COVID-19: THE ADOPTION OF EMERGENCY MEASURES BY INDUSTRIAL AND INTELLECTUAL PROPERTY OFFICES

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As a consequence of the pandemic outbreak of COVID-19 infection, most Intellectual and Industrial Property Offices adopted emergency measures to ensure the continual provision of their services and also to safeguard the citizens of the many countries affected by restrictive measures and the interruption of regular work activities.

UIBM

The Decree-Law no. 18 of March 17, 2020 extended the scope and duration of the suspension already ordered by the Director Decree of March 11, 2020, providing for the suspension of all the deadlines relating to administrative proceedings before the Italian Patent and Trademark Office for the period between February 23 and April 15, 2020. The deadlines will revive from April 16, 2020 for their remaining time.

The mandatory deadlines pursuant to art. 176, par. 1, of the Italian Code of Industrial Property concerning opposition proceedings are also subject to suspension, while the deadlines relating to proceedings before the Board of Appeal – by reason of their judicial nature - remain unaffected by the suspension.

EUIPO

With Decision of the Executive Director EUIPO no. EX 20/3 of March 16, 2020, the deadlines between March 9 and April 30, 2020 are automatically extended to May 1st, 2020. In view of the holiday of the first of May, all deadlines have been actually postponed to May 4, 2020.

Subject of the extension, the time-limits relating to any proceedings pending before the EUIPO - including proceedings before the Boards of Appeal - and, among others, the time-limits relating to the payment of official fees, priority claims, deferment of publication of designs, conversion of applications.

However, the deadline for filing an appeal before the EU General Court against a decision of the Boards of Appeal will not be deferred, as the postponement measures are not extendable to proceedings under the jurisdiction of other different authorities.

EPO

With a note of March 15, 2020 published in the Official Journal of the EPO of March 2020, the deadlines set from March 15, 2020 onwards are automatically extended to April 17, 2020.

The extension is also applied to international patent applications (PCT) and to deadlines for the payment of official fees, including patent renewal fees.

The Office has also decided to postpone until further notice all the oral proceedings scheduled until April 17, 2020 before the Examining division and the Opposition division, unless it has been ordered to conduct them by videoconference.

Oral proceedings scheduled until 30 April 2020 before the Boards of Appeal are also postponed until further notice.

With regard to deadlines expired before 15 March 2020, in the event of failure to comply with a deadline by subjects located in virus-affected areas, any document received after the expiry of the deadline shall be deemed timely submitted after demonstrating the impossibility of complying with the deadline due to
exceptional events that occurred during any of the ten days prior to the day of expiry of the deadline, given that the document was sent no later than the fifth day after the end of the disruption.

**WIPO**

The World Intellectual Property Organization ensures the regular provision of its services, without any deferment of the time limits prescribed by the Patent Cooperation Treaty (PCT), the Madrid System for the International Registration of Trademarks and the Hague System for the International Registration of Industrial Designs.

Due to the suspension of postal services in several contracting countries, the International Bureau has temporarily suspended the dispatch and receipt of communications by postal mail. Until further notice, the Office may only submit and receive communications by e-mail.

In the event that the unavailability of postal services or electronic means of communication leads to the failure to comply with a prescribed time limit, providing adequate evidence supporting such unavailability, the document sent shall be deemed timely submitted if it is received within five days after regaining access to the mail or to the electronic means of communication. However, the Office must receive the document within six months of the expiry of the time limit in question.

**References**

WIPO communication of March 20, 2020;

Decree-Law of March 17, 2020, no. 18, on the “Measures to reinforce the National Health Service and provide economic support for families, workers and businesses related to the COVID-19 epidemiological emergency”;

Decision of the Executive Director EUIPO no. EX 20/3 of March 16, 2020, concerning the extension of time limits;


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