

Computation of time for filing at the Registry

The filing of a notice of opposition, counter-statement, evidence or other document is deemed to be effected, when delivered, at the time that it is actually received at the Registry and recorded as received (rule 108(3)).

The document can only be received (and be recorded as received) if it is delivered during the normal business hours of the Registry (rule 108(1)). The normal business hours of the Registry are published in the Hong Kong Intellectual Property Journal according to rule 114 and posted in the Registry.

If sent by post, the filing is deemed to be effected when the document is actually received at the Registry (rule 108(2)).

The provisions of section 89 (hours of business and business days) and rule 96 (extension of time limits in case of interruption in Registry's operation) will be taken into account in calculating the final day for filing.

The respective prescribed periods for filing supporting documents in opposition proceedings are summarized as follows: -

- a notice of opposition: within 3-month period beginning on the publication date of the application (rule 16(1));
- a counter-statement: within 3 months after the date of receipt of the copy of the notice of opposition (rule 17(1));
- evidence in support of opposition: within 6 months after the date of receipt of the copy of the counter-statement (rule 18(1));
- evidence in support of application: within 6 months after the date of receipt of the

copy of the opponent's evidence (rule 19(1)); and

- evidence in reply: within 6 months after the date of receipt of the copy of the applicant's evidence (rule 20(1)).

The word “month” means “calendar month” (section 3 of the Interpretation and General Clauses Ordinance (Cap. 1)). These “prescribed periods” are also subject to extension of time granted by the Registrar (rule 16(4) for filing a notice of opposition; rule 17(3) for filing a counter-statement; rule 94(1) for filing evidence). See Chapter on Applications for extension of time – paragraphs on Procedure and Deadline for lodging of pleadings.

For the avoidance of doubt, the following examples are provided to illustrate the computation of deadline for filing a notice of opposition or a request for extension of time for filing a notice of opposition–

- The last day for filing a notice of opposition to an application published on 11 December is 10 March (not 11 March) of the following year, i.e. a notice of opposition filed on 11 March would be out of time. Even if a request is also filed on 11 March to extend the prescribed three-month period for one day, both the notice of opposition and the request for time extension cannot be accepted due to non-compliance with the provisions of rules 16(1) and 16(4). Save as provided in rule 16(4), the prescribed three-month time limit under rule 16(1) is not extendible (rule 95(1)(e)).
- The last day for filing a notice of opposition to an application published on 31 August is 30 November of the same year, i.e. a notice of opposition or a request for extension of time for filing a notice of opposition filed on 1 December would be out of time and therefore had to be rejected by the Registry.
- Where an application was published on 30 November, the last day for filing a notice of opposition is 28 February of the following year (or 29 February for a leap year), i.e. a notice of opposition or a request for extension of time for filing a notice of opposition filed on 1 March would be out of time and therefore had to be rejected by the Registry.

The above examples only illustrate the computation of deadline for filing of a notice of opposition or a request for extension of time for filing a notice of opposition, and are subject to section 89, rules 16(4), 96 and 108. All other time limits in the rules governing the filing of supporting documents in opposition proceedings are expressed to run within the period calculated from the day after receipt of the previous document, and are subject to section 89, rules 96 and 108. For example, a counter-statement filed on 10 June in response to the copy of a duly filed notice of opposition received on 10 March of the same year is treated to be filed in time.

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