

## Measures In Response To Novel Coronavirus by Patent Offices of Various Countries

Is there any change in patent practices by patent offices worldwide, including Japan, due to the current global Coronavirus pandemic?

The following measures have been taken by the patent offices of certain countries.

### (1) Japan Patent Office

- Applications will not be accepted by hand delivery to the Japan Patent Office; only electronic or mailed applications will be accepted.
- In principle, face-to-face interviews will not be conducted, but will be conducted via video interviews over the Internet or by telephone.
- A person who is unable to follow the procedures in an appeal case within the designated time due to the impact of the Novel Coronavirus may make a request for extension of time by submitting a written document stating: (i) the requested extension period; and (ii) the specific reasons for the need for such extension period.
- With respect to procedures before the Japan Patent Office: (i) in the event procedures (excluding those pending before a trial) in response to directives and notices issued by the Commissioner of the Patent Office in formal examinations, etc. cannot be carried out within the designated period of time due to the Novel Coronavirus, and if such procedure is carried out within a designated period of time, or the designated procedure is carried out within a certain period of time after the expiration of the designated period, such procedure will be treated as an effective even if the designated time limit has not been met; and (ii) if procedures whose time limit is designated by law or ordinance (filing of a certificate to be subject to the exceptions to lack of novelty, payment of patent fees (registration fee), etc.) cannot be carried out within the designated period of time due to the Novel Coronavirus, the relevant procedures may be executed only within the time limit designated for relief measures. Often, relief measures after failure to comply with a reprimand or good cause require the submission of supporting evidence to support the stated facts, but not necessarily if the person was affected by the Novel Coronavirus.

[Reference]

Measures Regarding the Spread of COVID-19

[https://www.jpo.go.jp/news/koho/info/covid19\\_shutsugan.html](https://www.jpo.go.jp/news/koho/info/covid19_shutsugan.html) (Japanese)

Handling of Procedures Affected by COVID-19

[https://www.jpo.go.jp/e/news/koho/saigai/covid19\\_procedures.html](https://www.jpo.go.jp/e/news/koho/saigai/covid19_procedures.html)

### (2) World Intellectual Property Organization (WIPO)

WIPO employees have generally been switching to remote work, but there seems to be no particular change in operations, including the payment of registration fees.

[Reference]

Covid-19 Update: WIPO's IP Services

[https://www.wipo.int/portal/en/news/2020/article\\_0015.html](https://www.wipo.int/portal/en/news/2020/article_0015.html)

### (3) United States Patent and Trademark Office (USPTO)

- All USPTO offices have been closed, and scheduled interviews with examiners, hearings and oral proceedings will be handled remotely via video or phone.
- You may extend the deadline of a response to USPTO directives, payment of registration fees, etc. which are due from March 27 to May 31, to June 1 by submitting a statement that the delay was caused by the Novel Coronavirus (the deadline extension was first announced on March 31, and was extended as stated above on April 28).

[Reference]

USPTO notices regarding COVID-19

<https://www.uspto.gov/coronavirus>

### (4) European Patent Office (EPO)

- For procedures due on or after March 15, the deadline is uniformly extended to May 4. Such extensions of time shall apply to the parties of the proceedings under the EPC and PCT, as well as to the payment of registration fees.
- Oral proceedings will not be held at the Appeals Division until May 15. Furthermore, the oral proceedings at the Examination/Objection Department will be postponed until April 30 (except for oral proceedings that have already been switched to videoconferencing).

[Reference]

Coronavirus (COVID-19) – continually updated information

<https://www.epo.org/news-issues/covid-19.html>

### (5) European Union Intellectual Property Office (EUIPO)

- The deadline for EUIPO procedures will be extended uniformly until May 18. (As of March 16, the deadline had been extended to May 1; however, on April 29, the deadline was extended as described above.)

[Reference]

EUIPO News

<https://euipo.europa.eu/ohimportal/news>

### Points to Remember When Taking Home Trade Secrets for Telework

Employees in departments that handle trade secrets have expressed their desire to telework in light of recent circumstances. We are quite reluctant, but what should we pay attention to in allowing telework?

As a general rule, trade secrets that are permitted to be taken out of the office must be clearly identified as “Confidential” and measures against unauthorized disclosure must be taken, such as setting passwords.

Certain acts relating to trade secrets (Article 2, Paragraph 1, Items 4 to 10 of the Unfair Competition Prevention Act), such as the acquisition of trade secrets by theft, fraud, duress or other wrongful means (Article 2, Paragraph 1, Item 4 of the same Act), are regulated under Japan’s civil and criminal laws as acts of unfair competition.

When there is an issue of whether certain information constitutes a “trade secret” (Article 2, Paragraph 4 of the same Act), it is often a matter of confidentiality (maintained “to be known” as secret). “Management Guidelines for Trade Secrets”, published by Japan’s Ministry of Economy, Trade and Industry, explains the minimum level of measures to be taken in order to be protected as a “trade secret”.

In the case of telework, there are various issues, such as: (i) accessing an internal server where trade secrets are stored from outside the company; or (ii) storing trade secrets in an

external storage medium such as a USB flash drive and taking them outside the company for use. With respect to (i), the form of use of trade secrets is almost the same as that of normal business operations, and as long as the measures to manage trade secrets taken by normal business operations are implemented thoroughly, the impact on confidentiality may be minor. However, if (ii) were to be approved, there will be media in which trade secrets are physically stored, thus, in principle, it is necessary to enable trade secrets to be identified as such by methods such as setting passwords on the data to be taken out of the office (“Management Guidelines for Trade Secrets” p. 13).

It is also important to be protected in case of unauthorized disclosure, and intentional leakage of trade secrets should be avoided as much as possible. Therefore, it is important to take measures against the intentional disclosure of confidential information by referring to the “Handbook on the Protection of Confidential Information” which describes best practices for the management and use of confidential information. (In this regard, safety management measures for protecting personal information and general security guidelines for telework are also helpful.)

Finally, unauthorized disclosure of trade secrets can sometimes be deliberately caused by disgruntled employees. It is not easy to allow telework for employees in departments that handle confidential information due to risks such as the leakage of trade secrets and cost of security measures. However, with the declaration of a State of Emergency in Japan in order to prevent the spread of the Novel Coronavirus, telework should be promoted as much as possible.

[Reference]

“Management Guidelines for Trade Secrets” (Revised in January 2019) by the Ministry of Economy, Trade and Industry  
<https://www.meti.go.jp/english/policy/economy/chizai/chiteki/pdf/0813mgtc.pdf>

“Protecting Confidential Information Handbook for Raising Corporate Value” by the Ministry of Economy, Trade and Industry  
<https://www.meti.go.jp/policy/economy/chizai/chiteki/pdf/handbook/full.pdf> (Japanese)

“Handbook on the Protection of Confidential Information” by the Ministry of Economy, Trade and Industry

[https://www.meti.go.jp/policy/economy/chizai/chiteki/pdf/170607\\_hbtebiki.pdf](https://www.meti.go.jp/policy/economy/chizai/chiteki/pdf/170607_hbtebiki.pdf) (Japanese)

“Telework Security Guidelines 4<sup>th</sup> Edition” (April 2018) by the Ministry of Internal Affairs and Communications

[https://www.soumu.go.jp/main\\_content/000545372.pdf](https://www.soumu.go.jp/main_content/000545372.pdf)  
(Japanese)

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