



The Likely Impact of a Federal Government Shutdown on the United States Patent and Trademark Office, Copyright Office, and Federal Courts

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Like many areas of commerce to be effected in the United States, the threatened government shutdown – currently scheduled for midnight on Friday, April 9, 2011 – will impact trademark owners, copyright applicants, and federal court litigants. Immediately available information suggests that a brief shutdown would have little impact, but the impact of a longer shutdown is uncertain. We will keep current status information posted here.

Patent and Trademark Office

The United States Patent and Trademark Office ("USPTO") has announced that, in the event the April 9, 2011 shutdown comes to pass, it will remain open and will continue to operate as usual for a period of *six* business days, through Monday, April 18, 2011. The USPTO is able to keep its doors open because it has enough available reserves, not linked to the current fiscal year, to remain in operation until that date. Should a shutdown occur and continue longer than the six-day period, the USPTO has advised that it "anticipate[s] that limited staff will be able to continue to work to accept new electronic applications and maintain IT infrastructure, among other functions." The USPTO has advised that it will continue to post information on its website as it becomes available.

Copyright Office

The United States Copyright Office has not issued any public release about its operations during a shutdown. Like all agencies, it will be required to follow Office of Management and Budget procedures outlining an orderly shutdown, which will leave only "exempt" (*i.e.*, essential) personnel in place. It remains unclear what effect this would have on services, such as, for example, the issuance of expedited copyright registrations during a shutdown.



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Federal Courts

The federal court system will face a somewhat less urgent shutdown date. The Judiciary has announced that, should Congress not agree on a continuing resolution to fund the government before April 8th, "the Judiciary is prepared to use non-appropriated fees to keep the courts running for up to two weeks."

Once that funding is exhausted, the Judiciary has advised that "the federal court system faces serious disruptions. Following their own contingency plans, federal courts would limit operation to essential activities." Those are described by the Judiciary as "limiting activities to those functions necessary and essential to continue the resolution of cases. All other personnel services not related to judicial functions would be suspended."

Further, the Judiciary has noted that the "jury system would operate as necessary, although payments to jurors would be deferred. Attorneys and essential support staff in federal defender offices and court-appointed counsel would continue to provide defense services as needed, but again, payments would be deferred. Courts would determine the number of probation office staff needed to maintain service to the courts and the safety of the community."

As the Judiciary statement suggests, the impact may vary, court by court. Although the notice clearly reflects an intent to continue criminal trials as needed, the statement leaves uncertain the potential that work on civil cases – particularly cases not approaching imminent trial dates – could be impacted.

Check back here for current updates.

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