



New Measure for Acknowledging Claim of Design Patent Priority

CHINESE TAIPEI

APEC IPEG FEB 9th-10th, 2020

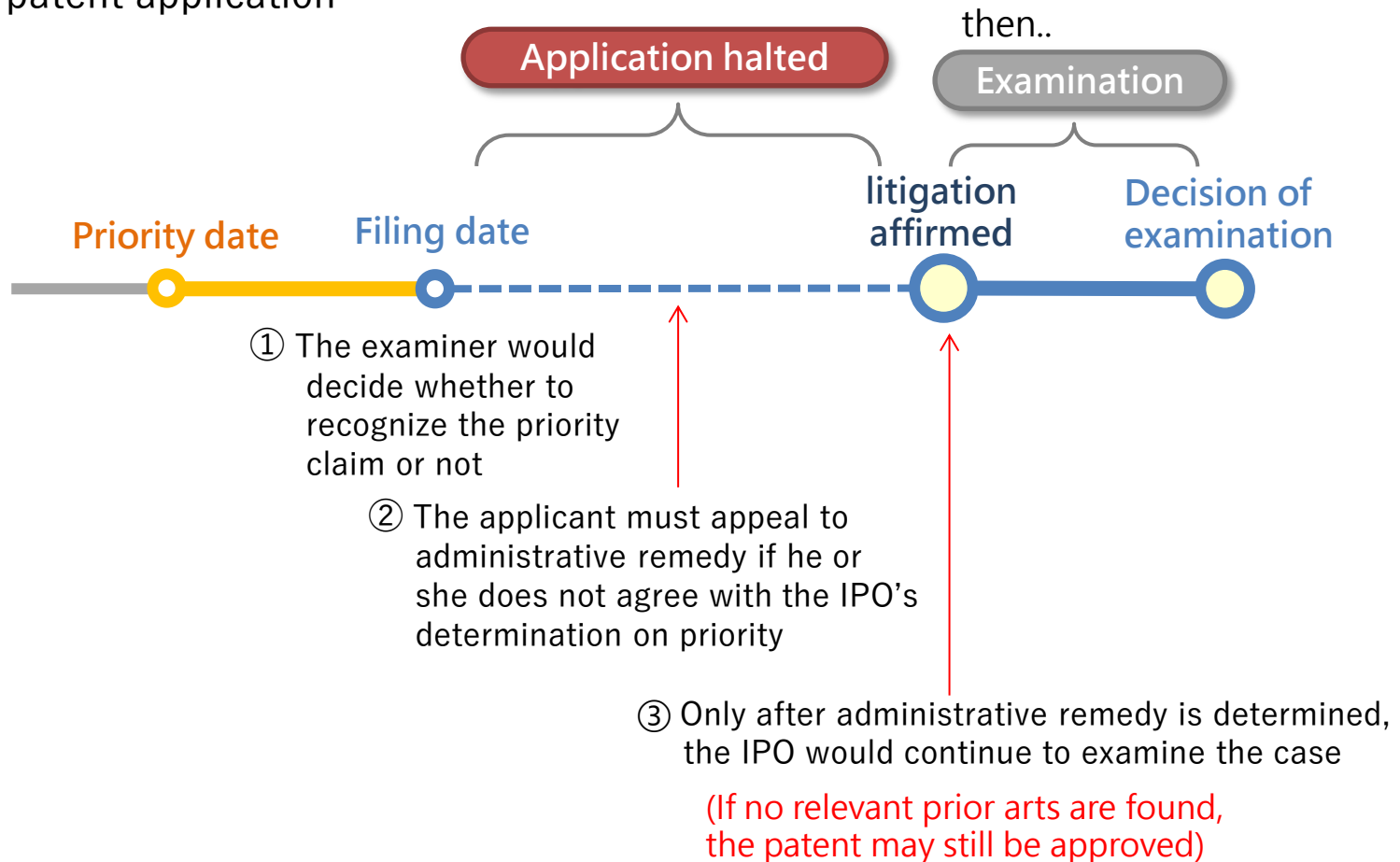
PUTRAJAYA, MALAYSIA



New Measure for Acknowledging Claim of Design Patent Priority

Before

- “**Substantive examination**” is adopted for design patent applications. On claiming priority of design patent applications, according to the old practice, the examiner would decide whether to “recognize the priority claim or not,” based on if they are “**identical designs**” between the claimed priority and the design patent application



- A design patent application may only include one embodiment. When an applicant claims patent priority, theoretically, he or she may claim one single priority document only
- Therefore, according to the patent examination guidelines, it is not permitted to claim “multiple priorities” or “partial priority”

Priority case 1:

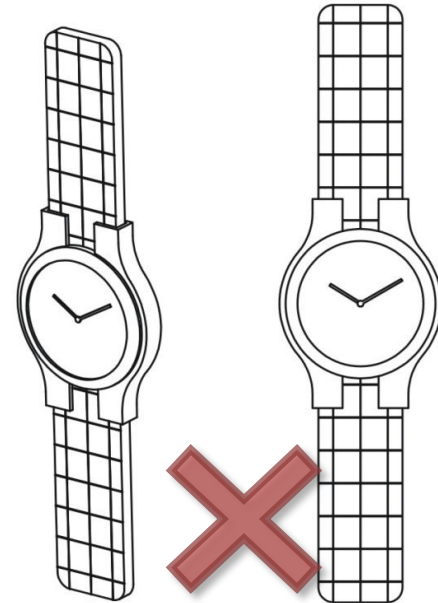


Priority case 2:



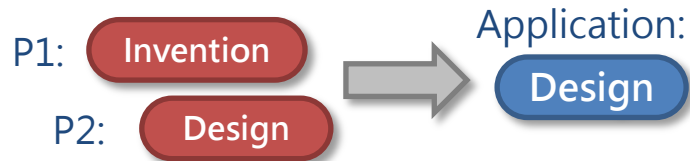
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Application:

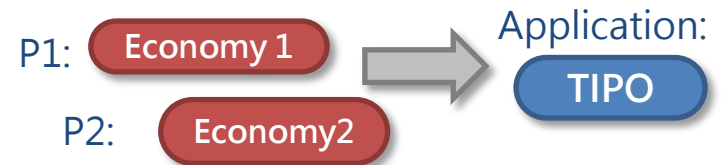


- The following situations are common in practice. In such cases, the examiner would ask the applicant to choose between...

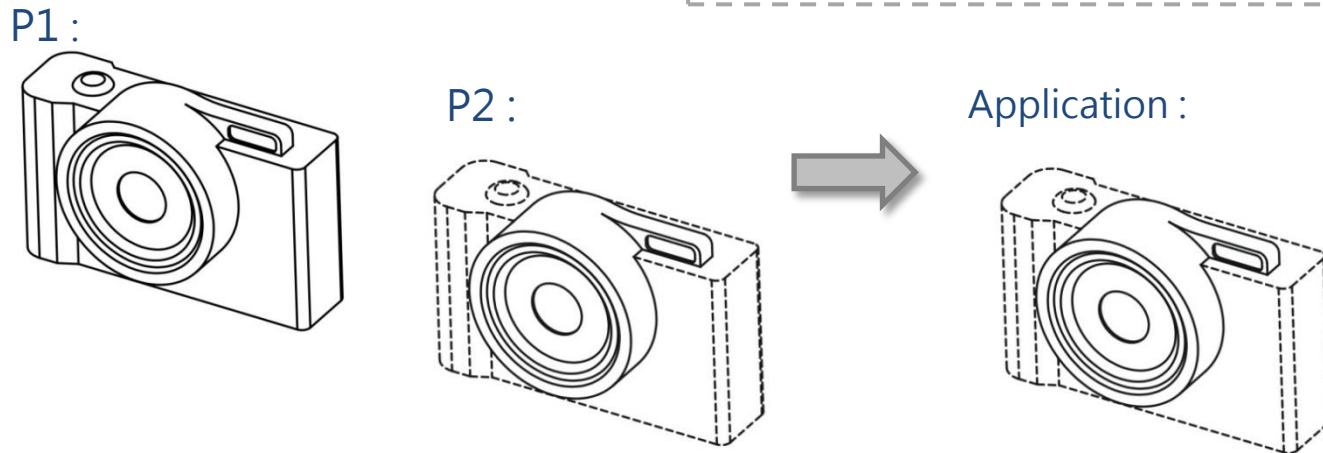
- Different categories:



- Different economies:



- Different scopes :



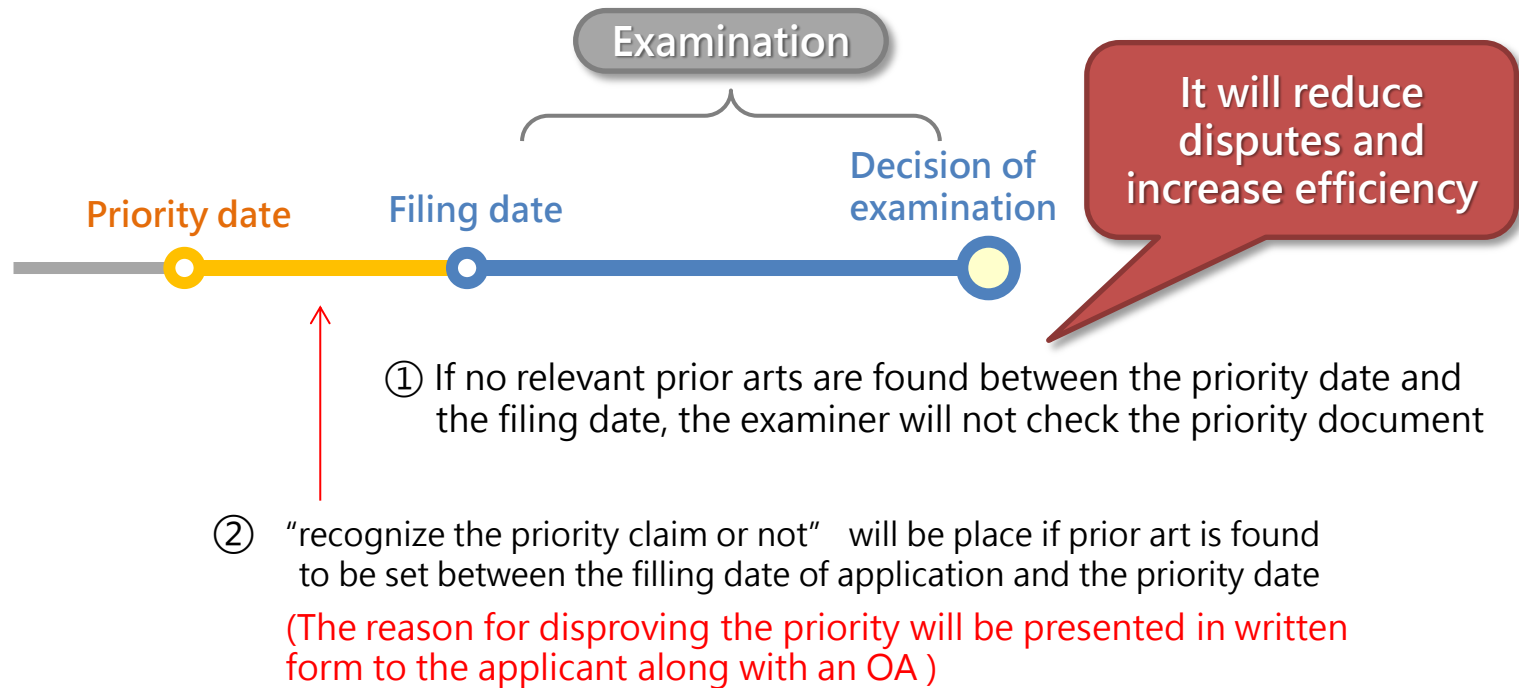
- However, these are likely to lead to disputable determination. Also, when the applicant files for administrative remedy, it would only result in an increase in examination pendency and a decrease in efficiency.



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After

- After the new measure comes into force on September 12, 2019, it will not be necessary to decide whether to recognize the priority claim or not at beginning



- If no prior arts are found between the priority date and the filing date, the examiner will no longer check the priority documents. Also, the examiner will not ask the applicant to choose among the priorities



**Thank you for your
attention**

