

**НАЦІОНАЛЬНИЙ ОРГАН  
ІНТЕЛЕКТУАЛЬНОЇ ВЛАСНОСТІ**  
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30.06.2022 №Вих-5795/2022

На № \_\_\_\_\_ від \_\_\_\_\_

World Intellectual Property  
Organization  
Director General  
Mr. Daren Tang

wipo.mail@wipo.int

On non-observance of procedural time limits by users from Ukraine

Dear Mr. Tang,

The State Enterprise “Ukrainian Intellectual Property Institute” which performs the functions of the National Intellectual Property Office in accordance with the Order of the Cabinet of Ministers of Ukraine of October 13, 2020 No. 1267-r expresses respect and sincere gratitude to you for support of the users of the industrial property rights international protection systems of the World Intellectual Property Organization (WIPO) who may face some difficulties concerning meeting procedural time limits today.

The Statement of Provisions Potentially Applicable to WIPO Global IP Services Regarding Ukraine and the Russian Federation available on WIPO's official website ([https://www.wipo.int/pressroom/en/global\\_ip\\_services\\_joint\\_statement.html](https://www.wipo.int/pressroom/en/global_ip_services_joint_statement.html)) provides a comprehensive clarification on the application of the provisions of international treaties and instructions thereto in case of failure to meet the time limits to perform any action before the International Bureau due to force majeure circumstances.

In this regard, we consider it necessary to inform the International Bureau of WIPO on the difficulties faced by Ukrainian users as a result of the large-scale invasion of the territory of Ukraine by the Russian Federation on February 24, 2022 and on the peculiarities of legal restrictions due to the war in Ukraine.

In connection with the military aggression of the Russian Federation against Ukraine, in accordance with the Decree of the President of Ukraine of February 24, 2022 No. 64/2022 approved by the Law of Ukraine “On approval of the Decree of the



President of Ukraine “On the imposition of martial law in Ukraine”, martial law was imposed in Ukraine.

By the Decrees of the President of Ukraine of March 14, 2022 No. 133/2022, of April 18, 2022 No. 259/2022, of May 17, 2022 No. 341/2022 the duration of martial law in Ukraine was extended until August 23, 2022.

In accordance with the Decree of the President of Ukraine of February 24, 2022 No. 69/2022, the general mobilization is taking place in Ukraine to ensure the defense of the state.

In view of this, the Ukrainian Chamber of Commerce and Industry in its letter of February 28, 2022 No. 2024/02.0-7.1 confirmed that the said circumstances from February 24, 2022 until their official termination are the extraordinary, unavoidable and objective circumstances for business entities and individuals under a contract, a separate tax or other obligation the fulfillment of which became due in accordance with the terms of a contract, agreement, legislative or other regulations and fulfillment of which turned out to be impossible in the prescribed term due to the occurrence of such force majeure circumstances (circumstances of insuperable force).

Pursuant to subparagraph 1 of paragraph 1 of the Law of Ukraine “On the protection of interests of persons in the intellectual property sphere during martial law imposed in connection with the armed aggression of the Russian Federation against Ukraine”, in force in Ukraine as of April 13, 2022, running of time limits for performing actions related to the protection of intellectual property rights as well as time limits for procedures for acquisition of such rights under the laws of Ukraine in the intellectual property sphere is suspended from the day of imposition of martial law in Ukraine.

To ensure the reliability and stability of the banking system functioning under martial law, the Board of the National Bank of Ukraine adopted the Resolution “On operation of the banking system during martial law” of February 24, 2022 No. 18, and in accordance with paragraph 14 thereof banking institutions are prohibited to perform cross-border transfers of currency valuables out of Ukraine, including transfers made on behalf of the clients.

Resulting from the said restrictions on foreign currency transactions, users of the Madrid System for the International Registration of Marks are not able to make transfers of the international fee payable for an international application or registration under the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks in Swiss francs to the WIPO account.

Due to military aggression of the Russian Federation, Ukrainians have lost accommodation or were forced to flee their homes, evacuate to safer regions or go abroad, many enterprises relocate their production facilities and warehouses from combat zones or stop their work. In areas where active hostilities are taking place, the civilian infrastructure does not function; in particular, there is no access to postal and electronic means of communication.

For the above stated circumstances, in accordance with Rule 5(1) of the Regulations Under the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (hereinafter – the Regulations), failure by applicants, owners and Offices to meet a time limit specified in the Regulations to

perform an action before the International Bureau shall be excused if the interested party submits evidence showing, to the satisfaction of the International Bureau, that such failure was due to war, revolution, civil disorder, strike, natural calamity, irregularities in postal, delivery or electronic communication services owing to circumstances beyond the control of the interested party or other force majeure reason.

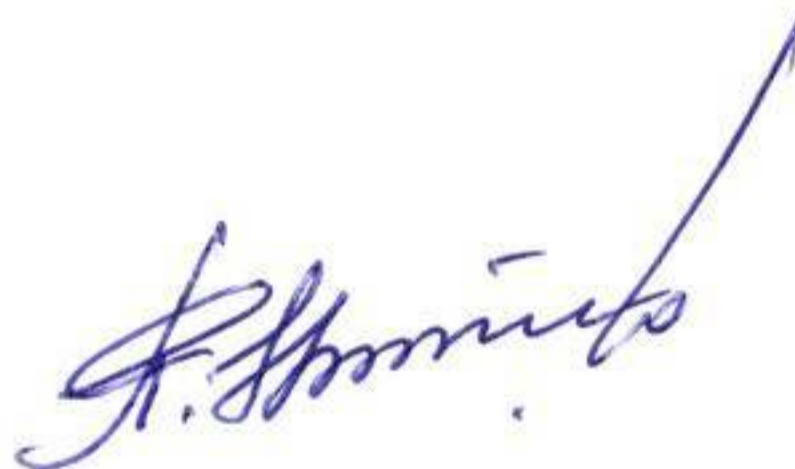
Pursuant to Rule 5(4), failure to meet a time limit shall be excused only if the evidence and actions referred to in paragraph 1 are received by and performed before the International Bureau as soon as reasonably possible and not later than six months after the expiry of the time limit concerned.

It is obvious that it is currently impossible to predict the duration of hostilities and the existence of force majeure circumstances on the territory of Ukraine. In this regard, the six-month grace period may be not enough for some Ukrainian users to properly perform the actions before the International Bureau as provided for in the Regulations.

Given the above, we are writing to ask, before termination or suspension of martial law in Ukraine, to consider any requests of Ukrainian applicants, owners and their representatives concerning application of Rule 5, referring to circumstances caused by military aggression of the Russian Federation and the martial law regime on the territory of Ukraine, to consider the indicated decrees of the President of Ukraine on martial law in Ukraine as sufficient evidence and not to require additional evidence to confirm such circumstances.

Yours sincerely,

Acting Director General



Petro IVANENKO

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