



# COVID 19

## IP proceedings on pause – European IP offices grant time limit extensions during the coronavirus pandemic

9 April 2020

In response to the coronavirus pandemic, most IP offices implemented measures to minimise negative impacts on users. Here is an overview of the measures taken by EUIPO, the European Patent Office, UKIPO, the Austrian Patent Office, the German Patent and Trademark Office, and WIPO.

### EUIPO

The executive director of the EU Intellectual Property Office (EUIPO) has issued a formal [decision](#) according to which procedural time limits that affect all parties in proceedings before the Office and expire at any point from 9 March 2020 up to and including 30 April 2020 will automatically be extended to Friday 1 May 2020. Since Friday, 1 May 2020 is a public holiday, time limits are practically extended until Monday, 4 May 2020. The extension is granted automatically and irrespective of whether the procedural time limit has been set by the Office itself or is statutory in nature. The extension includes some of the most common statutory deadlines such as the payment of application fees, the opposition period and payment of opposition fees, requests for a renewal, the right of priority, conversion and deferment of publication of design.

However, time limits in proceedings before other authorities are not covered by the extension. This means that in particular the extension does not apply to time limits for actions to be filed with the General Court against decisions of the Boards of Appeal (Article 72(5) EUTMR and Article 61 CDR).

### European Patent Office

All deadlines expiring on or after 15 March 2020 are [extended until 17 April 2020](#). In respect of deadlines that expired before 15 March 2020, the EPO will facilitate easier access to legal remedies for users located in an area directly affected by disturbances due to the COVID-19 outbreak. On 7 April 2020 the list of risk areas included Austria, Egypt, France, Germany, Iran, Italy, in Republic of Korea: Daegu and the province of Gyeongsangbuk-do (North-Gyeongsang), Spain, in Switzerland: the cantons of Geneva, Ticino and Vaud and in the United States: the states of California, New Jersey, New York and Washington. The extension is granted automatically.

As the [notice](#) from EPO on disruptions due to the COVID-19 outbreak is not entirely clear on the scope of time limits covered by it, it is advisable not to rely on the COVID-19 term extension in respect to certain time limits. This includes the payment of annual and term fees, divisional applications, written pleadings in oral proceedings which are not postponed due to the corona crises and time limits for filing and executing an appeal. In respect to PCT applications, the deadline extension would only apply to those acts that the EPO takes as acting authority, e.g. as Receiving Office (RO), International Searching Authority (ISA) or as International Preliminary Examination

### Your team

**Dr. Lutz Riede**  
Counsel, Intellectual Property  
T +43 1 515 15 518  
E [lutz.riede@freshfields.com](mailto:lutz.riede@freshfields.com)

**Mag. Iris Amschl**  
Associate, Intellectual Property  
T +43 1 515 15 694  
E [iris.amschl@freshfields.com](mailto:iris.amschl@freshfields.com)

**Mag. Miriam Benmoussa**  
Associate, Intellectual Property  
T +43 1 515 15 540  
E [miriam.benmoussa@freshfields.com](mailto:miriam.benmoussa@freshfields.com)

Authority (IPEA). In addition, all oral hearings scheduled for 17 April 2020 have been postponed until further notice, unless videoconferencing has been confirmed.

## UKIPO

UKIPO has issued a formal [decision](#) that all time limits concerning patents, supplementary protection certificates, trade marks and designs as of March 24, 2020 are automatically extended until further notice. The UKIPO intends to review the situation on 17 April 2020 on whether to continue the interruption period and will provide a minimum of 2 weeks' notice before ending the period of interruption. The interruption applies to all time periods set out in the various relevant UK Acts and Rules, and to all non-statutory periods that have been specified by staff of UKIPO. However, the interruption period does not affect filing dates of new IP applications filed at UKIPO. The filing date on record for a new application will remain the actual date that it was filed.

## Austrian Patent Office

All outstanding administrative time limits in proceedings before the Austrian Patent Office (ÖPA) are [extended](#) ex officio **two months**. In respect to time limits concerning the submission of a reply in bilateral proceedings (e.g. trademark revocation proceedings and opposition), a **request of extension** must be submitted.

The extension does not apply to the payment of annual and term fees as well as grace periods, deadlines for filing translations for European patents which have not been granted by EPO in German, time limits for reinstatement and further processing and priority periods (the novelty requirement remains unaffected).

With regards to statutory time limits, the 4th Austrian Covid Act provides that the period from 16 March 2020 to the expiry of 30 April 2020 shall not be included in the period in which a request is to be made, a declaration is to be made or an action is to be taken. In this case the beginning of the deadline remains unchanged but the expiry of the deadline shall be postponed by the respective period from 16 March 2020 to the expiry of 30 April 2020 (46 days).

Time limits for appeals against decisions of the ÖPA which had not yet expired on 22 March 2020 will be interrupted until 30 April 2020. They will consequently begin to run again in full length on 1 May 2020.

## German Patent and Trademark Office

Deadlines in all ongoing property right proceedings granted by the German Patent and Trademark Office (DPMA) will be [extended until 4 May 2020](#), or no decision will be made until then due to the expiry of the deadline. In addition, the DPMA will continue to generously determine the time limits to be set by the office in accordance with the situation. Statutory time limits cannot be extended by the Office. However, an application for restitutio in integrum (reinstatement to the previous status) could be filed, on which a decision will then be made in each individual case. In addition, all oral hearings will be cancelled and no longer be held until further notice.

## WIPO – the notable exception

The World Intellectual Property Office (WIPO) is the only IP office that decided not take any special measures in respect to time limits in international trademark matters due to the coronavirus pandemic.

However, WIPO [indicated](#) that users can be excused under special circumstances. A user who failed to meet the time limit must (1) provide sufficient evidence of the reason why WIPO should excuse the delay (e.g. official announcement or a doctor's note), (2) send the respective communication within five days after regaining access to mail, delivery services or electronic communication, and (3) WIPO must receive that communication no later than six months from the date on which the applicable time limit expired.

Most other IP offices throughout Europe and the rest of the world have taken similar measures. For more detailed info, get in touch with us.

Please be aware that this overview reflects the status quo of 4 April 2020 and that the measures outlined above can change quickly.

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