

LEGAL UPDATES

## Patent and Trademark Applicants Could See Big Delays in 2025

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Patent and trademark applicants are likely to see significant changes with their applications in 2025. First, numerous fee increases have recently taken effect – on January 18 for [trademark applications](#) and January 19 for [patent applications](#). Second, applicants are also likely to see lengthened delays in the processing of new applications due to recent decisions by the new Trump Administration which may slow the operations of the U.S. Patent & Trademark Office (USPTO).

Two of President Trump's "first day" Executive Orders issued on January 20 may present a pair of challenges to the USPTO's efforts to review pending patent and trademark applications in an efficient and timely manner. A [Presidential Memorandum](#) was issued requiring all federal employees to return to in-person work. The USPTO employs about 14,000 employees, with 13,000 employees currently working remotely. The Memorandum could create changes in the available workforce depending on how it is enforced. Additionally, one of new Director Coke Morgan Stewart's first actions as head of the USPTO, in response to a [President Trump directive to shrink the federal workforce](#), was to put a freeze on new hires at the agency. This overturned a USPTO announcement in mid-2024 to hire 800 new employees – mostly new patent examiners – in an effort to address the increased backlogs of patent applications. The confluence of these two decisions could lead to fewer USPTO employees available, which would directly lead to greater increases in wait time for pending applications.

Ask any patent or trademark practitioner and they will tell you that the USPTO is operating at its slowest rate ever. Granted, patent practitioners always tend to gripe about the response time of the USPTO, but the recent increase in delays has been substantial and cannot completely be attributed to the COVID pandemic. Indeed, the USPTO's responsiveness during COVID was remarkable under the circumstances, and prosecution of patent and trademark applications has arguably improved in other ways, except for time delays.

Trademark applications used to move through the system very quickly, even during COVID, often receiving a first action from a trademark examiner within three months of filing, like clockwork. Pre-pandemic, many trademark employees were already working remotely and were easy to reach to resolve many issues with an application. Due to recent increases in new applications, timed with stagnant

### Related People

#### Tucker Griffith

Partner

Boston

857.300.4044

[tucker.griffith@lathropgpm.com](mailto:tucker.griffith@lathropgpm.com)

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hiring of new examiners, the backlog appears to have grown – increasing the pressure on examiners. As of February 13, the Trademark Office is starting to examine new applications filed June 24<sup>h</sup> through July 8<sup>h</sup> of 2024. Some trademark applications have been delayed for more than one year before a first action, something that rarely happened a decade ago.

Delays at the Patent Office also appear to be attributable to a significant increase in applications being filed, mostly by foreign applicants. The World Intellectual Property Organization estimated that in 2023 over 3.55 million patent applications were filed worldwide. In 2024, the USPTO had over 813,000 unexamined patent applications. Before COVID, this backlog was reportedly only about 540,000. The Patent Office (until the Memorandum) permitted examiners to work remotely. Some of the apparent effects of remote work include a greater number of trained examiners and more flexibility in communications with examiners.

The U.S. Office of Personnel Management issued guidance on January 22 to agency heads to “take all necessary steps to terminate remote work arrangements and require employees to return to work in-person at the respective duty stations on a full-time basis” as soon as practicable. Agency heads are afforded some leeway to allow necessary exemptions, but have been strongly advised to minimize such exemptions. The directive asserts that the only way to get employees back to the office is to apply a centralized policy requiring return to work for all agencies across the federal government and not treat each office/agency individually. It is nevertheless hoped that exemptions or exceptions will be made to maintain the efficiencies gained with remote work.

It will be interesting to see how these directives are carried out by the USPTO Director, and whether patent and trademark applicants will see increased delays in 2025 and beyond.



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