

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

considered by the SCT at its forty-first session

1. At the forty-first session of the *Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications* (SCT), held in Geneva from April 8 to 11, 2019, the SCT considered document SCT/41/3, entitled “*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 of the SCT concluded that the Secretariat was requested 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” (see document SCT/41/10, paragraph 12).
2. The present *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* aims at collecting information on the way in which the temporary protection provided for under Article 11 of the Paris Convention is implemented by members for industrial designs. In particular, the questionnaire seeks information as regards the following: (i) the provisions of the applicable law, (ii) the nature of the measure(s) that give(s) effect to Article 11 of the Paris Convention, (iii) the starting date and duration of the temporary protection provided by Article 11 of the Paris Convention, (iv) the criteria as to “official or officially recognized international exhibitions”, (v) the conditions and evidence to comply with to benefit from the aforementioned measure(s) and (vi) the examination by the office and recording of the temporary protection granted to an industrial design.
3. So as to enable the Secretariat to prepare the requested document compiling the replies of SCT members and the aforementioned Organizations, the completed questionnaire should be returned to the World Intellectual Property Organization (WIPO) **by July 31, 2019**, by e-mail to: sct.forum@wipo.int; or by surface mail to WIPO, 34, chemin des Colombettes, 1211 Geneva 20, Switzerland; or by facsimile to +41 22 338 87 45.

Member State/Intergovernmental Organization:
Office:
Name:
Position:
Email address:

Please respond to the following questions based on the applicable law and practice in your jurisdiction.

QUESTIONS

(a) Preliminary 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?
<input type="checkbox"/> YES <input type="checkbox"/> NO If YES, please indicate the reference
Comments, if any:

(b) Nature of the measure

2. What measure(s) give(s) effect to Article 11 of the Paris Convention:
<input type="checkbox"/> an “exhibition” right of priority ¹ <input type="checkbox"/> a “grace period” for filing ² <input type="checkbox"/> other - <i>Please specify</i>
Comments, if any:

¹ For the purpose of this questionnaire, an “exhibition” right of priority” is understood as the right of priority that may be claimed by an applicant with respect to an application for registration of an industrial design/the filing of a design patent, on the basis of the disclosure of the industrial design at an official or officially recognized international exhibition.

² For the purpose of this questionnaire, a “grace period” for filing is understood as a period of time, preceding the filing of an application for registration of an industrial design/the filing of a design patent, during which a disclosure of the industrial design will be without prejudice to its novelty and/or originality, provided that certain conditions are met. In certain jurisdictions, such a disclosure is referred to as a “non-prejudicial disclosure”; in other jurisdictions, such disclosure is regarded as an “exception to lack of novelty”.

(c) Starting date and duration of the temporary protection provided by Article 11 of the Paris Convention

3. What is the starting date of the temporary protection?
<input type="checkbox"/> the opening date of the exhibition
<input type="checkbox"/> 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
<input type="checkbox"/> other - <i>Please specify</i>
Comments, if any:

4. What is the duration of the temporary protection?
<input type="checkbox"/> 6 months <input type="checkbox"/> 12 months
<input type="checkbox"/> other - <i>Please specify</i>
Comments, if any:

5. Which date is taken into account to calculate the end of the temporary protection?
<input type="checkbox"/> the date of filing of the application in your jurisdiction
<input type="checkbox"/> the date of priority, if any
<input type="checkbox"/> other – <i>Please specify</i>
Comments, if any:

(d) Official or officially recognized international exhibitions

6. Are criteria established to determine what is an “official or officially recognized international exhibition”?
<input type="checkbox"/> YES <input type="checkbox"/> NO
If NO, why?
<input type="checkbox"/> the measure referred to in Question 2 is not limited to the disclosure at an official or officially recognized international exhibition

other – *Please specify*

If YES, what are those criteria?

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

other – *Please specify*

If YES, how are those criteria published or made available to the public?

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 – *Please specify*

Comments, if any:

(e) Conditions and evidence

7. Must the applicant expressly claim the benefit of the measure referred to in Question 2?

YES NO

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 - *Please specify*

If YES, when must the claim/declaration be filed?

it must be filed with the application

it may be filed at a later stage – *Please specify*

Comments, if any:

8. Must the applicant pay a fee to benefit from the measure referred to in Question 2?

YES NO

If YES, when must the fee be paid? *Please specify*

Comments, if any:

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

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 – *Please specify*

Comments, if any:

10. What is the mandatory content of the documentary evidence referred to in Question 9

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 – *Please specify*

Comments, if any:

11. When is the documentary evidence referred to in Question 9 to be submitted?

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 – *Please specify*

Comments, if any:

(f) Examination and recording

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?

YES NO

Comments, if any:

13. Is the temporary protection granted to an industrial design recorded in the register?

YES NO

Comments, if any:

(g) Further remarks

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

YES NO

If YES, please specify

Comments, if any:

[End of Questionnaire]