



ERGO

Analysing developments impacting business

RECENT SURGE IN COVID-19 CASES RESULTS IN SUSPENSION OF DEADLINE FOR TIME-BOUND IP FILINGS IN INDIA

3 May 2021

The recent rise in the COVID-19 cases in India led the Hon'ble Supreme Court of India (Supreme Court) to pass another order dated 27 April 2021 (SC Order) in Suo Moto Writ Petition (Civil) No 3/2020 (SC Matter), restoring its earlier order dated 23 March 2020 ([Earlier SC Order](#)). Last year in March 2020, Supreme Court vide Earlier SC Order had extended the period of limitation in all legal proceedings, whether condonable or not, with effect from 15 March 2020 till further orders.

In view of the SC Order, the deadlines for various acts/proceedings, filing of any reply/document, payment of fees, etc. relating to any intellectual property matter (IP Filings) falling due on or after 15 March 2020 are once again suspended until further orders by the Supreme Court.

Background

In light of the COVID-19 pandemic, in March 2020, the Supreme Court had exercised its jurisdiction under Articles 141 and 142 of the Constitution of India and had passed the Earlier SC Order directing extension of the period of limitation in all legal proceedings. The Earlier SC Order was extended from time to time. After initial aversion, the Controller General of Patents, Designs and Trade Marks (IP Office) had suspended all deadlines for IP Filings.

On 8 March 2021, considering the situation was returning to normalcy, Supreme Court ended the extension of limitation period with effect from 14 March 2021 and issued guidelines in that regard. The IP Office, in consonance with the Supreme Court's order dated 8 March 2021, issued a notification dated 24 March 2021 resuming the deadlines for IP Filings. These developments were covered in our previous ERGOs dated [13 May 2020](#), [27 May 2020](#), [25 June 2020](#) and [23 March 2021](#).

Latest development

Owing to the recent surge in COVID-19 cases and several lockdown restrictions in various parts of India, the Supreme Court Advocate on Record Association filed an application in the SC Matter seeking restoration of the Earlier SC Order. On 27 April 2021, the Supreme Court, taking judicial notice of the present scenario, passed the SC Order restoring the Earlier SC Order, until further orders.

Comment

It is expected that IP Office will soon issue a formal notification in line with the SC Order. The SC Order was once again a need of the time as in the present circumstances, it is well-nigh impossible to meet the deadlines for IP Filings. Although the country is still waiting for some respite from the intensifying pandemic, the SC Order has given some relief to the stakeholders in meeting the strict deadlines.

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