

25 Extension of time requests

7. Continued processing (Singapore relief measure)

A request for continued processing allows an Applicant to complete the substantive response to the Office on trade marks that have been marked off as abandoned. Under regulation 62A of the Trade Marks Regulations 2003, if a deadline to which the regulation applies has expired, an applicant is entitled to an extension of not more than two months after that expiry and must complete the required action. A request for continued processing is only available once per application.

7.1 Requirements for continued processing

A request for continued processing must meet the following criteria:

- The request has been received within two months of the expired deadline; and
- The request is accompanied by the action required to be done e.g. a substantive response to all the issues raised in the previous compliance report(s) issued by the Office; and
- No previous continued processing request has been granted for the application.

7.2 Substantive response must accompany the continued processing request

An applicant when requesting continued processing must at the same time accompany the request with a response to **all** the objections set out in the previous compliance report(s) issued by the Office.

Submitting an extension of time request is not completing the required action and will result in the request being declined. It is also not possible to request an extension of time to the two month time limit to submit a continued processing request.

7.3 How to apply for continued processing

Continued processing requests can be made via “maintain a trade mark” from the user’s inbox in the case management facility. An applicant will be unable to select a trade mark for continued processing that has been abandoned for longer than two months.

7.4 Processing a continued processing request

When a request for continued processing is received, the Office will determine whether the request meets the criteria as set out in regulation 62A. If the request meets the criteria the Applicant will be informed via a discussion that their request for continued processing has been granted. The Office will then consider the response submitted.

As part of the consideration the Office will conduct a subsequent search of the Register from the date which the application was abandoned until the date which the Office accepted the continued processing request.

~~This search will determine any citations which will need to be late raised by the Office against a trade mark application that was filed in the period of the two month continued processing window that the Applicant's mark was abandoned.~~

A request for continued processing that has been accepted by the Office will be published in the monthly Journal advertising that the mark has been re-instated by the Office.

If the request for continued processing does not meet the criteria the Applicant will receive a letter confirming why the request for continued processing has been declined. If the request for continued processing is declined due to all the objections not being addressed, and if the Applicant is within the two month timeframe of the expired deadline they may be able to re-submit the request with an amended response.

7.5 The Office will not revoke acceptance of marks on the basis of continued processing requests

The acceptance of a continued processing request may result in two same or similar marks coexisting on the register. For example, where one mark has proceeded to acceptance once an earlier mark has abandoned, and where the earlier filed mark is then re-instated through continued processing.

In these situations the Office will not revoke the later mark's acceptance. There are no legislative provisions allowing the Office to revoke in these situations. Section 42 of the Trade Marks Act only allows for revocation where there has been an error or omission made by the Commissioner or the trade mark has convention priority under Section 36.

In the situation where two or more marks coexist due to continued processing, the Office will send a discussion to both parties confirming their coexistence.

It will be up to the owner of first filed mark to bring proceedings against the later filed mark should they wish for this mark to be removed from the register.

7.65 Requests for continued processing are not retrospective

A request for continued processing is only available to applications which abandon on or after 10 December 2012.