

## **Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications**

**Forty-Second Session**  
**Geneva, November 4 to 7, 2019**

COMPILATION OF THE RETURNS TO THE QUESTIONNAIRE ON THE TEMPORARY PROTECTION PROVIDED TO INDUSTRIAL DESIGNS AT CERTAIN INTERNATIONAL EXHIBITIONS UNDER ARTICLE 11 OF THE PARIS CONVENTION FOR THE PROTECTION OF INDUSTRIAL PROPERTY

*Document prepared by the Secretariat*

### **INTRODUCTION**

1. At the fortieth session of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT), held in Geneva from November 12 to 16, 2018, the Delegation of Spain presented a “Proposal for a Study on the Protection of Industrial Designs at Trade Shows in Member States” (document SCT/40/8). Following that session, the Secretariat was requested to prepare a draft questionnaire concerning the proposal by the Delegation of Spain for consideration by the SCT at its next session (document SCT/40/10, paragraph 76).
2. At the forty-first session of the SCT, held in Geneva from April 8 to 11, 2019, the SCT considered document SCT/41/3 “Temporary Protection Provided to Industrial Designs at Certain International Exhibitions Under Article 11 of the Paris Convention for the Protection of Industrial Property: Draft Questionnaire”, as well as a revised version of the draft questionnaire (document SCT/41/3 Rev.). The Chair requested the Secretariat to “circulate the questionnaire as contained in document SCT/41/3 Rev. to SCT members and Intergovernmental Intellectual Property Organizations with observer status, for returns by July 31, 2019; and compile all returns into a document for consideration by the forty-second session of the SCT” (document SCT/41/10, paragraph 12).

3. Accordingly, the Secretariat prepared and addressed to all SCT members and Intergovernmental Intellectual Property Organizations with observer status, under Circular letter C. 8876 of May 3, 2019, the Questionnaire on the Temporary Protection Provided to Industrial Designs at Certain International Exhibitions Under Article 11 of the Paris Convention for the Protection of Industrial Property (hereinafter “the questionnaire”)<sup>1</sup>. In addition, the questionnaire was made available, in Arabic, Chinese, English, French, Russian and Spanish, on the SCT Electronic Forum at the following address: <https://www.wipo.int/sct/en/>.
4. At the closing date of the survey (*i.e.*, on July 31, 2019), replies from the following Member States had been received: Algeria, Australia, Austria, Azerbaijan, Bahrain, Brazil, Bulgaria, Canada, Chile, Colombia, Croatia, Czech Republic, Democratic People’s Republic of Korea, Denmark, Ecuador, Estonia, France, Germany, Ireland, Japan, Kuwait, Kyrgyzstan, Latvia, Lithuania, Malta<sup>2</sup>, Mexico, Montenegro, Morocco, Myanmar, New Zealand, Norway, Panama, Philippines, Portugal, Republic of Korea, Republic of Moldova, Singapore, Slovakia, Spain, Sweden, Switzerland, Thailand, Turkey, Ukraine, United Kingdom, United States of America, Uzbekistan and Zambia (48). The following Intergovernmental Organizations also replied to the questionnaire: Benelux Organization for Intellectual Property (BOIP) and European Union Intellectual Property Office (EUIPO) (2).
5. At the forty-second session of the SCT, held in Geneva from November 4 to 7, 2019, the Secretariat was requested to keep the present document open until January 10, 2020, for further replies by delegations, finalize it and present it for consideration at the forty-third session of the SCT (document SCT/42/8, paragraph 13).
6. By January 10, 2020, additional replies were received from Georgia, Hungary, Iceland and Romania (4).
7. The Annex to the present document compiles the replies to the questionnaire. It reproduces the 14 questions contained in the questionnaire, as well as all corresponding replies in tabulated form. When a Member State or Intergovernmental Intellectual Property Organization gave no reply to a particular question, the corresponding entry is left empty. Comments provided by Member State and Intergovernmental Organizations are individualized and reproduced as such and *in extenso* under, or whenever possible, in the table reporting the replies to the related question.

8. *The SCT is invited to consider the content of the present document.*

[Annex follows]

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<sup>1</sup> The questionnaire contained in document SCT/41/3 Rev. and distributed with Circular letter C. 8876 is available at [https://www.wipo.int/meetings/en/doc\\_details.jsp?doc\\_id=435809](https://www.wipo.int/meetings/en/doc_details.jsp?doc_id=435809).

<sup>2</sup> In its reply, the Ministry for the Economy, Investments and Small Businesses in Malta indicated that since Malta’s Designs legislation is aligned with the European Union’s (EU) Acquis, Malta will not be submitting an individual reply.

QUESTIONS CONCERNING THE TEMPORARY PROTECTION PROVIDED TO INDUSTRIAL DESIGNS AT CERTAIN INTERNATIONAL EXHIBITIONS UNDER ARTICLE 11 OF THE PARIS CONVENTION FOR THE PROTECTION OF INDUSTRIAL PROPERTY

**A) PRELIMINARY QUESTION**

**QUESTION 1: Does the applicable law in your jurisdiction contain specific provisions concerning the temporary protection granted to industrial designs under Article 11 of the Paris Convention?**

Responding Party	Reply	Reference
Algeria	Yes	Ordinance No. 66-86 of April 28, 1966.
Australia	Yes	Section 17(1)(a) of the <i>Designs Act 2003</i> , together with regulation 2.01(a)(i) of the <i>Designs Regulations 2004</i> , refer to Article 11 of the Paris Convention. Specifically, regulation 2.01(a)(i) provides that if the design is published or used at an official or officially recognised international exhibition within the meaning of Article 11 of the Paris Convention, then an examiner must disregard such publication or use when deciding whether the design is new and distinctive.
Austria	Yes	Section 2a) (2) Austrian Design Law.
Azerbaijan	Yes	Article 30 of the Patent Law of Azerbaijan.
Bahrain	Yes	Law No. 6 for year 2006 on Industrial Designs, Article 24 concerning the temporary protection granted to industrial designs and Articles 32, 33 and 34 from the Implementing Regulations on Industrial Designs.
Brazil	Yes	Art. 96, § 3 of Industrial Property Law (LPI) - An industrial design of which disclosure occurred within the 180 (one hundred and eighty) days preceding the date of filing the application or of the priority claimed will not be considered as included in the state of the art, provided such disclosure is made in accordance with the situations provided for in items I to III of article 12. Article 12 - The disclosure of an invention or utility model which occurs during the twelve months preceding the date of filing or priority of the patent application will not be considered as part of the state of the art, provided such disclosure is made: I - by the inventor; II - by the National Institute of Industrial Property - INPI, by means of the official publication of a patent application filed without the consent of the inventor and based on information obtained from him or as a result of his acts; or III - by third parties, on the basis of information received directly or indirectly from the inventor or as the result of his acts.
Bulgaria	Yes	Art. 14 of the Law for the Industrial Design – Announcement not affecting the novelty
Canada	Yes	Ref. paragraph 8.2(1) (a) of the Industrial Design Act.
Chile		
Colombia	No	Our legislation, namely articles 17 and 133 of Decision No. 486, provide for a grace period of one (1) year, which is not specifically temporary protection.
Croatia	Yes	Exhibition Priority Right is regulated by Article 30 of the Industrial Design Act ( <a href="http://dziv.hr/files/file/eng/zakon_dizajn_ENG.pdf">http://dziv.hr/files/file/eng/zakon_dizajn_ENG.pdf</a> ).

Responding Party	Reply	Reference
Czech Republic	No	
Democratic People's Republic of Korea	Yes	Article 16 of the Law on Industrial Designs of the Democratic People's Republic of Korea.
Denmark	Yes	Danish Design Law Section 16(4) and Danish Order on Application and Registration of Design, Section 7.
Ecuador	No	Decision No. 486 of the Andean Community does not contain any specific provisions on this aspect. The Organic Code on the Social Economy of Knowledge, Creativity and Innovation does not cover temporary protection for industrial designs. However, it does contain provisions on what is not considered disclosure in the context of officially recognized exhibitions and trade fairs, and academic and research purposes (articles 270(6) and 358).
Estonia	No	The applicable law in Estonia does not contain any provisions concerning the temporary protection granted to industrial designs under Article 11 of the Paris Convention. Also our Office does not have any practice regarding temporary protection granted to industrial designs, thus we are unable to answer this questionnaire any further.
France	No	The law contains a specific provision on disclosure by the creator or his/her successor in title or by an authorized person, in article L511-6 of the Intellectual Property Code (CPI): When it [the disclosure] has taken place within the twelve months prior to the date of filing of the application or the priority date claimed, the disclosure shall not be taken into consideration: a) If the design or model has been disclosed by the creator or his/her successor in title, or by a third party by means of information provided or actions carried out by the creator or his/her successor in title.
Georgia	Yes	Georgian Law on Designs does not contain a specific provision concerning the temporary protection of designs under Article 11 of the Paris Convention. But Article 11 of the Paris Convention gives effect as an "exhibition" right of priority and a "grace period" for filing.
Germany	Yes	Section 15 of the Act on the Legal Protection of Designs (Design Act), Section 15 of the Design Ordinance (exhibition right of priority).
Hungary	Yes	According to Article 40(1)(c) of Act XLVIII on the legal protection of designs the date establishing priority shall be in the cases defined in the communication of the President of the Hungarian Intellectual Property Office published in the Hungarian Official Journal, the first day of displaying the design at an exhibition, which is not earlier than six months prior to the date of filing of the application (exhibition priority).
Iceland	Yes	Article 16(3) of the Design Protection Act No. 46/2001
Ireland	No	
Japan	Yes	Design act, article 4(2)
Kuwait	Yes	

Responding Party	Reply	Reference
Kyrgyzstan	Yes	Under Article 7, paragraph 7, of the Patent Law of the Kyrgyz Republic: Disclosure of information that otherwise would affect the patentability of the industrial design claimed in the application shall not do so where the information has been disclosed by the applicant or inventor or by any person having obtained the information from them provided that the nature of the industrial design has been made publicly available not earlier than six months preceding the filing date of the application or the date of priority if the priority is claimed. The burden of proof of the foregoing shall be on the applicant.
Latvia	Yes	Law on Designs (Section 18(6))
Lithuania	No	
Mexico	Yes	Article 18 of the Law on Industrial Property (LPI). This article refers to patents; however, it is applicable to industrial designs under Article 37 of the LPI.
Montenegro	Yes	Article 30 of Law on legal protection of industrial design ("Official Gazette of Montenegro", no.80/10,27/13,42/16,2/17)- Exhibition Priority Right.
Morocco	Yes	Articles 186 and 187 of Law No.17-97, as amended and supplemented by Law No. 23-13 and Law No. 31-05 and Articles 75 and 76 of the implementing decree thereof.
Myanmar	Yes	Industrial Design Law (Pyidaungsu Hluttaw Law No. 2, 2019)
New Zealand	No	
Norway	Yes	Norwegian Designs Act § 16 (2).
Panama	Yes	Law No. 35 of May 1996 and Law No. 61 of October 2012. Article 69: For the first disclosure of the industrial design in Panama, or for the registration of the industrial design, pursuant to Article 69.
Philippines	Yes	IP Code Section 119 in relation to Section 25 "Non-prejudicial Disclosure".
Portugal	No	In the Portuguese jurisdiction there isn't a specific provision concerning the temporary protection of a Design under Article 11 of the Paris Convention. There is, however, the possibility of claiming a priority regarding the presentation or exhibition of a product before the submission of the application for registration, as we'll demonstrate below.
Republic of Korea	Yes	
Republic of Moldova	Yes	The Law on the Protection of Industrial Designs No. 161/ 2007 of the Republic of Moldova (hereinafter "Law") provides:  Article 38. Right of priority (1) A party that has filed an application for the registration of an industrial design or a utility model in a State that is party to the Paris Convention or the Agreement establishing the World Trade Organization, or a successor to such a party, shall, when filing an application with the Agency for the registration of the same industrial design or utility model, enjoy a right of priority for 6 months from the filing date of the first application, the filing date itself not being included.

Responding Party	Reply	Reference
		<p>Article 39. Exhibition priority</p> <p>(1) If an applicant has exhibited articles embodying or using an industrial design at an international exhibition, then it may, when filing an application for the registration of this industrial design, request a right of priority dating from the first exhibition display of the articles, provided that the application for registration is filed within 6 months of the date of exhibition of the articles in question.</p> <p>(2) An exhibition shall be deemed international if it is formally organized and producers from a number of countries take part in it, and if it is advertised accordingly to the general public.</p> <p>(3) Exhibition priority shall not extend the priority term established in Article 38, paragraph (1).</p>
Romania	Yes	<p>Articles 16 - 18 of the Design Law No 129/129 republished in 2010, hereinafter "the Law", regulates the right of priority.</p> <p>Art. 17 refers to exhibition priority.</p> <p>Art. 16 - (1) The natural persons or legal entities of the States party to the conventions to which Romania is also a party shall benefit from a six-month right of priority starting on the date of the first deposit, if they apply for protection in respect of the same design within that six-month period of time.</p> <p>(2) A six-month right of priority based on the utility model deposit shall be recognized.</p> <p>Art. 17 - Where certain goods and services have been exhibited by the applicant within an official or officially recognized international exhibition, within the meaning of the Convention on international exhibitions signed in Paris on 22 November 1928 and ratified by Romania through the Law no. 246/1930, with the subsequent amendments and completions, the exhibition being organized on the territory of Romania or in a Member State of Paris Convention for the protection of industrial property, in the form revised in Stockholm on 14 July 1967, the applicant shall enjoy a priority right as from the date of presenting the said good within the exhibition, provided that an application for design registration in respect of said products has been filed with OSIM within six months from the date of presenting the good in the exhibition.</p> <p>Art. 18 - The priorities provided for in Articles 16 and 17 shall be recognized, if claimed at the time of filing the application, and if attested by priority documents, within three months from the date of filing the application.</p>
Singapore	Yes	<p>Section 8 and 8A of the Singapore Registered Designs Act (disclosure of design) i.e. "Grace period" provisions.</p>
Slovakia	Yes	<p>Article 6 section (3) of the Act No. 444/2002 Coll. on Designs as amended,  <a href="https://www.indprop.gov.sk/swift_data/source/pdf/legislation/pravo_02444.pdf">https://www.indprop.gov.sk/swift_data/source/pdf/legislation/pravo_02444.pdf</a></p>
Spain	Yes	<p>Article 25 of Law 20/2003, of July 7, on the legal protection of industrial designs and article 8 of Royal Decree 1937/2004, of September 27, which approves the Regulation on the implementation of Law 20/2003, of July 7, on the legal protection of industrial designs.</p>
Sweden	No	

Responding Party	Reply	Reference
Switzerland	Yes	Article 3 of the Federal Act on the Protection of Designs: The disclosure of a design may not be invoked against the holder of the right (right holder) during the 12 months preceding the filing date or priority date if: a. a third party has disclosed the design in an abusive manner to the detriment of the entitled person; b. the person entitled has disclosed the design himself.
Thailand	Yes	Section 19, The Patent Act (Now, we are considering to amend as a draft of the Patent Act).
Turkey	Yes	
Ukraine	Yes	Law of Ukraine on Protection of Rights to Industrial Designs, Article 13(2).
United Kingdom	No	The Registered Designs Act (RDA) 1949 does not contain a specific provision concerning temporary protection of industrial designs under Article 11 Paris Convention.
United States of America	No	35 U.S.C. 102(b) sets forth exceptions as to when a prior disclosure will not be considered prior art.
Uzbekistan	Yes	Article 8 of the Republic of Uzbekistan Law on Inventions, Utility Models, and Industrial Designs.
Zambia	Yes	Section 29 of the Industrial Designs Act No. 22 of 2016.
BOIP	No	
EUIPO	Yes	EUIPO gives the protection required of Article 11 of the Paris Convention through exhibition priority, as contained in Art. 44 CDR and Art. 9 CDIR.

## B) NATURE OF THE MEASURE

**QUESTION 2: What measure(s) give(s) effect to Article 11 of the Paris Convention:**

Responding Party	An "exhibition" right of priority	A "grace period" for filing	Other
Algeria	✓		
Australia		✓	
Austria		✓	
Azerbaijan	✓		
Bahrain		✓	
Brazil		✓	
Bulgaria	✓	✓	
Canada		✓	
Chile		✓	
Colombia		✓	
Croatia	✓		
Czech Republic		✓	
Democratic People's Republic of Korea	✓		
Denmark	✓		
Ecuador		✓	
Estonia			



Responding Party	An “exhibition” right of priority	A “grace period” for filing	Other
France		✓	
Georgia	✓	✓	
Germany	✓		
Hungary	✓		
Iceland	✓		
Ireland			N/A
Japan		✓	
Kuwait	✓		
Kyrgyzstan	✓	✓	
Latvia	✓		
Lithuania	✓	✓	
Mexico		✓	
Montenegro	✓		
Morocco		✓	
Myanmar	✓		
New Zealand			
Norway	✓		
Panama		✓	
Philippines		✓	
Portugal	✓	✓	
Republic of Korea			Exception to lack of novelty.
Republic of Moldova	✓	✓	
Romania	✓	✓	
Singapore		✓	
Slovakia		✓	
Spain	✓	✓	
Sweden		✓	
Switzerland		✓	
Thailand	✓		
Turkey	✓	✓	
Ukraine	✓		
United Kingdom		✓	
United States of America		✓	
Uzbekistan		✓	
Zambia	✓		
BOIP			
EUIPO	✓	✓	The effects specified in Art. 43 CDR, i.e., that the date of priority shall count as the date of filing.



## COMMENTS:

### Australia

The design application must be filed within 6 months of the date when the design was first published or used at the exhibition (regulation 2.01(3)).

### Azerbaijan

Article 28(2) of the Patent Law of Azerbaijan.

### Czech Republic

Art. 6(2) of Act No. 207/2000, of the Protection of Industrial Designs and the Amendment to Act No. 527/1990 of Coll., on Inventions, Industrial Designs and Rationalization Proposals, as amended (The disclosure shall not be deemed to be made available to the public if the design for which protection is sought has been made available to the public by the designer, his successor or by a third party as a result of the information or action provided by the designer or his legal representative or successor within 12 months prior to the date of filing or before the date of priority).

### Germany

In Germany, there is a grace period for filing within 12 months from the first disclosure. But this grace period is not based on Article 11 of the Paris Convention. Especially the exception to lack of novelty, that is given for this grace period, is not limited to the disclosure on official exhibitions. Because of that the answers for the following questions only refer to the exhibition right of priority.

### Kyrgyzstan

Under Article 7, paragraph 7, of the Patent Law of the Kyrgyz Republic: Disclosure of information that otherwise would affect the patentability of the industrial design claimed in the application shall not do so where the information has been disclosed by the applicant or inventor or by any person having obtained the information from them provided that the nature of the industrial design has been made publicly available not earlier than six months preceding the filing date of the application or the date of priority if the priority is claimed. The burden of proof of the foregoing shall be on the applicant.

### Lithuania

Article 11 (2) of the Design Law of the Republic of Lithuania: "2. The application may contain a request to grant priority of the date on which the design was first exhibited at an international exhibition, if the application is filed with the State Patent Bureau within a period of six months from the date of the first display of the design at the exhibition."

Article 8(3) of the Design Law: "3. The design for which protection is claimed shall not be deemed to have been made available to the public, if information relating to it has been disseminated during the 12-month period preceding the date of filing of the application or, when priority is claimed, the date of priority and if information has been disseminated:

- 1) by the designer, his successor in title, or a any other person as a result of information provided or action taken by the designer or his successor in title;
- 2) as a consequence of an abuse of the rights of the designer or his successor in title by the actions of another person."

## Norway

Norwegian Designs Act § 16 (2) states the following: A person who has exhibited a design at an official or officially recognized international exhibition as referred to in the Convention of 22 November 1928 relating to international exhibitions and who, within six months after this, applies for a design right in Norway, may claim that the application be regarded as filed on the date when the design was first exhibited at the exhibition.

## Panama

An industrial design that fulfills the conditions set out in the preceding articles shall enjoy protection for a period of three years, with effect from the date of its first disclosure in Panama by the holder of the right to protection.

## Portugal

Our IPC predicts that:

### Article 179 DISCLOSURE

1. For the purpose of Articles 177 and 178, a design or model shall be considered to have been disclosed to the public if it has been published following registration, or in any other circumstance, presented at an exhibition, used in trade or made known in any other way, except if these facts could not reasonably have come to the knowledge of persons operating in the European Union and skilled in the art in question in the course of their normal activity, before the date of the registration application or priority claim.
2. An industrial model or design shall, however, not be considered disclosed by the simple fact of being made known to a third party in explicit or implicit confidence

### Article 180 NON-PREJUDICIAL DISCLOSURES

1. For the purpose of Articles 177 and 178, a design or model to be registered shall not be considered to have been disclosed if it has been disclosed to the public: a) By the creator or his successor or by a third party following information provided or measures taken by the creator or his successor; b) In the 12 months preceding the date of submission of a registration application or, if priority is claimed, the date of priority.
2. Paragraph 1 also applies if a design or model has been disclosed to the public as a result of an abuse regarding the creator or his successor.
3. An applicant wishing to benefit from the provisions of the previous paragraphs shall, when submitting the application or within one month, indicate the date and place where the disclosure or exhibition took place and submit a probative document showing said date and reproducing the products in which the design or model was incorporated or to which it was applied.
4. An applicant for registration of a design or model who has exhibited products in which the design or model was incorporated or to which it was applied, at an official or officially recognized international exhibition falling within the scope of the Convention relating to International Exhibitions signed in Paris on 22 November 1928 and revised on 30 November 1972, may, if he submits the application within six months of the date of the first exhibition of these products, claim a priority right as of that date, pursuant to Article 12
5. An applicant who wishes to claim priority under the previous paragraph shall, when submitting the application or within one month, submit a certificate issued by the entity responsible for the exhibition showing the date of the first public disclosure and reproducing the products in which the design or model was incorporated or to which it was applied.

6. At the applicant's request, the time limits set forth in paragraphs 3 and 5 may be extended, once only, for the same period.

#### Republic of Moldova

The Law provides:

Article 10. Disclosure

(3) In the case of a registered industrial design, disclosure shall not be taken into account for the purposes of Articles 7 and 8 if the industrial design for which protection is requested has been disclosed:

- a) by its author, the author's successor or a third party, as a result of information provided by the author or actions undertaken by the author or the author's successor, or as a result of misuse by the author or the author's successor;
- b) within 12 months prior to the filing date of the application for registration or, if priority is claimed, the date of priority.

#### Romania

In addition to Art.17 that regulates the exhibition priority right, Art. 7(2) of the law provides the "non-prejudicial disclosure"

Art. 7(2) ...disclosure shall not be deemed to have occurred if the design for which protection is claimed has been rendered available to the public:

- (a) by the author, the successor in title thereof or a third party, as a consequence of the information offered by the author, or of the actions performed by him or by his successor in title;
- (b) within twelve months before the date of filing the application for registration or the priority date, if a priority has been claimed.

(3) The provisions of paragraph (2) shall also apply if the disclosure of the design was made through an abuse to its author or to his successor in title.

#### Spain

Apart from the "exhibition right of priority", Spanish legislation provides for a grace period (harmless disclosure) of 12 months prior to the date of filing of the application or, if priority is claimed, prior to the priority date. This disclosure must be made by the author or his/her successor in title, or by a third party as a result of information provided or acts carried out by the author or his/her successor in title.

#### Sweden

If certain criterions are met, see 3 a § Design and Protection Act ("DPA"), an applicant has 12 months "grace period" for applying for registration for an industrial design. However, to be able to claim priority, see 8 § DPA, an application needs to be made within 6 months.

#### Switzerland

In our legislation, the legal effects of the provision have not been explicitly defined. However the provision is apparently a right of immunity and not a right of priority. A right of immunity means that certain facts which occurred before the first filing of a design cannot be invoked against the legitimate applicant. Under certain circumstances, however, third parties acting in good faith may be able to establish rights of prior use. The title of this provision is called "Non-prejudicial disclosure".

## United Kingdom

In UK law, the grace period is an exception to novelty:

- Section 1B(1) RDA sets out that “a design shall be protected by a right in a registered design to the extent that the design is new and has individual character”.
- Section 1B(2) says that “a design is new if no identical design or no design whose features differ only in immaterial details has been made available to the public before the relevant date”.
- Section 1B(5) says that “for the purposes of this section, a design has been made available to the public before the relevant date if—
  - (a) It has been published (whether following registration or otherwise), exhibited, used in trade or otherwise disclosed before that date; and
  - (b) The disclosure does not fall within subsection (6) below.”
- Section 1B(6) sets out “A disclosure falls within this subsection if— ...
  - (c) It was made by the designer, or any successor in title of his, during the period of 12 months immediately preceding the relevant date;...”

The full legislative text can be accessed at:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/737827/Registered\\_Designs\\_Act\\_1949.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/737827/Registered_Designs_Act_1949.pdf)

The grace period provisions of section 1B(6)(c) RDA therefore provides a 12 month period, starting from when a design is made available to the public (e.g. at the exhibition), during which a designer or his successor in title can file an application for registration of the design.

## United States of America

35 U.S.C. 102(b)(1) provides that a disclosure made 1 year or less before the effective filing date of a claimed invention shall not be prior art to the claimed invention under subsection (a)(1) if the disclosure was made by the inventor or joint inventor or by another who had obtained the subject matter disclosed directly or indirectly from the inventor or joint inventor; or the subject matter disclosed had, before such disclosure been publicly disclosed by the inventor or a joint inventor or another who obtained the subject matter disclosed directly or indirectly from the inventor or a joint inventor.

## Zambia

The right of priority is given for a period not exceeded six months from the date of such exhibition recognized by the Agency.

## BOIP

At BOIP, we have never received such a claim.

**C) STARTING DATE AND DURATION OF THE TEMPORARY PROTECTION PROVIDED BY ARTICLE 11 OF THE PARIS CONVENTION**

**QUESTION 3: What is the starting date of the temporary protection?**

Responding Party	The opening date of the exhibition	The date of the first disclosure of the goods on which the industrial design is incorporated or to which it is applied at the exhibition	Other
Algeria		✓	
Australia			✓
Austria		✓	
Azerbaijan		✓	
Bahrain		✓	
Brazil			✓*
Bulgaria		✓	
Canada			✓*
Chile			✓*
Colombia		✓	
Croatia		✓	
Czech Republic		✓	
Democratic People's Republic of Korea	✓		
Denmark		✓	
Ecuador			✓
Estonia			
France		✓	
Georgia		✓	
Germany		✓	
Hungary		✓	
Iceland		✓	
Ireland			N/A
Japan		✓	
Kuwait	✓		
Kyrgyzstan	✓	✓	
Latvia		✓	
Lithuania		✓	
Mexico		✓	
Montenegro		✓	
Morocco	✓		
Myanmar		✓	
New Zealand			
Norway		✓	
Panama			
Philippines			✓*
Portugal		✓	
Republic of Korea		✓	
Republic of Moldova		✓	
Romania		✓	
Singapore			✓

Responding Party	The opening date of the exhibition	The date of the first disclosure of the goods on which the industrial design is incorporated or to which it is applied at the exhibition	Other
Slovakia		✓	
Spain		✓	
Sweden			
Switzerland			✓
Thailand	✓		
Turkey		✓	
Ukraine	✓		
United Kingdom			✓
United States of America		✓	
Uzbekistan			✓
Zambia	✓		
BOIP			
EUIPO		✓	

**COMMENTS:**

Australia

As per regulation 2.01(2)(b), the prescribed period is 6 months from the date on which the first publication or use took place.

Brazil

\* The date of the first disclosure of the goods on which the industrial design is incorporated or applied.

Canada

\* The date of the first disclosure, in Canada or elsewhere, of the article to which the design is applied.

Chile

\* The date on which the disclosure is made, which must be within 12 months prior to the filing of the application in Chile.

Ecuador

National legislation does not provide for temporary protection. However, in order to determine whether a design is registrable, article 270(6) of the Organic Code establishes that disclosure occurring within the year prior to the date on which the application is filed or the priority date is not taken into account when the applicant has exhibited at exhibitions or trade fairs.

### Georgia

The starting date of the temporary protection is the date of the first disclosure on the exhibition of the product, on which the design is incorporated or to which it is applied, and the date on which the disclosure of the design is made by the designer or his/her successor, which must be within 12 months prior to the filing of the application to Sakpatenti.

### Kyrgyzstan

Under Article 7, paragraph 7, of the Patent Law of the Kyrgyz Republic: Disclosure of information that otherwise would affect the patentability of the industrial design claimed in the application shall not do so where the information has been disclosed by the applicant or inventor or by any person having obtained the information from them provided that the nature of the industrial design has been made publicly available not earlier than six months preceding the filing date of the application or the date of priority if the priority is claimed. The burden of proof of the foregoing shall be on the applicant.

### Philippines

\* Not explicit, starting date is defined in the Law.

Disclosure of information contained in the application during the six months preceding the filing date/priority date shall not prejudice the applicant on the ground of lack of novelty (Section 119) in relation to Section 25 of Republic Act No. 8293 (Rule 1503 of the Revised Implementing Rules and Regulations for Patents, Utility Models and Industrial Designs).

### Portugal

Not only with exhibitions but any other kind of disclosure.

### Singapore

Specific "grace period" provisions relating to disclosures at international exhibitions are only applicable to disclosures prior to 30 Oct 2017 under Section 8 of the Registered Designs Act. After this date, "grace period" provisions are applicable to any type of disclosure made by the designer or others. An application for registration of a design shall not be refused, and the registration of a design shall not be revoked if it meets the disclosure provisions under Section 8 and 8A of the Registered Designs Act.

### Spain

Regarding the grace period, the period begins with disclosure by the author or his/her successor in title. As to what is to be understood as disclosure, articles 6 and 9 establish that it should be made accessible to the public; that is, when it has been published, exhibited, marketed or otherwise disclosed prior to the date of filing of the application for registration or, if priority is claimed, prior to the priority date, unless these facts could not reasonably have become known, in the normal course of business, to the specialized circles of the relevant sector operating in the European Union.



### Sweden

There is an unregistered protection for industrial designs within the EU, which lasts three years from the day it was made available/disclosed to the public. There is no temporary protection other than as referred to above, under question 2.

### Switzerland

The starting date the temporary protection is the disclosure of a design. The term "disclosure" in Article 3 of the Federal Act on the Protection of Designs covers any form of making available, be it through reports in trade journals, through exhibiting at trade fairs or in galleries, through the dispatch of documentation or catalogues, through presentations on the Internet or as part of a lecture.

### United Kingdom

In the circumstances where a design is disclosed at an exhibition, the grace period will start on the date of that disclosure. The owner can file to register that design during the grace period without the disclosure impugning the novelty of the design. Protection will run from the date of registration, but the grace period prevents the exhibition disclosure being used to invalidate the later registration.

### United States of America

The starting date would be the date of the first disclosure provided the disclosure was made one year or less before the effective filing date of the application.

### Uzbekistan

In accordance with Article 8 of the Republic of Uzbekistan Law on Inventions, Utility Models, and Industrial Designs, the public disclosure of information pertaining to an industrial model by the author, applicant, or any person who has obtained this information from them directly or indirectly, is not considered a circumstance that would hinder recognition of the patentability of an industrial design, if a patent application for the industrial design is filed with the Agency within six months of the date of the information's disclosure. The responsibility for proving this fact lies with the author or applicant.

### Zambia

It must be an exhibition recognised by the Agency.

### BOIP

Since we have no applicable rules, nor any experience in this field, the question cannot be answered.

**QUESTION 4: What is the duration of the temporary protection?**

<b>Responding Party</b>	<b>6 months</b>	<b>12 months</b>	<b>Other</b>	<b>Comments</b>
Algeria	✓			
Australia	✓			The temporary protection applies from the date when the design was first published or used at the exhibition (regulation 2.01(3)).
Austria		✓		
Azerbaijan	✓		✓	As per Article 30(8) of the Patent Law of Azerbaijan, industrial designs are given temporary protection from the publication date of the application until the grant of the patent.
Bahrain	✓			
Brazil			✓	The duration of this temporary protection is 180 days (which is not exactly 6 months).
Bulgaria		✓		
Canada		✓		
Chile		✓		
Colombia		✓		
Croatia	✓			
Czech Republic		✓		
Democratic People's Republic of Korea			3 months	
Denmark	✓			
Ecuador				National legislation does not provide for temporary protection. However, the Organic Code establishes a 12-month grace period in order that an industrial design is not considered to have been disclosed.
Estonia				
France		✓		
Georgia	✓	✓		The Law of Georgia on Design establishes both duration of the temporary protection: 6 and 12 months: an "exhibition" right of priority - 6 month and a "grace period" for filing -12 month.
Germany	✓			
Hungary	✓			
Iceland	✓			
Ireland			N/A	
Japan		✓		
Kuwait	✓			

Responding Party	6 months	12 months	Other	Comments
Kyrgyzstan	✓			Under Article 7, paragraph 7, of the Patent Law of the Kyrgyz Republic: Disclosure of information that otherwise would affect the patentability of the industrial design claimed in the application shall not do so where the information has been disclosed by the applicant or inventor or by any person having obtained the information from them provided that the nature of the industrial design has been made publicly available not earlier than six months preceding the filing date of the application or the date of priority if the priority is claimed. The burden of proof of the foregoing shall be on the applicant.
Latvia	✓			Law on Designs (Section 18(5))
Lithuania	✓	✓		12 months "grace period" for filing (Art. 8(3) of the Design Law) and 6 months from the date of the first display of the design at the exhibition ("exhibition" right of priority), i.e. 18 months maximum.
Mexico		✓		
Montenegro	✓			
Morocco	✓			
Myanmar	✓			
New Zealand				
Norway	✓			
Panama			Three years	
Philippines	✓			Right of priority date provided to industrial design is six months from the earliest filing date of the corresponding foreign application (Section 119 in relation to Section 31 of Republic Act No. 8293)
Portugal	✓	✓		In Portuguese law we take into account both 6 and 12 months, because:  Article 180 NON-PREJUDICIAL DISCLOSURES  1. For the purpose of Articles 177 and 178, a design or model to be registered shall not be considered to have been disclosed if it has been disclosed to the public: a) By the creator or his successor or by a third party following information

Responding Party	6 months	12 months	Other	Comments
				<p>provided or measures taken by the creator or his successor;</p> <p>b) In the 12 months preceding the date of submission of a registration application or, if priority is claimed, the date of priority.</p> <p>4. An applicant for registration of a design or model who has exhibited products in which the design or model was incorporated or to which it was applied, at an official or officially recognized international exhibition falling within the scope of the Convention relating to International Exhibitions signed in Paris on 22 November 1928 and revised on 30 November 1972, may, if he submits the application within six months of the date of the first exhibition of these products, claim a priority right as of that date, pursuant to Article 12.</p>
Republic of Korea		✓		
Republic of Moldova	✓			<p>The Law provides in Article 38(1) that: A party that has filed an application for the registration of an industrial design or a utility model in a State that is party to the Paris Convention or the Agreement establishing the World Trade Organization, or a successor to such a party, shall, when filing an application with the Agency for the registration of the same industrial design or utility model, enjoy a right of priority for 6 months from the filing date of the first application, the filing date itself not being included.</p>
Romania	✓			
Singapore			✓	<p>Specific "grace period" provisions relating to disclosures at international exhibitions are only applicable to disclosures prior to 30 Oct 2017 under Section 8 of the Registered Designs Act. After this date, "grace period" provisions are applicable to any type of disclosure made by the designer or others. An application for registration of a design shall not be refused, and the registration of a design shall not be revoked if it meets the disclosure provisions under Section 8 and 8A of the Registered Designs Act.</p>

Responding Party	6 months	12 months	Other	Comments
Slovakia		✓		
Spain	✓			For the grace period, the duration, as indicated above, is 12 months prior to the date of filing or of the priority date, where relevant.
Sweden		✓		See above, questions 2 and 3.
Switzerland		✓		
Thailand		✓		
Turkey	✓			
Ukraine	✓			
United Kingdom		✓		
United States of America		✓	✓	35 U.S.C. 102(b) sets forth "1 year" as the maximum duration back from the effective filing date during when a qualifying prior public disclosure could occur and not be considered prior art.
Uzbekistan	✓			
Zambia	✓			It must be a period not exceeded six months from the date of such exhibition recognized by the Agency.
BOIP				
EUIPO	✓			Article 44(1) CDR.

**QUESTION 5: Which date is taken into account to calculate the end of the temporary protection?**

Responding Party	The date of filing of the application in your jurisdiction	The date of priority, if any	Other
Algeria		✓	
Australia		✓	
Austria		✓	
Azerbaijan			✓
Bahrain	✓		
Brazil	✓	✓	
Bulgaria	✓	✓	
Canada			✓
Chile			
Colombia	✓	✓	
Croatia		✓	
Czech Republic		✓	
Democratic People's Republic of Korea	✓		
Denmark			✓
Ecuador			
Estonia			
France	✓	✓	
Georgia	✓	✓	

Responding Party	The date of filing of the application in your jurisdiction	The date of priority, if any	Other
Germany	✓		
Hungary	✓		
Iceland	✓		
Ireland			N/A
Japan	✓		
Kuwait	✓		
Kyrgyzstan	✓	✓	
Latvia		✓	
Lithuania	✓	✓	
Mexico		✓	
Montenegro	✓		
Morocco	✓		
Myanmar			✓
New Zealand			
Norway			✓
Panama	✓		
Philippines	✓	✓	
Portugal		✓	
Republic of Korea	✓		
Republic of Moldova	✓		
Romania	✓	✓	
Singapore			✓
Slovakia		✓	
Spain	✓		
Sweden			N/A See comments under questions 2 and 3.
Switzerland	✓	✓	
Thailand			Not specified by law.
Turkey		✓	
Ukraine	✓		
United Kingdom			✓*
United States of America			The effective filing date of the application.
Uzbekistan	✓		
Zambia		✓	
BOIP			
EUIPO			✓

**COMMENTS:**

Australia

The design application must be filed within 6 months of the date when the design was first published or used at the exhibition (regulation 2.01(3)). If the owner files an application in a Convention country, they must ensure the Australian application is filed within 6 months of the date of the first publication or use of the design at the exhibition (noting section 27(1)(b)) and regulation 3.06 which refer to convention priority dates).

### Azerbaijan

The date of grant of patent is considered the end of the temporary protection.

### Bulgaria

Date of submitting the application, respectively the priority.

### Canada

The grace period ends 12 months after the disclosure of the design to the public. This means that, to be novel, the design must not have been disclosed more than 12 months before the filing date in Canada or, if there is a priority claim in the application, before the date of priority.

### Colombia

The year-long grace period applies to both filing and priority.

### Denmark

In all circumstances the date of disclosure at the exhibition and the subsequent date of filing must not exceed 6 months.

### Ecuador

The grace period ends when the industrial design application is filed or on the priority date.

### Kyrgyzstan

Under Article 7, paragraph 7, of the Patent Law of the Kyrgyz Republic: Disclosure of information that otherwise would affect the patentability of the industrial design claimed in the application shall not do so where the information has been disclosed by the applicant or inventor or by any person having obtained the information from them provided that the nature of the industrial design has been made publicly available not earlier than six months preceding the filing date of the application or the date of priority if the priority is claimed. The burden of proof of the foregoing shall be on the applicant.

### Lithuania

The date of filing of the application or, if priority is claimed, the date of priority are taken into account calculating the end of 12 months "grace period" for filing (Art. 8(3) of the Design Law).

### Myanmar

We consider the date of priority as the starting date and also take into account the date of filing of the application to consider the validity of an exhibition right of priority.

### Norway

The date of the first exhibition determines the calculation of the temporary protection.



### Portugal

Not only the date of the priority but also the date of the first disclosure to the public.

### Romania

Reported to the Art.11 of PC, both dates can be taken into consideration.

### Singapore

Specific "grace period" provisions relating to disclosures at international exhibitions are only applicable to disclosures prior to 30 Oct 2017 under Section 8 of the Registered Designs Act. After this date, "grace period" provisions are applicable to any type of disclosure made by the designer or others. An application for registration of a design shall not be refused, and the registration of a design shall not be revoked if it meets the disclosure provisions under Section 8 and 8A of the Registered Designs Act.

### Spain

Article 25.3 of the Law establishes that the exhibition right of priority shall not extend the priority period provided for under article 4.C.1) of the Paris Convention. However, under the language of article 10 of the Law, the grace period would be cumulative with the priority right, whether it is as established in article 4.C.1) of the Paris Convention or the exhibition right of priority.

### Switzerland

Both dates, the date of priority or the filing date can be taken into account. If there is no date of priority, the date of filing the application is relevant.

### United Kingdom

\* Other – the relevant date for calculating the beginning and end of the grace period is the date on which the design was made available to the public.

### EUIPO

In accordance with questions 3 and 4 above, the calculation of the temporary protection starts from the date of first disclosure and lasts for 6 months.

**D) OFFICIAL OR OFFICIALLY RECOGNIZED INTERNATIONAL EXHIBITIONS**

**QUESTION 6: Are criteria established to determine what is an “official or officially recognized international exhibitions”?**

Responding Party	Reply	If NO, why?		If YES, what are those criteria”?	
		The measure referred to in Question 2 is not limited to the disclosure at an official or officially recognized exhibition	Other	The exhibition falls within the terms of the Convention Relating to International Exhibitions signed in Paris on 22 November 1928	Other
Algeria	No				
Australia	Yes			✓	
Austria	No	✓			
Azerbaijan	No				
Bahrain	Yes			✓	
Brazil	No	✓			
Bulgaria	No	✓			
Canada	No	✓			
Chile	No				
Colombia	No	✓			
Croatia	No				
Czech Republic	No	✓			
Democratic People’s Republic of Korea	Yes			✓	
Denmark	Yes			✓	
Ecuador	No	✓			
Estonia					
France	Yes			✓	
Georgia	No				
Germany	Yes			✓	
Hungary	Yes			✓	
Iceland	Yes			✓	
Ireland	N/A				
Japan	No	✓			
Kuwait	Yes			✓	
Kyrgyzstan	No		✓		
Latvia	No		✓*		
Lithuania	Yes			✓	
Mexico	No	✓			
Montenegro	Yes			✓	
Morocco	No	✓			
Myanmar	Yes				✓

Responding Party	Reply	If NO, why?		If YES, what are those criteria”?	
		The measure referred to in Question 2 is not limited to the disclosure at an official or officially recognized exhibition	Other	The exhibition falls within the terms of the Convention Relating to International Exhibitions signed in Paris on 22 November 1928	Other
New Zealand					
Norway	Yes			✓	
Panama	No	✓			
Philippines	No	✓			
Portugal	Yes		✓*		✓
Republic of Korea	No	✓			
Republic of Moldova	Yes				Art. 39(2)
Romania	Yes			✓	
Singapore	Yes			✓	
Slovakia	No	✓			
Spain	Yes				✓*
Sweden	No	✓			
Switzerland	No	✓			
Thailand	Yes				✓
Turkey	No				
Ukraine	No				
United Kingdom	No	✓			
United States of America	No	✓			
Uzbekistan	No				
Zambia	Yes	✓			
BOIP	No				
EUIPO	Yes			✓	

**QUESTION 6 continued: If YES, how are those criteria published or made available to the public?**

Responding Party	The criteria are specified in the legislation	The criteria are published in an official Bulletin/ Journal/ Gazette	The criteria are published in the office’s guidelines or manuals	The criteria are published on the office’s website	Other
Australia		✓	✓		✓
Bahrain	✓				
Democratic People’s			✓		

Responding Party	The criteria are specified in the legislation	The criteria are published in an official Bulletin/ Journal/ Gazette	The criteria are published in the office's guidelines or manuals	The criteria are published on the office's website	Other
Republic of Korea					
Denmark	✓		✓		
Estonia					
France					
Georgia					
Germany	✓				
Hungary		✓			
Iceland	✓				
Kuwait	✓			✓	
Lithuania	✓				
Montenegro					
Myanmar	✓		✓		
New Zealand					
Norway					
Portugal					
Republic of Moldova	✓				
Romania	✓	✓		✓	
Singapore	✓				
Spain		✓	✓		
Thailand	✓*				
Zambia					✓*
EUIPO	✓				

**COMMENTS:**

Australia

The following makeup the definitions of “official or officially recognized international exhibitions”:

Article 11 of the Paris Convention provides:

- The countries of the Union shall, in conformity with their domestic legislation, grant temporary protection to patentable inventions, utility models, industrial designs, and trademarks, in respect of goods exhibited at official or officially recognized international exhibitions held in the territory of any of them.

Article 1 of the Convention Relating to International Exhibitions provides:

- (1) An exhibition is a display which, whatever its title, has as its principal purpose the education of the public: it may exhibit the means at man's disposal for meeting the needs of civilization, or demonstrate the progress achieved in one or more branches of human endeavor, or show prospects for the future.
- (2) An exhibition is international when more than one State is invited to take part in it.

The convention also provides, in article 6, for the registration of the exhibition. Such exhibitions are organized on a Government-to-Government basis. The protection afforded to designers for the display of their designs is generally recognized internationally. The exhibition has to be international, which means that it must include the exhibition of goods coming from another country.

International exhibitions recognized by the Registrar are recognized by means of a notice published in the Official Journal of Designs before the beginning of the event. An exhibition may, for example, be officially recognized upon an application being made to the Registrar by the organizer of the exhibition.

Case law provides criteria for determining what is an official or officially recognised international exhibition. An exhibition will be considered if it has been recognised by the federal or state government or any local government authority, and considered international if it involved exhibitors from more than one country (*Chiropedic Bedding Pty Ltd v Radburg Pty Ltd* [2007] FCA 1869 and *Chiropedic Bedding v Radburg* [2008] FCAFC 142).

### Georgia

The Law of Georgia on Design does not provide for any criteria to determine what is an "official or officially recognized international exhibition".

### Germany

An exhibition right of priority can also be claimed if the design has been shown at an "other domestic or foreign exhibition". Whether a certain exhibition falls into that category is determined by the Federal Ministry of Justice and Consumer Protection on a case by case basis and published in the Federal Gazette. The exhibition has to be of general economic importance and there must be the expectation that products will be shown at the exhibition which come into consideration for a design application.

### Kyrgyzstan

The Patent Law of the Kyrgyz Republic does not provide for any criteria to determine what is an "an official or officially recognized international exhibition". The exhibition falls within the terms of the Convention Relating to International Exhibitions signed in Paris on 22 November 1928.

### Latvia

\* Latvia is not a contracting party to the Convention Relating to International Exhibitions signed in Paris on 22 November 1928. Cases where exhibition priority is requested are extremely rare and they are assessed case by case.

### Lithuania

Design Law of the Republic of Lithuania states that "International exhibition" means an international exhibition which is official or officially recognized according to the Convention relating to International Exhibitions, adopted in Paris on 22 November 1928, as last revised on 30 November 1972 (Art. 2(12)).

### Myanmar

The exhibition falls within the terms of the Convention Relating to International Exhibitions signed in Paris on 22 November 1928 and WTO.

## Portugal

### \* Article 180 NON-PREJUDICIAL DISCLOSURES

1. b) In the 12 months preceding the date of submission of a registration application or, if priority is claimed, the date of priority.

4. An applicant for registration of a design or model who has exhibited products in which the design or model was incorporated or to which it was applied, at an official or officially recognized international exhibition falling within the scope of the Convention relating to International Exhibitions signed in Paris on 22 November 1928 and revised on 30 November 1972, may, if he submits the application within six months of the date of the first exhibition of these products, claim a priority right as of that date, pursuant to Article 12.

Comments: We know that those criteria exist, but not internally, in our IPC or INPI's manuals or guidelines.

## Republic of Moldova

The Law provides in Article 39(2) that: An exhibition shall be deemed international if it is formally organized and producers from a number of countries take part in it, and if it is advertised accordingly to the general public.

## Romania

In Art. 17 of the law it is stated that the "official" or "officially recognized international exhibition" is that which is governed by the Convention on international exhibitions signed in Paris on 22 November 1928.

## Singapore

Specific "grace period" provisions relating to disclosures at international exhibitions are only applicable to disclosures prior to 30 Oct 2017 under Section 8 of the Registered Designs Act. After this date, "grace period" provisions are applicable to any type of disclosure made by the designer or others under Section 8 and 8A of the Registered Designs Act.

## Spain

\* Regional trade fairs are the responsibility of Autonomous Communities, which establish specific regulations for trade fairs taking place in their respective territories. For example, in the Community of Madrid, the regulations indicate the following:

For the purposes of the present Law, trade fair activities are considered to be commercial demonstrations with the aim of exhibiting goods or offering services in order to facilitate awareness and distribution, promote commercial contacts and exchanges, achieve greater transparency in the market and bring supply in different sectors of economic activity closer to demand, provided that the following criteria are met:

- a) Be of a limited duration in time.
- b) Bring together a variety of exhibitors.

The scope of application of the present Law excludes:

- a) Universal exhibitions governed by the Paris Convention of November 22, 1928.
- b) Exhibitions with cultural, artistic, scientific, civic or social aims.
- c) Promotional activities of any kind, organized by commercial establishments.
- d) Markets aimed at the general public with the exclusive or primary aim of direct sales with removal of goods, even if they receive the typical designation of trade fairs, which shall be governed by the specific regulations on the retail trade.

e) Popular markets or contests promoted for the exhibition or commercialization of living animals of any kind, in addition to livestock competitions, which shall also be governed by the specific regulations on animal protection.

[http://www.madrid.org/wleg\\_pub/secure/normativas/contenidoNormativa.jsf?opcion=VerHtml&nmnorma=272&cdestado=P#no-back-button](http://www.madrid.org/wleg_pub/secure/normativas/contenidoNormativa.jsf?opcion=VerHtml&nmnorma=272&cdestado=P#no-back-button)

With regard to international trade fairs that take place in Spain, Royal Decree 2621/1983, of September 29, includes a definition of what is to be understood by this type of trade fair, namely, those in which foreign exhibitors participate and which admit goods without discrimination as to their national or foreign origin. Taking this definition into consideration, every year a schedule is drawn up of international trade fairs that shall take place in Spain in a given year (the planned schedule for 2019 can be consulted at the following link: <https://www.boe.es/boe/dias/2018/12/28/pdfs/BOE-A-2018-17959.pdf>)

The application of additional criteria is under examination.

Comments: Article 25.1 of the Law provides for an exhibition to be an “official or officially recognized exhibition” so that the territorial scope of the exhibition is not restricted. The selection criteria established refer exclusively to exhibitions held in Spain, with official or officially recognized exhibitions in other countries impossible to identify. In practice, a broad criterion is chosen.

#### Thailand

\* An exhibition, which has been sponsored or authorized and held in Thailand by the government. (It is considering to amend as a draft of the Patent Act).

#### Zambia

\* Certain official exhibition dates are Gazetted and others are not, e.g. International Trade Fair and International Agricultural Show dates are Gazetted, while other exhibition dates are not Gazetted (the dates are not fixed but fall within the calendar year). e.g. National Science Fair dates.

The criteria would be in the Regulations of the relevant Act. Where the dates are not gazette, the Registrar has the discretion to recognize exhibitions that are held within the calendar year.

#### EUIPO

Article 44 CDR.



**E) CONDITIONS AND EVIDENCE**

**QUESTION 7: Must the applicant expressly claim the benefit of the measure referred to in Question 2?**

Responding Party	Reply	If YES, what conditions must be fulfilled?			
		The applicant must claim an "exhibition" right of priority	The applicant must make a declaration stating that the industrial design has been disclosed at an exhibition	The applicant must make a declaration to claim the benefit of an exception to lack of novelty	Other
Algeria	Yes			✓	
Australia	Yes		✓		
Austria	No				
Azerbaijan	Yes	✓	✓		
Bahrain	Yes		✓		
Brazil	No				
Bulgaria	No				
Canada	No				
Chile	Yes			✓	
Colombia	No				
Croatia	Yes	✓	✓		
Czech Republic	No				
Democratic People's Republic of Korea	Yes	✓			
Denmark	Yes	✓			
Ecuador	Yes		✓		
Estonia					
France	No				
Georgia	Yes	✓	✓		
Germany	Yes	✓			
Hungary	Yes	✓	✓		
Iceland	Yes	✓	✓		
Ireland	No				
Japan	Yes			✓	
Kuwait	Yes	✓			
Kyrgyzstan	Yes	✓	✓	✓	
Latvia	Yes	✓			✓*
Lithuania	Yes	✓			
Mexico	Yes		✓		
Montenegro	Yes	✓			
Morocco	Yes		✓		
Myanmar	Yes	✓			
New Zealand					

Responding Party	Reply	If YES, what conditions must be fulfilled?			
		The applicant must claim an "exhibition" right of priority	The applicant must make a declaration stating that the industrial design has been disclosed at an exhibition	The applicant must make a declaration to claim the benefit of an exception to lack of novelty	Other
Norway	Yes	✓			
Panama	No		✓		
Philippines	No				
Portugal	Yes	✓	✓		
Republic of Korea	Yes			✓	
Republic of Moldova	Yes	✓			
Romania	Yes	✓			
Singapore	Yes		✓		
Slovakia	No				
Spain	Yes	✓			
Sweden	No				
Switzerland	No				
Thailand	Yes		✓		
Turkey	Yes	✓			
Ukraine	Yes				
United Kingdom	No				
United States of America	No				
Uzbekistan	Yes			✓	
Zambia	Yes	✓	✓	✓*	
BOIP	Yes*				
EUIPO	Yes	✓			

**QUESTION 7 continued: If YES, when must the claim/declaration be filed?**

Responding Party	It must be filed with the application	It may be filed at a later stage
Algeria		Two months after notification.
Australia	✓	
Azerbaijan	✓	
Bahrain	✓	
Chile		
Croatia	✓	
Democratic People's Republic of Korea	✓	✓
Denmark	✓	
Ecuador	✓	
Estonia		

Responding Party	It must be filed with the application	It may be filed at a later stage
France		
Georgia	✓	✓
Germany		✓
Hungary		✓
Iceland	✓	
Japan	✓	
Kuwait	✓	
Kyrgyzstan	✓	
Latvia	✓	✓ (if it is filed at a later stage, the date of application is changed)
Lithuania	✓	
Mexico	✓	
Montenegro	✓	
Morocco	✓	
Myanmar	✓	
New Zealand		
Norway	✓	
Portugal		✓*
Republic of Korea		✓*
Republic of Moldova	✓	
Romania	✓	
Singapore	✓	
Spain	✓	
Thailand	✓	
Turkey	✓	
Ukraine		3 months from the filing date of the application.
Uzbekistan		✓*
Zambia	✓	
BOIP	✓	✓
EUIPO		✓

## COMMENTS:

### Australia

At the time of filing a design, a notice must also be filed stating that the design has been exhibited, identifies the design and the exhibition, states the date of opening of the exhibition, and if the publication or use first occurred after the commencement of the exhibition, that date (regulation 2.01(2)).

### Brazil

Art. 12, Sole Paragraph of Industrial Property Law (LPI):

Sole Paragraph - INPI may require the inventor to provide a declaration relating to the disclosure, accompanied or not by proof, under the conditions established in the rules.

### Georgia

According to the Article 13 of the Law of Georgia on Design, the applicant is entitled to claim exhibition priority upon filing an application with Sakpatenti, or within one month from the filing.

### Germany

The applicant must claim the exhibition right of priority within 6 months from the date of the first disclosure of the goods on which the industrial design is incorporated or to which it is applied at the exhibition.

### Hungary

Exhibition priority shall be claimed within two months after the filing of the application. The certification of exhibition shall be filed within four months after the date of filing of the application.

### Japan

In the case of international design application under the Geneva Act of the Hague Agreement, the holder may make a declaration by submitting a relevant document to the JPO within 30 days from the date of publication of the international registration.

### Latvia

\* In addition, a document that certifies the right for priority must be submitted within a period of three months after the day of the filing of an application.

### Lithuania

Article 16(4)(7) of the Design Law:

"4. An application for the registration of a design shall contain:

<...>

7) a document confirming priority under paragraph 3 of Article 11 of this Law (where appropriate);"

Article 16(5)(5) of the Design Law:

"5. A request for the registration of a design and issuance of a design registration certificate shall contain:

<...>

5) the state where the first application was filed, the number and date of such application or the date and state of display at an international exhibition (where appropriate). Indication of the said date shall be considered to be a request to be granted priority under paragraphs 1 and 2 of Article 11 of this Law;"

### Mexico

The application should contain the prior disclosure date; disclosure could have occurred in an exhibition or by other means.

### Morocco

The declaration must be filed with the application for the certificate of protection, pursuant to Articles 75 and 76 of the implementing decree of Law No. 17-97, as amended and supplemented by Law No. 23-13 and Law No. 31-05.

### Portugal

\* Article 180 NON-PREJUDICIAL DISCLOSURES

1. For the purpose of Articles 177 and 178, a design or model to be registered shall not be considered to have been disclosed if it has been disclosed to the public:
  - a) By the creator or his successor or by a third party following information provided or measures taken by the creator or his successor;
  - b) In the 12 months preceding the date of submission of a registration application or, if priority is claimed, the date of priority.
5. An applicant who wishes to claim priority under the previous paragraph shall, when submitting the application or within one month, submit a certificate issued by the entity responsible for the exhibition showing the date of the first public disclosure and reproducing the products in which the design or model was incorporated or to which it was applied.

### Republic of Korea

\* To enjoy the exception to lack of novelty, the applicant shall submit a document stating his/her intention, along with documents evidencing his/her eligibility, at any of the following times:

1. When a person files an application for design registration in which cases, documents evidencing relevant facts shall be submitted within 30 days from the filing date of the application for design registration;
2. Before a notice is dispatched for the determinations to reject applications for design registration or determinations of design; in which cases, documents evidencing relevant facts shall be submitted both within 30 days from the date the documents stating his/her intention are filed and before any determination regarding design registration is made;
3. When a person submits a written reply to a written opposition to registration of a partially-examined;
4. When a person submits a written reply to a petition for an administrative patent trial an administrative patent trial on the invalidation of registration of a design.

### Republic of Moldova

The Law provides in Article 39(1) that: If an applicant has exhibited articles embodying or using an industrial design at an international exhibition, then it may, when filing an application for the registration of this industrial design, request a right of priority dating from the first exhibition display of the articles, provided that the application for registration is filed within six months of the date of exhibition of the articles in question.

### Romania

The applicant must expressly claim the benefit of the measure/(s) referred to in question 2 in case to:

- the benefits of exhibition right of priority /
- as measure of defending of his rights in case to respond to third party who opposes the registration of a design invoking the lack of novelty of design in question.

### Spain

At the time of filing, the name of the exhibition and the date of the first filing to include products with the design being applied for must be indicated (article 1.1h) of the Regulation), as such information may be corrected under article 10.6 of the Regulation. The certificate issued by the authority responsible for the protection of industrial property at the exhibition may be presented within 3 months following the date of filing (article 8 of the Regulation).

In the case of a grace period, it may only be invoked by third parties in proceedings to examine the novelty requirement of the design. In such cases, the owner must provide evidence of a harmless disclosure, an exception to the absence of novelty.

### Switzerland

There is no need to claim the benefit of the measure at the time of filing. In fact, our provisions of the filing procedure do not provide this option.

### United Kingdom

Applicants do not need to expressly claim use of a grace period when filing an application to register a design in the UK.

### Uzbekistan

\* In accordance with Article 8 of the Republic of Uzbekistan Law on Inventions, Utility Models, and Industrial Designs, within two months of the date a patent application is filed the applicant has the right to make corrections and revisions to it and to include additional materials without altering the substance of the declared industrial property. Corrections, revisions, or additional materials related to a patent application may be presented after the expiration of this deadline, but no later than the date on which the Agency makes a decision on issuing a patent, subject to payment of the patent fee.

### Zambia

\* See Section 24 of the Industrial Designs Act No. 22 of 2016.

The right of priority can also be claimed where disclosure of the design was made to the public for the purpose of providing the result of a research undertaken by a higher education institution, research institution or development institution, within six months preceding the date of lodging an application – section 24(f) of the Industrial Designs Act No. 22 of 2016.

### BOIP

\* Probably. See question 14. The rules on a "normal" priority claim seem applicable.

## EUIPO

Exhibition priority can be claimed either when filing a Community design application or subsequently. Where the applicant wishes to claim exhibition priority after having filed an application, the declaration of priority, indicating the name of the exhibition and the date of first display of the product, must be submitted within 1 month of the filing date (Article 9(2) CDIR).

### **QUESTION 8: Must the applicant pay a fee to benefit from the measure referred to in Question 2?**

<b>Responding Party</b>	<b>Reply</b>	<b>If YES, when must the fee be paid?</b>
Algeria	Yes	The fee must be paid at the time of filing the application.
Australia	No	
Austria	No	
Azerbaijan	Yes	The fee must be paid in two months from claiming priority.
Bahrain	Yes	The fee must be paid at the same time of applying for temporary protection for the industrial design.
Brazil	No	
Bulgaria	No	
Canada	No	
Chile		
Colombia	No	
Croatia	No	
Czech Republic	No	
Democratic People's Republic of Korea	Yes	In 3 months
Denmark	No	
Ecuador	No	
Estonia		
France	No	
Georgia	Yes	The fee must be paid upon request of an "exhibition" right of priority
Germany	No	
Hungary	No	
Iceland	No	
Ireland	N/A	
Japan	No	
Kuwait	No	
Kyrgyzstan	No	
Latvia	No	
Lithuania	No	
Mexico	No	Payment is required only in case of a priority application.
Montenegro	No	
Morocco	Yes	The fee must be paid at the time of filing the application for certificate of protection.
Myanmar	No	
New Zealand		
Norway	No	
Panama	No	

Responding Party	Reply	If YES, when must the fee be paid?
Philippines	No	
Portugal	No	
Republic of Korea	No	
Republic of Moldova	Yes	<p>To benefit from an “exhibition” right of priority, the applicant must pay a fee with the submission of the application or within 3 months from the filing date.</p> <p>The Regulation on the procedure of filing, examination and registration of industrial designs (approved by the Government Decision of the Republic of Moldova No.1496 of December 29, 2008) (hereinafter Regulation) provides:</p> <p>32. Fees shall be charged for claiming the priority. If more than one priority is claimed in the application for registration, the fee is paid for each claimed priority.</p> <p>39. The following fees are charged according to the established procedures:</p> <p>e) claiming the priority with the submission of the application or within 3 months from the filing date.</p> <p>42. If the fees that are mentioned in this Regulation are not paid within the established time limit and/or in the set amount in item 39 e) – the priority is not recognized.</p>
Romania	Yes	Within 3 months from submitting the priority claiming application
Singapore	No	Specific "grace period" provisions relating to disclosures at international exhibitions are only applicable to disclosures prior to 30 Oct 2017 under Section 8 of the Registered Designs Act.
Slovakia	No	
Spain	Yes	At the time the application is filed, even if there is an error that can be remedied within 1 month of notification of non-payment of the fee (article 10 of the Regulation).
Sweden	No	
Switzerland	No	
Thailand	No	
Turkey	Yes	
Ukraine	No	
United Kingdom	No	
United States of America	No	
Uzbekistan	No	
Zambia	Yes	On filing the application, that the creator has notified the Registrar, in the prescribe manner, that the design has been so displayed and files written evidence in support of such notification, within the prescribed period. In the prescribed manner entails that the applicant has to file a prescribed Form which must be accompanied by a fee.
BOIP	Yes	Probably, if done after filing.
EUIPO	No	



**COMMENTS:**

Romania

Art. 16 (4) Where one or more priorities have been claimed in the application for registration, according to Art. 17, 18 of the law, for the priority recognition the following shall be cumulatively fulfilled:

a) one or more priority documents, in the original, and the legal fees shall be filed within 3 months, at the latest, from the date of filing the application, according to Art. 18 of the law (Government Decree No 211/2008 for the approval of the Regulation for Implementing the Design Law No 129/1992).

Government Ordinance No 41/1998 on the fees on the industrial property protection field and the conditions for using the same - Annex No. 5, point 4 provides the fee for claiming priority - 20 Eur.

**QUESTION 9: What documentary evidence is required to prove the disclosure of an industrial design at an exhibition?**

Responding Party	A certificate issued by the competent authority of the exhibition concerned or of the country where it was held	A declaration by the applicant	Other
Algeria	✓		
Australia			✓
Austria			✓*
Azerbaijan	✓		
Bahrain	✓		
Brazil			✓*
Bulgaria	✓		
Canada			✓
Chile		✓	
Colombia		✓	
Croatia	✓		
Czech Republic		✓	
Democratic People's Republic of Korea	✓		
Denmark	✓		
Ecuador	✓	✓	
Estonia			
France			
Georgia	✓	✓	
Germany	✓		
Hungary	✓		
Iceland	✓		
Ireland			N/A
Japan			✓*
Kuwait	✓		
Kyrgyzstan	✓		

Responding Party	A certificate issued by the competent authority of the exhibition concerned or of the country where it was held	A declaration by the applicant	Other
Latvia	✓		
Lithuania	✓		
Mexico		✓	
Montenegro	✓		
Morocco	✓		✓*
Myanmar	✓		
New Zealand			
Norway			✓
Panama	✓		
Philippines			None
Portugal	✓		✓*
Republic of Korea			✓*
Republic of Moldova	✓		
Romania	✓		
Singapore		✓	
Slovakia		✓	
Spain	✓		
Sweden			N/A
Switzerland			✓
Thailand			✓*
Turkey	✓		
Ukraine	✓		
United Kingdom			✓
United States of America		✓	
Uzbekistan			N/A
Zambia	✓	✓	
BOIP			
EUIPO	✓		

**COMMENTS:**

Australia

Regulation 2.01(2), outlines that at the time a design application is made, a notice stating that the design has been exhibited must accompany the application. It must also be accompanied by a document issued by the authority of the exhibition stating:

- the design and the exhibition;
- the opening date of the exhibition; and
- if the first publication or use of the design did not take place on the opening date of the exhibition, the date on which the first publication or use did take place.

### Austria

\* During the application procedure no evidence is required. The “grace period” can be claimed in nullity or infringement proceedings where any evidence proving the disclosure can be submitted.

### Brazil

\* (...) anything made accessible to the public, (...) in Brazil or abroad, by use or any other means (...) (Art. 96, § 1, from LPI)

Comments: It's not applied only for an exhibition, also to any previous disclosure of an industrial design.

### Bulgaria

There are no legal restrictions, but the practice requires a document issued by the competent authority.

### Canada

Generally, no document is required to prove the disclosure of an industrial design. However, during novelty assessment, an examiner may require evidence from the applicant that the disclosure was made by the person who filed the application or, their predecessor's in title or a person who obtained knowledge of the design in the application, directly or indirectly, from the person who filed the application or their predecessor's in title. CIPO will accept any documentation that demonstrates the prior disclosure met this requirement.

### Czech Republic

When in doubt, the Office may request the submission of evidence proving the applicant's declaration.

### Denmark

However, this is only upon request from the Danish Patent and Trademark Office.

### France

This question is not applicable to the national IP office. The evidence to be provided to prove the disclosure is for assessment by the law courts only.

### Georgia

According to the Instruction on a Design registration -The applicant shall submit a certified document, confirming the participation in the exhibition issued by the person responsible for the exhibition, accompanied by a duly certified Georgian translation. The opening date of the exhibition shall be indicated in the document and it shall prove the fact of displaying a product in which the design is incorporated or for which it is used.

### Iceland

A claim for right of priority must be accompanied by information on what exhibition the design has been exhibited at and what date it was first exhibited. ISIPO may demand that right of priority be confirmed, by means of a certificate from the responsible organizers of the exhibition on which an applicant bases his right of priority.

### Japan

A document objectively proving the fact that the design which has been opened to the public is a design to which the exception to lack of novelty of design may be applicable. In principle, where a "proving document" made according to the format as shown below\* is submitted, the examiner shall admit application of the provision of exceptions to lack of novelty of design in examination practice. However, if the examiner found a proof that have him/her doubt that the "disclosed design" is a design to which the provision of exception to lack of novelty of design is applicable, the examiner shall not admit application of the provision exception to lack of novelty of design.

\* Form of "Proving Document"

<p>Proving Document for seeking Application of Exceptions to Lack of Novelty of Design</p> <ol style="list-style-type: none"><li>1. Facts of Disclosure<ol style="list-style-type: none"><li>1) Disclosure date</li><li>2) Disclosure site</li><li>3) Discloser</li><li>4) Contents of disclosed design (the photographs, etc. of the design needs to be attached)</li></ol></li> <li>2. Facts of Succession to Right to Obtain Design Registration, etc.<ol style="list-style-type: none"><li>1) Creator of disclosed design</li><li>2) Person having right to obtain design registration as of action leading to disclosure of design (the right holder as of the action)</li><li>3) Design registration applicant (the person stated in the application form)</li><li>4) Discloser</li><li>5) About succession to right to obtain design registration (succession to the right from the person in 1) to the person in 3) through the person in 2))</li><li>6) About relation, etc. between right holder as of action and discloser (for example, the fact that the person in 4) disclosed the design resulting from the action of the person in 2) needs to be stated)</li></ol></li></ol> <p>I hereby certify that the above statements are true.</p> <p style="text-align: right;">YYYY/MM/DD Applicant Name (Signature)</p>
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### Lithuania

Article 11(3) and (4) of the Design Law:

"3. An applicant who intends to benefit from the provisions of paragraphs 1 and 2 of this Article must submit before the State Patent Bureau a certified copy of the first application (applications) or a certificate issued by the administration of the international exhibition at which the design was first exhibited. These documents may be submitted together with other application documents or within three months from the date of filling of the application.

4. If the State Patent Bureau finds that the requirements under paragraph 3 of this Article have not been fulfilled, the request referred to in paragraphs 1 or 2 of this Article shall be considered not to have been made.”

#### Mexico

Applicants are required to attach a prior disclosure document to the application.

#### Morocco

\* An exact description and, if appropriate, drawings of the items to be protected.

#### Norway

According to Norwegian Designs Regulations § 10 (3), the Norwegian Industrial Property Office may require a person who claims priority to provide evidence of priority. If such documentary evidence is required by the office, a declaration by the responsible management of the exhibition stating that the exhibition is international and giving the date of the first presentation of the design at the exhibition will be accepted as evidence of priority.

#### Portugal

\* Article 180 NON-PREJUDICIAL DISCLOSURES

- 1 For the purpose of Articles 177 and 178, a design or model to be registered shall not be considered to have been disclosed if it has been disclosed to the public: a) By the creator or his successor or by a third party following information provided or measures taken by the creator or his successor; b) In the 12 months preceding the date of submission of a registration application or, if priority is claimed, the date of priority.
- 3 An applicant wishing to benefit from the provisions of the previous paragraphs shall, when submitting the application or within one month, indicate the date and place where the disclosure or exhibition took place and submit a probative document showing said date and reproducing the products in which the design or model was incorporated or to which it was applied.

Comments: These documents might be, for instance, a certificate, a product catalog or advertising sheet, etc.

#### Republic of Korea

\* The applicant shall submit a document stating his/her intention, along with documents evidencing his/her eligibility.

#### Republic of Moldova

The Law provides in Article 40(2) that: An applicant wishing to make use of the right of exhibition priority shall be obliged to claim that priority and submit confirmation issued by a competent body that articles embodying or using the industrial design were displayed at the exhibition in question, together with a translation of that confirmation into Moldovan.

#### Singapore

Specific "grace period" provisions relating to disclosures at international exhibitions are only applicable to disclosures prior to 30 Oct 2017 under Section 8 of the Registered Designs Act.

### Spain

Article 8 of the Regulation.

### Sweden

N/A, if there will be opposition or design infringement proceedings, the required documents to prove disclosure will be a question of evidence.

### Switzerland

There is no possibility to prove the disclosure at the time of filing, and therefore no documentary evidence is required. See comment in question 7.

### Thailand

\* A certificate issued by the government, service and authority responsible for organizing or authorizing the exhibition.

### United Kingdom

No evidence of disclosure of a design at an exhibition is required to support reliance on a grace period at application stage. However, if a third party sought to invalidate the registered design on the grounds of novelty, it would fall to the design owner to prove that they were entitled to the grace period. Section 1B(6)(c) states that a design is not made available to the public if "it was made by the designer, or any successor in title of his, during the period 12 months immediately preceding" the date on which the application for registration is made.

### United States of America

If the disclosure is relied upon by an examiner as a basis for a rejection, the applicant may submit a declaration to overcome this basis for the rejection.

### Uzbekistan

Not provided for by the legislation.

### EUIPO

This certificate must state that the design was disclosed at the exhibition, specify the opening date of the exhibition and, where first public use did not coincide with the opening date of the exhibition, the date of first public use. The certificate must be accompanied by identification of the actual disclosure of the product in which the design is incorporated, duly certified by the authority (Article 9(1) and (2) CDIR).



Responding Party	Name of the exhibition	Venue of the exhibition	Opening date of the exhibition	Closing date of the exhibition	Date of the first disclosure of the goods on which the industrial design is incorporated or to which it is applied at the exhibition	Name of the person(s) who disclosed the industrial design at the exhibition	Declaration that identifies the industrial design disclosed at the exhibition	Description of the industrial design disclosed at the exhibition	Photographs of the goods on which the industrial design is incorporated or to which it is applied, as exhibited at the exhibition	Other
New Zealand										
Norway	✓				✓					✓*
Panama	✓	✓		✓		✓	✓	✓	✓	
Philippines										N/A
Portugal	✓	✓	✓		✓	✓	✓		✓	
Republic of Korea					✓	✓			✓	
Republic of Moldova	✓	✓	✓		✓	✓			✓	✓*
Romania	✓	✓				✓	✓	✓	✓	✓*
Singapore	✓	✓	✓		✓					
Slovakia	✓	✓			✓	✓	✓		✓	
Spain	✓	✓	✓		✓				✓	
Sweden										N/A
Switzerland										✓
Thailand			✓		✓		✓		✓	
Turkey			✓		✓				✓	
Ukraine	✓	✓	✓						✓	
United Kingdom										N/A
United States of America					✓		✓	✓		
Uzbekistan										N/A
Zambia	✓	✓	✓	✓			✓	✓		
BOIP										
EUIPO	✓		✓		✓		✓			

**COMMENTS:**

Australia

The mandatory content of the documentary evidence per regulation 2.01(2) includes:

- the design and the exhibition;
- the opening date of the exhibition; and
- if the first publication or use of the design did not take place on the opening date of the exhibition, the date on which the first publication or use did take place.



### Austria

\* See answer to question 9.

### Brazil

It's not applied only for an exhibition, also to any previous disclosure of an industrial design.

### Canada

There is no mandatory content. CIPO will accept any documentation that demonstrates that the disclosure was made by the person who filed the application or, their predecessor's in title or a person who obtained knowledge of the design in the application, directly or indirectly, from the person who filed the application or their predecessor's in title.

### Chile

The applicant claiming the disclosure of the elements referred to in article 42 of the Law must attach to the patent application documents proving the existence, nature and date of the disclosure referred to in the said article.

### Croatia

\* Evidence that the product design which was exhibited is identical to the one cited in the application.

### Czech Republic

The compulsory content of the evidence is not specified. When in doubt, the Office may request the submission of evidence proving the applicant's declaration.

### Ecuador

There are no legislative provisions on the requirements to prove the disclosure of an industrial design at an exhibition. However, at the discretion of this office, the evidence indicated above may be required, subject to interpretation of the requirements of article 270(6) of the Organic Code.

### Latvia

\* Law on Designs (Section 18(6)).

### Lithuania

According to Regulations on the Registration of Designs approved by the Director of the State Patent Bureau of the Republic of Lithuania, the applicant shall submit an image of exhibited product design (Art. 56).

### Mexico

Article 24 of the LPI Regulations requires applicants to state the date on which the invention was publicly disclosed, the means of communication by which it was made known, information relating to the exhibition in which the invention was exhibited or to the first time it was put into practice.

### Norway

- \* the country where the exhibition was held.

Comments: The boxes ticked above reflect the mandatory information, which the priority claim needs to contain.

### Republic of Moldova

- \* Other:
  - name and address of the organizer of the exhibition where the industrial design was exhibited;
  - date the document was issued;

Comments: The Regulation provides in item 30 what must contain the document that justifies the claiming of exhibition priority.

In addition to the above mentioned data, where is appropriate, the applicant can submit copies of the description authenticated by the administration of the exhibition showing that the exhibited industrial design is the same as that applied for registration.

### Romania

- \* Duration of the public exhibition

Art. 16 "Claiming priorities" of Government Decree No 211/2008 for the approval of the Regulation for Implementing the Design Law No 129/1992 provides the contains of exhibition certificate.

Art. 16(5) Claiming the priority as a consequence of the design having been displayed in an international exhibition, according to Art. 17 of the Law, is justified based on the warranty certificate that shall contain:

- a) name and address of the organizer of the exhibition wherein the design has been displayed;
- b) denomination of the exhibition, address and duration thereof;
- c) family name, given name and address of the natural person or denomination and registered office of the legal entity that has displayed the design in the exhibition;
- d) duration of the public exhibition;
- e) number and date of the warranty certificate, signature and stamp of the organizer of the exhibition;
- f) a graphic representation of the exhibited design;
- g) a description of the exhibited design.

### Singapore

Specific "grace period" provisions relating to disclosures at international exhibitions are only applicable to disclosures prior to 30 Oct 2017 under Section 8 of the Registered Designs Act.

### Spain

A reproduction that identifies the product that has actually been exhibited.

Sweden

N/A, see comment under question 9.

Switzerland

There is no possibility to prove the disclosure at the time of filing, and therefore no documentary evidence is required. See comment in question 7.

Ukraine

Photographs must be signed by Head of the exhibition and sealed.

United Kingdom

Not applicable as no evidence is required when filing an application in respect of the grace period.

United States of America

37 C.F.R. 1.130 provides that an affidavit or declaration of prior public disclosure must identify the subject matter publicly disclosed and provide the date such subject matter was publicly disclosed by the inventor or a joint inventor or another who obtained the subject matter disclosed directly or indirectly from the inventor or a joint inventor.

*Note:* The requirements with respect to an affidavit or declaration of prior public disclosure for an international exhibition as described in Article 11 of the Paris Convention are not distinct from those for other prior public disclosures. There are not unique provisions for international exhibitions.

Uzbekistan

Not provided for by the legislation.

Zambia

Note that these provisions will be expressly provided for in the Regulations of the Act.

EUIPO

As regards the declaration, this must be a certificate from the pertinent authority, not a declaration by the applicant.

**QUESTION 11: When is the documentary evidence referred to in Question 9 to be submitted?**

Responding Party	It must be submitted along with the application	It may be submitted after the filing of the application, within a given time limit – Please specify the time limit	It may be submitted during the application examination process in reply to an office's action	Other
Algeria		Two months after receipt of notification.		
Australia	✓			
Austria				✓*
Azerbaijan		Two months after the date of filing of the application.		
Bahrain	✓			
Brazil	✓		✓	
Bulgaria				✓
Canada			✓	
Chile	✓			
Colombia	✓			
Croatia	✓			
Czech Republic			✓	
Democratic People's Republic of Korea	✓	Three months.		
Denmark		✓		
Ecuador	✓			
Estonia				
France				N/A
Georgia	✓	✓		
Germany		16 months from the date of the first disclosure of the goods on which the industrial design is incorporated or to which it is applied at the exhibition.		
Hungary	✓			
Iceland	✓	The relevant information and documentary evidence must be received by ISIPO no later than one month after the date of filing.		
Ireland				N/A
Japan		Within 30 days from the date of filing of the application for design registration In the case of international design application under		

Responding Party	It must be submitted along with the application	It may be submitted after the filing of the application, within a given time limit – Please specify the time limit	It may be submitted during the application examination process in reply to an office's action	Other
		the Geneva Act of the Hague Agreement, the holder may make a declaration by submitting a relevant document to the JPO within 30 days from the date of publication of the international registration.		
Kuwait	✓			
Kyrgyzstan	✓	✓		
Latvia		Within a period of three months after the day of the filing of an application.	✓	
Lithuania		Within three months from the date of filing of the application.		
Mexico	✓			
Montenegro	✓			
Morocco	✓			
Myanmar	✓	✓		
New Zealand				
Norway		Three months.		
Panama	✓			
Philippines				N/A
Portugal		One month – article 180. <sup>o</sup> number 3 - An applicant who wishes to claim priority under the previous paragraph shall, when submitting the application or within one month, submit a certificate issued by the entity responsible for the exhibition showing the date of the first public disclosure and reproducing the products in which the design or model was incorporated or to which it was applied.		
Republic of Korea				✓*
Republic of Moldova		Within three months of the filing date of the application.		

Responding Party	It must be submitted along with the application	It may be submitted after the filing of the application, within a given time limit – Please specify the time limit	It may be submitted during the application examination process in reply to an office's action	Other
Romania		Within 3 months from submitting the priority claiming application		
Singapore	✓			
Slovakia			✓	
Spain		Three months.	✓	
Sweden				N/A
Switzerland				✓
Thailand		Within 90 days from the filing date of the application.		
Turkey		Three months.		
Ukraine		Three months.		
United Kingdom				N/A
United States of America			✓	
Uzbekistan				N/A
Zambia	✓			
BOIP				
EUIPO		✓		

**COMMENTS:**

Australia

See regulation 2.01(2).

Austria

\* See answer to question 9.

Brazil

It's not applied only for an exhibition, also to any previous disclosure of an industrial design.

Bulgaria

It may be submitted along with the application or during a dispute procedure, if any.

Denmark

The information needed, as answered in question 10, must be received within 1 month. However, if we request a certificate as answered in question 9, the applicant will usually be given a time limit of 2 months.

### Georgia

It may be submitted within 3 month from the request of priority.

### Hungary

Exhibition priority shall be claimed within two months after the filing of the application. The certification of exhibition shall be filed within four months after the date of filing of the application.

### Iceland

Should ISIPO demand that a certificate from the organizers of the exhibition the time limit to submit the certificate is three months from the date of filing.

### Lithuania

An applicant who intends to claim an "exhibition" right of priority must submit before the State Patent Bureau a certificate issued by the administration of the international exhibition at which the design was first exhibited. These documents may be submitted together with other application documents or within three months from the date of filing of the application (Art. 11(3) of the Design Law). Although these documents may be submitted within a given time limit a request to grant priority must be filed with the application.

### Republic of Korea

\* To enjoy the exception to lack of novelty, the applicant shall submit a document stating his/her intention, along with documents evidencing his/her eligibility, at any of the following times:

1. When a person files an application for design registration in which cases, documents evidencing relevant facts shall be submitted within 30 days from the filing date of the application for design registration;
2. Before a notice is dispatched for the determinations to reject applications for design registration or determinations of design; in which cases, documents evidencing relevant facts shall be submitted both within 30 days from the date the documents stating his/her intention are filed and before any determination regarding design registration is made;
3. When a person submits a written reply to a written opposition to registration of a partially-examined;
4. When a person submits a written reply to a petition for an administrative patent trial an administrative patent trial on the invalidation of registration of a design.

### Republic of Moldova

The Law provides in Article 40(3) that: Documents confirming the legality of a priority claim on the basis of a prior application and a translation of those documents into Moldovan, or a confirmation that articles embodying or using the industrial design have been displayed at an exhibition and a translation of that confirmation into Moldovan, shall be submitted within 3 months of the filing date of the application.

Romania

Art. 18 of Design Law provides the time limit for submitting the priority claiming application  
Art. 18 - The priorities provided for in Articles 16 and 17 shall be recognized, if claimed at the time of filing the application, and if attested by priority documents, within three months from the date of filing the application.

Singapore

Specific "grace period" provisions relating to disclosures at international exhibitions are only applicable to disclosures prior to 30 Oct 2017 under Section 8 of the Registered Designs Act.

Sweden

Not applicable

Switzerland

There is no possibility to prove the disclosure at the time of filing, and therefore no documentary evidence is required. See comment in question 7.

United Kingdom

Not applicable – evidence would only be filed in response to the grace period in an invalidation action.

Uzbekistan

Not provided for by the legislation.

Zambia

See section 24(e) of the Industrial Designs Act No. 22 of 2016.

EUIPO

The applicant must, within 3 months of the filing date or receipt of the declaration of priority, provide the Office with a certificate issued at the exhibition by the responsible authority.

**F) EXAMINATION AND RECORDING**

**QUESTION 12: Where an applicant claims the benefit of the measure referred to in Question 2, does the office examine if the industrial design disclosed at the exhibition is the same as the industrial design subject to the application?**

Responding Party	Reply	Comments
Algeria	Yes	
Australia	No	However, if a request is made for examination based on the design application, the examiner will conduct an assessment based on prior art. It is at this stage that the comparison of the designs is made.



Responding Party	Reply	Comments
Austria	No	The examination is not made during the application procedure, but in nullity or infringement proceedings.
Azerbaijan	Yes	
Bahrain	Yes	
Brazil	No	
Bulgaria	Yes	Only in case of dispute procedure, not in examination.
Canada	Yes	
Chile		
Colombia	Yes	
Croatia	Yes	
Czech Republic	Yes	
Democratic People's Republic of Korea	Yes	
Denmark	No	
Ecuador	Yes	The office examines this during the examination that determines whether a design is registrable.
Estonia		
France		The applicant is not required to avail himself/herself of this provision before the office. This provision is applied before the courts to justify self-disclosure.
Georgia	Yes	
Germany	Yes	
Hungary	No	
Iceland	Yes	This is neither specifically outlined in the law nor the regulation, however, this would form part of the formal examination.
Ireland	N/A	
Japan	No	
Kuwait	Yes	
Kyrgyzstan	Yes	
Latvia	Yes	
Lithuania	Yes	There is no specific regulation on this issue.
Mexico	Yes	
Montenegro	Yes	
Morocco	Yes	
Myanmar	Yes	
New Zealand		
Norway	No	For priority claims that comply with the mandatory information in Q10, the Office will not examine if the disclosed design is the same as in the application. If the Office decides to require documentary evidence of priority as described in Q9, the Office will examine if the disclosed design is the same.
Panama	Yes	
Philippines	No	
Portugal	Yes	
Republic of Korea	Yes	The judgement of similarity between two designs is fulfilled at the trial process.
Republic of Moldova	Yes	The Regulation provides that AGEPI shall examine the application and the materials attached to it in order to verify the correctness of the preparation and compliance

Responding Party	Reply	Comments
		with the requirements for submission. Item 71 d) of the Regulation provides: according to art. 38 and 39 of the Law, in the case of claiming the conventional priority or the exhibition priority, it shall be verified the conformity of the industrial design applied for with the industrial design in the initial application or introduced into the exhibition.
Romania	Yes	Art. 16(4) Where one or more priorities have been claimed in the application for registration, according to Art. 17, 18 of the law, for the priority recognition the following shall be cumulatively fulfilled: b) the design for which priority is claimed shall be identical to the design for which protection is claimed. (Government Decree No 211/2008 for the approval of the Regulation for Implementing the Design Law No 129/1992)
Singapore	No	
Slovakia	Yes	
Spain	Yes	
Sweden	No	
Switzerland	No	
Thailand	Yes	
Turkey	Yes	
Ukraine	Yes	
United Kingdom	No	
United States of America	Yes	
Uzbekistan	N/A	Not provided for by the legislation.
Zambia	Yes	This is done to ensure that other requirements under the Act are complied with and, that the application shall not be refused registration by the Registrar or invalidated if the disclosure is falling within section 24.
BOIP		
EUIPO	No	The Office will limit itself to verifying whether the following requirements of an exhibition priority claim have been satisfied (Article 45(2)(d) CDR), that is, <ul style="list-style-type: none"> <li>• whether the filing date of the Community design falls within the 6-month period following the first display of the product;</li> <li>• whether priority was claimed when filing the application or within 1 month of the filing date;</li> <li>• whether the application or the subsequent declaration of priority gives details of the name of the exhibition and the date of first display of the product;</li> <li>• whether the exhibition was a world exhibition within the meaning of the Convention relating to International Exhibitions of 22/11/1928;</li> <li>• whether the certificate issued at the exhibition by the responsible authority was submitted in due time;</li> <li>• whether the proprietor named in this certificate is the same as the applicant.</li> </ul>

**QUESTION 13: Is the temporary protection granted to an industrial design recorded in the register?**

<b>Responding Party</b>	<b>Reply</b>	<b>Comments</b>
Algeria	No	
Australia	No	
Austria	No	
Azerbaijan	No	
Bahrain	Yes	
Brazil	No	
Bulgaria	No	
Canada	No	
Chile		
Colombia	No	Decision No. 486 of the Andean Community, the applicable legislation in Colombia, does not provide for temporary registration.
Croatia	Yes	
Czech Republic	No	
Democratic People's Republic of Korea	Yes	
Denmark	Yes	
Ecuador	No	
Estonia		
France	No	
Georgia	Yes	
Germany	Yes	
Hungary	No	
Iceland	Yes	
Ireland	N/A	
Japan	No	
Kuwait	Yes	
Kyrgyzstan	No	
Latvia	Yes	
Lithuania	Yes	According to Article 13(12) of the Regulations on Designs Register of the Republic of Lithuania, adopted on March 18, 2003 by the Government Resolution No 325, the name of the exhibition and the date of the first display of the design at the exhibition, the code of the state according to WIPO standard shall be recorded in the Designs Register of the Republic of Lithuania.
Mexico	No	
Montenegro	Yes	
Morocco	Yes	
Myanmar	Yes	
New Zealand		
Norway	Yes	The priority granted will be published.
Panama	No	
Philippines	No	
Portugal	Yes	
Republic of Korea	No	

Responding Party	Reply	Comments
Republic of Moldova	Yes	In the National Register of applications for registration of industrial designs and in the National Register of registered industrial designs is recorded the data regarding the exhibition priority (item 1211 of the Regulation).
Romania	Yes	Right of priority is included in the bibliographical data of the design. According to the articles 39 and 40 of Government Decree No 211/2008 for the approval of the Regulation for Implementing the Design Law No 129/1992, the application is entered in Register of Filed Applications. There is mentioned that a priority right it is claimed (conventional or exhibition). The same data can be found in the Design Register. The Register is posted on the website <a href="http://api.osim.ro:8083/DMreg/">http://api.osim.ro:8083/DMreg/</a> .
Singapore	No	
Slovakia	No	
Spain	Yes	The exhibition priority is included in the bibliographical data of the design.
Sweden	No	
Switzerland	No	
Thailand	No	
Turkey	Yes	
Ukraine	No	
United Kingdom	No	
United States of America	No	
Uzbekistan	No	
Zambia	No	
BOIP		
EUIPO	Yes	

### G) FURTHER REMARKS

**QUESTION 14: Do you have any further remarks with respect to Article 11 of the Paris Convention?**

Responding Party	Reply	Comments
Algeria	No	
Australia	No	
Austria	No	
Azerbaijan	No	
Bahrain	No	
Brazil	No	
Bulgaria	No	
Canada	No	
Chile	No	
Colombia	No	
Croatia	No	
Czech Republic	No	
Democratic People's Republic of Korea	No	
Denmark	No	

Responding Party	Reply	Comments
Ecuador	No	
Estonia		
France	No	
Georgia	No	
Germany	No	
Hungary	No	
Iceland	No	
Ireland	Yes	Ireland supports the current wording of Article 11 of the Paris Convention.
Japan	No	
Kuwait	No	
Kyrgyzstan	No	
Latvia	No	
Lithuania	No	
Mexico	No	
Montenegro	No	
Morocco	No	
Myanmar	No	
New Zealand		
Norway	No	
Panama		
Philippines	No	
Portugal	No	
Republic of Korea	No	
Republic of Moldova	No	
Romania	No	
Singapore	No	
Slovakia	No	
Spain	No	Greater exposure of recognized exhibitions.
Sweden	No	
Switzerland	No	
Thailand	No	
Turkey	No	
Ukraine	No	
United Kingdom	No	
United States of America	No	
Uzbekistan	No	
Zambia	No	
BOIP		Given the wording of the Benelux Convention on IP, art. 11 of the Paris Convention is probably directly applicable. However, it was never applied and we do not recall any claims based upon it.
EUIPO	No	

[End of Annex and of document]