

The Executive Director

DECISION No EX-20-7 of the Executive Director of the EUIPO of 11 September 2020 on the formal requirements of priority claims relating to registered Community designs

The Executive Director of the European Union Intellectual Property Office (the Office),

Having regard to Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs, as amended by Council Regulation (EC) No 1891/2006 of 18 December 2006 (CDR) ⁽¹⁾,

Having regard to Commission Regulation (EC) No 2245/2002 of 21 October 2002 implementing Council Regulation (EC) No 6/2002 on Community designs (CDIR) ⁽²⁾,

In accordance with Article 41 CDR, an applicant for a duly filed application for a registered Community design shall enjoy a right of priority,

Pursuant to Article 42 CDR, an applicant for a registered Community design who wishes to take advantage of the priority of a previous application shall file a declaration of priority and a copy of the previous applications,

This provision also confers discretionary powers on the Office regarding whether or not an applicant is required to provide a translation where the language of the previous application for which priority is claimed is not one of the languages of the Office,

Article 8(1) CDIR provides that the Executive Director shall determine the evidence to be provided when claiming priority for a Community design application.

Whereas:

(1) The World Intellectual Property Organization's (WIPO) Digital Access Service (DAS) is an electronic system allowing priority documents to be securely exchanged between participating intellectual property offices. WIPO DAS allows applicants to request the first office (Office of First Filing) to make priority documents available in this system and then to request other offices (Offices of Second Filing) to retrieve those documents by means of an access code. The exchange of documents therefore takes place electronically between the offices.

(2) The Office has participated in WIPO DAS as an Office of First Filing since 11 July 2020 and will participate as an Office of Second Filing from 12 September 2020.

HAS ADOPTED THE FOLLOWING DECISION:

Article 1

Priority documents for registered Community designs

1. For an e-filing application in which the priority of a previous application is claimed (and for which the required documentation is available in WIPO DAS), the evidence to be provided, pursuant to Article 8(1) CDIR, will consist of the WIPO DAS access code. The Office shall then download the documents of the previous application from which the priority is claimed

⁽¹⁾ OJ L 1, 5.1.2002, p. 1.

⁽²⁾ OJ L 341, 17.12.2002, p. 28.

using this code and include a copy of the previous application in the file of the Community design application.

2. In other cases, the evidence to be provided by the applicant for a Community design, pursuant to Article 8(1) CDR, shall consist of a copy of the previous application or registration emanating from the authority that received it. It shall contain the same information as the original application or registration and state the filing date of the previous application. If the original document contains a representation of the design in colour, the copy shall also be in colour.
3. Where the priority of a previous application for a Community design is claimed, the applicant shall indicate the application number of the previous application for a Community design and its filing date. The Office shall include a copy of the previous application in the file of the Community design application.

Article 2
Translations

If the priority document is not in one of the languages of the Office, the applicant may, in accordance with Article 42 CDR, be required to submit, within a period specified by the Office, a translation into one of those languages.

Article 3
Repeal

Decision EX-17-5 of 18 September 2017 concerning the formal requirements of a priority claim for a registered Community design is repealed.

Article 4
Entry into force

This decision shall enter into force on 11 September 2020. It shall be published in the Official Journal of the Office.

Done at Alicante, 11 September 2020.



Christian Archambeau
Executive Director