The IP Beacon, April 2020

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The USPTO Extends Certain Trademark Deadlines Again, Now Through May

As first announced in March, the USPTO has provided two avenues for relief to trademark owners impacted by the novel coronavirus (COVID-19) pandemic. These policies have recently been updated and extended through May:

1. CARES Act Relief: Applicants and registrants can claim the benefit of a *grace period* extension on many types of filings with deadlines between, and inclusive of, March 27, 2020 and May 31, 2020. The requesting party must make the late filing or payment by Monday, June 1st with a statement that COVID-19 *materially interfered* with meeting the original deadline. This alert mostly will elaborate on this grace period measure.

2. Other Relief - Petitions: The USPTO will waive its fees for both Petitions to Revive applications abandoned by May 31, 2020 and Petitions to the Director to reinstate registrations that were cancelled or expired within this timeframe.

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Alexander Lutzky in IP Litigator: Practice Areas: Patent Litigation

Did the Federal Circuit Just Raise the Evidentiary Bar for Establishing Obviousness?

According to the panel in *OSI Pharmaceauticals, LLC v. Apotex, Inc.*, Slip Op. No. 2018-1925 (Fed. Cir. Oct. 4, 2019), the answer to the question posed in this article's title is a solid no. Considering the opinion's precedential nature and the facts in the case, the Federal Circuit, however, may have just given patentees extra ammunition to defeat an obviousness challenge on evidentiary grounds. Read more.

Joseph Lawlor in Mobile Marketing Magazine: Running a Micro-Influencer Campaign

The Michael Bloomberg 2020 presidential campaign has hired hundreds of individuals in California to post social media content supportive of the New York billionaire, as first reported by the *Wall Street Journal*. This strategy is an unorthodox method for distributing sponsored content at a scale previously unheard of.

Bloomberg's strategy has already hit several roadblocks. Its quality control team has failed to prevent paid micro-influencers from making false postings on social media postings. 70 Bloomberg micro-influencers have been banned by Twitter outright. Brands will be wise to consider the significant compliance and PR costs before engaging in a micro-influencer campaign of this scale. Read more.

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Michael Tobin: ‘Consisting Essentially of’ Claims Nixed at Federal Circuit

In HZNP Medicines LLC v. Actavis Laboratories UT, Inc., the U.S. Court of Appeals for the Federal Circuit affirmed the district court’s holding that the transitional phrase “consisting essentially of” was indefinite as used in several claims of patents owned by HZNP Medicines LLC and Horizon Pharma USA, Inc. (“Horizon”).
Read more.

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