China Waives Late Fees for Missed Patent Annuities due to Coronavirus

Wednesday, March 4, 2020

The China National Intellectual Property Administration (CNIPA) announced on March 4, 2020 that late fees for missed patent annuity payments will be waived if caused by the coronavirus epidemic. This expands on Bureau Announcement 350, which explained that patentees and applicants can restore their patent rights without payment of a restoration right request fee if lost rights were due to the coronavirus.

In Bureau Announcement 350 of January 28, 2020, CNIPA stated the provisions of Article 6, paragraph 1 of the Implementing Rules of the Patent Law shall apply due to the coronavirus epidemic. Specifically, “Where a time limit prescribed in the Patent Law or these Rules or specified by the patent administration department of the State Council is not observed by a party concerned because of force majeure, resulting in loss of his or its rights, he or it may, within two months from the date on which the impediment is removed, at the latest within two years immediately following the date of the expiration of that time limit, request the patent administration department of the State Council to restore his or its rights.”

Further, if due to the coronavirus epidemic, then applicants and patentees do not need to pay the restoration right request fee, but do need to submit a request for restoration of the right, explain the reason, attach corresponding certification materials, and go through the corresponding formalities.

The clarification issued today expands this to include patent annuities. No late fees will be due if the jurisdiction (province, autonomous region, or municipality) the patentee is located in has declared a level one health emergency (the highest level in China). However, it is unclear how this applies to patentees in foreign jurisdictions currently undergoing health emergencies, e.g., Daegu, South Korea but presumably the same exemption is available. Late fees for missed patent annuities are a maximum of 2,000 RMB (~$287 USD at the time of writing).

© 2020 Schwegman, Lundberg & Woessner, P.A. All Rights Reserved.

Source URL: https://www.natlawreview.com/article/china-waives-late-fees-missed-patent-annuities-due-to-coronavirus