

For issues of evidence concerning the validity of the priority claim, see also chapter [III.G.4.3.5](#) and [III.G.5.1.2 d\)](#). For decisions on the correction of the priority declaration, see chapter [IV.A.8.2](#). [J 13/16](#), a decision concerning the remedy of restoration of the right of priority under [R. 49ter.2 PCT](#), is reported in chapter [VI.3.2.3](#).

2. Applications giving rise to a right of priority

2.1. Application filed in or for a state which is party to the Paris Convention or a member of the WTO

Under the EPC 2000 [Art. 87\(1\) EPC](#) was amended to align it with Art. 2 TRIPS, which requires that priority rights also be extended to first filings made in or for any member of the World Trade Organization (WTO) (OJ SE 4/2007, 88). The revised provision governs applications filed on or after 13 December 2007.

Previously, in [G 2/02](#) and [G 3/02](#) (OJ 2004, 483) the Enlarged Board decided that the obligations deriving from the TRIPS Agreement did not bind the EPO directly and did not therefore entitle the applicant for a European patent to claim priority from a first filing in a state which at the relevant dates was not a member of the Paris Convention but was a member of the WTO/TRIPS Agreement.

2.2. Right of priority of the applicant or his successor in title

2.2.1 General

Pursuant to [Art. 87\(1\) EPC](#), a right of priority originates in the applicant of a first application. Therefore, in principle, the applicant has to be the same for the first application and for the subsequent application for which the right of priority is invoked. However, pursuant to [Art. 87\(1\) EPC](#), the right of priority may also be invoked by the "successor in title" of the person who has filed the first application. By reference to the "successor in title", it is recognised that the right of priority, being a legal right, may be transferred from the original applicant to a third person. It is generally accepted that the right of priority is transferable independently of the corresponding first application and may furthermore be transferred to a third person for one or more countries only. It is an independent right until it is invoked for one or more later applications, to which it becomes an accessory, and it has to be distinguished from the right to the patent deriving either from substantive law or from the status of being the applicant of the first application ([T 205/14](#), with further references; see also [T 969/14](#); and [T 1201/14](#) with further references).

The board in [T 844/18](#) held that the instances of the EPO are empowered and obliged to assess the validity of a priority right claim as required by [Art. 87\(1\) EPC](#), and this includes examining the issue of "who" concerning priority entitlement. This decision is further referred to in chapter [II.D.2.2.2](#) and [2.2.3](#)). This issue is also addressed in the first question referred to the Enlarged Board of Appeal in [G 1/22](#) and [G 2/22](#) (see chapter [II.D.2.2.3](#)).

Concerning succession in title to the right of priority, according to [T 1201/14](#), it is clear from the wording of [Art. 87\(1\) EPC 1973](#) alone that this must have already taken place