

## IPR

### COVID-19

# Statutory and Regulatory Updates for Companies



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SINCE 1985





In view of the recent COVID-19 outbreak, various Constitutional Courts as well as statutory bodies related to Intellectual Property Laws in India have announced several relief measures for the stakeholders. The said measures have been detailed hereinbelow, along with their implications.

#### **1. Hearings at Trademark Registry:**

The Office of Controller General of Patent, Design and Trade Marks (CGPDTM), vide its Public Notice<sup>1</sup> dated March 16, 2020, has notified that:

- a. All hearings related to trademarks matters at Trademark Registry scheduled between March 17, 2020 and April 15, 2020 stand adjourned.
- b. The aforesaid hearings will be rescheduled in due course of time.
- c. Hearings scheduled after April 15, 2020 remain unchanged.

1. CG Office/Public Notice/2020 dated March 16, 2020, available at: [http://www.ipindia.nic.in/writereaddata/Portal/Images/pdf/Public-Notice\\_adjournment.pdf](http://www.ipindia.nic.in/writereaddata/Portal/Images/pdf/Public-Notice_adjournment.pdf).

## 2. Filing of documents at Trademark Registry:

The Office of CGPDTM, *vide* its Public Notice<sup>2</sup> dated March 23, 2020, has notified that:

- a. The Applicant can, now or after situation becomes normal, file a request for extension of time for submission of documents. [as per Section 131 of the Trade Marks Act, 1999 and Rules 109 & 110 of Trade Marks Rules, 2017]
- b. Such request will be considered by the Registrar in accordance to law.

## 3. Hearings at Patent Office:

The Office of CGPDTM, *vide* its Public Notice<sup>3</sup> dated March 19, 2020, has notified that:

- a. All in-person hearings in Patents and Designs matters at Patent Offices at Delhi, Mumbai, Kolkata and Chennai and Design Wing at Kolkata, scheduled on or before April 15, 2020 by the Controller should be changed to Video Conferencing (VC) hearings.
- b. Wherever the Applicant is unable to agree for the VC hearing, the Controller shall adjourn such hearing to a date later than April 15, 2020.
- c. The hearings scheduled after April 15, 2020 will remain unchanged.

However, post the nation-wide lockdown from Tuesday midnight i.e. March 24, 2020, the Office of CGPDTM, *vide* its Public Notice<sup>4</sup> dated March 25, 2020, has notified that:

- d. All the VC hearings in the Patent Office scheduled between March 23, 2020 and April 14, 2020 are also cancelled.
- e. Further dates of rescheduled hearings will be communicated shortly.

## 4. Filing of documents at Patent Office:

The Office of CGPDTM, *vide* its Public Notice<sup>5</sup> dated March 19, 2020, has notified that:

- a. Delay in transmitting or resubmitting documents to the Patent Office will be condoned / timeline be extended by the Controller on a petition for such condonation of delay / extension of time made not later than one month from the date when such COVID-19 outbreak ceased to exist [as per sub-rule (6) of Rule 6 of the Patents Rules].

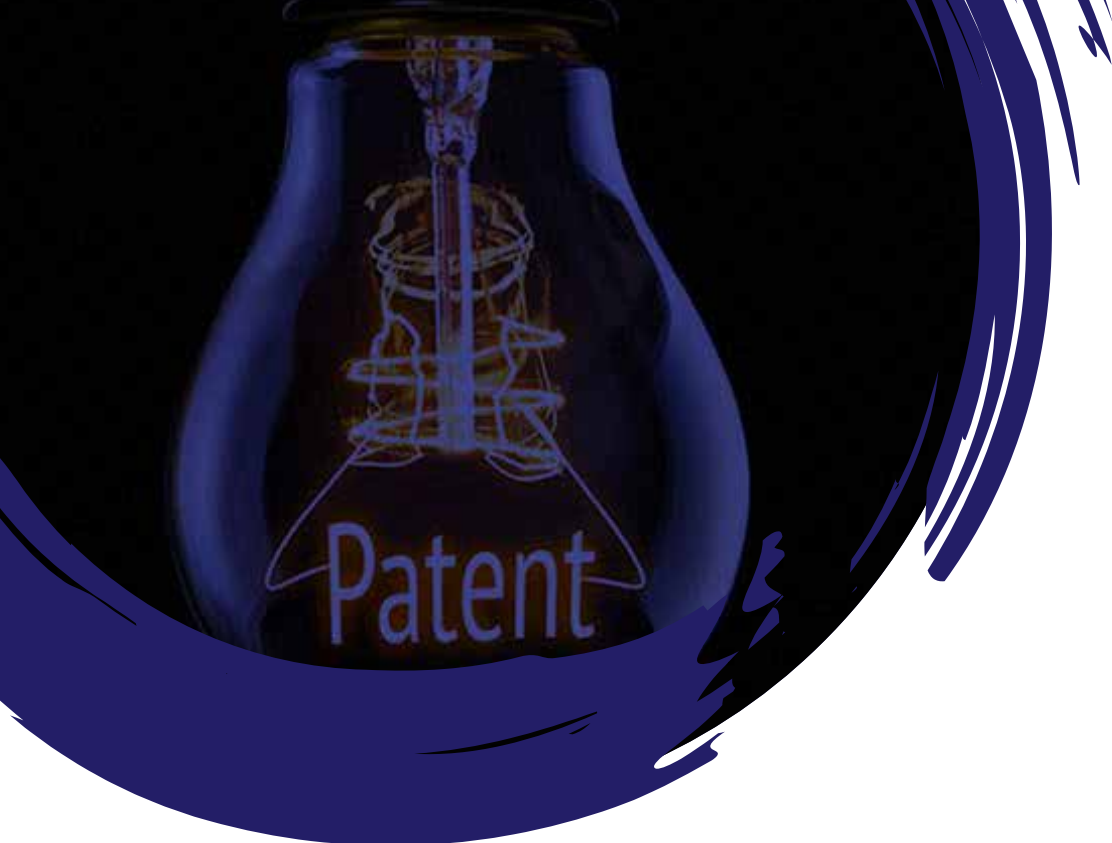
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2. CG Office/Public Notice/2020 dated March 23, 2020, available at: [http://www.ipindia.nic.in/writereaddata/Portal/News/671\\_1\\_Public-Notice\\_adjournment\\_General.pdf](http://www.ipindia.nic.in/writereaddata/Portal/News/671_1_Public-Notice_adjournment_General.pdf).

3. CG/F/Public Notice/2020/215 dated March 19, 2020, available at: [http://www.ipindia.nic.in/writereaddata/Portal/News/668\\_1\\_PUBLIC\\_NOTICE.pdf](http://www.ipindia.nic.in/writereaddata/Portal/News/668_1_PUBLIC_NOTICE.pdf).

4. Notice text available at <http://www.ipindia.nic.in/newsdetail.htm?670/>.

5. *Supra* note 3.



- b. Such condonation of delay / extension of timelines is applicable to filing of responses and / or documents relating to various proceedings under the Patents Act and corresponding rules made thereunder.

#### **5. Extension of Timelines related to Patent Office, Design Office, Trademark Registry and Geographical Indication Registry:**

The Office of CGPDTM, *vide* its Public Notice<sup>6</sup> dated March 25, 2020, has notified that:

- a. All the Offices under administrative control of Office of CGPDTM, i.e. Patent Office, Design Office, Trademark Registry and Geographical Indication Registry, will remain closed for a period of 21 days with effect from March 25, 2020 i.e. until April 14, 2020.
- b. Due dates of timelines / periods prescribed under different statutes administered by the Office of CGPDTM with respect to completion of various acts / activities, filing of any reply/document, payment of fees, etc. regarding any IP applications filed with the offices under the administrative control of the Office of CGPDTM shall be the date on which the offices will re-open.

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6. Corrigendum to Public Notice dated March 25, 2020, available at:  
[http://www.ipindia.nic.in/writereaddata/Portal/News/673\\_1\\_Corrigendum\\_Public\\_Notice\\_25032020.pdf](http://www.ipindia.nic.in/writereaddata/Portal/News/673_1_Corrigendum_Public_Notice_25032020.pdf).

## 6. Extension in Physical Filings:

The Supreme Court of India on March 23, 2020 took *suo motu* cognizance of difficulties arising because of COVID-19 Virus outbreak.<sup>7</sup> The Hon'ble Court passed an order to obviate such difficulties and to ensure that lawyers / litigants do not have to come physically to file such documents:

- a. The Hon'ble Court ordered that the period of limitation in filing petitions, applications, suits, appeals, and all other proceedings, irrespective of the limitation prescribed under the general law or Special Laws whether condonable or not, stand extended with effect from March 15, 2020.
- b. This order is binding on all Courts, Tribunals and authorities (including High Courts, District Courts, Intellectual Property Appellate Board and the Offices under administrative control of Office of CGPD TM).

## 7. Extension of Stay Orders:

By taking *suo motu* cognizance of the present COVID-19 outbreak, the Delhi High Court was pleased to pass an order<sup>8</sup> on March 25, 2020, stating *inter alia* that

- a. In all matters pending before the Hon'ble Delhi High Court as well as subordinate courts, wherein interim orders were subsisting as on March 16, 2020 and expired or will expire thereafter, were extended till May 15, 2020 or until further orders, except where any orders to the contrary had been passed by the Hon'ble Supreme Court of India in any particular matter, during the intervening period;
- b. In case the above-mentioned extension to the interim order causes any hardship of an extreme nature to any party, the party would be at liberty to seek appropriate relief.

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7. *Suo Motu* WP (Civil) No. 3/2020; order attached.

8. W.P. Urgent 2/2020 (To be numbered subsequently); order attached.



## IMPLICATIONS FOR STAKEHOLDERS

- Limitation period of filing of all physical documents stands extended with effect from March 15, 2020. E-filing of documents, wherever applicable, can be done by the attorneys/agents of the stakeholders. However, delay in e-filing may also be condoned.
  - However, depending upon the facts and circumstances of the case and the statutory body, condonation application/petition along with prescribed fees may be required to be filed in accordance with the law.
  - Further, all hearings stand adjourned and they will be rescheduled in due course of time.
  - In wake of extent of the current pandemic, any defect is likely to be considered favorably by the respective Courts, Tribunals and authorities on such a request being made in accordance with the law.
  - Also, the order passed by the Hon'ble Delhi High Court grants automatic extension to all interim orders till May 15, 2020 pending before the Delhi High Court or any subordinate courts . However, if the extension causes hardship of extreme nature to any party then the said party can seek appropriate relief. This helps the stakeholders to safeguard their interests during the lock-down period.
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