

TIPO Notice on Remedies of Handling Patent and Trademark Cases for Failure to Observe Time Limit due to COVID-19 Pandemic

The coronavirus disease COVID-19 has caused a global crisis, with more than three million people infected and over two hundred thousand deaths in nearly 200 countries. At the early stage of the outbreak, Taiwan started preventive measures such as wearing masks in public, and the situation is less severe than in other parts of the world. Considering the impact of COVID-19 on the time limits of patent and trademark cases, Taiwan Intellectual Property Office (TIPO) previously announced on January 31, 2020 and reiterated on April 8, 2020 that the requests for reinstatement could be filed for patent and trademark cases failing to meet the statutory time limit with COVID-19 related reasons not attributable to the applicant. In response to a petition by local practitioners, TIPO again made an announcement on May 4, 2020 to allow the patent/trademark applicants file an extension for time limit, besides the statutory period, as well as prescribed period, based on reasons relating to COVID-19. In principle, the original prescribed due date could be extended for one month, and if more time is needed, the due date may be extended for an appropriate time on a case-by-case basis.

Translation of TIPO's Notice on May 5, 2020

In the case of a patent/trademark applicant affected by the severe and special infectious pneumonia pandemic (COVID-19) causing the delay of the statutory period or prescribed period, it shall be handled and explained in the following manner:

1. Statutory period

1.1) For filing a request for reinstatement pursuant to Art. 17, Para. 2 of Patent Act (and Rule 12 of its Enforcement Rules) or Art. 8, Para. 2 of Trademark Act (and Rule 9 of its Enforcement Rules), please file a written request stating that the applicant has delayed the statutory time limit due to the COVID-19 pandemic, along with relevant evidence, while concurrently completing the act that should have been done within the statutory period. In principle, the request will be determined on a case-by-case basis by this Office under more lenient examination standards.

1.2) For an applicant who has appointed an agent, if the COVID-19 pandemic has affected the communication between the applicant and the agent, and caused the delay of the statutory time limit, the agent may file and provide the relevant evidence. The request will be determined on a case-by-case basis by this Office.

2. Prescribed period

2.1) The applicant, in case of delaying the prescribed period due to the COVID-19 pandemic, shall continue the relevant act before this Office renders a decision. If the applicant has been affected by the pandemic and needs to extend the original prescribed period, please file a written request stating the same and provide the evidence. This Office will handle the request leniently on a case-by-case basis.

2.2) Regarding the extension of the prescribed period by the applicant due to the COVID-19 pandemic, it shall follow the current examination guidelines and practice. If the applicant could not act within the original prescribed period due to COVID-19 pandemic, please file a written request stating the same and provide the evidence. In principle, this Office, after examining and considering the request that an extension is deemed necessary, shall extend the original prescribed period upon its expiration for another one month. However, according to the evidence provided by the applicant for a prescribed period which is to be extended for more than one month, and depending on the circumstances of each case, an extension for an appropriate time more than one month could be considered.

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