

**NEWS ALERT****INTELLECTUAL PROPERTY****COVID-19 Patent Applications Offered Prioritized Examination by the U.S. Patent Office**

By John H. Mutchler | May 26, 2020

Starting in May of 2020, the United States Patent and Trademark Office (U.S. Patent Office) has initiated a pilot program for prioritized examination of non-provisional patent applications which cover inventions related to COVID-19. The pilot program will cover up to 500 qualifying patent applications but may be extended by the U.S. Patent Office depending on the effectiveness of it. Under the pilot program, the U.S. Patent Office will aim to provide final disposition of the prioritized application in one year or less after they grant prioritized status. One form of final disposition is a Notice of Allowance for a patent to be granted from the application.

To qualify for the pilot program, the application must contain at least one or more claims directed to a product or process related to COVID-19. In addition, the claimed product or process must be subject to a Food and Drug Administration (FDA) approval for COVID-19 use. FDA approvals may include, but are not limited to, an Investigational New Drug (IND) application, an Investigational Device Exemption (IDE), a New Drug Application (NDA), a Biologics License Application (BLA), a Premarket Approval (PMA), or an Emergency Use Authorization (EUA).

A benefit for the applicants is that the U.S. Patent Office has waived certain fees typically required for having the patent application examined under prioritized status. This could result in \$1,000 to \$2,000 savings per patent application. However, the U.S. Patent Office basic filing fee, search fee, and examination fee would still have to be paid (i.e., \$785 for small entity or \$355 for micro entity).

The pilot program is only open to small or micro entities. The U.S. Patent Office defines a small entity as a non-profit organization or an entity that does not have more than 500 employees and that entity has not assigned, licensed or otherwise conveyed an interest in the invention to a non-small entity. The U.S. Patent Office has defined four categories of concerns that qualify as "small entity": a university, a nonprofit organization, an individual inventor, or a small business concern. Criteria for micro-entity status include that each applicant, inventor and joint inventor has not been named on more than 4 prior patent applications and has a gross income of less than 3 times the median household income.

*More information regarding the pilot program can be found at the following U.S. Patent Office link <https://www.uspto.gov/initiatives/covid-19-prioritized-examination-pilot> or by contacting John Mutchler at 860-240-6021, [jmutchler@murthalaw.com](mailto:jmutchler@murthalaw.com), [www.murthalaw.com](http://www.murthalaw.com).*

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