



KOCHHAR & Co.
ADVOCATES & LEGAL CONSULTANTS



COVID-19 UPDATES – INDIAN IP OFFICES FUNCTIONING

March 26, 2020

The Indian Government has announced a full nationwide lockdown for three weeks (until April 14, 2020) in order to contain the spread of Covid-19. Accordingly, the Indian Trade Marks Registry, Patents and Design Office have been closed till April 15, 2020. Nevertheless, the online filing portal of Indian IP offices is operational. All deadlines falling till April 15, 2020 will become due on the day when the IP offices re-open.

The Trade Marks Registry notified¹ that a request for extension of time (now or after situation becomes normal) under Section 131² of the Trade Mark Act, 1999 (the “**Act**”) for filing of the documents will be favourably considered by the Trade Marks Registrar.

The Patent Office has also notified³ that under sub-rule (6) of Rule 6 of the Patents Rules 2019, the delay in transmitting or resubmitting documents to the Patent Office will be condoned/timeline be extended by the Controller on a petition for such condonation of delay/extension of time made not later than one month from the date when COVID-19 outbreak ceases to exist.

Nevertheless, the Hon’ble Supreme Court of India has passed an order⁴ that the period of limitation, irrespective of the limitation period prescribed under the general law or any special law (such as the Trademarks, Patents or Designs Act) whether condonable or not shall stand extended w.e.f. March 15, 2020 until further orders. This supersedes all circulars or notifications issued by the Indian IP offices and provides protection to applicants who will be effected by Covid-19 with respect to not meeting the deadlines prescribed under IP laws.

The effects of the Trade Mark & Patent Office notifications and the Hon’ble Supreme Court’s order is as follows:

[1]. New Applications: Trade Marks

- 1.1 Application without user claim: Online filings are available for new trademark application during this period.
- 1.2 Application with priority claim: Online filings are available for new trademark application claiming priority during this period. Priority document can be filed within two months from the date of application.

¹ Notification No. CG Office/Public Notice/2020 dated March 23, 2020

² By virtue of Section 131 of the Act, the Registrar has the power to extend the time period for doing any act which is not provided under the Act, provided ‘sufficient cause’ is shown.

³ Notification No. CG F/Public Notice/2020/215 dated March 19, 2020

⁴ Suo Moto Writ Petition (Civil) No. 3/2020 dated March 23, 2020

- 1.3 Application with user claim: Online filings are available for new trademark application during this period. However, the affidavit along with evidence in support of user claim may be filed later on once the situation becomes normal.

New Applications- Patents

- 1.4 Application : Online filings are available for new patent applications during this period as before.

[2]. Office Actions (Examinations Reports) - Trade Marks

All deadlines of office actions stand extended w.e.f. March 15, 2020 until further orders. Even otherwise, extensions under Section 131 can be successfully claimed, if required, after the situation becomes normal.

Hearings: All hearings listed till April 15, 2020 have been adjourned until further notice. We shall revert upon receiving new dates.

[3]. Office Actions – Patents & Designs

All the hearings in Patent Office through video Conferences scheduled between 23rd March 2020 and April 15, 2020 stands cancelled. Dates of rescheduled hearings shall be communicated as and when available.

Further, all 'in-person' hearings in Patents and Designs matters scheduled till 15th April, 2020 by the Controller have been cancelled.

- 3.1 The hearings scheduled after 15th April, 2020 will remain as it is.
- 3.2 Indian Patent Office has adjourned hearing of all Design applications scheduled between 18th March 2020 and 15th April 2020. New dates will be communicated as and when available.

[4]. Deadlines in Trade Mark Opposition/Appeal matters:

- 4.1 Notices of Opposition/Counter Statements/Cancellation Actions: Online filings are available for Notices of Opposition, Counter Statements and Cancellation actions.
- 4.2 Evidence in oppositions/cancellation: All deadlines for filing evidences in opposition/cancellation matters stand extended w.e.f. March 15, 2020 until further orders. Even otherwise, extension under Section 131 can be sought once the situation becomes normal.
- 4.3 Appeals: All deadlines for filing appeals stand extended w.e.f. March 15, 2020 until further orders.

[5]. Renewals: Trade Marks

Online filings are available for trademark renewals.

Renewals – Patents

Patents renewals can be done online during this period.

[6]. Trademark/Patents/Designs Searches:

Searches can be conducted online.

For any queries, please reach us at info@kochhar.com

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