

## Alert

### Lenders and Other Dealmakers: Update on US Patent and Trademark Office and Copyright Office Closures

March 20, 2020

Lenders, private equity sponsors and other dealmakers routinely make filings with the U.S. Patent and Trademark Office (“USPTO”) and the U.S. Copyright Office (“USCO”) to protect their valuable rights in patents, trademarks and copyrights. Amidst the COVID-19 pandemic, the USCO and USPTO have closed their doors. While neither office has extended the statutory deadlines for making filings, and processing delays are expected, both offices continue to maintain their electronic filing systems and have adopted procedures such that lenders and other dealmakers can make filings to timely record documents establishing or evidencing their rights during these closures.

#### US Patent and Trademark Office

The USPTO continues to accept nearly all filings, including security interest grants, assignments, new applications and documents necessary to renew and maintain trademarks and patents, through its website.<sup>1</sup> The USPTO has also communicated that staff will continue to process these filings through telework.<sup>2</sup> Thus, while processing delays are expected, the USPTO’s closure should not substantively impact the ability to obtain and record rights in trademarks and patents through electronic filings.

#### US Copyright Office

Due to the closure, the USCO is not accepting filings made in person or by private courier.<sup>3</sup> This impacts the filing of security interests and other assignments, as these filings cannot be made electronically. However, the USCO has communicated to us and our service providers that it will accept these filings by mail (U.S. postal service or commercial express carrier, such as UPS or FedEx), and that the delivery date (the date that the USCO receives the filing, whether or not USCO staff has been able to log it in) will be considered the filing date. The USCO also continues to accept applications to register new copyrights through its website and is discouraging applicants from filing paper copies. Thus, while the already lengthy delay at the USCO in processing filings will likely become even longer, the USCO’s closure should not substantively impact the ability to obtain and record rights in copyrightable works through filings made according to the revised procedures.

---

<sup>1</sup> The [USPTO’s website](#) contains detailed information on how the COVID-19 pandemic has impacted its operations and policies.

<sup>2</sup> Additionally, the USPTO has announced that relief in the form of fee waivers for “petition to revive filings” will be available for missed filing deadlines if the applicant submits evidence that the delay in filing was due to the applicant being personally affected by the coronavirus outbreak; however, as no waivers or extensions are available for time periods established by statute, certain statutory rights may be irretrievably lost and the circumstances under which these measures will aid applicants may in practice be limited. The USPTO’s official notice is available [here](#).

<sup>3</sup> The [USCO’s website](#) contains detailed information on how the COVID-19 pandemic has impacted its operations and policies.

Authored by [Edward H. Sadtler](#), [Scott M. Kareff](#) and [Jaclyn N. Malmel](#).

If you have any questions concerning this *Alert*, please contact your attorney at Schulte Roth & Zabel or one of the authors.

Schulte Roth & Zabel  
New York | Washington DC | London  
[www.srz.com](http://www.srz.com)

This communication is issued by Schulte Roth & Zabel LLP for informational purposes only and does not constitute legal advice or establish an attorney-client relationship. In some jurisdictions, this publication may be considered attorney advertising. ©2020 Schulte Roth & Zabel LLP. All rights reserved. SCHULTE ROTH & ZABEL is the registered trademark of Schulte Roth & Zabel LLP.