



Extension of Time Limit and Response Time Limit for Rejection Decision

✧ Tips on How to Obtain More Time for Responding to an Office Action

According to China *Patent Law*, the time limit for responding to an office action can be extended upon a request and payment of a fee. However, the time limit is generally allowed to be extended for once for one or two months. In the past, if the applicant requested a second time extension, the China National Intellectual Property Administration (CNIPA) would generally turn down such a request.

Nonetheless, according to the recent practice, the CNIPA is seemingly acting loose on examination of such a second time extension. Up to now, Tee & Howe has successfully requested second time extension for a couple of cases, which means that the applicant may give a try to the second time extension request.

However, taking the cost for the second time extension into consideration, the applicant may also try another way to seek an extended time limit for a response. As discussed below, the applicant may choose not to file the second time extension request, but wait for a notification that the application is deemed withdrawn issued from the CNIPA. Upon receipt of such a notification, the applicant may file a request to restore the application. By doing so, there would also be more time to respond to an office action. Compared to the way of requesting the second time extension, the cost incurred in the latter way would be less. **To be noted is that it is critical at least some of the deficiencies pointed out by the examiner in the office action need to be overcome at the time of filing the restore request. This is different from filing the second time extension request, in which case the applicant doesn't need to overcome the deficiencies indicated in the office action.**

Comparison between second time extension request and **restore** request is shown in the table below.

	Official Fees	Extension of time
Second extension request for one month	RMB 2,000	One month
Second extension request for two months	RMB 4,000	Two months

	Official Fees	Extension of time
Restore request	RMB 1,000	A total of around three and half months (including around one month within which the notification that application is deemed withdrawn is issued and a time limit of two months plus a mailing period of 15 days to respond to such a notification)

The China *Patent Law* stipulates that the time limit for responding to a rejection decision is not allowed to be extended. In addition, unlike normal office actions, if the time limit for responding the rejection decision is expired, the CNIPA will not issue a notification that application is deemed withdrawn. This is different from the regulations in most countries.

Yet, how to win more response time for the applicant is a problem that we often have to face.

Here, we will introduce a special restore procedure in the reexamination stage. The time limit for responding to the rejection decision is not allowed to be extended, but this does not mean there is no remedy when such a time limit is expired. In our experience and practice, the applicant may directly file a request to restore the application before the reexamination and invalidation department of CINPA **within two months after the time limit for responding to the rejection decision is expired**. Normally, such a request is acceptable to CNIPA. This remedy allows for an additional two-month period for responding to the rejection decision with an official fee of RMB 1,000.



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