



NEWSLETTER

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TIPO notice on Reinstatement Request for filing US priority document after Statutory Period

In response to recent cases regarding the delays of priority documents issued by the United States Patent and Trademark Office (USPTO), the Taiwan Intellectual Property Office (TIPO) announced on August 26, 2025 that a request for reinstatement may be filed for submitting a certified priority document beyond the statutory period of Taiwan patent or trademark application due to the reasons not attributable by the Applicant. The reinstatement request must be filed together with supporting documentation, and the TIPO's grant of the reinstatement will be determined on a case-by-case basis. The TIPO has provided examples of supporting documentation such as a written document from the USPTO, or a reply sent by an official email address from the USPTO to the Applicant (or his agent), clearly stating the reason for the delay (such as staff shortages or other causes) and the priority case number (or order number assigned to the application of certified priority document).

Per Article 17 of Patent Act (and Rule 12 of its Enforcement Rules) and Article 8 of Trademark Act (and Rule 9 of its Enforcement Rules), if a delay of a statutory time period is caused by natural calamity or causes not attributable to the applicant, the Applicant may file a written request, within 30 days after cessation of the cause, by stating the reasons for reinstatement (restoration to the status quo ante) and the cessation date, together with an evidencing document. The reinstatement request could not be made if the statutory period has been delayed for more than one year. Also, when requesting for reinstatement, the Applicant shall concurrently complete the act that should have been done within the statutory period.

In Taiwan, if the Applicant files a patent or trademark application claiming priority from a foreign basic application, a certified priority document issued by the foreign competent authority from the country or a WTO member where the priority is claimed, must be submitted within the statutory period: 16 months from the earliest priority date for an invention or utility model patent application; 10 months from the earliest priority date for a design patent application; and three months after the filing date for a trademark registration application. If a certified priority document is not submitted within the statutory period, the priority claim shall be deemed not to have been made.

Currently, Taiwan has bilateral cooperation mechanisms for the electronic exchange of priority documents with Japan and South Korea, but has not yet implemented priority document exchange with the United States. In general, it is important for a patent application to claim priority because the Examiner will examine the novelty and inventive step requirements of a patent application based on the priority date. Therefore, after filing a Taiwan patent application with priority claiming of US priority/priorities, the Applicant should order the priority document(s) from the USPTO as soon as possible.

In addition, the TIPO shall accept a certified priority document not necessarily in its original form or as a paper version. The Applicant may submit a certified priority document in electronic format as prescribed by the TIPO and declares that it is a true copy of the original.

The TIPO has set the following as acceptable electronic formats for a priority document of a patent application:

- 1) a DVD of electronic priority document from the foreign patent authority;
- 2) an electronic priority document issued online by the foreign patent authority; or
- 3) a scanned copy from a paper priority document issued by the foreign patent authority. When scanning the paper document, the image format should be JPG, TIF, GIF or BMP, with a resolution of 300x300 DPI or higher, and then merged/converted into a readable and unsecured A4-size PDF file. In principle, each priority document is submitted as a separate file.

