



WIPO DAS User Guide

This user guide contains information provided by the ID5 partners. The document is for educational and informational purposes only. It aims to reflect the practices of the participating offices in the area of industrial designs. The ID5 partners are not responsible for any use that may be made of the information contained in the user guide. Readers looking for reference or additional material related to applications or practice before an ID5 partner are encouraged to consult the website of the respective ID5 partner.

I. As a Depositing Office

I.1 – What are your Office’s requirements for authorization to permit access by applicant (e.g., form of authorization, who can sign, how to submit, etc.)?

CNIPA

The person uses the DAS service shall be one of the applicants or the agency serving for the applicants.

EUIPO

WIPO DAS is only available for Community Design applications (not EU trade marks). The applicant can request that its Community Design application be included in WIPO DAS by checking a box in the e-filing form. Applications can be submitted by any natural or legal person, from any country. Where the applicant does not have its domicile or its principal place of business or a real and effective industrial or commercial establishment within the European Economic Area (EEA), it must be represented by a representative in all proceedings before the Office other than in filing an application. The representative has to be indicated in the application. If this requirement is not complied with, the applicant will be requested to appoint a representative within a time limit of 2 months. Where the applicant does not comply with the request, the application is rejected as inadmissible (Article 77(2) CDR; Article 10(3)(a) CDIR).

JPO

The JPO does not authorize applicants to choose specifically which information to be or not to be deposited.

KIPO

We know that the USPTO requires PTO/SB/39 (Authorization or Rescission of Authorization to Permit Access to Application-As-Filed by Participating Offices). As for KIPO, there is no such requirement.

USPTO

Access to a U.S. priority application may be provided to a participating office pursuant to 37 CFR 1.14(h)(1) if the application contains written authority granting such access. The Application Data Sheet (ADS) form (PTO/AIA/14) includes a section allowing applicants to provide the USPTO with authorization to permit a participating office access to a U.S. priority application. For the authorization to be effective, the ADS must be signed in accordance with 37 CFR 1.33(b) and 37 CFR 1.14(c). The ADS must be signed by a registered patent practitioner if one or more of the applicants is a juristic entity (e.g., a corporation). 37 CFR 1.33(b)(3). The ADS allows applicants to expressly opt out of providing authorization to permit access.

If authorization to permit access is not provided in an ADS with the initial filing of the application, applicants should use form PTO/SB/39 ("Authorization or Rescission of Authorization to Permit Access to Application-As-Filed by Participating Offices") to provide authorization to permit access (or to rescind a previously provided authorization). An ADS submitted after the initial filing of an application cannot be used to provide or rescind such authorization.

I.2 – Does your Office provide notification of DAS access code to applicant: how, when, and where?

CNIPA

When WIPO informs CNIPA the DAS deposit is successfully done, CNIPA will automatically inform the applicants via email.

EUIPO

Yes. By default, the applicant will automatically receive the access code, which they can then cite when claiming priority from the application in subsequent filings before other offices party to the WIPO DAS system. The applicant has the option to opt-out if desired (see answer 1.7).

The access code is generated at the end of the RCD Efiling process and inserted in the Efiling Receipt.

JPO

Where an applicant files an application for design registration online, the JPO provides the applicant with online filing receipt on which an access code is specified. For filing made in paper form, the access code will be included in the notification of application number sent by postcard from the JPO. In addition, where filing is made through the collective application for multiple designs procedure, an access code for the collective application for multiple designs procedure as well as individual access codes for an application for each of the designs will be provided.

KIPO

If an application is submitted on or after July 1st, 2020, KIPO provides a DAS access code to the applicant accompanying the application number. If an application was submitted before July 1st, 2020, KIPO provides a DAS access code only when the applicant requests.

USPTO

The DAS access code is the 4-digit confirmation number indicated on the filing receipt and electronic acknowledgement receipt of the U.S. application.

I.3 – Which application number format(s) do you provide? Do the application number format(s) include the combination of (i) type of intellectual property (e.g., industrial design application), (ii) priority application number, and (iii) priority application date? (For example, the USPTO provides a format conforming to NN/NNN,NNN. The leading two digits before the slash are the series code, which is 29 for all US national design cases (and 35 for all international design applications). The trailing six digits are the serial number, which is sequentially assigned based on the order of filing. The US designates the type of intellectual property via the series code and assigns unique priority application numbers based on the combination of series code and serial number.)

CNIPA

The 13-digit application number is used, of which the first four digits is the year, the fifth digit is the patent type, followed by the serial number and check code.

EUIPO

Community Design applications hosted in EUIPO's digital library use the number format *NNNNNNNNN-NNNN*. The first nine digits are the serial number assigned based on the order of filing; the last four digits correspond to the number of the design within a multiple application.

JPO

The application number format: "YYYYNNNNNN D" (YYYY as Western Calendar Year; NNNNNN as Serial Number; "space"; and letter "D")

E.g., 2020012345 D

Please note "space" and letter "D" are also required for design application

KIPO

KIPO provides a format conforming to PP-YYYY-NNNNNNN. The leading two digits (PP) indicate the type of IP rights and the following four digits (YYYY) indicate the designated year and the last seven digits (NNNNNNN) are the serial number. (Please refer to WIPO Handbook Part 7.2.6 for further information.) Our application number has nothing to do with the priority application number nor the priority application date.

USPTO

The USPTO provides an application number format conforming to NN/NNN,NNN. The leading two digits before the slash are the series code, which is 29 for all US national design cases (and 35 for all international design applications). The trailing six digits are the serial number, which is sequentially assigned based on the order of filing. The US designates the type of intellectual property via the series code and assigns unique priority application numbers based on the combination of series code and serial number. Thus, the (i) type of intellectual property and (ii) priority application number are included in the application number, but (iii) priority application date is not included.

I.4 – Must the application format provided by your office be strictly followed for successful retrieval? For example, if the application number format includes check digits, spaces or other separators (e.g., “-” or “.”), must those elements be present for retrieval?

CNIPA

Yes, the format must be strictly followed.

EUIPO

Yes, the application format must be strictly followed.

JPO

Yes. For design application, “space” and letter “D” must be included in the access code. Due to insufficient entry of these elements of the code, there have been many failed cases of Electronic Priority Document Exchange.

KIPO

KIPO recommends using separators (hyphens). (e.g. 10-2011-0004599) However, we can accept the application number without separators or with other separators such as spaces. (e.g. 1020110004599, 10 2011 0004599)

USPTO

The application number is the following format: NNNNNNNN. If there are special characters, such as NN/NNN,NNN, there is a validation process that checks for and removes the special characters.

I.5 – What are the common causes of failed transmissions of documents to Accessing Offices (e.g., access code typographical errors, mismatched filing dates, erroneous number formats, etc.)?

CNIPA

Access code typographical errors, mismatched filing dates or application number

EUIPO

We believe these errors are checked at WIPO level and do not reach us. From our side, technical errors may arise and we have a “retry” mechanism in place.

JPO

Error in the priority date and the access code etc. Error in the number format. For design application, “space” and letter “D” must be included in the access code. Due to insufficient entry of these elements of the code, there have been many failed cases of Electronic Priority Document Exchange. Insufficient number of digits can also cause failed transmissions.

E.g., Correct entry: 2023012345 D

Incorrect entry 1: 2023012345

Incorrect entry 2: 202312345 D

KIPO

The most frequently occurred failure is “File is not available.” KIPO issues the message “File is not available” when the requested priority document is based on the application that is under the formality check procedure or the digitalization procedure.

Regarding your examples, WIPO DAS usually checks those errors first and issues error codes to the accessing office.

USPTO

Common causes of failed transmissions of documents include: typographical errors in the application number, filing date, and/or country code; typographical errors in the WIPO DAS access code; and applicant’s failure to authorize access.

I.6 – Does your office upload a specific type of document for retrieval depending on the status of the application (e.g. the application form, or the registration certificate, or both)?

CNIPA

No.

EUIPO

As of 9 December 2022, EUIPO uploads both the application form and the registration certificate. Until that date the EUIPO uploaded either the application form or the registration certificate depending on the status of the design at the time of retrieving the priority documents.

JPO

Generally, application forms are deposited. When priority document exchange is requested, if formality check of the submitted documents such as written amendments or notification of change of applicant name, etc. has been completed, information of such intermediate documents will also be included in the priority certificate.

KIPO

The Paris Convention D(3) is as follows: The countries of the Union may require any person making a declaration of priority to produce a copy of **the application** (description, drawings, etc.) **previously filed**. The copy, certified as correct by the authority which received such application, shall not require any authentication, and may in any case be filed, without fee, at any time within three months of the filing of the subsequent application. They may require it to be accompanied by a certificate from the same authority showing the date of filing, and by a translation. Therefore, KIPO produces a certified copy of an application with the specification and the drawings that were initially filed, regardless of the status of the application.

USPTO

The USPTO deposits, via the WIPO DAS, certified copies of as-filed U.S. national patent applications, including U.S. design applications.

I.7 – Does your office implement the DAS opt-in or opt-out and why? If the answer changes based on application status or triggering events (e.g., a design application that is not publicly available as compared to one that is publicly available), please include the conditions that affect the implementation of opt-in or opt-out.

Opt-in means that any application filed with your office is deposited in WIPO DAS so that certified copies can be requested through the system. Opt-out means that priority document details are registered in WIPO DAS on a demand basis by applicants.

CNIPA

CNIPA uses opt-out.

EUIPO

Yes. The EUIPO allows applicants to opt-out of WIPO DAS at the moment of filing. Applicants simply de-select the WIPO DAS check box. There is no mechanism in place to opt in or out of WIPO DAS after filing.

JPO

The JPO implements opt-in, but not opt-out.

KIPO

KIPO does not implement the DAS opt-in or opt-out, and there is no plan to implement them.

USPTO

The USPTO implements opt-out prior to publishing the application or otherwise making the application publicly available. The ADS form contains the written authorization required by 37 CFR 1.14(h)(1). But an Applicant may choose to “opt-out” of the authorization by checking a box in the ADS form. When the "opt-out" check box for a specific authorization is selected, the USPTO would not provide access to the contents of the application prior to its publication. Once the application has published or is otherwise publicly available, the USPTO may provide access to the application in accordance with 37 CFR 1.14.

I.8. – Does your office implement any procedure to correct the contents of cover pages of certified copies due to amendment of filing date?

CNIPA

Yes, CNIPA implement procedures to correct the contents of the cover pages of certified copies.

EUIPO

Certified copies are only provided once a filing date has been accorded.

JPO

Certified copies are sent after the application date has been final and binding.

KIPO

If any changes to bibliographic items (e.g. invention title, applicant, etc.) are approved by KIPO, then such changes are reflected on the cover page of a certified copy automatically. KIPO does not allow to change the filing date.

USPTO

Certified copies are only provided after a filing date has been accorded. The USPTO will not reissue or send a corrected certified copy with the amended filing date on its own. If the filing date was changed, the cover page on any subsequently issued certified copies would indicate the new filing date.

I.9 – Pursuant to the WIPO DAS framework, the International Bureau publishes details for each office as to the application types and document format requirements. Does your office deposit documents, or deposit documents in a document format (e.g., color, grayscale, PDF, JPEG, etc.), other than what is indicated on the WIPO DAS notifications page? Do the contents of the deposited design application include (i) a copy of originally filed application and (ii) other data and/or documents (please specify the data and/or documents)?

CNIPA

Yes, it includes a copy of originally filed application with certified page (including information about the application date, application number, title of application, applicant name, designer etc.)

EUIPO

No. The EUIPO deposits documents in PDF format. The EUIPO does not deposit documents in a format that is different to what is indicated in the WIPO DAS notifications page. No, the EUIPO does not provide more than the certified copy of the originally filed application and the registration certificate (where available). However, where the original application is a multiple design application, the EUIPO splits the multiple application and deposits the part corresponding to each design. Therefore, only a part of the original application form, corresponding to the related design, is deposited.

JPO

Pursuant to the WIPO DAS framework, the JPO deposits PDF image data.

KIPO

Since WIPO DAS accepts only 2D-PDF format, KIPO supports color 2D PDFs. Regarding the 3D modeling that KIPO accepts for the design application, there is no way to transmit the 3D modeling file itself. Since 2019, KIPO IT division has raised this issue and proposed a new priority document format to WIPO CWS. The USPTO (utility patent) is now the lead office to solve the issues related to the transmission of 3D modeling files, sound files, movie clips, XML formatted sequence listings, etc. via WIPO DAS.

USPTO

The document format requirements published on the WIPO DAS notifications page for the USPTO are correct. The USPTO does not deposit documents, or deposit documents in a document format, other than what is indicated on the WIPO DAS notifications page.

The USPTO will deposit a certified copy of the US design patent application, which includes any drawings and appendices contained in the Supplemental Complex Repository for Examiners that have a document filing date that is on or before the filing date of the U.S. design patent application. The deposited design application will include a copy of the originally filed application and any other document in the application file having a date that is on or before the filing date of the design application.

I.10 – Are there any limitations (e.g., color, file size, etc.) to the documents provided by your Office other than what is indicated on the WIPO DAS notifications page? If there is a limitation, what step(s) should an applicant take if the limitation is exceeded? For instance, what step(s) should an applicant take if there are limitations with respect to file size and the file size of the document exceeds that limitation?

CNIPA

PDF format is required.

EUIPO

No.

JPO

No.

KIPO

There are no limitations on color, file size, etc.

USPTO

There are no additional limitations.

I.11 – Are there any legal prohibitions (e.g., application under secrecy orders) that would prevent the application from being deposited by your Office?

CNIPA

No.

EUIPO

No.

JPO

No. On the other hand, where an application for design registration is not verifiable as it is for reasons such as no reproductions attached, the JPO will not deposit issuance of priority certificate for such design application.

KIPO

A patent application classified and treated as confidential is prohibited to file in any foreign country before getting the permission of the Commissioner of KIPO. In this case, we do not issue a certified copy of the patent application.

USPTO

Applications that fall under a Secrecy Order under 37 CFR 5.2 shall be kept secret and are not published. All information material to the subject matter of the application must be kept in confidence, unless written permission to disclose is first obtained from the Commissioner for Patents except as provided by the Secrecy Order. Thus, such documents would not be deposited by the USPTO. For applications not under any secrecy orders and that have not been published or other made publicly available, authorization from the applicant must be in the application file and a foreign filing license must be granted before the application can be deposited with WIPO DAS.

I.12 – If there are no legal prohibitions (e.g., application under secrecy orders) that would prevent the application from being deposited by your Office, when is the application typically deposited with WIPO DAS (e.g., at 4 months from filing)?

CNIPA

Option 1: Applicants could deposit when application is filed.

Option 2: Applicants could deposit after application is filed, and in this case, the deposit should be done before the deadline set by the accessing office.

EUIPO

The application is not “deposited”, rather it is sent by EUIPO upon request from the Office of second filing, provided a filing date has been accorded.

Community designs are registered on average within 2 days of receipt for fast-track applications, and within 10 days of receipt for standard track applications. The first Office action is sent within 10 days of receipt, and if there is a filing date deficiency the applicant has two months to remedy. Therefore, applications are *typically* available within 10 days of receipt.

JPO

The documents will be deposited with WIPO DAS automatically after the design application filed with the JPO.

KIPO

In 2022, KIPO receives a priority document request from WIPO DAS after an average of 407 days from the earlier filing date.

USPTO

The application will be registered into WIPO DAS and ready for retrieval shortly before issuance of the filing receipt. Assuming that there are no legal prohibitions, this should occur within about a month from the application’s filing date.

I.13 – Please provide your Office contact information for receiving inquiries from an Accessing Office, such as retrieval failure and inconsistencies in the content of a successful retrieval.

CNIPA

Accessing office could contact WIPO, and then WIPO would inform CNIPA. Plus, the bilateral contact points could transfer this kind of information to staff in charge of DAS in CNIPA.

EUIPO

euiroid5@euipo.europa.eu

JPO

Information Technology Policy Planning Office.

KIPO

KIPO receives inquiries via the "kpion@korea.kr" or email of the person in charge.

USPTO

Patents Electronic Business Center:

Telephone:

+1 571 272 4100

6:00 a.m. to 12:00 midnight, Eastern Time, Monday through Friday

E-mail: pdx@uspto.gov

Fax: +1 571 273 0177

Postal Address: _____

Mail Stop EBC

Commissioner for Patents

PO Box 1450

Alexandria, VA 22313-1450

II. As an Accessing Office

II.1 – What are the formal requirements for a request by the applicant, including timing and contents to retrieve a priority document from a Depositing Office via WIPO DAS?

CNIPA

The applicant needs to submit a priority digital access service (DAS) request and correctly fill in the name of the depositing office, the previous application date, the previous application number, access code and other information. The copy of the first patent application document should be submitted within three months.

EUIPO

As Accessing Office, the EUIPO accepts priority claims by way of reference in the fields provided for that purpose, namely, the file number, filing date and country of the previous application together with the WIPO DAS access code. This allows the priority document registered in WIPO DAS to be requested by the Office for immediate download.

Priority may be claimed either when filing the Community design application or within 1 month of the filing date. During this month, the applicant must submit the declaration of priority and indicate the file number as well as the date on which and the country in which the previous application was made (Article 8(2) CDIR), as well as the WIPO DAS access code in order for the EUIPO to retrieve the priority documents.

JPO

The applicant is to enter the name of a country or region, application number and access code in the column of [Priority Claim under the Paris Convention, etc.] on the application form at the time of filing. Or, if adding an entry to the column later, the applicant is to submit online or in paper form within 3 months from the filing date, a written amendment making corrections in that column.

KIPO

KIPO requires the office code, the application number, the filing date, and the DAS access code of the earlier application.

USPTO

Retrieval from a participating foreign IP office:

For foreign applications filed in a participating foreign IP office to which priority is properly claimed in a U.S. application and the corresponding WIPO DAS access code is provided, retrieval will be automatically attempted by the USPTO via the WIPO DAS Exchange when the U.S. application is released from the Office of Patent Application Processing. To properly claim foreign priority, the timely submission of an ADS form identifying the foreign application by application number, country where the application was filed, and foreign filing date in the "Foreign Priority Information" section of the ADS is generally required. The Foreign Priority Information section of the ADS form also includes an Access Code field for providing the required WIPO DAS access code.

For design applications, the claim for foreign priority must be made during the pendency of the application. However, to ensure entry of the priority claim, the claim for priority should be made prior to close of prosecution.

If the WIPO DAS access code is not available at the time the priority claim is made, it should be furnished to the USPTO as soon as possible by submitting a corrected ADS and a request for a corrected filing receipt.

II.2 – What is the timing of retrieval and part of your Office initiating retrieval (e.g., application processing or formalities department independent of substantive prosecution, examiner during substantive prosecution, etc.)?

CNIPA

The retrieval is at the request of applicant. After receiving the request from the applicant, CNIPA will review the request. If the review is approved, CNIPA will send the request to WIPO within one day.

EUIPO

For each of the priorities that include a WIPO access code, EUIPO back-office tool requests the associated priority document to the WIPO DAS processor.

If the response from WIPO DAS includes the requested document, it is stored in the back-office file.

If the response from WIPO DAS is a business error, the EUIPO examiner will request the priority documents manually from WIPO DAS and await retrieval. In the event of a further error, the applicant will be invited to submit the priority documents within a period of three months of the priority claim.

EUIPO examines fast-track applications within 2 working days, and standard track applications within 10 working days. The first action is notified within 10 working days. As such, we have raised our expectations that the WIPO-DAS transaction time or turn-around time is urgently reviewed with the intention of improving the timeliness from one of hours to minutes or even seconds.

JPO

If the required entry such as access code etc. is made on the application form, priority documents will be retrieved automatically.

If the documents cannot be retrieved during the automation process*, the formalities department will handle the case individually.

*If priority documents are not submitted within 3 months from the filing date, the applicant will be notified to that effect pursuant to (1) below. The applicant can submit the priority document within 2 months from the dispatch date of this notification pursuant to (2) below. If the entry required for the document exchange via WIPO DAS is added to the application form by submitting a written amendment within the period specified in (2) below, the priority documents will be retrieved automatically after formalities checks are completed.

(1) Notification provision when priority documents were not submitted. (Article 43, paragraph (6) of the Patent Act)

(2) Submission of priority documents after the above notification (Article 43, paragraph (7) of the Patent Act).

KIPO

KIPO requests a priority document of the application automatically as soon as an application is filed. The Industrial Property Application Division is responsible for initiating retrieval.

USPTO

For foreign applications filed in a participating foreign IP office to which priority is properly claimed in a U.S. application and the corresponding WIPO DAS access code is provided, retrieval will be automatically attempted by the USPTO via the WIPO DAS Exchange when the U.S. application is released from the Office of Patent Application Processing. It may take about 2 weeks to complete the process of sending the retrieval attempt to the foreign IP office and loading the electronically retrieved priority document into the application.

II.3 – Do you require a specific type of document to be retrieved (e.g. the application form, or the registration certificate, or both?)

CNIPA

If only an applicant submits the priority document Digital Access Service (DAS) request, CNIPA will retrieve data from WIPO according to the request content.

EUIPO

No. The EUIPO accepts either the application form or the registration certificate.

JPO

No. We only receive documents provided via WIPO DAS.

KIPO

KIPO does not require any additional documents besides an application form. Users can submit the office code, the application number, the filing date, and the DAS access code of the earlier application through our application form.

USPTO

The USPTO requires a copy of the as-filed foreign application. In a design application, a claim for foreign priority and a certified copy of the foreign application must be filed within the pendency of the design application. The registration certificate is not accepted.

II.4 – Does your office provide confirmation of correct retrieval of priority document other than via the notification to the customer via the WIPO DAS applicant portal workbench? If yes, how (e.g., viewable to the applicant in the electronic file held by the Accessing Office and/or notice to applicant of failure)?

CNIPA

When WIPO informs CNIPA of the results, CNIPA will automatically send an email to the applicant.

EUIPO

Applicants receive an examination report containing the indication that priority has been successfully claimed. If the priority documents have not been retrievable from WIPO DAS, the applicant will be invited to submit the priority documents within a period of three months of the priority claim.

JPO

No.

*The applicant etc. can request to view the relevant priority documents for confirmation.

KIPO

Users can confirm whether priority documents are retrieved correctly through Patent-Ro (<https://www.patent.go.kr>) which is KIPO's e-filing system. If KIPO fails to retrieve a priority document, the Industrial Property Application Division issues a notice to the applicant of failure.

USPTO

After a successful retrieval, the priority document is viewable in Patent Center and Private Patent Application Information Retrieval (PAIR). In addition, the examiner's Office action should indicate whether the claim for priority is acknowledged and the priority document is present. The USPTO may also notify the applicant of a deficiency with respect to the retrieved priority document if one is subsequently discovered, despite a previous acknowledgement of receipt. The applicant is responsible for correcting any deficiency.

II.5 – What happens if retrieval fails (i.e., no priority document retrieved)?

CNIPA

CNIPA will repeatedly attempt to retrieve documents from WIPO, up to five times, within three months.

EUIPO

If the response from WIPO DAS is a business error, the EUIPO examiner will request the priority documents manually from WIPO DAS and await retrieval. In the event of a further error, the applicant will be invited to submit the priority documents within a period of three months of the priority claim.

JPO

If the documents cannot be retrieved during the automation process, the relevant department will handle the case individually.

KIPO

If KIPO fails to retrieve a priority document due to incorrect information provided by the applicant (such as the application number, filing date, or DAS access code), KIPO issues a notice to the applicant requesting that they amend their application form. If KIPO fails to retrieve a priority document for other reasons, KIPO resends the priority document request to WIPO DAS.

For patents, a written notice requesting the submission of the priority document is sent to the applicant two months before the submission deadline. The applicant is also notified of the need to submit the priority document by phone one month before the deadline.

For designs, a written notice requesting the submission of the priority document is sent to the applicant if KIPO has been unable to obtain the priority document within one month of the filing date. The applicant is notified of the need to submit the priority document by phone if KIPO has been unable to obtain the priority document within two months of the filing date.

USPTO

Where the priority application is not present in the application file, the examiner should indicate this in the examiner's Office action. In addition, the applicant may view the contents of the application file via Patent Center or Private PAIR and find that the priority document was not retrieved even though the filing receipt indicates that the USPTO will attempt retrieval. After verifying that the information on the filing receipt is correct, the applicant may contact the Electronic Business Center if the applicant has questions about the retrieval failure.

II.6 – What happens if retrieval is incorrect (i.e., the proper priority document is not retrieved) or inconsistent (e.g. there is a discrepancy in the data indicated in the cover page and the priority document)?

CNIPA

If the retrieval is incorrect, it affects whether the priority is established. According to the Announcement on Issues Related to Digital Access Service for Opening Priority Documents (No.169), under the circumstance that the CNIPA fails to obtain the priority documents within the time limit specified in Article 30 of the Chinese Patent Law, if the applicant has evidence to show that all necessary steps have been gone through, and the delay of the time limit is caused by the failure of the electronic system of the priority document digital access service, the applicant could submit a copy of the previous application document within 2 months from the date of receiving the relevant notice.

EUIPO

At the examination stage, the Office will only examine whether all formal requirements are met.

The formal requirements are:

- priority claim must be filed together with the Community design application or within 1 month of the filing date (Article 8(2) CDIR);
- file number, filing date and country of previous application must be indicated when claiming priority (Article 1(1)(f) CDIR);
- priority documents must be submitted by providing the WIPO DAS access code at the time of filing via e-filing or within 3 months of either the filing date or, as the case may be, receipt of the priority claim

A priority claim in respect of the contested RCD will be examined ex officio by the Invalidity Division during invalidity proceedings when the outcome of the invalidity case depends on whether priority was validly claimed.

The requirements that refer to the substance of the priority claims are:

- previous application must be a first filing;
- previous application must concern a design or a utility model;
- Community design must relate to the 'same design or utility model';
- proprietor must be the same;
- priority must be claimed within 6 months of filing the first application;
- previous application must have been filed in a country where a right of priority can arise.

If the priority claim does not satisfy all of the substantive requirements, the holder concerned will be invited to make observations within the time limit set by the Office. If the validity of the priority claim cannot be verified, the priority cannot be taken into account for the purpose of the proceedings concerned. The decision on the priority claim can only be appealed together with the final decision on the invalidity proceedings.

Therefore, for priority documents submitted via WIPO-DAS, once the Office has retrieved a document based on the information from the applicant the priority is considered as claimed. We do not examine the priority certificate prior to registration of the design. This process is actually automated.

Only where needed in invalidity proceedings would the Office examine the substantive requirements of the priority claim, and in such cases, in the event of a discrepancy in the cover page and the priority document, invalidity examiners would rely on the information contained in the priority documents. In the event of doubt, the Office would invite the Community design holder to clarify/remedy.

JPO

(1) If the retrieved document has inconsistencies, the JPO will handle the case individually.

(2) Retrieval failure may be due to incorrect entries by applicant or some errors occurred on the Depositing Office side.

(2-1) For incorrect entries by applicant, insufficient entries made on the application form is a cause, so the applicant will be held responsible. It is now possible to submit priority documents within 2 months from the dispatch date of legal notice that priority documents were not submitted within the designated period (within 3 months). Accordingly, the priority claim will remain effective as long as the application is amended properly within that period.

(2-2) For retrieval failure due to some errors occurred on the Depositing Office side, the JPO will handle the case individually.

KIPO

Inspecting priority documents manually → Resending the priority document request to WIPO DAS → Sending an email inquiry to the first filing office → Obtaining the paper priority document directly from the applicant → Requesting an amendment to the application form → Denying the priority claim during the substantive examination.

USPTO

In the event of incorrect, inconsistent or failed retrieval of priority documents, the applicant should verify the priority claim indicated on the filing receipt. If the first Office action is mailed, it should indicate the completeness of the priority claim.

If the filing receipt reflects the accurate foreign priority claim and that the WIPO DAS access code has been provided, the applicant should contact the Patents Electronic Business Center and request that the matter be escalated to determine why the priority document is not yet in the file. If an incorrect priority document was retrieved from the depositing office or the data is inconsistent, applicant should reach out to such office to ensure that the correct/consistent priority document is deposited and/or obtain a certified copy from that office in paper form.

The applicant bears the ultimate responsibility for ensuring, within the time period set forth in 37 CFR 1.55(g)(1), that a copy of the foreign application is received by the USPTO from the participating foreign intellectual property office, or that a certified copy of the foreign priority application is filed. That is, if retrieval fails, or an incorrect priority document is retrieved, the applicant remains responsible for the submission of the correct certified copy of the foreign application.

In a design application, the claim for priority and the certified copy of the foreign application must be filed within the pendency of the application, unless filed with a petition accompanied by the fee set forth in 37 CFR 1.17(g) which includes a showing of good and sufficient cause for the delay in filing the certified copy of the foreign application. If the claim for priority or the certified copy of the foreign application 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 under 35 U.S.C. 255 and 37 CFR 1.323.

II.7 – What is the responsibility of applicant if retrieval fails or is incorrect?

CNIPA

If retrieval fails or is incorrect, the applicant is requested to submit a copy of the previous application document within 2 months from the date of receiving the relevant notice.

EUIPO

The applicant is not responsible for the correct functioning of the EUIPO and WIPO DAS systems. In the event of a failure the applicant will be invited to submit the priority documents within a period of three months of the priority claim. There is no fee required for overcoming such deficiency.

If the documents retrieved are incorrect, this would not be detected by the EUIPO unless priority became relevant in invalidity proceedings, and in the event of doubt, the Office would invite the Community design holder to clarify/remedy.

JPO

The applicant is responsible for retrieval failure due to insufficient entries made on the application form. To avoid invalidation of a priority claim, the applicant is to follow the procedure in Answer II.6 (2-1).

For retrieval failure due to some errors on the Depositing Office side, or inconsistent data included after retrieval, the JPO will handle the case individually.

KIPO

It is the responsibility of the applicant to provide accurate information regarding the application number, filing date, and DAS access code of the earlier application.

USPTO

If the electronic copy of the priority document is not contained in the application despite having made a proper request for electronic retrieval of the priority document, the applicant should verify that the priority claim (country, application number and filing date) indicated on the filing receipt is accurate and that the application number is in the proper format for retrieval, and that the filing receipt indicates that the WIPO DAS access code has been provided and includes the “Request to Retrieve” text. If the filing receipt reflects the accurate and properly formatted foreign priority claim and indicates that the WIPO DAS access code has been provided and the “Request to Retrieve” text is present, the applicant should contact the Patents Electronic Business Center and request that the matter be escalated to determine why the priority document is not yet in the file. If an incorrect priority document was retrieved from the depositing office, applicant should reach out to such office to ensure that the correct priority document is deposited and/or obtain a certified copy from that office in paper form.

The applicant remains responsible for the submission of the correct certified copy of the foreign application if retrieval fails or if the retrieved document is not correct.

II.8 – What are the common causes of failed transmission and receipt of documents (e.g., wrong format of application number, wrong office code, etc.)?

CNIPA

Wrong format of application number.

EUIPO

The two main issues are: a) application number provided not found/incorrect format b) priority date does not match.

JPO

- Error in the number format
- Error in the priority date or the access code etc.
- Others e.g., DAS response errors when accessing for retrieval (no access to documents, or documents are not available, etc.)

KIPO

Please refer to KIPO's statistics for 2022 as follows.

Application number provided was not found.: 85%

File is not available.: 5.3%

ACC did not match.: 2.3%

USPTO

Common causes of failed transmission and receipt of documents include the following reasons:

- 1) incorrect format of the Application Number (not identifying the foreign priority application number in the recommended format for retrieval);
- 2) incorrect or missing WIPO DAS access code;
- 3) incorrect application number;
- 4) incorrect country/office code; and
- 5) incorrect priority date.

II.9 – Please describe the process in the event of incorrect, inconsistent or failed retrieval of priority documents. (I.e., is there a deficiency work flow, or is the priority claim refused directly? Can the priority claim be reinstated? If so, how?)

CNIPA

A deficiency in work flow is mentioned in Answer II.7.

EUIPO

For information on the process relating to incorrect or inconsistent documents, please see answer II.6, above.

In the event of a failed retrieval of priority documents, the EUIPO examiner will request the priority documents manually from WIPO DAS and await retrieval. In the event of a further error, the applicant will be invited to submit the priority documents within a period of three months of the priority claim. There is no fee required for overcoming such deficiency.

If the deficiencies are not remedied in due time or cannot be remedied, the Office will inform the applicant of the rejection of the priority claim and of the possibility of requesting a formal (i.e. appealable) decision on that rejection (Article 46(1) and (4) CDR; Article 40(2) CDIR).

If a (subsequent) declaration of priority is validly filed after registration of the Community design application, a corresponding entry will subsequently be made in the Register.

JPO

See Answer II.6.

KIPO

Please refer to the above Answer II.6.

USPTO

The applicant bears the ultimate responsibility for ensuring, within the time period set forth in 37 CFR 1.55(g)(1), that a copy of the foreign application is received by the USPTO from the participating foreign intellectual property office, or that a certified copy of the foreign priority application is filed. That is, if retrieval fails, or an incorrect or inconsistent priority document is retrieved, the applicant remains responsible for the submission of the correct certified copy of the foreign application.

In a design application, the claim for priority and the certified copy of the foreign application must be filed within the pendency of the application, unless filed with a petition accompanied by the fee set forth in 37 CFR 1.17(g) which includes a showing of good and sufficient cause for the delay in filing the certified copy of the foreign application. If the claim for priority or the certified copy of the foreign application 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 under 35 U.S.C. 255 and 37 CFR 1.323.

II.10 – Please provide your Office contact information for receiving applicant inquiries concerning retrieval failure and inconsistencies in the content of a successful retrieval.

CNIPA

The applicant can contact by submitting a statement of opinion or calling CNIPA by +861062356655.

EUIPO

euipoid5@euipo.europa.eu

JPO

Japan Patent Office

Telephone: +81-3-3581-1101 (switchboards; Monday to Friday, 09:00-17:30 JST)

KIPO

You can contact us via the email kpion@korea.kr.

USPTO

Patents Electronic Business Center:

Telephone:

+1 571 272 4100

6:00 a.m. to 12:00 midnight, Eastern Time, Monday through Friday

E-mail: pdx@uspto.gov

Fax: +1 571 273 0177

Postal Address:

Mail Stop EBC

Commissioner for Patents

PO Box 1450

Alexandria, VA 22313-1450

II.11 – Please provide your Office mailing address for receiving oversized documents on physical media via postal service and/or via courier service.

CNIPA

CNIPA does not accept oversized documents on physical media via postal service and/or via courier service. Instead, FTP is used.

EUIPO

Avenida de Europa, 4, 03008 Alicante, Spain

Documents submitted on data carriers must comply with Decision [No EX-22-7](#) of the Executive Director of 29 November 2022 on technical specifications for annexes submitted on data carriers.

JPO

For oversized documents, postal service is not used while receiving documents electronically through the WIPO at the JPO.

KIPO

The industrial property information management division
Government Complex Daejeon Building 4,
189, Cheongsa-ro, Seo-gu,
Daejeon, 35208
Republic of Korea

USPTO

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

III. Relevant Statutes, Regulations, Manuals, and Websites

III.1 – Please provide the relevant statutes, regulations, publications, and/or manuals for Priority Document Exchange via WIPO DAS.

CNIPA

[The Patent Law of the People's Republic of China](#),

Implementation Regulations of the Patent Law of the People's Republic of China,

[Announcement of CNIPA \(No. 169\)](#)

Other business notice on the upgrading of digital access services for priority documents.

EUIPO

Articles 41 - 43 [CDR](#);

Articles 8 - 10 [CDIR](#)

[EUIPO guidelines](#), Design practice, Examination of applications for registered Community designs, topics 2.3.3 WIPO DAS (for information on EUIPO as Office of first filing) and 6.2.1.1 Priority (for information on EUIPO as Office of second filing)

Decision No [EX-20-7](#) of the Executive Director of the EUIPO of 11 September 2020 on the formal requirements of priority claims relating to registered Community designs.

JPO

Article 43, paragraphs (5), (6) and (7), and Article 43-2 of [the Patent Act](#) as applied mutatis mutandis pursuant to Article 15 of the Design Act.

KIPO

The Korean Patent Act,

The Korean Design Protection Act,

Enforcement Rules of the Patent Act,

Enforcement Rules of the Design Protection Act,

Public Notification for Electronic Exchange of Patent · Utility Model Priority Document,

Public Notification for Electronic Exchange of Industrial Design Priority Document.

USPTO

37 CFR § 1.14 – Patent applications preserved in confidence.

37 CFR § 1.55 – Claim for foreign priority.

37 CFR § 1.76 – Application data sheet

35 USC § 119 – Benefit of earlier filing date; right of priority

35 USC § 172 - Right of priority

MPEP 213 – Right of Priority of Foreign Application

MPEP 1504.10 - Priority Under 35 U.S.C. 119(a)-(d), 386(a) and (b)

III.2 – Please provide the address(es) of your website(s) and other helpful information for Priority Document Exchange via WIPO DAS.

CNIPA

www.cnipa.gov.cn

www.english.cnipa.gov.cn/col/col3068/index.html

www.cnipa.gov.cn/art/2013/10/23/art_74_27713.html

EUIPO

See links above.

JPO

JPO web page: [Electronic Priority Document Exchange] (English)

<https://www.jpo.go.jp/e/system/process/shutugan/yusen/das/index.html>

KIPO

<https://www.patent.go.kr/smart/jsp/ka/menu/support/main/WipoAccessCodeHelp.do>

USPTO

<https://www.uspto.gov/patents/basics/international-protection/electronic-priority-document-exchange-pdx>

ID5