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A few Q&A of interest to patent practitioners in times of pandemic

Miquel Montaña (Clifford Chance) · Wednesday, March 25th, 2020

The author would like to begin this blog by wishing that all the readers are well at this difficult time. The purpose of this piece is to briefly set out some questions and answers that may give readers a feel of the impact that the measures approved by the Spanish Government to combat Covid-19 may have on cases pending before the courts or the Spanish Patent and Trademark Office in Spain.

The declaration of the state of emergency to manage the health crisis situation caused by the Covid-19 virus, pursuant to Royal Decree 463/2020 of 14 March (as amended by Royal Decree 465/2020, of 17 March), has included the adoption of certain measures in relation to procedural, administrative and civil deadlines. These measures have been supplemented by those established in Royal Decree-Law 8/2020, of 17 March, as regards other time limits applicable to the legal regime governing legal entities. In addition, the General Council of the Judiciary has approved a set of measures dealing specifically with judicial activities.

The main measures that may be of interest to patent practitioners are briefly discussed in a Q&A format below.

1. Have court hearings been suspended?

Yes, during the state of emergency, hearings have been suspended, with some very limited exceptions relating to criminal cases, cases dealing with fundamental rights, and hearings in which their suspension may cause irreparable damage to the parties. Later today, the Spanish Parliament will most likely approve an extension of the state of emergency until 11 April 2020.

Depending on how the pandemic evolves, additional extensions might be approved.

2. When will the hearings be rescheduled?

At this stage, it is uncertain when the hearings that have been suspended will be rescheduled, let alone the new date of such hearings.

3. Are all procedural time limits and deadlines suspended and interrupted?

Yes, in general, all time limits and deadlines established in the law or in judicial orders are interrupted for as long as the state of emergency or its extensions is in force.

4. May writs be filed at court during the state of emergency?

The short answer is no. The General Council of the Judiciary has prohibited the filing of writs during the state of emergency, unless they relate to judicial actions that have not been suspended.

There may be exceptions, such as the filing of writs which serve to prevent irreparable harm from being caused to parties to legal proceedings.

5. If a time limit has been suspended, will the period recommence entirely when the state of emergency ends, or resume for the number of days left?

Although this aspect has not been specifically addressed, the most logical interpretation would be that when the state of emergency is lifted, the party will only have the remaining number of days that were left in the period in question before it expires.

Hopefully, all this will form part of history soon and everything will return to normal in the not-too-distant future.

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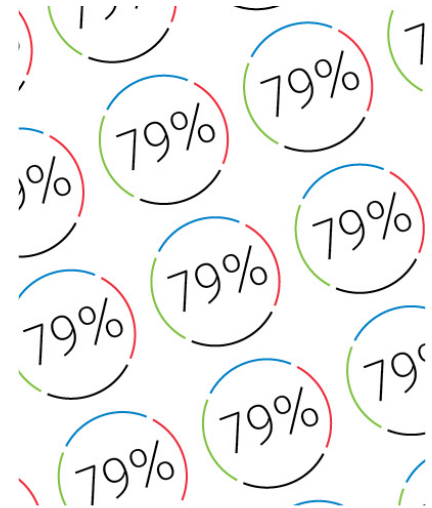
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