

## **REGULATIONS on the drafting, filing and examination of applications for the registration of industrial designs**

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### **Chapter I - GENERAL PROVISIONS**

**Art.1.** These Regulations govern the procedures of drafting, filing and examination by the Patent Office of applications for the registration of industrial designs, hereinafter referred to as “the applications”.

**Art.2.** An application may relate to one or to several designs. Where the application relates to several designs, the products in which the designs are incorporated or to which they are applied belong to:

1. the same class of the International Classification of Industrial Designs under the Locarno Agreement, or
2. the same set of articles, or
3. the same composition of articles.

### **Chapter II - DRAFTING AND FILING OF APPLICATIONS**

#### **Section I - Filing of applications**

**Art.3(1)** Applications must be filed with the Patent Office and may be filed directly, by post or by facsimile.

(2) If an application is filed by facsimile, the original copy thereof must be received at the Patent Office within one month following receipt of the facsimile.

#### **Section II - Requirements to applications**

**Art.4(1)** An application must contain the following documents:

1. a request for registration;
2. copies of the design representations;
3. a document certifying payment of fees;
4. a power of attorney, where the application is filed through a local industrial property representative under Art. 5 of the Law on Industrial Designs, hereinafter referred to as “the representative”;
5. a priority certificate, where Convention priority is claimed;
6. a brief description (up to 100 words) of the specific features of the design, at the initiative of the applicant.

(2) The documents must be filed in Bulgarian. If filed in a language other than Bulgarian, the accorded filing date as per Art. 31(2) of the Law on Industrial Designs is maintained, provided that a Bulgarian translation of the documents is furnished within three months following that date. A translation of the priority certificate is furnished, if necessary, upon request of the Patent Office.

**Art.5.** The request for registration must be filed in one copy, using the respective standard form of the Patent Office, and it must contain:

1. data identifying the applicant;
  - a) if the applicant is a natural person, the application must contain an indication of his full name, the State of which he is a national or the State in which he has a permanent residence, and his address.
  - b) if the applicant is a legal person, the application must contain an indication of its name and kind, the headquarters and the administration

address according to the legal registration, and the State in which it has a real commercial or production activity;

2. data identifying the representative, if any - name and address;
3. a correspondence address in the Republic of Bulgaria - the correspondence address as given by the applicant or by the representative; if no address is given, correspondence is sent to the address of the applicant first named in the application; if the applicants are more than one, they may give a common correspondence address;
4. a claim to priority, where appropriate; if Convention priority is claimed, the date and the State of the earlier application must be stated, and if a national application priority is claimed, the incoming number thereof must be stated;
5. the name and address of the creator or creators of the design;
6. the number of designs for which protection is sought;
7. a list of the products in which the design is incorporated or to which it is applied, with an indication of the classification index according to the International Classification of Industrial Designs under the Locarno Agreement;
8. representations of the design;
9. a list of the representations furnished;
10. a list of the documents accompanying the application;
11. a request for registration, representing a plain declaration of the applicant's will to have his design registered;
12. the name and signature of the applicant or his representative; if the applicant is a legal person or a private trader, the position of the person having signed the request must be stated, and a seal must be affixed too.

**Art.6(1)** The representations of the design or of the products in which it is incorporated or to which it is applied must present it in a principal view and in as many additional views as may be necessary for the clear, full and detailed disclosure of the design for which protection is sought. Each representation must contain an indication of the kind of the view, e.g. "principal view", "back view", "top view", etc.

(2) Where the application comprises several designs, the representations must be furnished, under paragraph (1), of each of them or of the products in which they are incorporated or to which they are applied.

(3) Products must be presented in the position in which they are usually used. Products that can be closed, folded, transformed, etc. must be presented in an open position (e.g. refrigerators, phone-booths) or assembled (e.g. kitchen appliances, vacuum-cleaners).

(4) In the case of a set or a composition of articles, the representations as per paragraph (1) of the set or composition must be presented in their integrity. Representations of each of the articles in the set or of fragments of the composition may be presented at the desire of the applicant.

(5) Where the application relates to a packaging, the representations must be presented without the article to be packed. In this case a representation of the packaging development may be presented too.

(6) Photographic representations must be made by uniform light, on a neutral background and with no side objects. Graphic representations must be sharp, drawn in solid lines, and

they must present the design or the products in which it is incorporated or to which it is applied in perspective.

(7) If colour is claimed, the representations must be in colour.

(8) The representations for each design or product in which it is incorporated or to which it is applied must be successively numbered by Arabic numerals, starting with the principal view. If a design or a product is presented by additional views, numeration must consist of two numerals separated by a dot, e.g. 1.1, 1.2, etc. for the first design or product, or 2.1, 2.2 etc. for the second design or product, etc.

(9) Representations must be sized at least 3/4 cm and no more than 14/24 cm.

(10) The request must be accompanied also by two copies of each representation. The copies of colour representations may be black-and-white. The back of the representation copies must contain the number, the name of the product and the kind of presentation, e.g. "principal view", "back view", "top view", etc.

**Art.7(1)** Any correspondence addressed to the Patent Office must contain the incoming number of the application and the signature of the applicant or his representative.

(2) Any correspondence filed by facsimile is deemed to be received if, within one month from the date of receipt of the facsimile, the original copy is received at the Patent Office.

(3) Outgoing correspondence setting time limits for the applicant to act must be sent with an advice of delivery certifying the date of receipt thereof. Where there is no such date indicated in the advice of delivery, the date on the postmark of the receiving post-office is considered the date of receipt.

### **Section III - Representation**

**Art.8(1)** Where there is a representative or a patent specialist authorised under paragraph (3) of the Regulations on Industrial Property Representatives adopted by Ordinance

No. 137/1993 of the Council of Ministers (Publ. State Gazette No. 65/1993, amend. No. 86, 1994 and No. 41/1997), the application must be accompanied by a power of attorney. If there are several applicants, one of them being a Bulgarian natural or legal person, the authorisation of a representative is not obligatory. In such cases it is obligatory to give a correspondence address in the Republic of Bulgaria.

(2) The power of attorney as per paragraph (1) must contain: the name and address of the applicant; the name and address of the industrial design qualified representative or representatives as recorded in the register of the Patent Office, the incoming number and the date of the application; the signatures of the applicants or of their representative; the date of authorisation and the seal of the legal person. If the authorised person is a patent specialist, the power of attorney must contain also an indication of the date and number of the labour contract.

(3) Applicants may file the power of attorney using the standard form of the Patent Office or any other form.

(4) If the power of attorney is drawn up in a language other than Bulgarian, it must be legalised at the Consular department of the Ministry of Foreign Affairs of the Republic of Bulgaria, except for cases where no legalisation is required on the basis of reciprocity.

(5) If the power of attorney authorises the representative with regard to several applications, a copy thereof must be furnished for each application. The fact of such copies being true copies of the original power of attorney is certified by the representative's signature.

(6) If the representative is re-authorised, the authorisation must be furnished proving that the person who has authorised the representative has the power to do so. This document or a certified copy thereof as per paragraph (5) must be attached to the representative's power of

attorney.

(7) The Patent Office must be duly informed in writing of any intention to revoke authorisation.

(8) A special authorisation is required for withdrawal of the application.

### Chapter III - EXAMINATION

#### Section I - Formal Examination

**Art.9(1)** The application documents as filed with the Patent Office are subjected to examination at the Formal Examination department for compliance with the provisions of Art. 31(2) of the Law on Industrial Designs for the purpose of according them a filing date.

(2) Where the application meets the requirements as per paragraph (1), its incoming number and filing date are recorded in the incoming register of industrial designs, and the applicant is duly notified thereof.

(3) Where an application meeting the requirements as per paragraph (1) is filed by facsimile, and the original copy is received after expiry of the term as per Art. 3(2), the date on which the original copy is received at the Patent Office is considered the date of filing.

(4) In case of failure to meet the requirements of paragraph (1), no application number is accorded, and the documents received are recorded in the common register kept at the Patent Office and then referred back to the applicant.

**Art.10(1)** An application bearing a filing date is examined at the Formal Examination department as to:

1. whether the applicant meets the requirements as per Art. 2 of the Law on Industrial Designs;
2. whether the documents as per Art. 32 of the Law on Industrial Designs and the data therein are available;
3. the classification index according to the International Classification of Industrial Designs in connection with the requirements of Art. 33 of the Law on Industrial Designs;
4. whether there is correspondence between the list of representations, the number of representations furnished and the copies thereof.

(2) The formal examiners check also whether the amounts of the filing, examination and priority fees according to the payment document correspond to the ones provided for by the Tariff of Fees collected by the Patent Office under Art. 6 of the Law on Industrial Designs. Based on that document, the formal examiners draw up a fees payment slip to be put into the application file. The slip must contain the incoming number of the application, the Tariff items for which payment was effected, the amounts paid, the number and date of the payment document.

(3) In case of deficiencies as per paragraphs (1) and (2), the applicant is accordingly notified and allowed three months within which to remedy them.

(4) If the applicant fails to respond or remedy the deficiencies within the period provided for in paragraph (2), or makes an ill-grounded objection, the formal examiner takes a decision to discontinue the proceedings in the application.

(5) Where it is established that the representative as indicated in the request is an industrial design qualified person recorded in the Register of Representatives, who however is not authorised by a power of attorney drawn up in accordance with Art. 8(2) and (4), or a person who is not recorded in the register as per item 1, or a patent specialist as per Art. 8(2) lacking the prescribed power of attorney, the formal examiner invites the applicant or his representative to remedy the deficiencies within the term as per paragraph (3). If deficiencies are not eliminated in cases of obligatory representation as per Art. 5(2) of the Law on Industrial Designs, the formal examiner takes a decision to discontinue the proceedings.

Where the applicant has his permanent residence or principal place of business in the Republic of Bulgaria, the proceedings go on, correspondence being addressed to the applicant.

(6) Where the formal examiner finds out that the priority claim does not suit the requirements of Art. 35(1) and (2) of the Law on Industrial Designs, and/or the application is not accompanied by a priority certificate, and/or no payment of the prescribed priority fee was effected, he notifies the applicant accordingly inviting him to remedy the deficiencies within the term as per paragraph (3).

(7) If the applicant agrees with the grounds for refusal of the priority claim, the formal examiner sets priority as of the filing date of the application. If the applicant maintains his priority claim without any ground, or fails to respond within the prescribed term, or fails to file a priority certificate and pay a fee within the term as per Art. 35(2)(5) of the Law on Industrial Designs, the formal examiner takes a decision to discontinue the proceedings.

(8) Where all required application documents are furnished, the class is specified according to the operative version of the International Classification of Industrial Designs under the Locarno Agreement, and the application is referred to the Industrial Design department for examination as to substance.

**Art.11(1)** The substantive examiner checks the respective class according to the operative version of the International Classification. The class is corrected, if necessary, and the applicant is accordingly notified. The substantive examiner performs also classification up to a sub-class.

(2) Where priority is claimed, the substantive examiner checks whether the design disclosed in the earlier application corresponds to the design applied for. If no correspondence is established, the applicant is informed of his priority claim being groundless and allowed three months within which to respond.

(3) If the applicant agrees with the grounds for refusal of the priority claim, the substantive examiner sets priority as of the filing date of the application. If the applicant maintains his priority claim without any ground, or fails to respond within the prescribed term, the substantive examiner takes the decision to discontinue the proceedings.

(4) Where the priority is claimed of an application filed in the Republic of Bulgaria ("home priority"), and if such a claim is granted, the decision is taken to discontinue the proceedings in the earlier application.

(5) Where home priority is based on parts of an earlier application, the proceedings in that application go on excluding the parts for which priority is claimed. The applicant may be requested to furnish further representations for the earlier application. The representations may not exceed the scope of the design as applied for.

## **Section II - Examination as to Substance**

**Art.12.** Examination as to substance is carried out within one year following receipt of the application at the Industrial Design department, and it covers the following stages:

1. assessment as to whether the design applied for meets the requirements of Art. 3 of the Law on Industrial Designs;
2. assessment as to whether the design applied for is excluded from protection;
3. search and assessment as to whether the design is new and not identical with a design as per Art. 37(1)(3, 4, 5) of the Law on Industrial Designs;
4. analysis of the results as per items 1, 2, and 3.
5. decision to register or refuse registration of the design.

**Art.13(1)** The substantive examiner studies the application documents and makes an assessment as to whether the application relates to the appearance of a product or of a part of a product, or to the peculiarities of an element (ornament) which is applied to the appearance of a product or of a part of a product. The substantive examiner determines the characteristic features of the design applied for as per Art. 3(1) of the Law on Industrial

Designs.

(2) The substantive examiner establishes whether the design characteristics relate to basic geometrical figures only, e.g. square, cube, sphere, etc., or whether they relate to a colour.

(3) Assessment is made also as to whether the product the design is applied to or incorporated in may be an industrial or a handicraft product, i.e. whether it is capable of being repeatedly reproduced. Repeated reproduction products must possess all characteristic features of the design for which protection is sought.

**Art.14.** The substantive examiner makes an assessment as to whether the design applied for:

1. relates to a computer program;
2. is subject to exclusion as per Art. 11(2) of the Law on Industrial Designs.

**Art.15(1)** The substantive examiner carries out search in the registered designs file for identical designs within the meaning of Art. 12(2) of the Law on Industrial Designs, registered by a national or international route in the Republic of Bulgaria prior to the application filing date or priority date, as appropriate.

(2) The substantive examiner carries out search also in the file of applications filed by a national or international route for any other identical design within the meaning of Art. 12(2) of the Law on Industrial Designs, that may be the subject-matter of a national or international application bearing an earlier filing date or priority date, as appropriate.

(3) Search as per paragraphs (1) and (2), based on the design representations furnished by the applicant, is carried out in the respective classes according to the International Classification.

(4) Identical design applications, that may be found as a result of the search as per paragraph (2), are taken into consideration if the design as disclosed therein gets registered later on.

**Art.16(1)** The search results analysis is based on:

1. a comparison between the design applied for according to the representations and the closest registered design that may be found as a result of the search;
2. the assessment as to whether the design applied for suits the requirements of Arts. 13 and 14.

(2) Where it is established that the design applied for and the registered one are identical due to the fact that they differ in just minor details of their peculiarities, this having no influence on the overall perception thereof, the conclusion is drawn that the design applied for is not new and may not be registered.

(3) Where the design applied for is found not to meet the requirements as per Arts. 13 and 14, the conclusion is drawn that it is not a design within the meaning of the Law.

### **Section III - Decisions**

**Art.17(1)** Where, as a result of the search results analysis, the substantive examiner considers that the design, or designs in the case of a multiple application, meet the requirements of

Arts. 13, 14 and 15 and can be registered, he notifies the applicant accordingly and allows him one month to pay the registration, certificate issue and publication fees. This term may not be extended. Upon payment of the prescribed fees, the decision is taken to register the design or designs and record them in the State Register of Industrial Designs, hereinafter referred to as "the State Register".

(2) Where the fees as per paragraph (1) are paid on filing the application, the substantive

examiner takes the decision, without notifying the applicant beforehand, to effect registration and record the design or designs in the State Register.

(3) If the registration, certificate issue and publication fees have not been paid within the three-month term as per paragraph (1), the application is deemed to be withdrawn.

**Art.18(1)** Where the search results analysis shows that the design, or some of the designs in a multiple application, do not suit the requirements of Arts. 13, 14 and 15, the substantive examiner notifies the applicant of the deficiencies, allowing him three months within which to object. The notification must contain all reasons for the refusal to effect registration.

(2) If the applicant fails to respond within the specified term, or fails to limit the application to the designs that can be registered, or his objections are considered groundless, the substantive examiner takes the decision to refuse registration. The decision must be taken no later than one month upon expiry of the term as per paragraph (1).

(3) If the applicant's objections are considered valid, or if he limits his multiple application to the designs that can be registered, the actions as per Art. 17 are performed.

#### **Section IV - Withdrawal, Limitation, Changes**

**Art.19(1)** Until the time a decision is taken on a design application, the applicant may file a written request for withdrawal of the latter. In that case the application is deemed not to have been filed.

(2) A multiple application may be limited, if withdrawal concerns some of the designs only.

(3) Withdrawal or limitation with regard to an application is effected, if there is:

1. an explicit and plain written request with no additional conditions on the withdrawal, the request being signed by all the applicants or by a person authorised by them in accordance with the requirements of Art. 16(1) of the Law on Industrial Designs;
2. no official assignment document received, or there is such a document received, but the request however is signed by the assignees or by their representatives;
3. no notification by court or by a third party of any dispute over the right to apply.

(4) Where the conditions as per paragraph (3) are satisfied:

1. in case of withdrawal of the application, the examiner takes a decision to discontinue the proceedings and the application is deemed not to have been filed;
2. in case of limitation of the application, the applicant is accordingly notified and, if necessary, invited to furnish new representations.

(5) Where a condition as per paragraph (3) is not satisfied, the applicant is invited to do so. In case of failure to furnish an answer or to fulfill the respective condition, the application procedure is continued and the applicant is duly notified thereof.

**Art.20(1)** Changes or corrections may be made in the application with regard to:

1. the name and/or address of the applicant;
2. evident mistakes that do not affect the design applied for.

(2) In order to effect changes or corrections as per paragraph (1), the applicant has to file a special request accompanied by a document certifying payment of the prescribed fee.

#### **Chapter IV**

#### **FILING AND REGISTRATION OF DESIGNS UNDER THE HAGUE AGREEMENT CONCERNING THE INTERNATIONAL DEPOSIT OF INDUSTRIAL DESIGNS**

**Art.21.** The Patent Office carries out examination as to substance of international applications designating Bulgaria in accordance with the provisions of Articles 12 to 16.

**Art.22(1)** International applications in which Bulgaria is a country of origin must be filed either personally or through a representative directly with the International Bureau or through the Patent Office.

(2) International applications must be filed in English or in French in two copies, one of them being an original copy representing the respective standard form of the International Bureau.

(3) In addition to the representations of the design or of the products in which it is incorporated or to which it is applied, the applicant may decide to furnish also samples or models of the design that must comply with the requirements of Art. 5(3)(3B) of the Hague Agreement.

(4) The application must be accompanied by a document certifying payment of the prescribed fee according to the Tariff of Fees of the Patent Office, as well as by a document certifying payment of fees payable to the World Intellectual Property Organisation.

(5) If the applicant fails to pay the fees as per paragraph (5), he is invited to do so within a period of one month. In case of failure to effect payment within the prescribed term, the materials are referred back to the applicant.

(6) Where the Patent Office is informed by the International Bureau of any deficiencies in the international application, it correspondingly notifies the applicant and allows him one month within which to remedy them. In case of failure to remedy the deficiencies within the specified term, the application is deemed to be abandoned within the meaning of the Hague Agreement.

### **Additional Provisions**

**§ 1.** For the purposes of these Regulations:

1. "Article" means a separate production and commercial unit, manufactured by industrial or handicraft methods and intended to satisfy human needs.
2. "Part of a complex article" means a separate structural unit intended to be assembled in that article and capable of independent commercial realisation, e.g. car steering wheels or headlamps, bicycle pedals, bottle caps, etc.
3. "Set of articles" means structurally independent articles based on a uniform figurative or stylistic principle of appearance design and intended for the same purpose, e.g. dinner sets, games for children, suits of furniture, etc.
4. "Composition of articles" means a stylistic combination of articles based on a common principle of appearance design, e.g. interior decoration and furnishing of kitchens, restaurant cars, etc.
5. "Packing" means an article serving to pack and/or transport another article.
6. "Graphic symbol" means a conventional sign serving to mark or perceive an object, idea, image, etc.
7. "Typographic typefaces" means a composition of letters, numerals and signs drawn in a specific manner.

**§ 2.** The article, the part of a complex article, the set or the composition of articles may be:

1. stereoscopic (three-dimensional), e.g. cars, machines, telephones, packings.
2. ornamental (two-dimensional), e.g. fabrics, table-cloths, wall-paper, etc.
3. stereoscopic-and-ornamental (combination of three-dimensional and two-dimensional), e.g. liner plates with ornaments, packing boxes with a graphic representation, etc.

### **Transitional and Final Provisions**

**§ 3.** Examination of industrial design applications that were pending on the date of entry into effect of the Law on Industrial Designs shall be carried out according to the procedure as



provided for in these Regulations.

**§ 4.** These Regulations are issued by virtue of § 12 of the Transitional and Final Provisions of the Law on Industrial Designs.

**§ 5.** The implementation of these Regulations is assigned to the President of the Patent Office.