



31<sup>st</sup> March 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 motto adjournment of all IP filing time lines and deadlines at the IPO in view of the COVID-19 pandemic till May 01, 2020.

Dear Sirs,

This is with reference to the public notice released by the CGPDTM on March 25, 2020, as attached herewith, pursuant to nationwide lockdown declared by the Central Government.

However, the notice purports to extend deadlines only till the day when the IP Office opens pursuant to the withdrawal of lockdown notification, which is presently April 15. It casts an onerous burden on the right holders to file all extensions on a single 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 of the learned Controller General's notification of March 19, 2020, and also a deferment of all deadlines (attached). It additionally casts a heavy financial burden on right

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holders to pay for the 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 locked down announced by the Government of India and shutting down of IP Office pursuant thereto, cannot be attributed to the members public. 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, 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."

In a major relief for companies going through insolvency under the Insolvency and Bankruptcy Code (IBC), the IBBI on March 29 said that the period of lockdown will not be counted within the timeline for resolution process.

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.

*Suo motu* deferment of all deadlines have been made by other governmental organizations like the EUIPO and EPO.

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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 21 days on a single day.
- This may likely 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.

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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