

5 KEY TAKEAWAYS

Missed a Patent Deadline at The Chinese Patent Office (CNIPA) Because of the COVID-19 Outbreak? Here Is What You Can Do

In light of the recent coronavirus (COVID-19) outbreak, Charles Gray, a partner in Kilpatrick Townsend's Shanghai office, offers helpful steps for those who missed a patent deadline due to the virus.

Here are five key takeaways:

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Can time limits be restored?

Restorable:

- All standard time limits during application procedures (e.g., the time limit for responding to Office Actions or for payment of fees)

Not restorable:

- Time limits for claiming priority
- Grace period for patent novelty
- Term of protection
- Limitation of action for infringement

Does this apply to foreign applicants?

Yes, this applies to foreign applicants as well as their agents in China (e.g., Chinese IP firms)

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When can the request be submitted?

Requests can be submitted within two months from the date of removal of the issue causing the delay

What are the required materials?

- Request form for the restoration of rights
- Statement of reasons (e.g., state that the party was being quarantined or infected, that the premises were closed or that the offices were prevented from opening due to the government's order, etc.)
- Supporting materials (e.g., doctor's records of the party being diagnosed with or treated for COVID-19, the official notice or announcement for control or closure issued by the local administrative agency, etc.)

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How much are the official fees?

If the rights were lost due to the COVID-19 outbreak, there are no official fees for a request for restoration of rights (otherwise 1000 RMB or approx. \$145)

For more information, please contact Charles Gray at cgray@kilpatricktownsend.com.