

May 4, 2020

COVID-19 : Extension of Intellectual Property Deadlines

As a result of the Covid-19 crisis and in order to cope with confinement measures, French and European Intellectual Property Offices have introduced different measures to extend procedural deadlines as summarized below.



1. The Extension of Procedural Deadlines Before the French Institute of Intellectual Property (INPI)

On March 25, 2020, the French government issued an order extending all deadlines by a maximum of three months following the end of the state of health emergency, which is currently May 24, 2020 (although it could be terminated earlier or extended).

However, the government has decided to extend the state of health emergency for a further two months, until 24 July 2020. The bill is expected to be passed this week. This extension would allow a maximum extension of the deadlines until October 24, 2020.

This applies to all the deadlines provided for in the French Intellectual Property Code, but excludes those resulting from international agreements or European texts, such as priority deadlines for an international extension.

These extensions concern in particular the following deadlines before the INPI:

- Trademark oppositions;
- Trademark or design renewals;
- Payment of patent annuities; and
- Filing of observations or responses to notifications from the INPI.

The order provides that all deadlines occurring between March 12 and 1 month after the end of the state of health emergency are postponed:

- to **one month** after the end of this period if the initial deadline was one month,
- to **two months** after the end of this period if the initial period was two months or more.

For example, if the state of health emergency expires on May 24, 2020 as currently scheduled, the two-month time limit for opposing a French trademark application that otherwise would have expired between March 12 and June 24 would be extended until August 24, 2020.

2. The Extension of Procedural Deadlines before European Intellectual Property Office (EUIPO)

The EUIPO has published on April 29 a decision extending until May 18, 2020 all time limits expiring between 1 May 2020 and 17 May 2020 in response to the exceptional circumstances caused by the pandemic.

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This is the second extension of the time limits, since Decision No. EX-20-3 published on 16 March had already extended until 1 May 2020 all the time limits expiring between 9 March 2020 and 30 April 2020. Consequently, all time limits expiring between 9 March and 17 May are extended until 18 May 2020.

The extension covers all procedural time limits, whether fixed by the Office or stipulated directly in the Regulation. In particular, the following time limits are affected :

- Time limits set by any EUIPO body, including its Boards of Appeal
- Opposition deadlines,
- Renewal application,
- Payment of the application fee,
- Right of priority.

The extension of time limits only concerns proceedings before EUIPO. It does not apply to proceedings before the Court of First Instance of the European Union.

3. The Extension of Procedural Deadlines Before the European Patent Office (EPO)

In an updated statement on the disruption caused by the COVID-19 outbreak on 1 May, the EPO stated that the time limits expiring on or after 15 March 2020 are extended until **2 June 2020** for all parties and their representatives.

With regard to the time limits expiring before 15 March 2020, the EPO has facilitated the use of remedies for users located in areas directly affected by the disruption due to the occurrence of COVID-19. These remedies for failure to comply with a time limit are applicable under the EPC and the PCT.

The extension of time limits also applies to time limits for the payment of fees, including annual fees.

4. The Extension of Procedural Deadlines Before the World Intellectual Property Organization (WIPO)

The WIPO has outlined the various measures taken to date to address the health situation in many member countries of the Madrid System, the Hague System and the Patent Cooperation Treaty (PCT).

WIPO announced that a failure to observe a time limit for a communication addressed to WIPO, due to a stoppage of postal or electronic communication services, may be excused if the user justifies it by sufficient evidence (e.g. official announcement, certificate issued by a registered doctor). The communication must be sent within 5 days of the resumption of postal, mail or electronic communication services or at the latest 6 months after the expiry of the corresponding period

In trademark matters, holders or applicants may request WIPO, without giving any reason or providing any evidence, to continue processing certain procedures, in particular in the event of failure to comply with a prescribed time limit for correcting an international trademark application, a request for registration, for modification of a subsequent designation, for payment of the second part of an individual fee, etc.

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Procedural time limits may also be extended in the event of the closure of a national intellectual property office of a Contracting Party. Thus, a time limit which would expire on a day when an office is not open to the public would expire on the first day after it reopens.

In patent matters, WIPO has clarified that a delay in meeting PCT time limits (which may relate to the transmission of documents or the payment of fees) may be excused on a case-by-case basis for reasons of force majeure. The applicant must provide proof of force majeure to the Office concerned, not later than 6 months after the expiration of the applicable time limit, in addition to having taken the relevant action as

soon as reasonably possible. It was also clarified that the International Bureau of WIPO will respond favourably to all requests invoking problems related to COVID-19, and will not require interested parties to provide it with proof that the virus has affected the region where they have their domicile, headquarters or residence.



Contact us:

For any question you may have, please do not hesitate to contact our team.



Caroline Casalonga

Paris Office
Partner
Attorney at Law



Olivier Delprat

Paris Office
Partner
French & European Patent Attorney



Karina Dimidjian-Lecomte

Paris Office
Partner
Attorney at Law



Cristina Bercial-Chaumier

Alicante Office
Partner
Attorney at Law



Jürgen Neugebauer

Munich Office
Partner
European Patent Attorney



Laurence Schardt

Paris Office
French Trademark Attorney
European Trademark & Design Attorney

PARIS : 31 rue de Fleurus, 75006 Paris, France

Tel: +33 (0)1 45 61 94 64 - Fax: +33 (0)1 45 63 94 21 - E-Mail: paris@casalonga.com

MUNICH : Bayerstrasse 71/73, 80335 MUNICH, Allemagne

Tel: +49 (0)89 22 30 05 - Fax: +49 (0)89 22 47 53 - E-Mail: munich@casalonga.de

ALICANTE : Maisonnave, 41, E-03003 ALICANTE, Espagne

Tel: +34 96 513 1795 - Fax: +34 96 513 1689 - E-Mail: alicante@casalonga.com