COVID-19 Inventions Get “Fast Track”

Have you invented a product or process for preventing or treating the novel coronavirus commonly known as COVID-19? If you have, and you qualify as a small[1] or micro[2] entity, then you may be entitled to a “fast track” examination process recently announced by the U.S. Patent and Trademark Office (USPTO).

According to the new Prioritized Examination Pilot Program (the Program), the USPTO will grant requests for prioritized examination to small and micro entity patent applicants without the payment of an additional fee. It is the Office’s intent to reach final disposition of such applications within six months if the applicant promptly responds to USPTO communications.

While the Program may provide a “fast track” to patent issuance and possibly investment, it has its limitations and potential pitfalls. For example, the Program is limited to the first 500 applicants. The Program is also limited to inventions that are subject to FDA approval.[3] In addition, the accelerated examination process may result in heightened scrutiny, particularly for inventions that might not be fully developed and ready for patenting.

If you would like to consider whether your invention is appropriate for the Program, please contact one of the members of our Intellectual Property section.

[1] – A small entity is generally defined as one that employs no more than 500 employees and does not license the claimed invention to licensees having, in the aggregate, more than 500 employees.

[2] – A micro entity is generally defined as one that has filed no more than four patent applications and has a gross annual income of no more than $189,537.

[3] – U.S. 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). Information on these items is available at www.fda.gov.

Visit our COVID-19 Insight Center for our latest legislative and legal updates, articles, and resources.
