

**From:** [J.L.](#)  
**To:** [Covid19PrioritizedExamPilot](#)  
**Subject:** Comment on the pilot program for prioritized examination  
**Date:** Friday, July 10, 2020 11:56:09 AM

---

Dear USPTO officer,

Thanks for giving inventors an opportunity to comment on the pilot program.

It seems illogical for USPTO to dismiss requests (PTO/SB/450) for prioritized examination, with a reason that the requests were not made with filing original patent applications on the same dates. It was impossible for many applicants to make the requests with filing their original patent applications related to CoVID19 before May 8th, 2020 because the pilot program was published on May 8th, 2020 at USPTO.gov while those inventions were related to CoVID19.

If their inventions are related to CoVID19, their applications should be prioritized for examination even if their requests were filed after the original patent application had been filed. Otherwise, the dismissal decisions will be contrary to the purpose of this pilot program. If the inventions are related to CoVID19, the requests should be granted to save more people from CoVID19 pandemic.

It is unreasonable to examine applications filed later than competitive applications filed earlier. The pilot program policy results in "Second comes, first served" for the similar applications that are related to CoVID19. Eventually, this error will likely result in unfair competitions and further financial damages to the applicants who filed original patent applications earlier than May 8th, 2020. Under the condition of "Second comes, first served", contesting the originality or infringement of inventions can become problematic.

If the denied applicants cancel the original patent applications and submit new applications to benefit from the pilot program for the speedy process, those applicants will be unjustly forced to take a risk of scrutiny for originality and infringement issues because the dates of inventions will be newly established upon filing new applications. This legitimate approach will jeopardize the established status of their prior patent applications. During the pandemic, it is extremely difficult for micro entities to pay \$1000 to speed up the process.

If 35 U.S.C. 365(c) allows applicants to utilize the pilot program for one of their prior nonprovisional applications, applications filed earlier than May 8th, 2020 and related to CoVID19, should also be eligible for the pilot program. Dismissals of requests (PTO/SB/450) are contrary to the purpose of 35 U.S.C. 365(c). This program was announced on May 14, 2020 at [federtalregister.gov](https://www.federalregister.gov) and on May 8th, 2020 at USPTO.gov. All applications filed before May 8th, should equally receive

the benefits of the pilot program if the inventions were related to CoVID19 and if the requests (PTO/SB/450) were filed.

I would appreciate your immediate consideration.

best regards,  
Inventor