

**Relief Available to Patent and Trademark Applicants, Patentees and Trademark Owners  
Affected by the Severe Earthquakes in the Southwest Region of Japan**

The United States Patent and Trademark Office (USPTO) considers the effects of the severe earthquakes in the Southwest region in Japan that occurred on April 14 and April 16, 2016, to be an "extraordinary situation" within the meaning of 37 CFR 1.183 and 37 CFR 2.146 for affected patent and trademark applicants, patentees, reexamination parties, and trademark owners.

For patent applications and reexamination proceedings pending in the USPTO as of April 14, 2016, having one or more inventors, an assignee, or a correspondence address in the Southwest region of Japan affected by the severe earthquakes, in which a reply or response to an Office action (final, non-final, or other), a notice of allowance, or other Office notice (hereinafter collectively referred to as "Office communication") is outstanding, and for which the statutory or non-statutory time period set for response has not yet expired, the USPTO will, on applicant's request, or a reexamination party's request, withdraw the Office communication and reissue it. The Office communication must have been outstanding on April 14, 2016. The request must be made prior to expiration of the statutory or non-statutory time period set for response and within sufficient time so that withdrawal and reissuance of the Office communication occur prior to expiration of the statutory or non-statutory time period (as permitted to be extended under 37 CFR 1.136(a), or as extended under 37 CFR 1.550(c) or 37 CFR 1.956). The request must be accompanied by a copy of this notice in order to permit the Office to quickly identify it as a request for relief and facilitate timely processing. The inclusion of a copy of this notice will be treated as a representation that the need for the reissuance of the Office communication was due to the effects of the severe earthquakes on April 14 and April 16, 2016. The request should be sent via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

For patentees who were unable to timely pay a patent maintenance fee due to the effects of the severe earthquakes on April 14 and April 16, 2016, the USPTO will waive (i) the surcharge in 37 CFR 1.20(h) for paying a maintenance fee during the six-month grace period following the window to pay the maintenance fee and (ii) the petition fee in 37 CFR 1.17(m) for accepting a delayed maintenance fee payment when the patentee files the maintenance fee payment with a petition to accept a delayed maintenance fee under 37 CFR 1.378(b). *See* 37 CFR 1.183.

Patentees who seek to pay a maintenance fee during the six-month grace period following the window to pay the maintenance fee with a request to waive the surcharge in 37 CFR 1.20(h), must mail the payment and request to: Director of the United States Patent and Trademark Office, Attn: Maintenance Fee, 2051 Jamieson Avenue, Suite 300, Alexandria, VA 22314; or via facsimile to: 571-273-6500.

The request must be accompanied by a copy of this notice in order to permit the Office to quickly identify it as a request for relief and facilitate timely processing. The inclusion of a copy of this notice with the payment of the maintenance fee during the grace period will be treated as a representation that the late payment of the fee was due to the effects of the severe earthquakes on April 14 and April 16, 2016, and as a request for *sua sponte* waiver of the surcharge under 37 CFR 1.20(h). This waiver may only be appropriately requested where the original window of time to pay the maintenance fee without the surcharge required by 37 CFR 1.20(h) expired on or after April 14, 2016, and the delay in paying the fee was due to the effects of the severe earthquakes on April 14 and April 16, 2016.

The USPTO advises patentees who need to file a petition to accept a delayed maintenance fee payment due to the effects of the severe earthquakes on April 14 and April 16, 2016, where the maintenance fee payment was required to have been paid after April 13, 2016, to promptly file a petition under 37 CFR 1.378(b) (using USPTO form PTO/SB/66 - **Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent (37 CFR 1.378(b))**) accompanied by the applicable maintenance fee payment (but not the petition fee under 37 CFR 1.17(m)) and a copy of this notice. The inclusion of a copy of this notice will be treated as a representation that the delay in payment of the maintenance fee was due to the effects of the severe earthquakes on April 14 and April 16, 2016, and as a request for *sua sponte* waiver of the petition fee under 37 CFR 1.17(m). The petition must be filed by April 14, 2017, in order to be entitled to a waiver of the petition fee under 37 CFR 1.17(m). A petition to accept a delayed maintenance fee payment under 37 CFR 1.378(b) due to the effects of the severe earthquakes may be submitted via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

For applicants who filed a nonprovisional application on or after April 14, 2016, and prior to May 15, 2016, without an executed oath or declaration or payment of the basic filing fee, search fee, and/or examination fee due to the severe earthquakes on April 14 and April 16, 2016, the USPTO will waive the surcharge set forth in 37 CFR 1.16(f) for the late filing of the oath or declaration or basic filing fee, search fee, and/or examination fee. Patent applicants seeking waiver of the surcharge must include a copy of this notice, along with the executed oath or declaration or the basic filing fee, search fee, or examination fee, in order to permit the Office to quickly identify it as a request for relief and facilitate timely processing. The inclusion of a copy of this notice will be treated as a representation that the late filing of the oath or declaration or the basic filing fee, search fee, or examination fee was due to the effects of the severe earthquakes on April 14 and April 16, 2016, and as a request for *sua sponte* waiver of the surcharge under 37 CFR 1.16(f). A reply to a Notice to File Missing Parts requiring the oath or declaration or the filing fees (or other notice stating that the executed oath or declaration has not been received) may be submitted via EFS-Web or by mail directed to Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Patent-related inquiries concerning this notice may be directed to the Office of Patent Legal Administration at (571) 272-7704 ((571) 272-7703 for reexamination), or by e-mail to PatentPractice@uspto.gov.

For trademark applications and registrations with a correspondence or owner address in the Southwest region of Japan affected by the severe earthquakes on April 14 and April 16, 2016, in which an Office action (final, non-final, or other), a notice of allowance, or other Office notice requiring a response (hereinafter collectively referred to as "Office communication") is outstanding, the USPTO will, upon request, withdraw the Office communication and reissue it. The request must be made prior to the deadline for responding to the Office communication, and represent that the need for the reissuance of the Office communication is due to the effects of the severe earthquakes on April 14 and April 16, 2016. The request should be sent via e-mail to TMFeedback@uspto.gov, or by mail to Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451. If necessary, changes of correspondence address should be provided.

For trademark applications and registrations with a correspondence or owner address in the Southwest region of Japan affected by the severe earthquakes as of April 14, 2016, that were abandoned or cancelled due to inability to timely respond to a trademark-related Office communication due to the effects of the severe earthquakes on April 14 and April 16, 2016, the USPTO will waive the petition fee (set by regulation, rather than statute) to revive the abandoned application or cancelled registration. Either a petition by regular mail to the address set forth in the preceding paragraph, or the Trademark Electronic Application System (TEAS) "Request for Reinstatement" form should be used, and must include a verified statement that the failure to respond to the Office communication was due to the effects of the severe earthquakes.

Trademark-related inquiries concerning this notice may be directed to the Trademark Office of Petitions by telephone at (571) 272-8950, by facsimile at (571) 273-8950, or by e-mail at TMFeedback@uspto.gov.

This notice does not grant waivers or extensions of dates or requirements set by statute. For example, the following patent-related time periods are not extended: (1) the period set forth in 35 U.S.C. 119(a)-(d) to file a nonprovisional patent application claiming the benefit of a prior-filed foreign application; (2) the period set forth in 35 U.S.C. 119(e) during which a nonprovisional application claiming the benefit of a prior filed provisional application must be filed in order to obtain benefit of the provisional application's filing date; (3) the copendency requirement of 35 U.S.C. 120 between a parent application which issues as a patent and a later filed child application, which requires that the child application be filed prior to issuance of the parent application; (4) the three-month time period to pay the issue fee set forth in 35 U.S.C. 151; and (5) the 35 U.S.C. 304 two-month time period from the date of patentee service, for a requester to file, in an *ex parte* reexamination, a reply to a statement filed by the patentee. The following statutory trademark-related time periods are not extended and statutory fees are not waived: (1)

the 36-month period set forth in 15 U.S.C. 1051(d) within which a statement of use must be filed and the associated fee(s); (2) the periods set forth in 15 U.S.C. 1058, 1141(k) for filing affidavits of continued use or excusable nonuse and the associated fee(s); (3) the period set forth in 15 U.S.C. 1059 for filing a renewal and the associated fee(s); and (4) the periods set forth in 15 U.S.C. 1063 and 1064 for filing an opposition or cancellation proceeding at the Trademark Trial and Appeal Board.

Date: 6/7/2016

*Michelle K. Lee*

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Under Secretary of Commerce for Intellectual Property and  
Director of the United States Patent and Trademark Office