

Dear Friends and Colleagues,

This is our regular newsletter to inform you about important updates of terms of business operation in Ukraine.

### **Martial law and suspension of deadlines (recently updated)**

Full-scale military aggression of the Russian Federation against Ukraine led to imposing martial law, effective from February 24, 2022 to August 23, 2022 in Ukraine.

The Ukrainian Chamber of Commerce and Industry (UCCI) issued a letter according to which introducing martial law is a force majeure circumstance. According to the UCCI, the scope of the regulation covers *business entities and/or individuals under the contract, separate tax and/or other obligations the fulfillment of which occurred in accordance with the terms of the contract, agreement, legislative or other regulations and the fulfillment of which became impossible within the deadline due to the occurrence of such force majeure circumstances (force majeure)*.

Therefore, the above letter confirms that imposition of the martial law is a force majeure circumstance. However, that does not mean automatic suspension of deadlines in all kinds of proceedings pending in courts and/or state bodies.

### **Filings with the Ukrainian Patent and Trademark Office**

The Ukrainian Patent and Trademark Office (UAPTO) works in a regular mode, including via online filing system. The Appeal Chamber of the UAPTO also maintains the activities, however only in written proceedings without parties' presence either offline or online.

Furthermore, on April 13, 2022 the Law of Ukraine "On Protection of Interests of Persons in the Sphere of Intellectual Property during Martial Law, Imposed in Connection with the Armed Aggression of the Russian Federation against Ukraine" became effective, according to which the terms for acquisition and protection of IPRs are suspended during martial law in Ukraine, including the deadlines for the following actions: (i) renewal/reinstatement of IPRs; (ii) oppositions; (iii) challenging the decisions of the UAPTO in court or before the Appeal Chamber; (iv) invalidating patents.

Moreover, if paying a retention/annuity fees is due during the martial law, it will be allowed to pay those within 90 days after the end of the martial law.

The respective terms will be resumed as from the day following the date of termination or cancellation of the martial law. At the same time, since all the prosecution is maintained online, any reasons for missing a deadline should be well substantiated before the UAPTO. Therefore, we would strongly recommend adhering the deadlines, if possible (including filing the responses, claiming Paris Priority, PCT filing etc.).

## Courts (recently updated)

The UCCI letter may be the ground for renewing a missed procedural deadline. A party will still be required to file motion to renew missed procedural term, it will not happen automatically. As for renewal of the terms for appeal/cassation proceedings, such force majeure shall also be considered a sufficient ground. Therefore, the UCCI letter and the Presidential Decree on Martial Law should be enough to renew all missed deadlines.

Practically, only few Ukrainian courts had been working until the end of May 2022. Now, more and more courts of first, appellate and cassation instances resume working, commencing new proceedings and handling hearings in IP matters.

Access to some online court registers and systems is temporarily suspended for the sake of judges' and parties' safety. There is a draft law currently being considered by the Ukrainian parliament opening the court registers in safe mode (through the specialty software) though.

## UA-DRP domain name disputes consideration

WIPO has recently issued a [statement](#) related to .UA domain name disputes as well as other domain name disputes that involve complainants or respondents from Ukraine or Russia: *"To the extent that parties (or potential parties) in WIPO Mediation, Arbitration or Domain Name Disputes are unable, or anticipate being unable, to perform an action within the prescribed time limits, they should, if possible, contact the WIPO Arbitration and Mediation Center"*.

Although it is not clear what the implication of this statement may be, most probably WIPO may extend deadlines for affected parties, as it was earlier done due to the COVID-19 pandemic.

## Interaction with the State Customs Service of Ukraine

The State Customs Service of Ukraine is functioning without any limitations, provided that the significantly increased amounts of humanitarian supplies should be allowed into Ukrainian territory with the highest priority under a simplified procedure. Some of the customs points have suspended their activities, namely the ones bordering rival states and in the airports. The customs constantly reports on confiscation of undeclared goods illegally imported into Ukraine and its subsequent transfer for the military needs. The government decree also envisages that confiscated goods and goods that have been stored at customs warehouses without respective documents by the owners shall be handed over to the military and civilians needs. This has already been the case, for example, for branded clothes, transport vehicles, computers, food, etc.

In addition, the following legislative amendments have recently been adopted with regard to the protection of IPRs at the customs border during the martial law: (i) the Cabinet of Ministers of Ukraine has the right to determine the categories of goods which the customs authorities will not monitor for compliance with IPRs during customs clearance; (ii) the terms of registration of IPRs in the Customs IP Registry are extended automatically.

 **Other news**

The Parliament of Ukraine has passed the Law of Ukraine "On the Prohibition of the Propaganda of the Russian Nazi Totalitarian Regime, the Armed Aggression of the Russian Federation as a Terrorist State against Ukraine, the Symbols of the Military Invasion of the Russian Nazi Totalitarian Regime of Ukraine".

According to the Law, the use of symbols of the military invasion of the Russian Nazi totalitarian regime is recognized as propaganda. Thus, it is prohibited to use and distribute the products containing the following symbols: (i) Latin letters "Z", "V" separately (without a legitimate context or in the context of justification of armed aggression against Ukraine or other military actions) or by replacing with these letters the Cyrillic letters "З", "С", "В", "Ф" or other letters in separate words with a visual emphasis on these letters.; (ii) symbols of the armed forces and authorities of the Terrorist State.

At the same time, such prohibition does not apply to the abovementioned symbols as elements of trademarks applied for registration or registered before February 24, 2022, as well as in other cases defined by the Law.

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We hope you will find the above information helpful. Should you have additional questions, please feel free to reach out. We will be happy to assist.

Kind regards,

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