03/25/2020 Information
COVID-19

1. In view of the problems caused by the disruptions due to the COVID-19 outbreak, attention is drawn to the general legal remedies provided for under the European Patent Convention (EPC) and under the Patent Cooperation Treaty (PCT) in cases of non-observance of time limits and, in particular, to the application of Rule 134(2) EPC [1] in accordance with this Notice, as well as the possible application of Rule 134(5) EPC [1] and Rule 82*quater*.1 PCT [2].
2. As the state in which the European Patent Office is located the Federal Republic of Germany, like many other Contracting States, is experiencing restrictions on the movement and circulation of persons, as well as on certain services, exchanges and public life in general, which can be qualified as a general dislocation within the meaning of Rule134(2) EPC. Periods expiring on or after the date of this Notice are thus extended for all parties and their representatives to 17 April 2020. In accordance with Article 150(2) EPC this applies also for international applications under the PCT. The above period may be further extended by the publication of another notice if the dislocation extends beyond the aforementioned date.
3. Without prejudice to paragraph 2 of this Notice and in respect of cases not covered by it, Rule 134(5) EPC offers a safeguard in the case of non-observance of a time limit as a result of a dislocation in the delivery or transmission of mail caused by an exceptional occurrence affecting the locality where an applicant, a party or their representative resides or has his place of business. This provision applies to cases where the failure to observe time limits is the result of exceptional circumstances beyond the applicant's control and may therefore be invoked by any applicants, parties to proceedings or their representatives affected by the disruption in the areas affected by the outbreak[1].
4. Pursuant to Rule 134(5) EPC, any document received late will be deemed to have been received in due time if the person concerned offers evidence that on any of the ten days preceding the day of expiry of a period, it was not possible to observe the time limit due to this exceptional occurrence and that the mailing or the transmission was effected at the latest on the fifth day after the end of the disruption.
5. Without prejudice to paragraph 2 of this Notice, applicants are referred to Rule 82*quater*.1 PCT as regards time limits and conditions applicable under the PCT. In particular, where the interested party offers satisfactory evidence that a time limit under the PCT was not met due to natural calamity or other like reason in the locality where the interested party resides, has his place of business or is staying, and that the relevant action was taken as soon as reasonably possible (and no later than six months after expiry of the time limit in question), the delay in meeting the time limit is excused. This provision applies to international applications pending in the international phase, but not to the priority period.

[1] *Note:* As of 15 March 2020 the list of high-risk areas was updated to the following: China, South Korea, Iran, Italy, the German Landkreis Heinsberg in North Rhine-Westphalia, the French region Grand Est, the Austrian federal state of Tyrol, and Madrid. Please note that the areas defined as affected by the spread of COVID-19 are subject to change. Please refer to the EPO website [3] for regular updates.

Source URL: https://agepi.md/en/news/notice-european-patent-office-dated-15-march-2020-concerning-disruptions-due-covid-19-outbreak