



Mr. Júlio César
Castelo Branco Reis Moreira
President
National Institute of Industrial
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Ministry of Development, Industry,
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June 12, 2024

Dear President Castelo Branco Reis Moreira,

I have the pleasure of referring to your letter of May 13, 2024, concerning the excuse of delays in meeting time limits due to the calamity in the State of Rio Grande do Sul, Brazil.

First, please allow me to express my profound sadness and solidarity for this disaster caused by heavy rains in Rio Grande do Sul. We fully understand the disruptions it caused, particularly for applicants of industrial property rights.

As far as the Patent Cooperation Treaty (PCT) System is concerned, the International Bureau of the World Intellectual Property Organization (WIPO) will publish information about the measures taken by your Office, to the extent that is applicable to the PCT procedures, in the *Official Notices (PCT Gazette)* and likewise in the *PCT Newsletter*.

Neither the International Bureau of WIPO nor the Director General possesses under the PCT the authority to excuse delays in meeting time limits or to waive the application of existing Articles and Rules which contain time limits or the provisions relating to the consequences of failing to comply with those time limits. That said, the following information concerning existing provisions within the PCT legal framework may provide a significant measure of support to affected PCT applicants.

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- 1) PCT Rule 82*quater* (“Excuse of Delay in Meeting Time Limits and Extension of Time Limits”) of the PCT Regulations, in particular, provides that applicants affected by a “natural calamity” (such as catastrophic flooding) may offer evidence that a time limit for undertaking a particular action before a PCT Office of Authority was not met because of that calamity. The International Bureau is agreeable to your suggestion and will accordingly include in our published information that in accordance with PCT Rule 82*quater*.1(d), the International Bureau (including in its capacity as receiving Office) will waive the need for evidence for requests for excuse of delay in meeting time limits under PCT Rule 82*quater*.1(a) coming from affected PCT applicants.
- 2) For affected PCT applicants who were unable to file their PCT applications within the priority period because of the flooding but who are able to file them within two months from the expiration of the 12-month period, they can request restoration of the right of priority before receiving Offices (in accordance with PCT Rule 26*bis*.3) which apply this provision. Because INPI still maintains a notice of incompatibility in relation to this particular Rule, affected applicants in Brazil may wish to file such PCT applications with the receiving Office of the International Bureau, which is prepared to give such applications favorable consideration.

The PCT colleagues at the International Bureau stand ready to assist PCT applicants from Brazil who have been affected by this natural disaster on a case-by-case basis and determine what potential solutions might be available given the particular facts and circumstances. They are prepared to work closely with corresponding colleagues at the Brazilian National Institute of Industrial Property to address these cases.

Hague System

Regarding the Hague System for the International Registration of Industrial Designs, the following considerations are pertinent to interested parties affected by the current situation in the State of Rio Grande do Sul.

- 1) The floods in the State of Rio Grande do Sul and their aftermath qualify as a natural calamity in accordance with Rule 5(1) of the Common Regulations Under the 1999 Act and the 1960 Act of the Hague Agreement (hereinafter referred to as the “Common Regulations”).
- 2) Consequently, interested parties (e.g., applicants, holders, representatives) who failed to meet a time limit specified in the Common Regulations to perform an action before the International Bureau due to this natural calamity shall be excused under the said rule.
- 3) As suggested in your communication, and pursuant to Rule 5(2) of the Common Regulations, interested parties from the State of Rio Grande do Sul are exempt from the evidence requirement referred to in Rule 5(1) of the Common Regulations as long as the adverse effects of this natural calamity persist.
- 4) As prescribed in Rule 5(3) of the Common Regulations, the action for which the time limit was missed must be performed before the International Bureau as soon as reasonably possible and not later than six months after the expiry of the time limit concerned.

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Colleagues in the International Bureau are ready to support Brazilian applicants, holders and representatives affected by these events and remain available to provide further information and assistance to help them preserve their rights.

Madrid System

Regarding the Madrid System for the International Registration of Marks, the following considerations are pertinent to interested parties affected by the current situation in the State of Rio Grande do Sul.

- 1) The floods in the State of Rio Grande do Sul and their aftermath qualify as a natural calamity in accordance with Rule 5(1) of the Regulations under the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (hereinafter referred to as “the Regulations”).
- 2) Consequently, interested parties (e.g., applicants, holders, representatives) who failed to meet a time limit specified in the Regulations to perform an action before the International Bureau due to this natural calamity shall be excused under the said rule.
- 3) As suggested in your communication, interested parties from the State of Rio Grande do Sul are exempt from the evidence requirement referred to in Rule 5(1) of the Regulations as long as the adverse effects of this natural calamity persist.
- 4) As prescribed in Rule 5(4) of the Regulations, the action for which the time limit was missed must be performed before the International Bureau as soon as reasonably possible and not later than six months after the expiry of the time limit concerned.

Colleagues in the International Bureau are ready to support Brazilian applicants, holders and representatives affected by these events and remain available to provide further information and assistance to help them preserve their rights.

Yours sincerely,



Daren Tang
Director General