

Chapter VIII Right of Priority under the Paris Convention in International Applications for Design Registration

1. Provisions of Article 60-10 of the Design Act

The procedure for the priority claim concerning an international application for design registration is unified to the procedure through the International Bureau under Article 6(1) of the Geneva Act, so the procedure for priority claim to the Japan Patent Office shall not apply to an international application for design registration under paragraph (1) of this Article.

As the procedure for submitting a “priority certificate, etc.” does not need to accompany an international application under the Geneva Act, the provisions of the procedure for submitting a “priority certificate, etc.” under the Patent Act shall also apply mutatis mutandis to “a person who claimed a priority under Article 6(1)(a) of the Geneva Act.”

A priority claim to a “specified country” provided in Article 43-3, paragraph (2) of the Patent Act as applied mutatis mutandis pursuant to Article 15, paragraph (1) of the Design Act is not permitted under Article 6(1)(a) of the Geneva Act, and shall not thus apply to an international application for design registration pursuant to paragraph (1) of this Article.

2. Effects of priority claim under the Paris Convention

Pursuant to Article 60-10, paragraph (1) of the Design Act, a priority claim recognized under the Paris Convention for a citizen of a “specified country” provided in Article 43-3, paragraph (2) of the Patent Act as applied mutatis mutandis pursuant to Article 15, paragraph (1) of the Design Act shall not be permitted for an international application for design registration.

3. Procedures for priority claim under the Paris Convention

A person who intends to make a priority claim for an international application for design registration under Article 4D, paragraph (1) of the Paris Convention must include the priority claim to the international application provided in Article 6(1)(a) of the Geneva Act and submit the “priority certificate, etc.” to the Commissioner of the Japan Patent Office within 3 months from the date of the international publication provided in Article 43, paragraphs (2) and (3) of the Patent Act as applied mutatis mutandis pursuant to the provisions of Article 60-10, paragraph (2) of the Design Act following the deemed replacement of terms. Furthermore, within a same period, applicant may complete the prescribed procedure for the World Intellectual Property Organization’s Digital Access Service (DAS) instead of submitting a “priority certificate, etc.” (Article 43, paragraphs (5) of the Patent Act as applied mutatis

mutandis pursuant to the provisions of Article 60-10, paragraph (2) of the Design Act following the deemed replacement of terms).

Note that, where an applicant of an international application submits the “priority certificate, etc.” to the International Bureau along with an international application and also offers to provide the contents which are stated in the “priority certificate, etc.” by an electronic or magnetic means to the Commissioner of the Japan Patent Office, the applicant will be deemed to have submitted the “priority certificate, etc.” to the Commissioner of the Japan Patent Office (Article 27-3-3, paragraphs (2), item(i) and (iii) of the Regulation for Enforcement of the Patent Act as applied mutatis mutandis pursuant to the provisions of Article 19, paragraph (3) of the Regulation for Enforcement of the Design Act following the deemed replacement of terms).

4. Requirements for a priority claim under the Paris Convention to be effective

A priority claim to an international application for design registration with a priority claim based on the domestic application for design registration shall not be effective.

With regard to any other determination standards concerning a priority claim under the Paris Convention, see Part VII “Advantage of the Priority under the Paris Convention.”