Restoration is available for unintentional lapse from April 1, 2023

May 2, 2023
Aki Ryuka
Restoration is available for unintentional lapse

Restorations used to require a “legitimate reason” and evidence.

Now, “unintentional” is sufficient, and no evidence is required.

(If the original due date is on/after April 1, 2023)
Procedures Subject to the Restoration

◆ PCT national entry and translation (P, U)
◆ Paris priority (P, D, U, T)
◆ Examination request (P)
◆ Annuity/renewal after the six-month grace period: (P, D, U, T)

The time limit for restoration

Priority Restoration:
- 14 months from the priority for Paris route applications,
- 1 month from the translation due date for PCT route.

If the translation of the application was not filed in time, the restoration of the translation filing must be separately requested.

Other Restorations:
Earlier of:
- 2 months from the date the restoration action could be taken
- 1 year (6 months for trademarks) from original due date
<table>
<thead>
<tr>
<th></th>
<th>Office fee for restoration (JPY)</th>
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<tbody>
<tr>
<td>Patents</td>
<td>212,100</td>
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<tr>
<td>Trademarks</td>
<td>86,400</td>
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<tr>
<td>Designs</td>
<td>24,500</td>
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<tr>
<td>Utility Models</td>
<td>21,800</td>
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</tbody>
</table>
Limitation of restored rights

If patents/trademarks are restored from failure of annuity payment/renewal within the six-month grace period:

- Patent rights are ineffective to the products imported into or, produced or acquired in Japan after the six-month grace period and before the restoration.

Unlike in the US (35USC41(c)(2)), those who worked the patented invention cannot continue the work except for the above products.

- Trademark rights are ineffective against the use of the trademark after the six-month grace period and before the restoration.