Reinhart

Patent Office Pilot Program to Encourage COVID-19 Related Inventions

On September 17, 2020, the U.S. Patent and Trademark Office (Patent Office) launched a new pilot program in an effort to incentivize inventors to find solutions to COVID-19. Under the new pilot program, filing fees for provisional patent applications may be deferred and, in some cases, need not be paid at all if certain conditions relating to COVID-19 are met. The pilot program is reserved for provisional patent applications filed under 35 U.S.C. 111(b). Nonprovisional patent applications or international applications designating the United States are not eligible for participation.

Currently, inventors enjoy the economic advantage provided by the patenting right of exclusion. In exchange for the right of exclusion, the patent application is laid open to the public so that its technical subject matter becomes part of the total available information in the field of the invention. This information sharing permits others to improve upon the invention and even to practice the invention once the patent term expires.

As inventors seek to address the COVID-19 outbreak, the Patent Office recognizes that COVID-19 requires creative solutions. The intent of its new pilot program is to further incentivize inventors by providing a cost-effective means to disclose their ideas without losing their right to claim what is described and enabled by their disclosure. The Patent Office believes the public may benefit from the efforts of inventors seeking to address the COVID-19 outbreak sooner than would otherwise be possible. The belief is that early public disclosure will facilitate collaborations, partnerships or joint ventures that will speed up the development of important solutions to COVID-19.

How to Qualify

To qualify for the pilot program the subject matter disclosed in the provisional patent application must concern a product or process related to COVID-19, and the product or process must require Food and Drug Administration (FDA) approval for COVID-19 use, whether the approval has been obtained, is pending or will be sought prior to marketing the subject matter for COVID-19.

Participants in the pilot program are required to submit a technical disclosure, a provisional application cover sheet and a certification and request form to

POSTED:

Oct 6, 2020

RELATED PRACTICES:

Intellectual Property
https://www.reinhartlaw.com/practices/intellectual-property

RELATED PEOPLE:

Timothy P. Naill
https://www.reinhartlaw.com/people/timothy-naill

All materials copyright © 2025 Reinhart Boerner Van Deuren S.C. All rights reserved.

participate in the pilot program. The Patent Office will upload the technical disclosure and the certification and request form into a searchable public collaborative database, and will process the technical disclosure and the cover sheet as a filing of a provisional application. In exchange for the disclosure of the technical subject matter, the pilot program participants may defer payment of the provisional application filing fee until a nonprovisional application claiming the benefit of the provisional application is filed. The basic filing fee does not need to be paid by those who desire publication of the technical subject matter in the collaborative database but do not make a benefit or priority claim in a corresponding later-filed application.

Later-filed nonprovisional, international or foreign application should be filed not later than 12 months after the date on which the provisional application was filed if a benefit or priority claim to the provisional application is to be made. Applicants are advised to take into consideration the prior art implications of their submissions.

For a more detailed description of the program and its requirements to qualify, please see our expanded alert or visit the Patent Office website.

If you would like to take advantage of the new pilot program or have questions in general, please contact Tim Naill, another member of Reinhart's Intellectual Property Practice or your Reinhart attorney.

These materials provide general information which does not constitute legal or tax advice and should not be relied upon as such. Particular facts or future developments in the law may affect the topic(s) addressed within these materials. Always consult with a lawyer about your particular circumstances before acting on any information presented in these materials because it may not be applicable to you or your situation. Providing these materials to you does not create an attorney/client relationship. You should not provide confidential information to us until Reinhart agrees to represent you.

All materials copyright © 2025 Reinhart Boerner Van Deuren S.C. All rights reserved.