

Japan

With reference to the proposal from the delegation of the United States, the International Bureau invited information on relief mechanisms for patent applicants and owners affected by “force majeure” circumstances. The Japan Patent Office (JPO) response is as follows:

Japan Patent Law provides two types of relief in cases where the procedure could not have been carried out within the time limit due to reasons beyond the concerned party's control.

1. Time limits designated by the JPO at its own discretion, such as the deadline for reply to office actions, can be extended subject to appropriate responses as soon as possible after recovery together with a statement explaining reasons for extension.
2. Time limits fixed by the Patent Law can be extended subject to taking necessary actions within fourteen days (or within two months for residents abroad) after recovery but not later than six months following expiration of the time limit together with a statement explaining reasons for extension.
This type of extension is applicable to the following examples:

- Time limits for late payments of annual fees for restoration of patent rights (Refer to Section 112bis(1) of the Japanese Patent Law)
- Time limits for filing an appeal of an examiner decision (Refer to Section 121(2) of the Japanese Patent Law)
- Time limits for demands for retrial (Refer to Section 173(2) of the Japanese Patent Law)
- Time limits for filing an application for extension of a patent right term (Refer to Section 4 of the Japanese Patent Law Enforcement Order)

In addition special emergency laws may be established to stipulate relief measures to be taken in emergency situations affecting a wide range of people. In fact, the Japanese Diet passed a special emergency law in 1995 to provide various relief measures for those adversely affected by the Kobe earthquake. Under this special emergency law, the JPO has provided several time limit extensions that had no basis in the Patent Law itself.