

Flash Covid-19 - IP & Digital Team

The adjustment of time limits in intellectual property administrative and court proceedings

The health context related to the spread of the Covid-19 epidemic led the intellectual property offices as well as French and European courts to adjust their functioning so as to take into account the constraints experienced both by their employees and by the individuals and companies which are parties to proceedings pending before them.

The measures taken in this framework are not similar before all such offices and courts, which makes it necessary to draw up their inventory so as to ensure an effective monitoring of the proceedings pending, and those to be introduced, before these courts and offices.

1. Time limits adjustments before the intellectual property offices

Before the **French Industrial Property Office (INPI)**, the following rules apply (as per a decision of the General Director of the INPI dated March 16, 2020):

- The time limits laid down by the INPI in trademarks and designs proceedings that were still pending on March 16, 2020 are extended for a period of 4 months (it being specified that, throughout the whole duration of this health crisis, all the time limits laid down by the INPI in its notifications to the parties will be for a 4-month period).
- However, this extension does not apply to the time limits provided for under the French Intellectual Property Code (notably those pertaining to renewals, as well as all time limits in opposition proceedings), which therefore remain unchanged pursuant to the decision of the General Director of the INPI.

Before the **European Union Intellectual Property Office (EUIPO)**, all time limits expiring between March 9 and April 30, 2020 (included) are automatically extended to May 1, 2020, that is to say to May 4, 2020 since that will be the first business day after May 1 which is a public holiday (as per a decision of the EUIPO Executive Director dated March 16, 2020).

Before the **European Patent Office (EPO)**, all time limits expiring as from March 15, 2020 are extended until April 17, 2020 (as per an EPO announcement dated of March 15, 2020).

And lastly, the **World Intellectual Property Organization (WIPO)** has announced on March 16, 2020 that the "*processing of applications filed via WIPO's Global IP Services has not been affected by the Covid-19 outbreak*".



2. Time limits adjustments before the French and European Courts

The **3rd Chamber of the Civil Court of Paris (*Tribunal judiciaire de Paris*)**, specialized in intellectual property and which has exclusive jurisdiction in France over EU trademarks as well as patents, has indicated that:

- All civil hearings are cancelled as from March 16, 2020 (including hearings in summary proceedings and withdrawal summary proceedings, as well as procedural and pre-trial hearings). The cases that should have been examined during those hearings are or will be postponed to later dates which the parties will be informed of when the functioning of the Court has returned to normal. In the meantime, no further action is required from any party.
- All the rulings that were to be issued as from March 17, 2020 are postponed to later dates to be communicated later.
- New dates for enrollment of writ of summons will be issued, and summary proceedings as well as search and seizures will be authorized anew as soon as the functioning of the Court has returned to normal.

Before the **Court of Appeals of Paris (*Cour d'appel de Paris*)**, all procedural hearings are postponed (except for "vital hearings"). Pleading hearings that were scheduled up to April 30, 2020 are also postponed - except for hearings in summary proceedings and those relating to motions for urgent matters - and the cases at stake will be rescheduled as from September 28, 2020. It must be noted that all rulings that were to be issued as from March 16, 2020 are postponed to the week of June 15, 2020.

The same applies to proceedings pending before the **Civil Court of Nanterre (*Tribunal Judiciaire de Nanterre*)**, examined by the **Court of Appeals of Versailles (*Cour d'appel de Versailles*)** on appeal: since March 18, 2020, the Civil Court of Nanterre has only been reviewing "urgent" matters, while all other cases have been postponed until further notice; and all hearings scheduled between March 16 and April 20, 2020 (included) before the Court of Appeals of Versailles are also postponed to later dates which the parties will be informed of "as soon as possible".

Before the **French Supreme Court (*Cour de cassation*)**, all time limits are extended until further notice and, as far as civil matters are concerned, all hearings that were meant to take place during the period of containment ordered by the French government will be systematically postponed.

Lastly, and until further notice, the **General Court and the Court of Justice of the European Union (CJEU)** will only review utterly urgent matters. Nevertheless, in all other cases, it is still required that the parties comply with their procedural deadlines (including appeal deadlines). The pleading hearings scheduled until March 27, 2020 (as far as the CJEU is concerned) and April 3, 2020 (as far as the General Court is concerned), are postponed to later dates.



It must be noted that pursuant to Article 7 (2) of the "Emergency Act to face the Covid-19 epidemic" voted on March 22, 2020 by the French Parliament, the government has been empowered to take ministerial orders so as to (i) adjust time limits and proceedings before administrative authorities (§a), and (ii) "adapt, stop, suspend or extend time limits relating to nullity, lapse, foreclosure, statutes of limitations, unenforceability, loss of a right [...]" (§b).

It is to be expected that many time limits provided for under the French Intellectual Property Code and by the French Civil Procedure Code will be extended through such ministerial orders, but in the meantime, we recommend to remain careful and keep complying with the time limits that have not been modified in accordance with the foregoing, and notably renewal, opposition and appeal deadlines.

Altana's IP & Digital Team naturally remains available to right owners to provide any additional information regarding the functioning and the time limits adjustments decided by other French or European offices and courts, to answer any question during this challenging period, and to accompany them in their projects.

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