

15. 02

Period of priority under the Paris Convention or in accordance with the Paris Convention

1. The period of priority (period during which an applicant is eligible to claim the priority right) is the period from the earliest filing date on which the application has been filed in a regular manner in the first country to the filing date on which the application has been filed in the second country. The period of priority in a case where an applicant files an application for design registration claiming priority based on the application for design registration is six months (Paris Convention 4(C)(1)). Moreover, the period of priority in a case where an applicant files an application for design registration claiming priority based on the application for utility model registration is six months as well (Paris Convention 4(E)(1)).
2. These periods mentioned above start from the filing date of the earliest application, and the filing day is not included in the calculation of the period (Paris Convention 4(C)(2)).
3. If the last day of the period is an official holiday, or a day when the patent office is not open for the filing of applications in the second country, the period is extended until the first following working day (Paris Convention 4(C)(3)) (→Patent Act 3(2) [m.m.] Design Act 68(1), Act on Holidays of Administrative Organs 2).
4. With regard to a person that has been unable to file an application for design registration containing a priority claim within the period of priority provided for in Article 4, paragraph C, item (1) of the Paris Convention, despite seeking a request to claim priority pursuant to Article 4, paragraph D, item (1) of the Paris Convention regarding the application for design registration, where the person files the application for design registration as provided by Order of the Ministry of Economy, Trade and Industry within the time limit provided by Order of the Ministry of Economy, Trade and Industry (within two months from the lapse of the period of priority provided by Article 4, paragraph C, item (1) of the Paris Convention), the person may make a priority claim regarding the application for design registration in accordance with Article 4 of the Paris Convention, even after the lapse of the period of priority (Patent Act 43-2(1) [m.m.] Design Act 15(1), Patent Regulation 27-4-2(2) [m.m.] Design Regulation 19(3), Formality Examination Manual 28.01). However, this does not apply to the case where it is found that the person didn't file the application for design registration deliberately within the period of priority.