

## > Covid-19 Client Alert

### Extensions to Filing Deadlines for Copyrights Due to COVID-19

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#### Authors and Key Contacts

If you have any questions regarding filing for copyright protection, you may directly contact our Intellectual Property attorneys who are carefully monitoring these changes:

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Under authority granted by the Coronavirus Aid, Relief, and Economic Security Act, the United States Copyright Office adjusted certain timing provisions in cases where copyright owners are prevented from completing or submitting applications for copyright registration. This is of particular relevance since under Section 412 the Copyright Act, a copyright owner generally is eligible to be awarded statutory damages in an infringement action only if the work allegedly being infringed is registered prior to the infringement or within three months of the work's first publication.

The Copyright Office adopted the following adjustments:

- Where an applicant can submit an application electronically but is unable to submit a physical deposit, the applicant should submit a statement made under oath, under penalty of perjury, certifying that the applicant is unable to submit the physical deposit and would have done so but for the national emergency, and set forth satisfactory evidence in support. If the requirement is met, and if the three-month window for registration after the date of first publication was open as of March 13, 2020, the window will be extended such that the applicant will be eligible for the remedies under Section 412, provided that the applicant submits the required deposit within thirty days after the date the COVID-related disruption has ended, as stated in a public announcement by the Register of Copyrights. The U.S. Copyright Office has not dictated exactly what evidence will be considered satisfactory to quality for the delay in the filing, but has given some examples, such as the applicant being under a "stay-at-home" order issued by state or local government, or the applicant being unable to access required physical materials due to the closure of the business where such materials are located.

- Where an applicant is unable to submit an application electronically or physically during the disruption, the applicant may submit an application after the Register of Copyrights has announced the end of the disruption, and include a declaration certifying that the applicant was unable to submit an application electronically or physically and would have done so but for the national emergency, providing satisfactory evidence in support of such assertions. If the requirement is met, the three-month window under Section 412 will be tolled between March 13, 2020 and the date that the disruption has ended.
- For copyright applications that can be submitted entirely in electronic form, there are no waivers granted or adjustments made.

The Copyright Office also adjusted the five-year window in which an author can otherwise terminate a transfer of copyright. The adjustment is applicable to termination windows expiring on or after March 13, 2022 but less than two years after the COVID-related disruption has been declared over, provided the author has served notice on the transferee between two and ten years prior to the chosen termination date and recorded the termination with the U.S. Copyright Office.

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Morrison Cohen LLP has created the [COVID-19 Resource Taskforce](#), a multidisciplinary taskforce comprised of attorneys with deep expertise in a broad range of legal areas, to assist clients navigating the challenging and uncertain business and legal environment caused by the COVID-19 pandemic. We encourage clients to utilize our capabilities by reaching out to their primary Morrison Cohen attorney contact, who will put you in touch with the appropriate Taskforce person. You may also reach out directly to Joe Moldovan and Alec Nealon, the Taskforce co-chairs:

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