications Related to COVID-19 on Appeal or in an Opposition

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 United States Patent and Trademark Office (USPTO) initiated the [COVID-19 Prioritized Trademark Examination Program](#) in June of 2020. Through this program, the Director of the USPTO is accepting petitions to advance the initial examination of trademark applications for marks used to identify qualifying medical products and services related to COVID-19. Eligible applications must cover a product that is subject to U.S. Food and Drug Administration approval for use in the prevention and/or treatment of COVID-19 or a medical or medical research service for the prevention and/or treatment of COVID-19.

To further support efforts to combat COVID-19, the USPTO is now initiating a Pilot Prioritized Review Program for Appeals Related to COVID-19. With this program, the Trademark Trial and Appeal Board (TTAB or Board) will expedite the review of, and the issuance of ex parte 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. With this program, a TTAB attorney or judge may participate in the parties' mandatory settlement and discovery planning conference (discovery conference) if the involved application was examined under the COVID-19 Prioritized Trademark Examination Program. As a reminder, any party involved in an opposition proceeding may request Board involvement in a discovery conference.

Appeals

Under the Pilot Prioritized Review Program for Appeals Related to COVID-19, the TTAB will identify ex parte 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; however, the applicant may call the Board at 571-272-8500 to confirm that the prioritized application has been entered into the TTAB's docket 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.

Oppositions

Under the Conference Pilot Program for Oppositions Against Applications Related to COVID-19, once an answer is filed, 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 are expected to be prepared to address, at a minimum, these 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

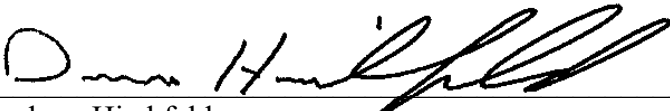
of discoverable information; and (4) the introduction of evidence at trial. In addition, the parties are expected to be prepared to explore accelerated case resolution options and any other topics that may promote settlement or an efficient adjudication to the proceeding.

In the event the parties are not contacted by the TTAB, either party may call the assigned interlocutory attorney to request TTAB participation in the discovery conference.

The USPTO is offering the Pilot Prioritized Review Program for Appeals Related to COVID-19 and the Conference Pilot Program for Oppositions Against Applications Related to COVID-19 on a temporary basis. The USPTO may extend the programs (with or without modification) or may terminate them, depending on the workload and resources needed to administer the programs, feedback from the public, and the effectiveness of the programs. If the pilot programs are extended or terminated, the USPTO will notify the public.

Inquiries concerning this notice can be directed to the TTAB at 571-272-8500, or by email to TTABInfo@uspto.gov.

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Performing the Functions and Duties of the
Under Secretary of Commerce for Intellectual Property and
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