

## Insights

# USPTO Allows Petitions for Prioritized Examination of COVID-19 Trademark Applications

Article

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In an effort to help bring potentially life-saving COVID-19 treatments more quickly to market, the United States Patent and Trademark Office (USPTO) announced yesterday that it will accept petitions to advance the initial examination of applications for marks used to identify qualifying COVID-19 medical products and services beginning Tuesday, June 16, 2020. The USPTO will also waive the fees for these petitions under the “extraordinary situation” provision of 37 CFR §2.148. A copy of the USPTO announcement from Director Andrei Iancu can be found [here](#).

To qualify for prioritized examination, the applicant must be seeking registration for one or more of the following goods or services:

1. pharmaceutical products or medical services such as diagnostic tests, ventilators, and personal protective equipment, including surgical masks, face shields, gowns, and gloves, that prevent, diagnose, treat or cure COVID-19 and are subject to approval by the United States Food and Drug Administration (FDA); and
2. medical services or medical research for the prevention, diagnosis, treatment of or cure for COVID-19.

The USPTO has established guidelines to determine what qualifies as “subject to approval” by the FDA, and applicants must fulfill certain requirements regarding how the prosecution is conducted at the USPTO. When filing the petition to accelerate examination, the petition must include a statement of facts, supported by affidavit or declaration under 37 CFR §2.20, setting forth the applicant’s COVID-19 medical goods or services. The petition must also set forth the section of the Code of Federal Regulations (CFR) under which the goods are regulated.

Additional requirements for participating in the program are included in the Director’s announcement.

### Related Attorneys

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The USPTO plans to monitor the workload and effectiveness of the program, modifying or discontinuing it based on its findings.

As with any intellectual property asset, qualified counsel should be engaged for trademark prosecution before the USPTO to ensure strict adherence to the specific program requirements of this COVID-19 acceleration program. Otherwise, valuable time, not to mention trademark and brand rights, could be lost in the process.