24.03.2020 Информация
COVID-19

Remedies Available Against Failure to Meet a Time Limit Under the Madrid System and Extension of Time Limits in Case of Closure

1. The International Bureau of the World Intellectual Property Organization (WIPO) is mindful that possible disruptions might negatively affect users of the Madrid System due to measures taken against the Coronavirus disease (COVID-19) outbreak. Consequently, the International Bureau of WIPO wishes to remind those users of the remedies available against a failure to meet a time limit under the Madrid System. It also wishes to remind them of the automatic extension of time limits in case an Office is not open to the public, and to suggest measures users can take against possible disruptions in mail or delivery services.

I. Remedies Available Against Failure to Meet a Time Limit for a Communication Addressed to the International Bureau of WIPO

2. In certain parts of the world, access to mail and delivery services, as well as to electronic communication might be impracticable due to measures taken in connection with the COVID-19 outbreak, such as, for example, lockdown, quarantine or self-isolation.

3. In such a situation, under Rule 5(1), (2) and (3) of the Regulations under the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (the Regulations), users of the Madrid System who have failed to meet a time limit for a communication addressed to the International Bureau of WIPO may be excused if they send that communication within five days after regaining access to mail or delivery services or to electronic communication. In any event, the International Bureau of WIPO must receive the communication no later than six months from the date on which the time limit concerned expired.

4. Users must provide sufficient evidence of the reason why the International Bureau of WIPO should excuse the above-mentioned failure. Evidence could be, for example, an official announcement or an attestation by a certified physician.

II. Continued Processing

5. Holders or applicants who have failed to meet the time limits specified or referred to in Rules 11(2) and (3), 20bis(2), 24(5)(b), 26(2), 34(3)(c)(iii) and 39(1) of the Regulations* may request that the International Bureau of WIPO continue processing the international application, subsequent designation, payment or request concerned. They may request continued processing without giving any reason or providing any evidence.

6. Applicants or holders must request continued processing by presenting official form MM20 to the International Bureau of WIPO within two months from the date on which the above-mentioned time limits expired and meet all the prescribed requirements.

III. Closure of the Office of a Contracting Party

7. Offices of Contracting Parties should inform the International Bureau of WIPO of the fact that they are not open to the public and indicate the dates on which they will remain closed, either in the same communication or as soon as those dates are known, and specify the date on which they will reopen.

8. Under Rule 4(4) of the Regulations, a period that expires on a day on which an Office is not open to the public would expire on the first subsequent day on which that Office reopened. All time limits

under the Madrid System that concern that Office (e.g., the time limit to send a provisional refusal), including the time limit for the holder to respond to a notification sent by the Office (e.g., the time limit to respond to a notification of provisional refusal), would be extended accordingly.

9. In the communication mentioned in paragraph 7, above, Offices are strongly encouraged to include information on further flexibilities or remedies available to holders of international registrations in connection with time limits afforded by those Offices.

10. The International Bureau of WIPO will make publicly available all the relevant information that it receives from Offices of the Contracting Parties.

IV. Measures Against Possible Disruptions in Mail or Delivery Services

11. The International Bureau of WIPO strongly encourages applicants, holders, their representatives and Offices, to use electronic communication to mitigate the negative effects of possible disruptions in mail or delivery services.

12. Applicants, holders and representatives may present requests to the International Bureau of WIPO using the upload function in **Madrid Portfolio Manager** or through the **Contact Madrid** electronic service. They are also strongly encouraged to use other electronic services, namely, **e-Payment**, **e-Renewal** and **e-Subsequent designation**.

13. Most importantly, applicants, holders and representatives are strongly encouraged to provide an e-mail address to receive electronic communications from the International Bureau of WIPO. Those who have not yet provided an e-mail address may do so through the **Contact Madrid** electronic service. The International Bureau of WIPO will continue to send a communication by postal services where a communication sent by electronic means fails to reach its intended recipient.

**Note:* Time limits to remedy an international application, a request for the recording, amendment or cancellation of the recording of a license, a subsequent designation, a request for the recording of cancellation, limitation or a change to the international registration, pay the second part of an individual fee, or, file a request for continuation of effects in a successor State.

Источник: https://www.agepi.md/ru/node/14211