



## Covid-19: Impact on trade marks and designs

UKIPO and EUIPO introduce period of adjustment during Covid-19

The UK Intellectual Property Office (UKIPO) and EU Intellectual Property Office (EUIPO) already offer most services electronically and so are able to operate largely as normal. Nevertheless, to reflect the disruption caused by Covid-19, both offices introduced a period of adjustment.

### 'Interrupted days'

The UKIPO declared 24 March 2020 and all subsequent days until further notice to be 'interrupted days', with the effect that all deadlines falling in this period are extended until at least 6 July 2020. (The period may be further extended, subject to review on 22 June 2020.) Meanwhile the EUIPO automatically extended all time limits expiring between 9 March and 17th May 2020 until 18th May. The automatic extension has now ended but discretionary extensions of time (of up to six months) are available where applicants or parties in inter partes proceedings face operational difficulties due to lockdown measures or sickness.

The UKIPO has also indicated that it will be open to extensions of time in matters which fall outside the 'interrupted days' on a discretionary basis, in situations where the coronavirus outbreak is likely to delay or prevent applicants meeting deadlines.

Notwithstanding the interruption, both the UKIPO and EUIPO remain operational, are allocating filing dates as normal and encourage users to meet original deadlines where possible.

### Hearings

The majority of UKIPO hearings take place by phone or skype in normal business conditions. As such, the only hearings likely to be impacted by the current lockdown measures are more complex hearings such as those involving witness cross examination. These are likely to be postponed.

The EUIPO does not offer hearings in any case. The EU Board of Appeal does, but very rarely.

### Practical considerations

While more generous deadlines may give an illusion of extra time, in reality tasks such as evidence preparation could take longer than usual while all those involved are working remotely.



Fortunately the UKIPO and EUIPO accept e-signatures on all documents including witness statements. However in some jurisdictions, where formal requirements such as notarisation and legalisation are de rigueur, creative workarounds may be required (taking time).

On the flipside the UKIPO's 'interrupted days' and generous time limits mean that trade marks are taking longer to register than normal, even if unopposed. This may have practical implications for enforcement. Although it is possible to oppose a third party application based on a pending right, a registered right is required in order to start infringement proceedings or seek an interim injunction. At the EUIPO, applications are now progressing in the normal way. However, if an application is opposed the opposition could take considerably longer than normal given the availability of unusually generous extensions of time even in inter partes proceedings.

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## Need advice?

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