

	CNIPA	EUIPO	JPO	KIPO	USPTO
A. Deferment of Publication of Industrial Designs					
A.1. When is the design application or registration published by your office? Can applicants predict when it will be published?	After registration	After registration	After registration(the gazette is published approximately two weeks after registration)	- After registration of the design - Before registration upon early publication request	After registration
A.2. Is there any system for users to prescribe or adjust (i.e., defer) the publication time of their design application or registration?	Request for deferment of examination	Request deferment of publication up to 30 months	Request for secret design system up to 3 years from the date of the registration	- Before registration upon early publication request - Request for secret design system up to 3 years from the date of the registration	Request for expedite of examination
A.3. What timing requirements, if any, exist in relation to an applicant's request to defer publication?	The request for deferment of examination shall be made at the same time as the application is applied.	The request for deferment must be submitted together with the application for registration.	From the day of filing an application to that of paying the first registration fee.	From the day of filing an application to that of paying the first registration fee.	N/A
A.4. Can an applicant who has not requested for deferred publication or early publication at filing apply for it later? What limits exist as to when that request can be made?	No	No	The application may request a secret design upon payment of the registration fee for the first year.	- The application may request a secret design upon payment of the initial design registration fee. - The applicant can request for early publication after filing an application, but no request may be filed after registration.	N/A
A.5. What is the unit of the deferred period? (week, month or year)	1 year, 2 years or 3 years from the effective day of the request	- Period of 30 months - May request publication at any day	Years or months up to 3 years	Years or months up to 3 years	N/A

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A.6. Can the applicant request deferment of publication for one or more designs of an application instead of all designs?	No	Yes	No, in the case of the "multiple design batch application procedure".	Yes	N/A
A.7. Can applicants modify (i.e., shorten) the deferment period after a request for deferment of publication? If so, how is a change in the publication time effectuated?	No	Yes, the applicant may request publication at any day during the period of deferment.	The period extended or shortened for a period not exceeding 3 years from the date of registration establishing design rights.	The application may request a reduction or extension of the period not exceed 3 years from the date of registration.	N/A
A.8. After the applicants request early publication, can they change course and defer publication?	N/A	No	N/A	The request for secret design is considered to be withdrawn where there is a request for early publication. In case the design is already published, it is impossible to request for a secret design.	N/A
A.9. After receiving a request for deferment of publication, does your office send a notification indicating whether the request is accepted? If yes/no, what kind of notification is sent? Can applicants modify their requests according to the grounds of the reject notification and apply again if they have been rejected?	No	The notification about the status of the application includes a statement as regard the deferment.	No	No	N/A

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A.10. After the requested deferment expires, will your office send a notification indicating that the deferment period has expired? Can the applicant request for another deferment of publication for the same application after one deferment of publication?	No/No	- EUIPO sends a reminder indicating the end of deferment. - No. The deferment must be requested with the application for registration.	- No. - The applicant may request extension or shortening of the period not exceeding 3 years.	No/No	N/A
B. Effect of deferment of publication of designs					
B.1. If a request for deferment of publication is accepted, does your office publish the bibliography of the application, or publish no information until the deferment period ends? Which information is subject to deferment of publication?	No information is published after the request of the deferment of examination is accepted.	(Publish) File number Date of filing Date of entry in the Register Registration number Name and address of the holder Name and business address of the representative (Deferment) Everything else, including views of the design and the indication of product	(Publish) Name and domicile or residence of the holder Application number Application date Registration number Registration date (Deferment) Name of the article Description of the article Description of the design	(Publish) Holder or creator's name and address Application number Application date Registration number Registration date Substantive examination or partial-substantive examination Partial design Principle design number Priority number (Deferment) Drawings Identification of the design Classification of the design Description of the design	N/A

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B.2. Please explain any restrictions, limitations, or disadvantages, if any, imposed on the applicant or right holder by the deferment of the publication of an industrial design.	Delay of examination and registration	The applicant should bear the burden of proof of the infringement.	<ul style="list-style-type: none"> - The applicant should bear the burden of proof of the infringement. - To prevent the infringement, the applicant have to warn by presenting documents certified by JPO. 	<ul style="list-style-type: none"> - The applicant should bear the burden of proof of the infringement. - To prevent the infringement, the applicant have to warn by presenting documents certified by KIPO. 	N/A
B.3. Does your office have any precautionary measures in place to ensure that a design subject to a request for deferred publication remains undisclosed during the period of deferment?	Before the requested deferment of examination expires, the application will not be examined and will not prepare for publication.	There are protection measures in place in the EUIPO that no person has access to unpublished designs.	<ul style="list-style-type: none"> - Documents, models or specimens of designs that are requested to be kept secret shall not be subject to a request for inspection. - A present or former official of the JPO who has divulged any secret learned in the course of their duties is punished by law. 	Any employee of the KIPO or any person who inspected the secret design who divulges information about the design shall be punished by imprisonment with labor or by a fine.	N/A

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B.4. As for the unpublished design registration (or application), are there any exceptional ways to access the details of the design registration (or application)?	N/A	Persons who have the approval of the owner of the registered design or who can prove legitimate interest may be achieved via file inspection.	Request made by - a person with consent of the holder of design - a party or an intervenor in an examination, trial, retrial or litigation concerning the design - the court - an interested person makes a request by submitting a document stating the name and registration number of the design right holder or any other document provided by Ordinance of the Ministry of Economy, Trade and Industry.	Request made by - a person with consent from the relevant design right holder - a party to an examination, petition to object to the registration of a partially examined design, administrative patent trial and retrial, or lawsuit on a design identical or similar to a secret design or an intervenor - a person who presents prima facie evidence for the fact that he/she has been warned or infringement - the court	In accordance with 37 CFR 1.14 and MPEP §§ 103 and 104.
B.5. Does your office bear reliability if such a design is published by accident?	Before the requested deferment of examination expires, the application will not be examined and will not prepare for publication.	The question of reliability may arise if the design was published by accident.	No provision for reliability assurance specially prepared for the accidentally published secret designs, but Japanese public sector officials are under a strict duty of confidentiality, and any violations of this duty is punishable.	No specific case is stipulated in the law but it is considered to be covered by the Article 225 of the Design Protection Act.	N/A

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B.6. If the design of later application is identical to the early application that requested deferment of publication, will the novelty of the later application be killed? Does your office inform the applicant of the later application that is lack of novelty?	According to Article 9 of the Patent Law, CNIPA will issue an office action on the later application informing that it cannot be granted.	The first filed application does not destroy the novelty of the later filed application if the first filed application has not been published earlier than 12 months from the date of priority.	The design of a later application shall not be a design lacking novelty unless the earlier application has been published elsewhere.	KIPO sends a notice of suspension of examination for the later application, then the Office sends a notice of refusal after the secret design including its drawing is published.	Pending U.S. applications which have not been published are generally preserved in confidence and are not available as prior art. However, in some situations a claimed design can be provisionally rejected under 35 U.S.C. § 102(a)(2) based on a co-pending application.
B.7. If the unpublished design is believed infringed between the date of requesting deferment of publication and the expiration date of requesting deferment of publication, or between the grant date and the date of publication, how can the design owner deal with the infringement to enforce their rights?	N/A	The owner of the unpublished registered design may enforce right while the design remains unpublished.	The holder of design rights or the exclusive licensee may make a demand the person who infringes or is likely to infringe to stop or prevent such infringement if that person has given a warning by presenting documents certified by JPO.	The owner should issue a warning by presenting a document certified by KIPO.	N/A
C. International application and deferred publication					
C.1. Does publication of an application/grant in a first filed jurisdiction destroy novelty in a second filed application in your jurisdiction, in case the first filed application is published prior to the second application's filing and then priority claim to the first filed application is disapproved?	Yes	The first filed application does not destroy the novelty of the later filed application provided the first filed application has not been published earlier than 12 months from the date of priority.	Yes	Yes	

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C.2. If yes, please let us know the relevant laws/regulations.	Article 23	N/A	Article 3(1)	Article 33(1)	AIA 35 U.S.C. 102(a) AIA 35 U.S.C. 102(b)
D. Declaration of deferment of publication on the Hague					
D.1. Has your country declared Article 11(1)(a) [deferment of publication for a period less than 30 months] or (b) [publication cannot be deferred] in the Geneva Act of the Hague Agreement?	No	Yes	No	Yes	Yes
D.2. If yes, how long is the deferment of publication?	N/A	Up to 30 months	N/A	Up to 30 months	N/A
E. Laws and regulations on deferred publication					

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E.1. Please identify all laws and regulations directly relevant to deferment of publication of an industrial design application.	Guidelines for Patent Examination Part V Chapter 8.3	Article 36(3)(b) CDR. The European EU Design Regulation (currently under revision)	<p>Articles 14 (Secret Design), 20 (Registration of Establishment of a Design Right), 37 (Right to Demand an Injunction), 40 (Presumption of Negligence), 60 (Special Provisions on Secret Designs), 63 (Request for Certificate), 66 (Design Gazette) and 67 (Fees) of the Design Act</p> <p>Articles 10, 11 and 12 of the Ordinance for Enforcement of the Japanese Design Act</p> <p>Article 3 of the Ordinance on Fees Related to the Patent Act and other Acts</p>	<p>Article 43(secret designs), article 113(2)(rights to prohibit infringement concerning secret designs), article 184(special cases concerning secret designs), article 185(inspection of applications for international design registration subject to requests for deferment of publication of international registration), article 225(offense of divulging secrets) of the Design Protection Act; Article 10(design gazette) of the Enforcement Decree of the Design Protection Act</p> <p>Article 39(request for keeping design secret), article 61(2)(public notice day for design registration, concerning secret design) of the Enforcement Rule of the Design Protection Act</p>	N/A

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E.2. Please provide information on how to request for the deferment of the publication of an industrial design, forms of documents, fees, etc.	<ul style="list-style-type: none"> - At the same time as the application is applied - No additional fee 	By ticking a box in the form of application for registration	<ul style="list-style-type: none"> - At the time of filing an application - Fill out the column entitled [Period for which secrecy is requested] of an on-line application form or the written payment of the design registration fee - Fee : 5,100 yen. 	<ul style="list-style-type: none"> - Application for Design Registration Report (appended Form 3 to the Enforcement Rule), or Request for Keeping Design Secret (appended Form 7 to the Enforcement Rule) to the Office. - 18,000KRW(electronic document), 20,000KRW(paper). 	N/A