



LIETUVOS RESPUBLIKOS VALSTYBINIS PATENTU BIURAS
STATE PATENT BUREAU OF THE REPUBLIC OF LITHUANIA

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Japan Patent Office
Ministry of Economy, Trade and Industry
Government of Japan

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RE: BAIL-OUT MEASURES AVAILABLE ACCORDING TO THE LAWS IN LITHUANIA

The State Patent Bureau of the Republic of Lithuania (SPB) expresses sincere condolence for the terrible impact of the earthquake and tsunami in Japan.

The SPB informs the applicants and rights owners from Japan about legal remedies provided under Lithuanian industrial property laws in the cases of non-observance of time limits:

1. According to Article 26 of the Law on Trade Marks of the Republic of Lithuania, the time limits may be extended once but for not longer than two months from the day of expiry of the initial time limit if the applicant, the proprietor of a mark or the holder of an international registration, or his representative files a written request and pays the fixed fee (for extension of the time limit – 80 LTL; for reinstatement – 120 LTL; 1 EUR = 3,4528 LTL). The time limits may be extended for:

- amendment of deficiencies in the application and in classifying goods and/or services under Nice classification (Article 13 (5), (6)),
- submission of a written request for a re-examination (Article 14 (3)),
- filing with the Appeals Division of the SPB a written appeal with a substantiated request for a review of the findings of the re-examination (Article 15 (1)),
- payment of the fee for the registration, publication and issue of a certificate (Article 17 (1)),
- motivated reply of the proprietor of the mark against which opposition is filed or his representative to the opposition (Article 18 (4)),
- submission of the documents, except for the application for the registration of a mark and for the issuance of a trade mark certificate, which are filed in a language which is not the state language, translated into the state language (Article 25 (1)),
- submission of a written request for a re-examination for refusal to grant protection on the grounds that the mark doesn't satisfy the requirements of Article 6 of the Trademark Law, filing with the Appeals Division of the SPB a written appeal with a substantiated request for a review of the findings of the re-examination and motivated reply to the opposition, made by the holder of the international registration (Article 34 (1), (2), (4)).

The applicant, the proprietor of a mark or the holder of an international registration, or his representative may, no later than within 2 months from the day of expiry of the initial time limit, file an application for the extension of the time limit. The time limit shall be extended on the decision of the State Patent Bureau. The applicant who was unable to observe the time limit set for payment of the fee to register the mark may be reinstated upon filing the following documents:

- 1) a substantiated request to reinstate the unobserved time limit;
- 2) a document stating the grounds of non-observance of the time limit;
- 3) a document certifying the payment of the fixed fee.

Reinstatement shall be granted on the decision of the Director of the State Patent Bureau. Refusal to extend the time limit or to grant reinstatement may be appealed to court in the manner prescribed by law.

Please take a note that it is not possible to reinstate the right to priority under the Law on Trademarks.

2. According to Article 32 (1) of the Law on Designs of the Republic of Lithuania, the time limits may be renewed once, but for not longer than two months from the day of expiry of the initial time limit, if the applicant or his representative files a written request and pays the fixed fee (for extension of the time limit – 80 LTL; for reinstatement – 120 LTL). The time limits may be renewed for:

- amendment of deficiencies in the application or submission of lacking documents (Article 18 (5)),
- submission of a written request for a re-examination (Article 19 (3)),
- filing with the Appeals Division of the SPB a written appeal with a substantiated request for a review of the findings of the re-examination (Article 20 (1)),
- payment of the fee for the registration, publication and issue of a certificate (Article 22 (1)),
- justified reply of the design holder against which opposition is filed or his representative to the opposition (Article 23 (4)),
- submission of the documents, except for the application for the registration of a design and for the issuance of a certificate of registration of a design, which are filed in a language which is not the state language, translated into the state language (Article 31 (1)).

According to Article 32 (4) of the Law on Designs, reinstatement of the time limit for payment of the fee for the registration, publication and issue of a certificate shall be granted, if the documents required ((1) a substantiated request to reinstate the missed time limit; (2) a document stating the grounds of missing of the time limit; (3) a document certifying the payment of the fee fixed for the reinstatement of the time limit) are submitted within 2 months from the moment the circumstances on the grounds whereof the applicant failed to timely pay the fixed fee and (or) present a document confirming the payment of the fee, ceased to exist, but not later than within one year from the end of the time limit which had to be observed. Reinstatement of the time limit shall be granted on the decision of the Director of the State Patent Bureau.

Please take a note that it is not possible to reinstate the right to priority under the Law on Designs.

3. The current Law on Patents of the Republic of Lithuania does not provide for extension of time limits or reinstatement of the rights prescribed in this legal act. Failing to comply with time limits shall involve legal consequences without notice. *However, it is likely that the new Patent Law will enter into force on October-November, 2011.* New wording of Patent Law is in line with the Patent Law Treaty.

According to Article 23 (1) of the new Patent Law, in cases where a patent application has a filing date no later than within 2 months from the priority period expired and within this term, after payment of the prescribed fee (400 LTL), the applicant submits a reasoned request for reinstatement of priority right, priority right may be reinstated when priority date is overdue in spite of due care required by the circumstances having been taken.

In cases where a certified copy of an earlier application required under Regulations is not filed with the SPB within 16 months from the filing date of an earlier application, after payment of the prescribed fee (240 LTL), the SPB shall reinstate priority right if a request to that effect is filed within the time limit prescribed in Article 21 (2) of the Patent Law, and a copy of the earlier application (or applications) is filed with the SPB within 1 months from the date this application (or applications) is introduced to the applicant, if the applicant had applied for them to appropriate patent office within 14 months from priority date (Article 23 (2) of the new Patent Law).

According to Article 32 of the new Patent Law, if the applicant has failed to comply with a time limit prescribed in Article 24 (2) (3) (for an action in a procedure before the SPB removing

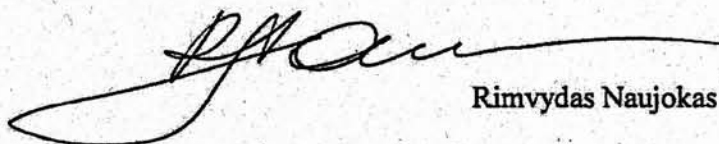
deficiencies of an application), the applicant or his representative, after payment of the prescribed fee (240 LTL), within 2 months from the date when a notice from the SPB was sent may file a request to continue examination of patent application. Together with this request should be submitted documents which provide that an action, for which continuation of the examination is requested, is carried out. SPB shall make a decision on continuation of the examination of the application.

According to Article 33 of the new Patent Law, in cases where an applicant or patent owner has failed to comply with a time limit prescribed in Article 21 (2), Article 28 (1), Article 31 (2), Article 36 (5), Article 71 (2) and (3), Article 79 (2) and (3), and that failure has the direct consequence of causing a loss of rights to an application or patent, after payment of the prescribed fee (600 LTL), the SPB shall reinstate the rights of the applicant or patent owner with respect to the application or patent concerned, if failure to comply with the time limit occurred in spite of due care by the circumstances having been taken. A request for reinstatement of the rights should be reasoned and data about the reasons for the failure to comply with the time limit should be stated. Filing the request an action, for which an applicant or patent owner has failed to comply with a time limit, is carried out. The request for reinstatement of the rights should be filed within 2 months from the date when reasons for failure to comply with the time limit were removed or within 12 months from the date when time limit expired, or when it is failed to comply with the time limit for payment of fees, a request should be filed within 12 months from the date on which the time limit prescribed in Article 5bis of the Paris Convention expires, depending on which from these time limits expires earlier.

Relevant Lithuanian legislation is available in English on SPB website www.vpb.gov.lt and WIPO-Lex database.

Yours sincerely,

Director



Rimvydas Naujokas

