

## APPENDIX A

### The Comparative Study of Foreign Priority System for Industrial Designs by ID5 Offices

			EUPO	JPO	KIPO	SIPO	USPTO
Formality Requirements	Time Limit of Claiming Priority		Six months from the date of filing of the first application	Within six months from the filing date of the first application.	Within 6 months of the filing date of the initial application	Six months from the date of filing of the first application in a foreign country	The US design application claiming priority to the foreign application must be filed not later than six months after the filing date of the foreign application or the design application must be entitled to claim the benefit under 35 U.S.C. 120, 121, 365(c), or 386(c) of an application that was filed not later than six months after the date on which the foreign application was filed unless

							the right of priority has been restored.
	Fee	Whether the priority fee should be paid according to the number of designs involved?	No fee	No fee	The fee should be paid per design.	The fee should be paid for each priority	No fee
		What is the fee for each priority claim?	No fee	No fee	1) 18,000 won for each priority claim if filed electronically 2) 20,000 for each priority claim if filed in paper	¥80	No fee
		What is the time limit for payment of fee?	No fee	No fee	Within one month of the filing date	Within two months from the filing date or fifteen days from the date of receipt of the notification of acceptance of the application	No fee
	Declaration of Claiming Priority	Whether the declaration of claiming priority is compulsory?	Yes	Yes	Yes	Yes	Yes

		When should the declaration be submitted?	Priority may be claimed either when filing the Community design application or within a period of one month of the filing date	At the time of filing a design application. For an international design application under the Hague Agreement, at the time of filing an international design application.	When filing an application for design registration,	When the application is filed, the declaration should be submitted	<p>For a design application, the claim for foreign priority must be filed during the pendency of the application. If the claim for priority is filed after the date the issue fee is paid, the patent will not include the priority claim unless corrected by a certificate of correction.<sup>1</sup></p> <p>For a nonprovisional international design application, the priority claim, unless made in accordance with the Hague Agreement and the Hague Agreement Regulations, must</p>
--	--	---	--	--	---	--	---

---

<sup>1</sup> Under what circumstances do the design application need to be filed with a petition under 37 CFR 1.55(e)? A petition under 37 CFR 1.55(e) would be required to add a foreign priority claim after patent grant.

							be filed during the pendency of the application.
		What information should be contained in the declaration?	The date on which the previous application was filed, the country in which or for which it was filed and the file number of the previous application	The name of the country to which the application was first filed and the filing date.	The statement of an applicant's intention of priority claim, the name of the State in which the initial application was filed, the filing date of the previous application, a document stating the filing date of the application recognized by the government of the State in which he/she filed an application first, a certified copy of the drawing of the design	The name of the authority with which the application was filed, the name of the applicant, the date of filing and the application number	The claim for foreign priority must be presented in an application data sheet (37 CFR 1.76), identifying the application number, country (or intellectual property authority), day, month, and year of its filing.
	A certified	Whether the Cop	Yes	Yes	Yes	Yes	Yes <sup>2</sup>

<sup>2</sup> “Under certain circumstances, the certified copy may be required at an earlier date. See 37 CFR 1.55(g)(2) and MPEP § 215.” Please show us an example or explain what does “the certain circumstances” mentioned above mean. The circumstances identified in 37 CFR 1.55(g)(2) are: (i) when the application is involved in an interference (see § 41.202 of this chapter) or derivation (see part 42 of this chapter) proceeding; (ii) when necessary to overcome the date of a reference relied upon by the examiner; or (iii) when deemed necessary by the examiner.

	d copy of P revious A pplication Docume nts	y of Previous Ap plication Docume nts should be su bmitted?					
		When should the copy be submitt ed?	Where the priority of one or more previous applicati ons is claimed in the appli cation, the applicant must file a copy of the previous application within three months of the filing date. Where the priority claim i s submitted within a perio d of one month of the fili ng date, the applicant mus t file a copy of the previo us application within three months of receipt of the declaration of priority	Within 3 months fro m the filing date of the design applicati on. For an international design application un der the Hague Agre ement, within 3 mon ths from the date of the international pu blication.	Within 3 months of t he filing date	Within three months fr om the filing date	For design applicati ons and nonprovisi onal international d esign applications, t he certified copy of the foreign applica tion must be submi tted during the pen dency of the applic ation, unless filed with a petition und er 37 CFR 1.55(g) together with the fe e set forth in 37 C FR 1.17(g), that in cludes a showing o f good and sufficie nt cause for the del ay in filing the cert ified copy of the fo reign application.

		<p>What are the requirements of the format of the copy?</p>	<p>The priority document must consist of a certified copy of the previous application or registration, issued by the authority that received it, and be accompanied by a certificate stating the filing date of that application. The priority document may be filed in the form of an original or as an accurate photocopy. Insofar as the original document contains a representation of the design in colour, the photocopy must also be in colour;</p> <p>Applicants claiming the priority of a U.S. patent (design) application are allowed to submit the certified copy of this application in CD-ROM format.</p> <p>Where the priority of a previous registered Community design is claimed, the</p>	<p>An original certified copy of previous application documents must be submitted in paper form. The copy has to be submitted together with a "Submission of Priority Certificate" made in conformity with the prescribed form.</p>	<p>A document stating the filing date of the application for design registration recognized by the government of the State in which he/she filed an application first, and a certified copy of the drawing of the design</p>	<p>The formality of the copy of the said application document shall be in conformity with the international practice.</p>	<p>The certified copy which must be filed is a copy of the original foreign application with a certification by the patent office of the foreign country in which it was filed which ordinarily consists of a copy of the specification and drawings of the application as filed with a certificate of the foreign patent office giving certain information.</p>
--	--	---	---	---	--	---	--

			applicant must indicate the number of the previous application and its date of filing. No additional information or document is required				
		Whether a translation version of the copy in native language should be submitted?	Only that information allowing the examiner to check the nature of the right (design or utility model), the country of filing, the file number, the filing date and the applicant's name	A Japanese translation of the name of the country to which the first application was filed and the filing date in the certified copy has to be submitted.	When necessary, Korean translation will be required	The Chinese translation of the extract may be submitted	<p>(1) When the application is involved in an interference (see 37 CFR 41.202) or derivation (see 37 CFR part 42) proceeding;</p> <p>(2) When necessary to overcome the date of a reference relied upon by the examiner; or</p> <p>(3) When specifically required by</p>

							<p>y the examine r.</p> <p>If an English language translation of a non-English language foreign application is required, it must be filed together with a statement that the translation of the certified copy is accurate.</p>
Procedure Require ments	Amendment of Declaration	Whether the filing date of previous application which indicated in priority declaration may be modified?	Only if it is considered an 'error of wording or of copying, or an obvious mistake'	Amendment can be made only when it is not necessary to amend the name of the country (or the name of the intergovernmental organization) and the purpose of the amendment is to amend an obvious error of the filing date stated in the priority declaration	Yes.	Yes.	Yes.



				<p>claration to correspond to that stated in the certified copy of the application previously filed.</p> <p>In addition, it is necessary to submit a written statement of the fact that the written error was not intentional.</p>			
		<p>If possible, until when should the amendment be submitted?</p>	<p>Article 12 CDIR does not foresee any time limit for the correction.</p> <p>Where the incorrect date of the first filing is earlier than 6 months before the date of filing of the Community design application, this will lead to an objection. The correction can be made in reply to the examiner's objection once the examiner can verify which is the genuine date of filing of the previous applicati</p>	<p>Within 3 months from the filing date</p>	<p>within 3 months of the filing date</p>	<p>Applicant should make response to the Notification of Rectify Formalities within the time limit</p>	<p>During the pendency of the design or nonprovisional international design application via a corrected application data sheet in conjunction with a request for corrected filing receipt. Note that an application data sheet after final rejection or allowance is not entered as a matter</p>

			on from the certified copy of the previous application, accompanied by the certificate stating the filing date of that application.				of right and must be filed in compliance with 37 CFR 1.116 or 1.312, respectively. Also if the amended claim for priority is filed after the date the issue fee is paid, the patent will not include the priority claim unless corrected by a certificate of correction.
		Whether the names of the countries or intergovernmental organizations indicated in priority declaration may be modified?	if it is considered an 'error of wording or of copying, or an obvious mistake'	Amendment can be made only when it is not necessary to amend the filing date of the previous application and the purpose of the amendment is to amend an obvious error of the country name (or the name of the intergovernment	Yes.	Yes.	Yes, same criteria apply as noted above regarding submitting an amendment to modify the filing date of the prior application.

				<p>al organization) stated in the priority declaration to correspond to that stated in the certified copy of the application previously filed.</p> <p>In addition, it is necessary to submit a written statement of the fact that the written error was not intentional.</p>			
		Whether the application number of the previous application indicated in priority declaration may be modified?	if it is considered an 'error of wording or of copying, or an obvious mistake'	Amendment can be made only when it is for the purpose of correcting an obvious error of the filing number of the previous application to correspond to that stated in the certified copy of the application previously filed.	Yes.	Yes.	Yes, same criteria apply as noted above regarding submitting an amendment to modify the filing date of the prior application.
	Priority A	Whether the applicant(s) of the su	Yes.	Yes.	Yes.	Yes.	Yes (i.e., the US a

	ssignment	bsequent applicati on shall be the s ame as the previ ous applicant(s)?					nd foreign applicati on must name the same inventor or h ave at least one joi nt inventor in com mon).
		If the applicant(s) of the subsequen t application is entirely or partial ly different from the previous ap plicant(s), whethe r a document cer tifying the assign ment of the right of priority is re quired?	Priority can be claimed by the applicant of the first a pplication or its successor i n title. In the latter case, t he first application must ha ve been transferred prior to the filing date of the Co mmunity design applicatio n, and documentation to th is effect must be provided.  The right of priority “is an autonomous right in that i t exists independently of th e eventual outcome of that initial application” (Genera l Court of the European U nion, case T-128/99, “Teley	No	Yes.	Yes.	No, but the US an d foreign applicati on must name the same inventor or have at least one j oint inventor in co mmon.

		<p>e”, para. 42).</p> <p>Taken as an “autonomous right”, the right of priority may be transferred independently of the first application.</p> <p>The proprietor of the first application can decide to transfer the entirety of the rights on the first application to a third party in order that this third party can claim its priority in a Community design application. If the first application is transferred in its entirety to a third party, the name of the proprietor of the first application and of the Community design application claiming priority will be the same. It will be assumed in such a case that the transfer included the right to claim the priority of the first</p>				
--	--	---	--	--	--	--

			<p>application.</p> <p>Alternatively, the proprietor of the first application can decide to transfer only the right of priority attached to this first application. In such a case, the name of the proprietor of the first application and of the Community design application claiming priority will remain different. In order to explain this discrepancy, the Community design applicant which claims priority must submit a document of transfer establishing that he is the successor in title of the proprietor of the first application as far as the right of priority (and only this right) is concerned.</p> <p>The execution date of the assignment (of the first app</p>				
--	--	--	--	--	--	--	--

			lication in its entirety or only in respect of the right of priority) must be prior to the filing date of the Community design application.				
		Is there any other requirements related to the applicant(s) of the subsequent application and the previous applicant(s)?	<p>Subsidiary or associated companies of the applicant are not considered to be the same legal entity as the Community design applicant itself.</p> <p>When, in reply to an objection by the examiner on a discrepancy between the identity of the applicant and that of the previous application holder, the applicant explains that this is due to a corporate name change, a document establishing this change of corporate name must be submitted within two months.</p>	The applicant has to be nationals of the member country of the Paris Convention or the WTO.	No	No	No
	Notification	In what condition	The examiner will not inv	When the country na	If one out of the app	Where such one or two	The examiner will

	ns Invo lved in th e Priorit y Examin ation	shall the examin er invite the appli cant to make ame ndments?	ite the applicant to make a mendments, however, an o bjection will be issued where applicant has not complied with one or more of the following co nditions 1. whether priority was cla imed within six months of filing the first application;  2. whether priority was cla imed when filing the appli cation or within one mont h of the filing date; 3. whether the details and the copy of the previous a pplication were submitted in due time (within three months of either the filing date or, as the case may be, receipt of the declarati	me or the filing date stated in the “declar ation” is inconsistent with that in the “certi fied copy”.	licant, application dat e, country name and product indication i n the design applicati on is different from t hat of the previous a pplication	items as the date of fil ing,the filing number of the earlier application or the title of the autho rity with which the earl ier application was file d are missing or incorr ect in the request when claiming for right of p riority,the patent admini stration department und er the State Council sh all notify the applicant to make rectification wi thin the specified time l imit.Where the applican t fails to make the recti fication within the time limit,the right of priori ty shall be deemed not to have been claimed.	not invite the app licant to make am endments, howeve r, notification may be issued where appli cant has not comp lied with one or more of the condit ions specified in 3 5 U.S.C. 119 and 37 CFR 1.55. <sup>3</sup>
--	---	---	--	--	---	---	---

<sup>3</sup> Could you show us the specific content of the 37 CFR 1.55 succinctly, especially related to the terms mentioned above ? 37 CFR 1.55(g) requires that the claim for priority and the certified copy of the foreign application must be filed within the pendency of the application. The claim for foreign priority must be presented in an application data sheet (37 CFR 1.76), identifying the application number, country (or intellectual property authority), day, month, and year of its filing (37 CFR 1.55(d)). For example, if applicant files a certified copy that does not correspond to the foreign application identified in the foreign priority claim by its application number, country (or intellectual property authority), day, month, and year of its filing, or where applicant has filed a certified copy of a foreign application but has not made a claim for foreign priority the applicant should be notified.



		<p>on of priority);</p> <p>4. whether it is specified that the previous application concerns a design or a utility model;</p> <p>5. whether the previous application was filed in a country that is a member of the Paris Convention or the World Trade Organization (WTO), or in another state with which there is a reciprocity agreement;</p> <p>6. whether the previous application was a first filing (meaning that a priority claim should be rejected if the priority application in turn claimed priority);</p> <p>7. whether the proprietor is the same or whether a transfer document establishes the Community design applicant's right to claim the priority of a previous application originally filed by</p>				
--	--	--	--	--	--	--

			y another applicant.				
		In what condition shall the examiner issue a notification to inform the applicant that the claim is deemed to be waived?	<p>The deficiencies are not remedied in due time or cannot be remedied;</p> <p>If the deficiencies that are not remedied concern only some of the designs contained in a multiple application, the right of priority will be lost in respect only of the individual designs concerned</p>	In the cases where the certified copy of the application previously filed is not submitted within 3 months from the filing date of the design application, the priority claim for the application loses its effect. However, no notice would be issued to inform the fact.	If the applicant does not correct the application in due time or does not appropriately correct it after receiving an advance notification of denial on the priority claim due to discrepancy between the previous and subsequent applications, the notification of denial shall be provided.	Where the name or title of the applicant who claims the right of priority is not the same as the one recorded in the copy of the earlier application, the applicant shall submit document certifying the assignment of right of priority. If no such document is submitted, the right of priority shall be deemed not to have been claimed.	The examiner does not issue a notification to inform the applicant that the claimed is deemed to be waived. If the claim to priority is not presented in the manner and within the time period provided by 37 CFR 1.55, the claim is considered to have been waived. Only the foreign priority claims that are listed on the filing receipt have been recognized by the USPTO.
		What is the time limit for the applicant to respond to the notification?	within two months.	N.A.	Within two months of the notification date	Within two months after the receipt of the notification.	N/A – see above “Time Limit of Claiming Priority”.

	Restoration of Claim to Right of Priority	Please list the situations in which the applicant may request to restore the right of claiming priority?	<p>If an applicant does not comply with the time limit for (i) submitting his priority claim or (ii) the documents in support of this claim, the claim of priority will be refused which implies a loss of right for this applicant.</p> <p>Only in those cases he can apply for the reinstatement (same thing as restoration) of his right to claim priority of the first application. He must show that the below conditions are met.</p> <p>The applicant who, <u>in spite of all due care required by the circumstances having been taken</u>, was unable to observe a time limit vis-à-vis the Office shall, upon application, have his rights re-established if the non-observance in question</p>	<p>It is not allowed to request restoration of the right to claim priority for design applications. On the other hand, there is a remedy for a delayed submission of a certified copy. That is, where, due to reasons beyond the control of the applicant, the applicant is unable to submit the certified copy within the prescribed time limit, the applicant may submit the certified copy within the time limit as provided in Ordinance of the Ministry of Economy, Trade and Industry.</p>	<p>It is not allowed to request restoration of the right to claim priority for design right (Article 51(4) of the Design Protection Act)</p>	<p>(1) where the claim to the right of priority is deemed not to have been made because the applicant has failed to make any response to the Notification to Rectify Formalities within the specified time limit;</p> <p>(2) where at least one item is filled correctly in the declaration claiming the priority, but the copy of the previous application document or the document certifying the assignment of the right of priority has not been submitted within the prescribed time limit;</p> <p>(3) where at least one item is filled correctly in the declaration claiming the priority, but the</p>	<p>If the filing date of the subsequent US design application is after the expiration of the six-month period, but within two months from the expiration of the period, the right of priority may be restored upon petition under 37 CFR 1.55(c), if the delay in filing the subsequent application was unintentional.</p>
--	---	--	--	--	--	---	--

			<p>has the direct consequence, by virtue of the provisions of this Regulation, of causing the loss of any rights or means of redress;</p> <p>reinstatement/restoration of the right may be applied in respect of the three-month time limit for providing the file number of the previous application and filing a copy of it, as specified in Article 8(1) CDIR (Guidelines for Examination in the Office, Part A, General Rules, page 6).</p>			<p>e fee for claiming the right of priority has not been paid or not paid in full within the prescribed time limit; or</p> <p>(4)where the initial application of the divisional application has claimed the right of priority.</p>	
		<p>Please list the situations in which the right of claiming priority may not be restored?</p>	<p>The priority period, which is the six-month time limit for filing an application claiming the priority of a previous design or utility model application pursuant to Article 41(1) CDIR; can never be restored.</p>	N.A.	N.A	<p>Except for the above circumstances, the right of priority that is deemed not to have been made due to other reasons shall not be restored.</p>	<p>If the filing date of the subsequent US design application is more than two-months after the expiration of the six-month period, or if the delay in filing the subsequent appl</p>

			<p>4</p> <p>According to Article 67 (5) CDR, the re-establishment of rights cannot be applied for in respect of the time limits referred to in Article 41(1) that is, the 6-month time limit after the filing of the first application to file a Community design application.</p> <p>In turn, provided the Community design application was filed within this 6-month period, the time limits for submitting the priority claim or for submitting the documents in support of this claim can be the subject of a request for re-establishment of the rights. Regarding the three-month time limit for p</p>				<p>ication within the six-month period was not unintentional.</p>
--	--	--	--	--	--	--	---

---

<sup>4</sup> Could you show us the related information of the Article 41(1) CDR succinctly?

			<p>roviding the file number of the previous application and filing a copy of it, as specified in Article 8 (1) CDIR, the application for reinstatement/restoration must be filed in writing within two months of the removal of the cause of non-compliance with the time limit. The omitted act must be completed within this period. The application shall only be admissible within the year immediately following the expiry of the unobserved time limit.</p> <p>The priority claim cannot be re-established if the foregoing time limits are not respected.</p>				
	Withdrawal of Claim to the	Whether the declaration of claiming priority may	Yes	NO	Yes	Yes	Yes, where a foreign priority claim is being deleted, appli

	Right of Priority	be withdrawn?					<p>cant must provide a corrected application data sheet in conjunction with a request for corrected filing receipt.</p> <p>Note that an application data sheet after final rejection or allowance is not entered as a matter of right and must be filed in compliance with 37 CFR 1.116 or 1.312, respectively.</p>
Judgment of the Same Subject Matter	Principle of Judgment		<p>There is no case-law on this issue so far.</p> <p>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</p>	<p>It is necessary that the design in the design application filed in Japan is identical with the design in the previous application that serves as the basis for the right of priority.</p>	<p>The previous application on which the priority claim shall be based should be substantially the same as the application for design registration filed with KIPO.</p>	<p>The determination of same subject matter for designs shall be based on the design application subsequently filed in China and the content indicated in the first foreign design application. Designs of same subject matter shall</p>	<p>The foreign application must be for the same invention as the application in the United States.</p>

			<p>uppression of any features.</p> <p>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</p>			<p>meet both of the following two conditions:</p> <p>(1) both of the designs are for same products ; and</p> <p>(2) the claimed design in the subsequent application in China is clearly shown in the first foreign application.</p>	
	Patent Type	If the previous application is an invention or utility model, the subsequent application is a design, whether the subsequent application may claim the priority on the basis of the previous application.	The priority of a previous design or utility model application may be claimed, including that of a previous Community design or an international design registration.	Possible	Possible	The determination of same subject matter for designs shall meet the condition that the claimed design in the subsequent application in China is clearly shown in the first foreign application.	The determination is based on whether the corresponding foreign application supports the claim of the subsequent application in the manner required by 35 U.S.C. 112(a).
	Indication of the product	If the indication between the previous application and	The Office does not verify whether the priority claim relates to 'the same design'	In principle, in order for the design described in the priority	When the purpose and function of an article in a design between	The name of the product incorporating the design may explain the	The determination of whether the sub



		<p>nd the subsequent application is different, whether the subsequent application may claim the right of priority of the previous application?</p>	<p>design or utility model', including in respect of the identification of the product. The priority claim will be accepted even if the indication of product is different in the first application and the subsequent application for a Community design.<sup>5</sup></p>	<p>certificate to be found identical with the design in the design application filed in Japan, the indication of product (article to the design) must be identical. if the difference is considered to be inevitable due to differences in the laws and regulations, etc. of the respective countries, the indication of the product stated in the priority certificate and the article to the design in the design application filed in Japan are found to be identical for the purposes of determining the approvability of the right of</p>	<p>the previous application and the subsequent application are substantially identical, they shall be considered to be the same despite different indications.</p>	<p>category of the product as shown in the drawings or photographs. The subsequent application and the foreign design application should be both of the designs are for same products</p>	<p>sequent application can claim priority on the basis of the previous application, is based on whether the corresponding foreign application supports the claim of the subsequent application in the manner required by 35 U.S.C. 112(a). See MPEP § 2163.03, subsection III.</p>
--	--	--	--	--	--	---	--

<sup>5</sup> We have modified the answer, please check it. Correct

				priority.			
	The entire and Partial Design	<p>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?</p>	<p>When examining an application for a Community design, the Office does not verify whether this application concerns the ‘same design or utility model’ whose priority is claimed.</p> <p>However, 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.</p> <p>Thus, if a cancellation action is filed against such a Community design, on the basis of a previous design which has been dis</p>	<p>In this case, the effects of priority claim is not approved since the designs represented cannot be acknowledged as being identical. (71.13(4) of the Examination Guidelines for Design)</p>	<p>An advance notification of denial on the priority claim will be provided while requesting the applicant to correct it.</p>	<p>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</p>	<p>The determination is based on whether the corresponding foreign application supports the claim of the subsequent application in the manner required by 35 U.S.C. 112 (a).</p>

			closed during the period covered by the priority claim, EUIPO would have to examine the validity of the priority claim and would come to the conclusion that it is not valid.				
		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?	Same answer	In this case, the effects of priority claim is not approved since the designs represented cannot be acknowledged as being identical.	An advance notification of denial on the priority claim will be provided while requesting the applicant to correct it.	When we judge that whether the subsequent application may enjoy the right of priority of the first foreign application, the two factors which are designs are for same products and the claimed design in the subsequent application in China is clearly shown in the first foreign application would be taken into consideration.	The determination is based on whether the corresponding foreign application supports the claim of the subsequent application in the manner required by 35 U.S.C. 112 (a).
		The previous application is a partial design	It is difficult to answer this example. Since the design is not identical	In this case, the effects of priority claim is not approved	An advance notification of denial on the priority claim will be provided while requesting the applicant to correct it.	In China, we only protect entire design now.	The determination is based on whether the corresponding foreign application supports the claim of the subsequent application in the manner required by 35 U.S.C. 112 (a).

		al design, while the subsequent application is also a partial design, but the location, size and proportion of the partial design is not the same as in the previous application. Whether the subsequent application may claim the right of priority of the previous application?	claimed elements represented in dotted lines are the part of the subject-matter of the protection, there are arguments to support the view that the two designs are the same for the purpose of claiming priority.	is not approved since the designs represented cannot be acknowledged as being identical. (71.13(2) of the Examination Guidelines for Design)	priority claim will be provided while requesting the applicant to correct it. If the location, size and proportion of the partial design cannot be limited even after considering all the descriptions in the priority document, the previous and subsequent applications shall not be considered the same.		the corresponding foreign application supports the claim of the subsequent application in the manner required by 35 U.S.C. 112 (a).
		If the previous application is a design of an entire product, the subsequent application is a partial design of the product, whether the subsequent application may claim	Not 'the same design' for the reason given above in the reverse situation.	In this case, the effects of priority claim is not approved since the designs represented cannot be acknowledged as being identical. (71.13(1) of the Examination Guidelines for Design)	An advance notification of denial on the priority claim will be provided while requesting the applicant to correct it.	In China, we only protect entire design now.	The determination is based on whether the corresponding foreign application supports the claim of the subsequent application in the manner required by 35 U.S.C. 112 (a).

		he right of priority of the previous application?					
		For GUI applications, if the previous application is the interface, the subsequent application is a entire product which contained the GUI, whether the subsequent application may claim the right of priority?	Not ‘the same design’ for the reason given above.	If only the graphic image of the GUI is shown in the drawing of the previous application, the design will not be acknowledged as being identical and therefore, the effects of priority claim will not be approved.	The GUI which is not applied to an article is not a subject matter of the protection under the Design Protection Act	If the previous application is a design with dotted line containing interface and product, and the subsequent application which have amended the dotted line in to solid line, then the subsequent application may claim the right of priority of the previous application	The determination is based on whether the corresponding foreign application supports the claim of the subsequent application in the manner required by 35 U.S.C. 112 (a). Note that an application directed to the interface alone may not comply with the “article of manufacture” requirement of 35 U.S.C. 171.
	The Color	If the color between the previous application and the subsequent application is different	The decision will depend on whether the colour can be considered an ‘immaterial detail’ of the two designs. This will depend	Color is one of the elements that would constitute a design. Therefore, when elements of the designs	If the color between the previous application and the subsequent application is different, An advance	For the example one, the difference between the previous application and the subsequent application is only color, the	The determination is based on whether the corresponding foreign application supports the claim

		ent, whether the subsequent application may claim the right of priority of the previous application?	d on the nature of the product, the importance given to the colour in the designs and the how unusual this colour is in respect of the product at issue.	are different, the effects of priority claim will not be approved. However, even when the methods of representation are different, if it is possible to reach a conclusion that the designs are identical by making a comprehensive judgment of the contents of the priority certificate, the above will not apply.	notification of denial on the priority claim will be provided while requesting the applicant to correct it.	he subsequent application could claim the right of priority of the previous application	m of the subsequent application in the manner required by 35 U.S.C. 112 (a).
	The Number of View	If the previous application only has a stereoscopic drawing, the subsequent application has six-side views and a stereoscopic drawing, whether the subsequent application may claim the	It will depend on whether the 6 views disclose additional features which were not visible in the stereoscopic drawing.	Where a specific form of the part not shown in the stereoscopic drawing of the previous application but appears in the subsequent application cannot be derived, by making comprehensive determination, from the contents of t	If the two designs are deemed to be substantially identical, it shall be considered the same.	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 appli	The determination is based on whether the corresponding foreign application supports the claim of the subsequent application in the manner required by 35 U.S.C. 112 (a).

		right of priority of the previous application?		<p>he entire priority certificate, the designs are not found to be identical.</p> <p>However, there may be exceptional cases where the specific form of the part not shown in a stereoscopic drawing can be derived by such reasons as the form of the part in question is more or less fixed (or should be the mirror image, etc.) taking the general characteristics of the article into consideration.</p>		cation.	
		If the previous application has six-side views and a stereoscopic drawing, the subsequent application	It will depend on whether the 6 views disclose additional features which were not visible in the stereoscopic drawing.	In Japan, an application that only has a stereoscopic drawing attached is not assumed in general. However, it should be	If the two designs are deemed to be substantially identical, it shall be considered the same.	The determination of whether the subsequent application can claim priority on the basis of the previous application, is based on the co	The determination is based on whether the corresponding foreign application supports the claim of the subsequent

		only has a stereoscopic drawing, whether the subsequent application may claim the right of priority of the previous application?		noted that the effects of priority claim will not be denied due only to differences in the method of drawing (method of projection).		in addition that the claimed design in the subsequent application in China is clearly shown in the first foreign application.	the subsequent application in the manner required by 35 U.S.C. 112 (a).
	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?	The determinative factor is whether all the features visible in the first application are also visible in the subsequent application.	Even when the methods of representation are different, if it is possible to reach a conclusion that the designs are identical by making a comprehensive judgment from the contents of the priority certificate, the effects of priority claim will be approved.	If the two designs are deemed to be substantially identical, it shall be considered the same.	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.	The determination is based on whether the corresponding foreign application supports the claim of the subsequent application in the manner required by 35 U.S.C. 112 (a).
		If the previous application uses drawing, the subsequent application uses photograph,	The determinative factor is whether all the features visible in the first application are also visible in the subsequent application.	Even when the methods of representation are different, if it is possible to reach a conclusion that the	If the two designs are deemed to be substantially identical, it shall be considered the same.	The determination of whether the subsequent application can claim priority on the basis of the previous application	The determination is based on whether the corresponding foreign application supports the claim



		whether the subsequent application may claim the right of priority of the previous application?		designs are identical by making a comprehensive judgment from the contents of the priority certificate, the effects of priority claim will be approved.		on, is based on the condition that the claimed design in the subsequent application in China is clearly shown in the first foreign application.	m of the subsequent application in the manner required by 35 U.S.C. 112 (a).
	Multiple Priorities	If the previous applications are designs of spare parts, the subsequent application is a design of a whole product containing those spare parts, whether the subsequent application may claim the right of priority of the previous application?	According to the Office's practice, the subsequent application must be compared with each of the previous applications. The designs would therefore be different.	Multiple priorities are not allowed.	Multiple priorities are not allowed	For example 2, the subsequent application may claim the right of priority of the previous application	The determination is based on whether the corresponding foreign application supports the claim of the subsequent application in the manner required by 35 U.S.C. 112 (a).
Others	Other Rules and Practices that not Co						

	ntained in the Provi sions Abo ve						
--	--	--	--	--	--	--	--

SIPO

Example 1:



the previous application

the subsequent application

Example 2:



the previous application 1

the previous application 2

the previous application 3



Design 1

Design 2

Design 3

the subsequent application