

## [IP Law Daily, PATENT NEWS: USPTO announces COVID-19 deferred-fee provisional patent application pilot program, \(Sept. 16, 2020\)](#)

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The program is limited to applications concerning a product or process that is related to COVID-19 and that requires FDA approval.

A new collaborative deferred-fee provisional patent application pilot program for inventions that combat COVID-19 has been launched by the USPTO. Notice of the program is scheduled to be published in the *Federal Register* on September 17. The unpublished version of the notice is available [here](#).

"The USPTO recognizes that its mission to issue high-quality patents to inventors goes hand-in-hand with dissemination of important scientific information to the public to promote further innovation," the Office said in a [media release](#). "This information flow is now more important than ever in view of the urgent challenges posed by the COVID-19 outbreak."

The pilot program allows applicants to defer payment of the provisional application filing fee until the filing of a corresponding, non-provisional application. For their part, applicants must agree that the technical subject matter disclosed in their provisional applications will be available to the public via a searchable collaboration database maintained on the USPTO's website. According to the Office, making applicants' disclosures available will help the public in the fight against COVID-19 by fostering dissemination and collaboration while protecting patent rights.

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

The program is scheduled to accept applications for 12 months beginning on September 17, 2020. The USPTO said that it may extend the pilot program (with or without modifications) or terminate it depending on the workload and resources needed to administer it, feedback from the public, and its effectiveness.

"Depending on feedback and public interest, the technological scope could also be expanded beyond COVID-19 to other areas that are the focus of pioneering or rapid innovation," the Office added. "If the pilot program is extended or terminated, the USPTO will notify the public. The USPTO may also make the program permanent via the rule-making process."

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