

Relevant Provisions

Design Act

Article 15 (1) Article 38 (Joint Applications) and Articles 43 to 43-3 (Priority Claim Procedures Under the Paris Convention; and Priority Claims as Under the Paris Convention) of the Patent Act apply mutatis mutandis to applications for design registration. In this case, the phrase "within the period provided by Order of the Ministry of the Economy, Trade and Industry" in Article 43, paragraph (1) of that Act is deemed to be replaced with "at the time of filing of the application for design registration"; the phrase "within one year and four months from the earliest of the following dates" in Article 43, paragraph (2) of that Act is deemed to be replaced with "within three months from the date of filing of the application for design registration".

(Paragraph (2) onward omitted)

Patent Act

Article 43 (1) A person desiring to take advantage of the priority under Article 4.D(1) of the Paris Convention regarding a patent application shall submit to the Commissioner of the Patent Office a document stating the same, and specify the country of the Union of the Paris Convention in which the application was first filed, deemed to have been first filed under C(4) of said Article, or recognized to have been first filed under A(2) of said Article, and the date of filing of said application within the period prescribed in the Ordinance of the Ministry of Economy, Trade and Industry.

(2) A person who has made a declaration of priority under the preceding paragraph shall submit to the Commissioner of the Patent Office a certificate showing the date of filing from the country of the Union of the Paris Convention in which the application was first made, or deemed to have been first made under Article 4.C(4) of the Paris Convention, or recognized to have been first made under A(2) of said Article, as well as certified copies of those equivalent to the description, scope of claims for patent or utility model registration, and drawings submitted at the time of the filing of the application, or any bulletin or certificate equivalent thereto issued by the government of said country (including the relevant certificate, certified copies, or bulletin or certificate provided by electronic or magnetic means (meaning by electronic means, magnetic means, or other means that is impossible to perceive through the human senses alone; the same shall also apply to paragraph (5) and Article 44(4).), or copies thereof (hereinafter referred to as "priority certificate, etc." in this article), within one year and four months from the earliest of the following dates:

- (i) the date of filing which was first made, deemed to have been first made under Article 4.C(4) of the Paris Convention, or recognized to have been first made under A(2) of said Article;
- (ii) where such patent application contains a priority claim under Article 41(1), the date of filing of the application on which said priority claim is based; or
- (iii) where such patent application contains other priority claims under 43(1) or 44 (1) (including the cases where it is applied mutatis mutandis pursuant to Article 43- 3(3)) or 43-3(1) or (2), the date of filing of the application on which said priority claim is based.

- (3) A person who has made a declaration of priority under paragraph (1) shall, in addition to a priority certificate, etc. submit to the Commissioner of the Patent Office a document specifying the filing number of the application which was first filed, deemed to have been first filed under Article 4.C(4) of the Paris Convention, or recognized to have been first filed under A(2) of said Article; provided, however, that where such filing number is not available to the person prior to the submission of a priority certificate, etc. in lieu of said document, a document specifying the reason thereof shall be submitted and the document specifying such filing number shall be submitted without delay when such number becomes available to said person.
- (4) Where a person who has made a declaration of priority under paragraph (1) fails to submit a priority certificate, etc. within the time limit provided in paragraph (2), said priority claim shall lose its effect.
- (5) In relation to the application of the preceding two paragraphs, in the case of prescribing Ordinance of the Ministry of Economy, Trade and Industry that a conversion of matters stated in a priority certificate, etc. is allowed between the government of a country of the Union of the Paris Convention or an international organization relating to industrial property by electronic or magnetic means, where a person who having made a declaration of a priority claim provided in paragraph (2) submit to the Commissioner of the Patent Office the document stating the matters prescribed in Ordinate of the Ministry of Economy, Trade and Industry as a required matter for which the other matters including its filing number is converted, the priority certificate, etc. shall be deemed to have been submitted.
- (6) Where a priority certificate, etc. or a document under the preceding paragraph have not been submitted within the time limit under paragraph (2), the Commissioner of the Patent Office shall notify a person who has made a priority claim under paragraph (1) thereof.
- (7) A person who has received a notice provided under the preceding paragraph may submit a priority certificate, etc. or a document under paragraph (5) to the Commissioner of the Patent Office only within the time limit as provided in Ordinance of the Ministry of Economy, Trade and Industry.
- (8) Notwithstanding the preceding paragraph, where, due to reasons beyond the control of a person who has received a notice provided under paragraph (6), the person is unable to submit a priority certificate, etc. or the document as provided in paragraph (5) within the time limit provided under the preceding paragraph, the person may submit to the Commissioner of the Patent Office the priority certificate, etc. or the document within the time limit as provided in Ordinance of the Ministry of Economy, Trade and Industry.
- (9) Where a priority certificate, etc. or the document specified in paragraph (5) are submitted under paragraph (7) or the preceding paragraph, paragraph (4) shall not apply.

Patent Act

Article 43-2 (1) With regard to a person that was unable to file a patent application containing a priority claim within the periods of priority pursuant to Article 4.C.(1) of the Paris Convention (hereinafter referred to in this paragraph as the "periods of priority"), despite requesting to make a priority claim pursuant to Article 4.D.(1) of the Paris Convention regarding a patent application, if the person filed the patent application pursuant to Order of the Ministry, Trade and Industry within the period provided by Order of the Ministry, Trade and Industry, the person may make a

priority claim regarding the patent application under the Article, even after the lapse of the periods of priority; provided, however, that this does not apply if the person is found to have intentionally failed to file the patent application within the periods of priority.

- (2) The preceding Article applies *mutatis mutandis* when a priority claim is made pursuant to the preceding paragraph.

Patent Act

Article 43-3 (1) When a priority claim is based on a patent application filed by a person specified in the left-hand column of the following table in a country specified in the corresponding right-hand column, the priority claim regarding the patent application may be made in accordance with Article 4 of the Paris Convention.

Japanese nationals or nationals of a country of the Union of the Paris Convention (including nationals deemed to be the nationals of the country of the Union in accordance with Article 3 of the Paris Convention - hereinafter the same applies in paragraph (2))	Member of the World Trade Organization
Nationals of a Member of the World Trade Organization (meaning the nationals of Members provided for in paragraph 3 of Article 1 of the Annex 1C to the Marrakesh Agreement; the same applies in the next paragraph)	Country of the Union of the Paris Convention or Member of the World Trade Organization

- (2) The national of a country that is neither a country of the Paris Convention Union nor a member state of the World Trade Organization (limited to a country that allows Japanese nationals to make a priority claim under the same conditions as in Japan; hereinafter referred to as a "specified country" in this paragraph) may make a priority claim based on an application filed in that specified country, and a Japanese national, the national of a country of the Paris Convention Union, or the national of a member of the World Trade Organization may claim a priority for a patent application based on the application filed in a specified country, pursuant to Article 4 of the Paris Convention.
- (3) The preceding two Articles apply *mutatis mutandis* if a priority claim is made pursuant to the preceding two paragraphs.

Geneva Act: Article 6(1), (2)