

The Executive Director

DECISION No EX-21-6 of the Executive Director of the Office of 2 July 2021 concerning the extension of time limits due to the malfunction of the Office's electronic means of communication (User Area)

The Executive Director of the European Union Intellectual Property Office (the Office),

Having regard to Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union trade mark⁽¹⁾ (EUTMR) and in particular Article 157(4)(a) thereof, pursuant to which the Executive Director of the Office must take all necessary steps, including the adoption of internal administrative instructions and the publication of notices, to ensure the functioning of the Office,

Having regard to Article 101(3) EUTMR stating that '[t]he Executive Director shall determine the duration of the period of interruption ... in the case of an actual interruption of the Office's connection to admitted electronic means of communication',

Having regard to Article 69(2) of Commission Delegated Regulation (EU) 2018/625 of 5 March⁽²⁾ stating that '[w]here a time limit expires on a day ... , if and to the extent that the Executive Director has allowed communications to be sent by electronic means pursuant to Article 100(1) of Regulation (EU) 2017/1001, on which there is an actual interruption of the Office's connection to those electronic means of communication, the time limit shall be extended until the first day thereafter on which ... the Office's connection to those electronic means of communication is restored',

Having regard to Council Regulation (EC) No 6/2002 of 12 December 2001 on Community Designs, as amended⁽³⁾ (CDR) and in particular Article 100 thereof concerning the supplementary powers of the Executive Director, and to Commission Regulation (EC) No 2245/02 of 21 October 2002 implementing the Council Regulation (EC) No 6/2002 of 12 December 2001 on Community Designs, as amended⁽⁴⁾, (CDIR), in particular Article 58(2) thereof stating that '[i]f a time limit expires on a day on which there is a general interruption or subsequent dislocation in the delivery of mail in a Member State or between a Member State and the Office, the time limit shall extend until the first day following the end of the period of interruption or dislocation, ... In the event of the Member State concerned being the State in which the Office is located, the first subparagraph shall apply to all parties. The period referred to in the first subparagraph shall be as determined by the President of the Office',

Having regard to Decision No EX-20-9 of the Executive Director of the Office of 3 November 2020 on communication by electronic means.

⁽¹⁾ OJ L 154, 16.6.2017, p. 1.

⁽²⁾ OJ L 104, 24.4.2018, p. 1

⁽³⁾ OJ L 386, 29.12.2006, p. 14.

⁽⁴⁾ OJ L 193, 25.7.2007, p. 13.

Whereas:

- (1) Between 19 and 21 June 2021 (inclusive) there was an interruption of the Office's connection to the only admitted electronic means of communication (the User Area) that affected communications between parties (User Area account holders) and the Office. Specifically, the technical malfunction caused an outage in the 'Communications' section of the User Area accounts. This outage resulted in the unavailability of communication options for account holders which meant that they were unable to submit communications or documents to the Office, to use reply functions in response to Office communications and notifications, or to use the 'Communication back-up' feature for uploading submissions. The outage did not, however, affect any other online services. Consequently, all e-operations outside the 'Communications' section were unaffected and remained available including the filing of oppositions, appeals and renewals.
- (2) This technical malfunction of the 'Communications' section of the User Area constitutes an exceptional occurrence, which disrupted proper communication by electronic means between parties and the Office.
- (3) The disruption therefore affected all time limits for the affected communications and notifications expiring on 21 June 2021 where the party relied on communication by electronic means.

HAS ADOPTED THE FOLLOWING DECISION:

Article 1

Purpose and scope

In accordance with Article 101(3) EUTMR and Article 58(2) CDIR, all time limits expiring on 21 June 2021 that affect parties in proceedings before the Office that relied on electronic means of communication through the 'Communications' section of the User Area are extended until 22 June 2021.

Article 2

Entry into force

This Decision will enter into force on the day following its adoption and will be published in the Official Journal of the Office.

Done at Alicante, 2 July 2021.



Christian Archambeau
Executive Director