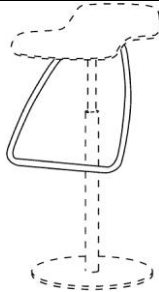
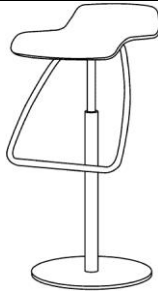


APPENDIX B

There are some examples, whether the subsequent application may claim the right of priority of the previous application?

No.1

Questionnaire	The previous application	The subsequent application
The entire And Partial Design		
	If the previous application is a partial design (solid line shows the claimed part and dotted line shows the part which is not claimed to be protected), the subsequent application is an entire design which have amended the dotted line into solid line, whether the subsequent application may claim the right of priority of the previous application?	

EUIPO:

No. The EUIPO practice is to consider that the subject- matter of the previous application must be identical to that of the corresponding Community design, without the addition or suppression of any features.

A priority claim is however valid if the Community design and the previous application for a design right or a utility model differ only in immaterial details within the meaning of Article 5 CDR.

If the subsequent application is an entire design which has additional features compared to the first application (namely the features which were disclaimed in the first application), EUIPO considers that the subsequent application is not for the ‘same design’ as the first application.

JPO:

No. The subject matter for which design registration is requested (claiming scope) differs from each other.

KIPO:

No. If the subject matter claimed by the first application is a partial design and the subject matter claimed by the subsequent application filed in Korea is an entire design, the priority claim will be rejected.

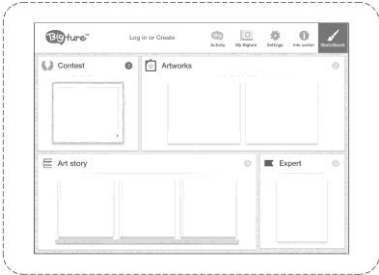
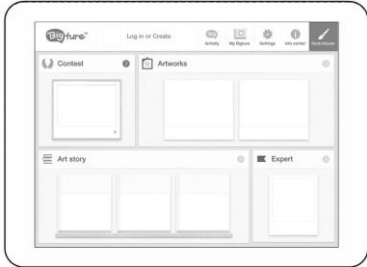
SIPO:

Yes. In China, we only protect entire design now. If the previous application is a design with dotted line, and the subsequent application which have amended the dotted line into solid line, then the subsequent application may claim the right of priority of the previous application

USPTO:

Yes. It appears that the figure for the design of the previous application reasonably conveys to those skilled in the art that the inventor had possession of the design claimed in the subsequent application. Therefore, the subsequent application may be entitled to the benefit of the filing date of the previous application.

No.2

Questionnaire	The previous application	The subsequent application
The entire And Partial		

Design	This is a GUI design, If the previous application is a partial design (solid line shows the claimed part and dotted line shows the part which is not claimed to be protected), the subsequent application is an entire design which have amended the dotted line into solid line, whether the subsequent application may claim the right of priority of the previous application?
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EUIPO:

No. If the added line can be interpreted as the shape of a screen or tablet, the addition of the contours in the subsequent design implies that it cannot be considered to be the ‘same design’ as the previous application which is limited to the GUI itself, because such addition is not immaterial.

JPO:

No. The subject matter for which design registration is requested (claiming scope) differs from each other.

KIPO:

No. If the subject matter claimed by the previous application is a partial design and the subject matter claimed by the subsequent application filed in Korea is an entire design, the priority claim will be rejected.

SIPO:



Yes. the previous application is a design with dotted line containing interface and product, and the subsequent application which have amended the dotted line into solid line, then the subsequent application may claim the right of priority of the previous application

USPTO:

Yes. It appears that the figure for the design of the previous application reasonably conveys to those skilled in the art that the inventor had possession of the design claimed in the subsequent application. Therefore the subsequent application may be entitled to the benefit of the filing date of the previous application.

No.3

Questionnaire	The previous application	The subsequent application
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<p>The entire And Partial Design</p>		
	<p>If the previous application is a partial design shown in the first picture, the subsequent application is an entire design, whether the subsequent application can claim the right of priority of the previous application?</p>	

EUIPO:

No. The EUIPO practice is to consider that the subject- matter of the previous application must be identical to that of the corresponding Community design, without the addition or suppression of any features.

A priority claim is however valid if the Community design and the previous application for a design right or a utility model differ only in immaterial details within the meaning of Article 5 CDR.

If the subsequent application is an entire design which has additional features compared to the first application (namely the features which were disclaimed in the first application), EUIPO considers that the subsequent application is not for the ‘same design’ as the first application.

JPO:

No. The subject matter for which design registration is requested (claiming scope) differs from each other.

KIPO:

No. If the subject matter claimed by the first application is a partial design and the subject matter claimed by the subsequent application filed in Korea is an entire design, the priority claim will be rejected.



SIPO:

Yes. In China, we only protect entire design now. If the previous application is a partial design, and the subsequent application which have amended the partial design into a entire design, then the subsequent application may claim the right of priority of the previous application

USPTO:

No. Details visible in the figure for the design of the subsequent application are not clearly visible in the figure for the design of the previous application. Therefore the previous application does not appear to reasonably convey to those skilled in the art that the inventor had possession of the design claimed in the subsequent application, and the subsequent application may not be entitled to the benefit of the filing date of the previous application.

No.4

Questionnaire	The previous application	The subsequent application
The entire And Partial Design		
	If the previous application is an entire design, the subsequent application is a partial design shown in the second picture, whether the subsequent application can claim the right of priority of the previous application?	

EUIPO:

No. If the subsequent application is an entire design which has fewer features compared to the first application (namely the features which were disclaimed in the subsequent application), EUIPO considers that the subsequent application is not for the 'same design' as the first application.

JPO:

No. The subject matter for which design registration is requested (claiming scope) differs from each other.

KIPO:

No. If the subject matter claimed by the first application is an entire design and the subject matter claimed by the subsequent application filed in Korea is a partial design, the priority claim will be rejected.

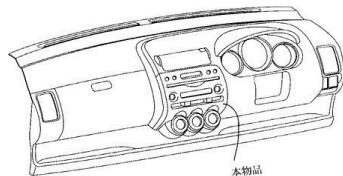
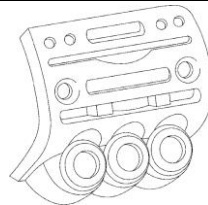
SIPO:

No. In China, we only protect entire design now.

USPTO:

No. The figure for the design of the subsequent application appears to introduce a boundary line (e.g., on the front hood of the tractor) that was not visible in the previous application. Therefore, the previous application does not appear to reasonably convey to those skilled in the art that the inventor had possession of the design claimed in the subsequent application, and the subsequent application may not be entitled to the benefit of the filing date of the previous application. See MPEP 1503.02, subsection III.

No.5

Questionnaire	The previous application	The subsequent application
The entire And Partial Design		

	<p>If the previous application is a partial design , the subsequent application is a design of spare part, which has been showed by solid line in the previous application whether the subsequent application can claim the right of priority of the previous application?</p>
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EUIPO:

No. If the subsequent application is an entire design which has fewer features compared to the first application (namely the features which were disclaimed in the subsequent application), EUIPO considers that the subsequent application is not for the ‘same design’ as the first application.

JPO:

No. Both cases are understood as being eligible for constituting a design of an article. However, the article to the design that corresponds to the whole object depicted regardless of in solid lines or broken lines is different from each other (e.g., “automotive instrument panel” and “operation board”).

KIPO:

No. If the subject matter claimed by the first application is a partial design and the subject matter claimed by the subsequent application filed in Korea is an entire design, the priority claim will be rejected.

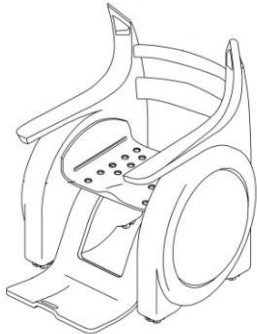
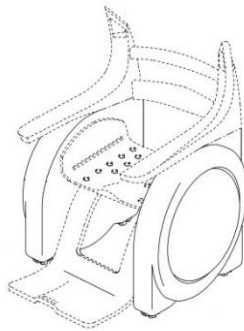
SIPO:

No. The judgment of the same subject is different.

USPTO:

Yes. The previous application would appear to reasonably convey to those skilled in the art that the inventor had possession of the design claimed in the subsequent application, and the subsequent application may be entitled to the benefit of the filing date of the previous application.

No.6

Questionnaire	The previous application	The subsequent application
The entire And Partial Design		
	If the previous application is an entire design, the subsequent application is a partial design shown in the second picture, whether the subsequent application can claim the right of priority of the previous application?	

EUIPO:

No. If the subsequent application is an entire design which has fewer features compared to the first application (namely the features which were disclaimed in the subsequent application), EUIPO considers that the subsequent application is not for the ‘same design’ as the first application.

JPO:

No. The subject matter for which design registration is requested (claiming scope) differs from each other.

KIPO:

No. If the subject matter claimed by the first application is an entire design and the subject matter claimed by the subsequent application filed in in Korea is a partial design, the priority claim will be rejected. (But, as for the GUI design, if the first application is filed in countries (e.g. China) with no partial design system, even if the subject matter claimed by the subsequent application filed in Korea is a partial design, the priority right will be granted. (the Design Examination Guidelines)


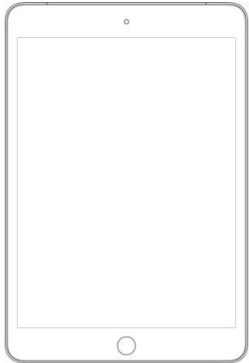
SIPO:

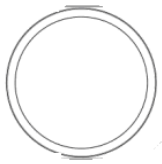
No. In China, we only protect entire design now.

USPTO:

No. The figure for the design of the subsequent application appears to introduce a boundary line (e.g., on the left arm rest extending to the rear) that is not clearly visible in the figure for the design of the previous application. Therefore, the previous application does not appear to reasonably convey to those skilled in the art that the inventor had possession of the design claimed in the subsequent application, and the subsequent application may not be entitled to the benefit of the filing date of the previous application. See MPEP 1503.02, subsection III.

No.7

Questionnaire	The previous application	The subsequent application
The entire And Partial Design	 Phone	 iPad

	 <p>If previous application and the subsequent application are both partial designs, and the button is the part that you want to protect. Whether the subsequent application may claim the right of priority of the previous application?</p>
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EUIPO:

Yes. If it is clear that the subject-matter of the protection is the same (the button) and that the environment is disclaimed, then the subsequent design application is for the same design as the first application.

JPO:

No. There exist the differences in color (gradation of light and dark) and the relative scope in the entire article as well as the article to the design.

KIPO:

No. If the size, position and scope of the partial design claimed by the first application differ from that of the partial design claimed by the subsequent application filed in Korea, the priority claim will be rejected.


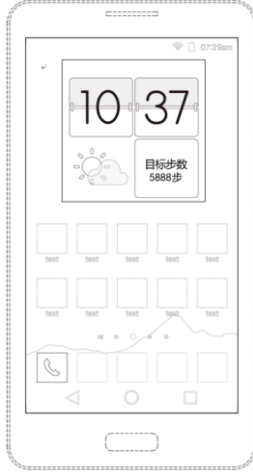

SIPO:

No. In China, we only protect entire design now.

USPTO:

No. The design shown in the figure of the subsequent application appears to be a different design (iPad) from the design shown in the figure of the previous application (iPhone). Also, details of the button shown in the figures of the previous and subsequent applications appear to be different (e.g., contoured vs. flat). Therefore, the previous application does not appear to reasonably convey to those skilled in the art that the inventor had possession of the design claimed in the subsequent application, and the subsequent application may not be entitled to the benefit of the filing date of the previous application.

No.8

Questionnaire	The previous application	The subsequent application
The entire And Partial Design	 <p>Watch</p>	 <p>Phone</p>
	 <p>If previous application and the subsequent application are both partial designs, and the GUI is the part that you want to protect. Whether the subsequent application may claim the right of priority of the previous application?</p>	

EUIPO:

Yes. If it is clear that the subject-matter of the protection is the same (the button) and that the environment is disclaimed, then the subsequent design application is for the same design as the first application.

JPO:

No. The position, size and scope of the GUI part in the entire article as well as the article to the design are different.

KIPO:

No. If the size, position and scope of the partial design claimed by the previous application differ from that of the partial design claimed by the subsequent application filed in Korea, the priority claim will be rejected.

SIPO:

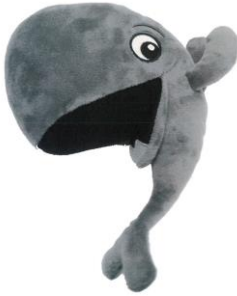

No. In China, we only protect entire design now.

USPTO:

No. The design shown in the figure of the previous application appears to be a different design (watch) from the design shown in the figure of the subsequent application (phone) (e.g., the GUI appears to contain different characters and an additional icon in the shape of a phone in the lower left corner). Therefore, the previous application does not appear to reasonably convey to those skilled in the art that the inventor had possession of the design claimed in the subsequent application, and the subsequent application may not be entitled to the benefit of the filing date of the previous application.

No.9

Questionnaire	The previous application	The subsequent application
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The Color		
	If the color between the previous application and the subsequent application is different, whether the subsequent application may claim the right of priority of the previous application?	

EUIPO:

No. In principle, the colour is not an immaterial detail. The addition or suppression of a colour will normally lead to the conclusion that the two designs are not for the ‘same design’

JPO:

No.

KIPO:

No. If a design which is represented in black and white drawings in the previous application is depicted in color drawings in the subsequent application filed in Korea, the priority claim will be rejected and vice versa.



SIPO:

Yes. If the difference between the previous application and the subsequent application is only color, the subsequent application could claim the right of priority of the previous application

USPTO:

No. The design shown in the figure for the subsequent application appears to be a different design from the design shown in the figure for the previous application (e.g., different number of fins). Also, because the color disclosed in the figure for the design of the previous application appears to be different from the color disclosed in the figure for the design of the subsequent application, the previous application does not appear to reasonably convey to those skilled in the art that the inventor had possession of the design claimed in the subsequent application, and the subsequent application may not be entitled to the benefit of the filing date of the previous application.

No.10

Questionnaire	The previous application	The subsequent application
The Color	 (cloth)	 (cloth)
	If the color between the previous application and the subsequent application is different, whether the subsequent application may claim the right of priority of the previous application?	

EUIPO:

Yes. In this specific case, the slight change in the colour may pass unnoticed and may be considered an immaterial detail.

JPO:

No. Based on the ordinary skill in the art of the design of cloth, color is one of the important elements that represent the characteristics of the design. Therefore, in this case, the difference in color may affect the determination of the identity of the two designs.

KIPO:

Yes. In case where a design is represented in color drawings both in the previous application and the application subsequently filed in Korea, if the colors are clearly different from one another, the priority claim will be rejected but if the colors are different in chroma only, the priority claim will be granted.

SIPO:



Yes. The colors' difference between the previous application and the subsequent application is only chromo, the subsequent application could claim the right of priority of the previous application

USPTO:

No. Because the color disclosed in the figure for the design of the previous application appears to be different from the color disclosed in figure for the design of the subsequent application, the previous application does not appear to reasonably convey to those skilled in the art that the inventor had possession of the design claimed in the subsequent application, and the subsequent application may not be entitled to the benefit of the filing date of the previous application.

No.11

Questionnaire	The previous application	The subsequent application
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<p>The Number of View</p>		
<p>If the previous application only has a stereoscopic drawing, the subsequent application has five-side views, whether the subsequent application may claim the right of priority of the previous application?</p>		

EUIPO:

Yes. Priority claim will be accepted if all the details of the first application can be seen in the stereoscopic views and if the latter do not disclose features which are invisible in the former.

JPO:

No. A specific form that is not shown in the previous application and cannot be inevitably derived therefrom appears in the subsequent application (the view at the upper right).

KIPO:

No. Even if the previous application has only a stereoscopic drawing and the subsequent application has five-side views, the priority claim will be granted as long as



the claimed designs are considered identical. But in this case, the back side of the box () which is invisible by the stereoscopic view in the previous

application is added to the subsequent application so that the priority claim will be rejected.



SIPO:

No. The determination of whether the subsequent application can claim priority on the basis of the previous application is based on the condition that the claimed design in the subsequent application in China is clearly shown in the first foreign application.

USPTO:

No. Details shown in the five-side views of the design of the subsequent application (e.g., all features of the top, left side, and right side) are not clearly visible in the single view of the design of the previous application. Therefore, the previous application does not appear to reasonably convey to those skilled in the art that the inventor had possession of the design claimed in the subsequent application, and the subsequent application may not be entitled to the benefit of the filing date of the previous application. However, had the prior application effectively shown all the details in the subsequent application, the subsequent application may be entitled to the benefit of the filing date of the previous application. A correlation in number of views or lack thereof is not determinative of whether an application may be entitled to the benefit of the filing date of the prior application, rather, the subject matter disclosed is determinative.

No.12

<p>The Number of View</p>		
<p>If the previous application has two side views shown in the first picture, the subsequent application has six-side views, whether the subsequent application may claim the right of priority of the previous application?</p>		

EUIPO:

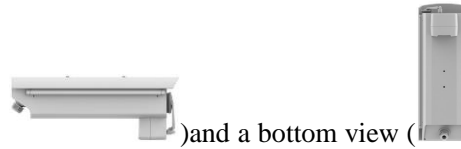
Yes. Priority claim will be accepted if all the details of the first application can be seen in the stereoscopic views and if the latter do not disclose features which are invisible in the former.



JPO:

Yes. Two designs may be found to be identical since the specific form of non-disclosed portion can be derived by making comprehensive determination based on the ordinary skill in the art of the design.

KIPO:

No. Even if the previous application has two side views and the subsequent application has six-side views, the priority claim will be granted as long as the claimed



designs are considered identical. But in this case, a side view () and a bottom view () which cannot be derived from the drawings of the previous application are added to the subsequent application so that the priority claim will be rejected.

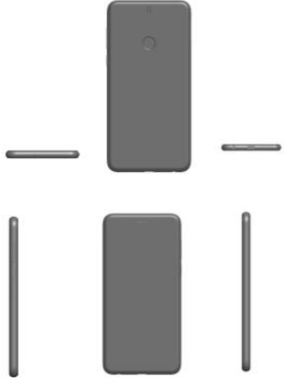

SIPO:

No. Details shown in the six-side views of the design of the subsequent application are not clearly visible in the two-side views of the design of the previous application (e.g., details of the wiper and the holes on the top and bottom surface).

USPTO:

No. Details shown in the six-side views of the design of the subsequent application are not clearly visible in the two-side views of the design of the previous application (e.g., details of the wiper and the holes on the top and bottom surface). Therefore, the previous application does not appear to reasonably convey to those skilled in the art that the inventor had possession of the design claimed in the subsequent application, and the subsequent application may not be entitled to the benefit of the filing date of the previous application. However, had the prior application effectively shown all the details in the subsequent application, the subsequent application may be entitled to the benefit of the filing date of the previous application. A correlation in number of views or lack thereof is not determinative of whether an application may be entitled to the benefit of the filing date of the prior application, rather, the subject matter disclosed is determinative.

No.13

The Number of View		
	<p>If the previous application has six-side views, the subsequent application only has a stereoscopic drawing, whether the subsequent application may claim the right of priority of the previous application?</p>	

EUIPO:

Yes. Priority claim will be accepted if all the details of the first application can be seen in the stereoscopic views and if the latter do not disclose features which are invisible in the former.

JPO:

In Japan, an application that contains only a single stereoscopic view does not become the subject of the priority examination due to lack of the industrial applicability requirement.

KIPO:

Yes. Even if the previous application has six-side views and the subsequent application only has a stereoscopic drawing, the priority claim will be granted as long as the claimed designs are considered identical.

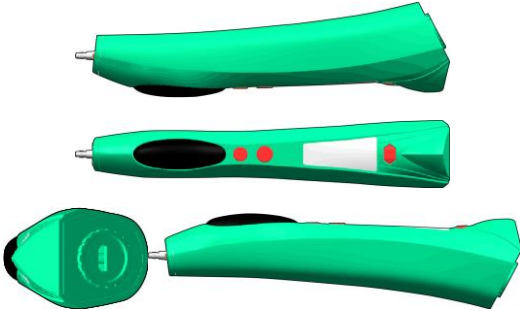

SIPO:

An application that contains only a single stereoscopic view does not become the subject of the priority examination..

USPTO:

No. Details shown in the single view of the design of the subsequent application are not clearly visible in the six-side views of the design of the previous application (e.g., details of the bottom edge of the phone including vents and holes). Therefore, the previous application does not appear to reasonably convey to those skilled in the art that the inventor had possession of the design claimed in the subsequent application, and the subsequent application may not be entitled to the benefit of the filing date of the previous application. However, had the prior application effectively shown all the details in the subsequent application, the subsequent application may be entitled to the benefit of the filing date of the previous application. A correlation in number of views or lack thereof is not determinative of whether an application may be entitled to the benefit of the filing date of the prior application, rather, the subject matter disclosed is determinative.

No.14

The Number of View			
	If the previous application has four views, the subsequent application only has a stereoscopic drawing, whether the subsequent application may claim the right of priority of the previous application?		


EUIPO:

No. In this case, the 3rd view from rear is not visible in the subsequent application, and this is not an immaterial detail.

JPO:

In Japan, an application that contains only a single stereoscopic view does not become the subject of the priority examination due to lack of the industrial applicability requirement.

KIPO:

No. In principle, the number of views doesn't matter in determination on priority claim as long as the claimed designs are considered substantially identical with each other. But, in this case, details () of the design which are not specified in the previous application are represented in the subsequent application so that the priority claim will be rejected.

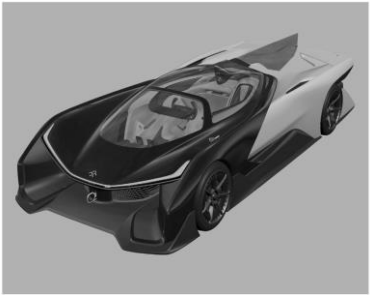
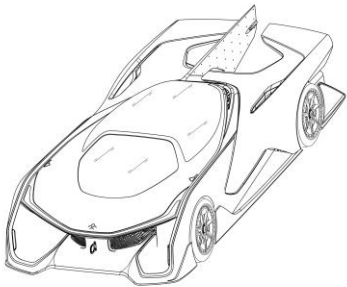
SIPO:

An application that contains only a single stereoscopic view does not become the subject of the priority examination..

USPTO:

No. Details shown in the figure for the design of the subsequent application are not clearly visible in the four views of the design of the previous application (e.g., the yellow nodes at the tip of the device and contouring details of the front of the object). Therefore, the previous application does not appear to reasonably convey to those skilled in the art that the inventor had possession of the design claimed in the subsequent application, and the subsequent application may not be entitled to the benefit of the filing date of the previous application. However, had the prior application effectively shown all the details in the subsequent application, the subsequent application may be entitled to the benefit of the filing date of the previous application. A correlation in number of views or lack thereof is not determinative of whether an application may be entitled to the benefit of the filing date of the prior application, rather, the subject matter disclosed is determinative.

No 15.

The Type of View		
	If the previous application uses photograph, the subsequent application uses drawing, whether the subsequent application may claim the right of priority of the previous application?	

EUIPO:


Yes/No. The difference of the type of view is not the main issue. The difficulty in this case is that the contrasting effects of the shades of black and white is absent in the subsequent application. This is likely to be considered a detail which is *not* immaterial.

JPO:

No. There exists the difference in colors (the presence of gradation of light and dark).

KIPO:

No. In principle, even if a design is depicted in rendering in the previous application and a design is represented in line drawings in the subsequent application, the priority claim can be granted as long as two designs are considered identical with each other, and vice versa. However, in this case, two designs claimed by the

previous and subsequent applications are determined to be different since the inside of the car visible through the transparent subject  is represented

in rendering in the previous application so that it can be protected whereas it  is not depicted in line drawings in the subsequent application so that it cannot be protected.

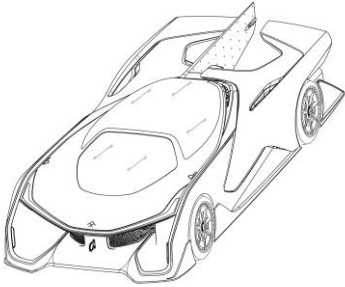
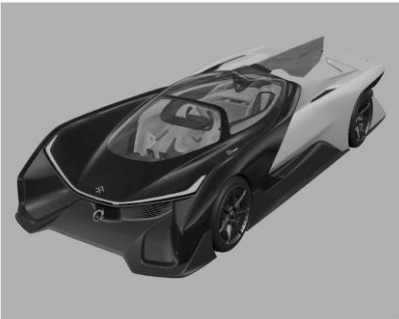
SIPO:

The determination of whether the subsequent application can claim priority on the basis of the previous application, is based on the condition that the claimed design in the subsequent application in China is clearly shown in the first foreign application. If details shown in the subsequent application are substantively identical in the previous application, the subsequent application could claim the right of priority of the previous application

USPTO:

No. The design shown in the drawing of the subsequent application appears to be a different design from the design shown in the photograph of the previous application (e.g., counters in the hood windshield region shown in the photograph are not shown in the drawing). Therefore, the previous application does not appear to reasonably convey to those skilled in the art that the inventor had possession of the design claimed in the subsequent application, and the subsequent application may not be entitled to the benefit of the filing date of the previous application.

No.16

<p>The Type of View</p>		
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	If the previous application uses drawing, the subsequent application uses photograph, whether the subsequent application may claim the right of priority of the previous application?
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EUIPO:


Yes/No. The difference of the type of view is not the main issue. The difficulty in this case is that the contrasting effects of the shades of black and white is absent in the subsequent application. This is likely to be considered a detail which is *not* immaterial.


JPO:

No. There exists the difference in colors (the presence of gradation of light and dark).

KIPO:

No. In principle, if a design depicted in rendering in the previous application and a design represented in line drawings in the subsequent application are determined to be identical, the priority claim can be granted and vice versa. However, in this case, two designs claimed by the previous and subsequent applications are

determined to be different since the inside of the car visible through the transparent subject  is represented in rendering in the subsequent application

and it will be subject to protection whereas it  is not depicted in line drawings in the previous application so that it cannot be protected.

SIPO:

The determination of whether the subsequent application can claim priority on the basis of the previous application, is based on the condition that the claimed design in the subsequent application in China is clearly shown in the first foreign application. If details shown in the subsequent application are substantively identical in the previous application, the subsequent application could claim the right of priority of the previous application.

USPTO:

No. The details, appearance and shape of all the features of the design shown in the photograph of the subsequent application, are not clearly visible in the drawing of the design of the previous application (e.g., details of the back left fin region shown in the photograph and the seats are not shown in the drawing). Therefore, the previous application does not appear to reasonably convey to those skilled in the art that the inventor had possession of the design claimed in the subsequent application, and the subsequent application may not be entitled to the benefit of the filing date of the previous application.