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KIPO's Announcement on the Operational Guidelines in Response to the COVID 19 Pandemic

Please be informed that according to the announcement made by the Korean Intellectual Property Office (KIPO), the KIPO has implemented operational guidelines for IPTAB (Intellectual Property Trial and Appeal Board) cases in response to the COVID-19 pandemic, to be effective from March 25, 2020. The KIPO also made an announcement for *ex officio* extensions of the time limit for IP application cases in response to the COVID-19 pandemic, to be effective from March 30, 2020.

In summary, the KIPO's basic policy on IPTAB cases is that all cases that fail to meet the deadline due to the COVID-19 pandemic can be remedied by a request for an extension of time before the due date or a request for revival after the lapse of the due date. Regarding applications for patents, utility models, designs and trademarks, if the designated period lapses between March 31, 2020 to April 29, 2020, the due dates will be automatically be extended to April 30, 2020, and applicants who have failed to meet the due date of the statutory period can revive their application if they subsequently submit a relief request along with an explanatory statement and evidential materials.

IPTAB Operational Guidelines

● Requests before the lapse of due dates

A request for an extension of time, changing the due date, or suspending proceedings for the IPTAB cases for reasons related to the COVID-19 pandemic situation may be approved by the IPTAB as follows:

- ✓ Extensions of time will be granted up to three times (three months) without any evidential materials, and a 4th extension and onwards is to be granted with evidential materials if the legitimacy is recognized.
- ✓ Change of due date for oral hearings will be approved.
- ✓ Request to suspend proceedings will be approved upon submission of evidential materials and then cases will be resumed for review with a request or an *ex officio* decision once the reason for the suspension has been removed.
 - ※ However, the suspension of a proceeding is only permitted when grounds for suspension are with the party himself.

- **Revival after the lapse of due dates**

For cases that were abandoned due to i) the inability to timely amend the relevant document before the IPTAB or ii) failure to meet the due date for filing a notice of appeal against the final rejection due to the COVID-19 pandemic, parties/counsels may request a revival of rights with the submission of evidential materials within 2 months from the lapsed date. However, the case cannot be revived when the request for revival is filed 1 year after the due date.

- **COVID-19 related expedited review**

For applications under expedited examination for a reason related to COVID-19, the party can also request an expedited review on the appeal proceeding of the final rejection for the case.

- **Overseas delivery for non-residents**

For an *inter parte* case for a non-resident (respondent) who does not have a counsel, the IPTAB will suspend proceedings* if documents cannot be sent to foreign countries (Japan, etc.) due to the suspension of international express mailing services.

*This only applies to countries where there are complications in the delivery system such as delays. Such disposition of suspension can be cancelled by the party's request (which requires evidential materials to be submitted) or under the tribunal judge's *ex officio* decision, depending on the change in the delivery situation of the mailing services.

IP Application Cases

- **Automatic extension of the due dates of the designated period**

Any deadlines for the designated period such as due dates for responding to Office Actions or for supplementing a request for expedited examination upon the KIPO's request that lapse between March 31 and April 29, 2020 will be automatically be *ex officio* extended to April 30, 2020.

However, this *ex officio* extension does not apply to the following statutory period for:

- ✓ National phase entry of PCT applications
- ✓ Filing patent applications under the Paris Convention
- ✓ Filing a request for examination
- ✓ Filing a request for re-examination against the Final Rejection
- ✓ Filing a notice of appeal against the Final Rejection_

Apart from the KIPO's guidelines, we would like to assure you that our firm is fully operational and also has taken the necessary steps to meet the original due dates of the cases we are handling. We will keep you updated with any further development. Please contact us at any time if you have any questions regarding specific cases.



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