



April 20, 2020

Mr. Piyush Goyal  
Minister of Commerce  
Government of India  
New Delhi

Mr. Ravinder  
Joint Secretary  
DPIIT  
Delhi

Mr. O.P. Gupta  
Controller General of Patents, Designs and Trade Marks  
Mumbai

RE: URGENT-Request for suo moto adjournment of all IP filing time lines and deadlines at the IPO in view of the COVID-19 pandemic till May 15, 2020.

Dear Sirs,

This is with reference to the public notice released by the CGPDTM on April 15, 2020, as attached herewith, pursuant to extension of the nationwide lockdown declared by the Central Government and reference is also made to our earlier letter of March 31, 2020 in respect of suo moto extension of deadlines to a reasonable date beyond the end of the lockdown period.

As earlier, the present notice purports to extend deadlines only till the, day when the IP Office opens pursuant to withdrawal of lock down notification which is presently May 04. This casts an onerous burden on right holders who may not have equipped themselves adequately with required IT infrastructure to take care of the deadlines falling during the lockdown period and it would practically require many of us in the fraternity to

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attend to all deadlines of the last 40 days/ file extensions on a singular day. It may also be mentioned here that there are several deadlines in the various IP statutes especially in patents- which are not extendable. The undersigned on behalf of the IP fraternity vide e-mail of March 23 had already requested a clarification to the learned Controller General's notification of March 19, 2020 and also a deferment of all deadlines (attached)- which is still awaited. It is reiterated that the present situation additionally casts heavy financial burden on right holders to pay for extension, being already hard pressed and suffering on account of business disruption, and all for no fault of theirs! It would additionally flood the IP Office with hundreds of extension applications.

The existing provisions in law provide for extension of timeline prescribed in law on account of delay caused by the applicant/right holder on their account, and therefore, fairly, subject to payment of official fee. However, not meeting the statutory or regulatory time line on account of compliance with lock down announced by the Government of India and shutting down of IP Office pursuant thereto, cannot be attributed to the members of the public. It is therefore grossly unreasonable, unfair and inequitable, on one hand, to deprive the right holders of their right to avail of prescribed timeline in law and, on the other hand, also make them pay for seeking such extension, merely because the timeline was allowed to continue running during the locked down period, though not made available !! This is a typical case of "double jeopardy" which is not permissible and untenable in law, being arbitrary in nature.

The Hon'ble Supreme Court, vide order dated March 23, 2020 a copy whereof is attached herewith, in Suo Moto Writ Petition (Civil) Nos. 3 of 2020 has directed '*... it is hereby ordered that a period of limitation in all such proceedings, irrespective of the limitation prescribed under the general law or Special Laws whether condonable or not shall stand extended w.e.f. 15th March 2020 till further order/s to be passed by this Court in present proceedings. We are exercising this power under Article 142 read with Article 141 of the Constitution of India and declare that this order is a binding order within the meaning of Article 141 on all Courts/Tribunals and authorities.*'

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We accordingly once again urge that all time lines prescribed in IP laws, statutory or regulatory, may be deferred by way of exclusion for the entire period of lock down, from the date of lock down announcement, i.e., 25<sup>th</sup> March 2020 or at least to a reasonable date (May 15) after which the IPO opens.

*Suo motu* deferment of all deadlines have been made by other governmental organizations like the EUPIO, USPTO, EPO and various other organisations.

Following are additional factors necessitating such exclusion /deferment of prescribe time lines for your kind consideration:

- It would not be feasible for some practitioners (those who have not been able to procure essential IT/infrastructure to work from home in view of the lockdown) to meet all deadlines of the last 40 days on a single day.
- There are many type of legal documents that are required to meet the deadlines and procurement as well as carrying out other formalities such as stamping/notarization etc. are not possible during the lockdown period. Originals of some documents such as POA and assignment deeds are required to be stamped before submission to the IPO as per law which is not possible on one single day.
- This will add to unprecedented website traffic on the online modules of the IPO which may lead to a crash on that day.
- On a humanitarian front, the COVID-19 pandemic may affect many more citizens of India and it would be unfair to stress on meeting statutory deadlines of non-essential services in these trying times, when lives are being lost and more are at stake.

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We may emphasize here that this request flows from the views of all our members of the Indian IP fraternity spanning the length & breadth of our country. The AIPPI Indian Group has over 100 active members, which represents virtually every firm/organization in active IP practice in India.

You are humbly requested to favorably consider the above request and defer all timelines prescribed under IP laws during the period of lock down and issue a notification / administrative order to that effect urgently.

Warm regards,

**Hemant Singh**

**President- AIPPI India Group**

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