

COVID-19: ACCELERATED EXAMINATION OF PATENT APPLICATIONS FOR SMALL ENTITIES

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On July 7, 2020, the Canadian Intellectual Property Office announced a pilot process to accelerate the examination of Canadian patent applications describing technologies related to medical products and processes (the “Pilot **Process**”).^[1] Technologies of interest under the Pilot Process include those that are currently, or have been, subject to a Health Canada approval process (to access a list of example processes, please click on the relevant link provided in the footnotes).^[2]

In order to qualify for the Pilot Process, the following criteria must be satisfied:

- the applicant listed on the patent application describing technology related to medical products and processes is a “small entity”^[3];
- the applicant has requested examination of the patent application and has paid the applicable fees associated with such request;
- the patent application has been laid open for public inspection, or the applicant has requested that the patent application be laid open for public inspection; and
- the applicant has submitted a statement to the Canadian Intellectual Property Office that: (i) the technology described in the patent application is medical or related to COVID-19; and (ii) approval for the use of such technology has been submitted to or obtained from Health Canada.

There are no additional government fees associated with requesting accelerated examination under the Pilot Process. However, acceptance into the Pilot Process is limited and there are plans to only accelerate examination of up to 50 patent applications under the Pilot Process.

Under the Pilot Process, it is anticipated that an Examiner will contact an applicant within 3 months of the request for accelerated examination.^[4] While an applicant may withdraw from the accelerated examination process at any time, a patent application may also lose its accelerated examination status if the applicant requests an extension of time to attend to a particular action to be taken before the Canadian Intellectual Property Office or fails to take a particular action by a particular deadline.

For more information on whether the Pilot Process aligns with your patent strategy, please contact a member

of McMillan's patent group.

by Pablo Tseng

[1] Practice Notice dated July 7, 2020: [Notice Announcing Accelerated Examination of Patent Applications related to COVID-19 Relief for Small Entities](#).

[2] [Accelerated Examination of Canadian Patent Applications related to COVID-19 Relief](#), accessed July 8, 2020.

[3] "Small entity" is defined in Rule 44(2) of the [Patent Rules](#), SOR/2019-251.

[4] *Supra* note 2.

A Cautionary Note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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