

Industrial Design Act

Industrial Designs Regulations*

TABLE OF CONTENTS

	<i>Sections</i>
Interpretation.....	1
Filing of Applications	2
Correspondence	3 – 8
Applications	9 – 10
Filing Date	11
Documents and Materials.....	12 – 13
Agents.....	14
Representative for Service	15
Amendment of Application.....	16
Reinstatement of Application.....	17
Maintenance of Exclusive Right	18
Assignments.....	19
Priority	20
Fees.....	21
Amendments to the <i>Industrial Design Rules</i>	22 – 24
Coming into Force	25
Schedule 1	
Schedule 2	

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Her Excellency the Governor General in Council, on the recommendation of the Minister of Industry, pursuant to section 25^a of the *Industrial Design Act*, hereby makes the annexed *Industrial Design Regulations*.

Interpretation

1. The definitions in this section apply in these Regulations.

“Act” means the *Industrial Design Act*. (*Loi*)

“agent” means a person or firm appointed by an applicant to act on their behalf for the purposes of these Regulations. (*mandataire*)

“applicant” means a person who is named as the proprietor of a design in an application or the person to whom a design has been assigned while the application is pending. (*demandeur*)

“application” means, except as otherwise provided in these Regulations, an application for the registration of a design filed under section 4 of the Act. (*demande*)

“Commissioner” means the Commissioner of Patents. (*commissaire*)

“Office” means the industrial design section of the Office of the Commissioner of Patents. (*Bureau*)

“registered proprietor” means, in respect of an industrial design, the person whose name appears in the Register of Industrial Designs as the proprietor of the industrial design.
(*propriétaire inscrit*)

“representative for service” means a person or firm in Canada who is appointed by an applicant or registered proprietor to receive any notice or on whom documents are to be served on behalf of the applicant or registered proprietor for the purposes of these Regulations. (*représentant aux fins de signification*)

Filing of Applications

2. An application under subsection 4(1) of the Act must be filed with the Minister by delivering it to the Office or to an establishment referred to in subsection 3(4).

Correspondence

3.—(1) Correspondence intended for the Commissioner or the Office must be addressed to the Commissioner.

(2) Correspondence addressed to the Commissioner may be physically delivered to the Office during ordinary business hours of the Office and must be considered to be received by the Commissioner on the day of the delivery.

(3) For the purposes of subsection (2), where correspondence addressed to the Commissioner is physically delivered to the Office outside of its ordinary business hours, it must be considered to have been delivered to the Office during ordinary business hours on the day when the Office is next open for business.

(4) Correspondence addressed to the Commissioner may be physically delivered to an establishment that is designated by the Commissioner in the *Canadian Patent Office Record* as an establishment to which correspondence addressed to the Commissioner may be delivered, during ordinary business hours of that establishment, and

(a) where the delivery is made to the establishment on a day that the Office is open for business, the correspondence must be considered to be received by the Commissioner on that day; and

(b) where the delivery is made to the establishment on a day that the Office is closed for business, the correspondence must be considered to be received by the Commissioner on the day when the Office is next open for business.

(5) For the purposes of subsection (4), where correspondence addressed to the Commissioner is physically delivered to an establishment outside of the ordinary business hours of the establishment, it must be considered to have been delivered to that establishment during ordinary business hours on the day when the establishment is next open for business.

(6) Correspondence addressed to the Commissioner may be sent at any time by electronic or other means of transmission specified by the Commissioner in the *Canadian Patent Office Record*.

(7) For the purposes of subsection (6), where, according to the local time of the place where the Office is located, the correspondence is delivered on a day when the Office is open for business, it must be considered to be received by the Commissioner on that day.

(8) For the purposes of subsection (6), where, according to the local time of the place where the Office is located, the correspondence is delivered on a day when the Office is

closed for business, it must be considered to be received by the Commissioner on the day when the Office is next open for business.

4.—(1) Subject to subsection (2), correspondence addressed to the Commissioner in relation to an application or a registered design must be restricted to one application or one registered design, as the case may be.

(2) Subsection (1) does not apply to correspondence that relates to

(a) an assignment or a licence affecting more than one application or more than one registered design, or affecting one or more applications and one or more registered designs;

(b) a change in the name or address of a registered proprietor of more than one registered design;

(c) a change in the name or address of an applicant of more than one application;

(d) a change in the name or address of the representative for service or the agent of a registered proprietor of more than one registered design;

(e) a change in the name or address of the representative for service or the agent of an applicant of more than one application;

(f) a request to have two or more designs registered on the same date; or

(g) an initial application and the filing of a separate application referred to in subsection 10(3).

5. Any address that is required to be furnished under the Act or these Regulations must be a complete mailing address and include the street name and number and the postal code when they exist.

6.—(1) Correspondence that relates to an application must include

(a) the application number, if one has been assigned;

(b) the name of the applicant; and

(c) the title of the design.

(2) Correspondence that relates to a registered design must include

(a) the registration number of the design;

(b) the name of the registered proprietor; and

(c) the title of the design.

7.—(1) Subject to subsection (2), the Commissioner must conduct correspondence that relates to an application with

(a) the applicant, if there is only one applicant; or

(b) if there is more than one applicant,

(i) the applicant authorized by the other applicant or applicants to act on their behalf, or

(ii) the first applicant named in the application, if no applicant has been authorized in accordance with subparagraph (i).

(2) The Commissioner must conduct correspondence that relates to an application with an agent if their agency has not been revoked and the agent is named

- (a) in the application; or
- (b) in a notice under section 14.

8.—(1) Subject to subsection (2) and section 14, the Commissioner may not consider any correspondence in relation to an application from anyone other than the persons with whom correspondence may be conducted in accordance with section 7.

(2) Any correspondence made to the Commissioner with the stated or apparent intention of protesting against the registration of an industrial design must be acknowledged, but no information shall be given as to the action taken.

Applications

9.—(1) An application filed under section 2 must be made in the form set out in Schedule 1 and must include payment of the applicable fee set out in column 2 of item 1 of Schedule 2.

(2) An application must be in English or French and include the following information and documents in addition to the declaration mentioned in paragraph 4(1)(b) of the Act:

- (a) the name and address of the applicant and, if an agent is named, the name and address of the agent;
- (b) a title identifying the finished article or set in respect of which the registration of the design is requested;
- (c) for the purpose of paragraph 4(1)(a) of the Act, a description that identifies the features that constitute the design;
- (d) a drawing or photograph in accordance with section 13; and
- (e) if the applicant has no place of business in Canada, the name and address of a representative for service.

10.—(1) An application must relate to one design applied to a single article or set, or to variants.

(2) If an application does not comply with subsection (1), the applicant or their agent must limit the application to one design applied to a single article or set, or to variants.

(3) Any other design disclosed in the application referred to in subsection (2) may be made the subject of a separate application, if it is accompanied by the applicable fees set out in column 2 of item 1 of Schedule 2.

Filing Date

11.—(1) Subject to section 29 of the Act, the filing date of an application is the date on which the Office receives the information required by paragraphs 9(2)(a), (b) and (c) and a drawing or photograph of the design.

(2) A separate application referred to in subsection 10(3) has the same filing date as the initial application if it is filed

- (a) before the design in the initial application is registered; and
- (b) where an initial application has been abandoned, before the expiry of the period set out in section 17 for reinstating of the initial application.

Documents and Materials

12. Except as otherwise provided in these Regulations, all documents, other than drawings and photographs, filed with the Minister must be clear and legible and must be on white paper that measures at least 21 cm × 28 cm or 8 inches by 11 inches, but not more than 22 cm × 35 cm or 8 1/2 inches by 14 inches, be printed on one side only and have left and upper margins of at least 2.5 cm or 1 inch.

13.—(1) Except as otherwise provided in these Regulations, a drawing that is included in an application must be made with clear, permanent black lines and must be on white paper that measures at least 21 cm × 28 cm or 8 inches by 11 inches, but not more than 22 cm × 35 cm or 8 1/2 inches by 14 inches, be printed on one side only and have left and upper margins of at least 2.5 cm or 1 inch.

(2) Except as otherwise provided in these Regulations, a photograph that is included in an application must be in black and white and must be at least 21 cm × 28 cm or 8 inches by 11 inches, but not more than 22 cm × 35 cm or 8 1/2 inches by 14 inches.

(3) The drawing or photograph must show the features of the design clearly and accurately.

(4) All views on a drawing or photograph must

(a) show the article to which the design is applied;

(b) show the article in isolation;

(c) be on a sufficiently large scale as to be clear and apparent; and

(d) be presented in such a way as to permit its clear reproduction by photography, electrostatic processes, photo offset and microfilming, in any number of copies.

Agents

14.—(1) Subject to subsection (2), the Commissioner may not recognize a person or firm as an agent unless the applicant, or the person or firm acting as the agent, delivers to the Commissioner a written notice signed by the applicant that states that the person or firm is the agent.

(2) Subsection (1) does not apply if the agent communicating with the Commissioner has been named in the application.

(3) If the Commissioner receives correspondence from a person or firm who claims to be an agent but in respect of whom no written notice has been given under subsection (1) and who has not been named as the agent in the application, the Commissioner must notify the person or firm in writing that the person or firm has 60 days from the date of issuance of the notification to file a written notice signed by the applicant that states that the person or firm is the agent.

(4) If the person or firm delivers the written notice to the Commissioner within the 60 days, the Commissioner must consider the correspondence to have been filed on the date that it was initially filed.

(5) If the written notice is not received within the 60 days, the Commissioner must remove the correspondence from the file and consider it not to have been filed.

(6) The appointment of an agent may be revoked by the applicant or the agent by submitting to the Commissioner a notice of revocation signed by the applicant or the agent.

Representative for Service

15. A notice of a proceeding relating to an application or registered design that is sent to, or served on, a representative for service has the same effect as if it were sent to, or served on, the applicant or the registered proprietor.

Amendment of Application

16.—(1) Subject to subsection (2), an applicant may request an amendment to an application at any time before the registration of a design by submitting information and material in support of the amendment to the Commissioner.

(2) The Commissioner may not accept an amendment to an application that would substantially alter the design to which the application relates.

Reinstatement of Application

17. A request under subsection 5(4) of the Act for the reinstatement of an application must be made within six months after the date on which the application was considered abandoned under subsection 5(3) of the Act.

Maintenance of Exclusive Right

18.—(1) The registered proprietor must, before the expiry of the five-year period beginning on the date of the registration of the design, pay the fee set out in column 2 of item 2 of Schedule 2 to maintain an exclusive right conferred by the registration of the design.

(2) If the registered proprietor does not comply with subsection (1), the registered proprietor may, on request to the Commissioner, maintain the exclusive right conferred by the registration of the design if the registered proprietor

(a) makes the request within six months after the expiry of the five-year period beginning on the date of the registration of the design; and

(b) pays the fees set out in column 2 of items 2 and 3 of Schedule 2.

Assignments

19. An assignment or licence granting an interest in a design that is presented to be recorded against the design under section 13 of the Act must be accompanied by the applicable fees set out in column 2 of item 4 of Schedule 2 and by evidence that establishes that the person in whose name the interest is to be recorded is the assignee or licensee, which evidence may include an affidavit or a copy of a document effecting the assignment or licence.

Priority

20.—(1) A request for priority filed within the six months specified in subsection 29(1) of the Act must be made in writing and indicate the date the application for registration of the design was first filed in or for the foreign country, the name of the country and the number assigned by that country to the application.

(2) If, at any time before the registration of the design for which priority is sought, an application is made for a design that is identical to or so closely resembles the design as to be

confounded with it, the Commissioner must so advise in writing the applicant who is requesting priority and request that the applicant provide the following documents

- (a) a certified copy of the foreign application on which the request is based; and
 - (b) a certificate from the office in which the application referred to in paragraph (a) was filed showing the date of its filing therein.
- (3) The request for priority is suspended until the certified copy and the certificate have been filed.

Fees

21. The fees prescribed for a service described in column 1 of an item of Schedule 2 provided by the Office are the fees set out in column 2 of that item and are payable to the Receiver General of Canada.

Amendments to the Industrial Design Rules

22. Subsection 15(5) of the *Industrial Designs Rules*¹, as enacted by Order in Council P.C. 1993–2084 of December 15, 1993², is repealed.

23. The heading before section 18 and sections 18 to 20 of the Rules, as enacted by Order in Council P.C. 1993–2084 of December 15, 1993², are repealed.

24. Schedule II to the Rules, as enacted by Order in Council P.C. 1993–2084 of December 15, 1993², is repealed.

Coming into Force

25. These Regulations come into force on December 15, 1999.

SCHEDULE 1
(Subsection 9(1))
APPLICATION FOR THE REGISTRATION OF AN INDUSTRIAL DESIGN

**DEMANDE D'ENREGISTREMENT
D'UN DESSIN INDUSTRIEL**

**APPLICATION FOR THE
REGISTRATION OF AN
INDUSTRIAL DESIGN**

Le demandeur,
The applicant, _____

(nom du demandeur / name of applicant)
dont l'adresse complète est
whose complete address is _____

demande l'enregistrement d'un dessin pour un(e)
hereby requests the registration of a design for a _____

(désignation de l'objet / title identifying article)

dont il est le propriétaire.
of which the applicant is the proprietor.

À la connaissance du propriétaire, personne d'autre que le premier propriétaire du dessin n'en
faisait usage lorsque celui-ci en a fait le choix.

The design was not, to the proprietor's knowledge, in use by any person other than the first
proprietor at the time the design was adopted by the first proprietor.

Description du dessin :
Description of the design:

À REMPLIR SEULEMENT SI LE DEMANDEUR A UN MANDATAIRE /
TO BE COMPLETED ONLY IF AN APPLICANT HAS AN AGENT

Nom du mandataire / Name of agent
Adresse du mandataire / Address of agent

Lorsque le demandeur n'a pas
d'établissement au Canada, le nom et
l'adresse de son REPRÉSENTANT AUX
FINS DE SIGNIFICATION au Canada
doivent être indiqués.

If an applicant has no place of business in
Canada, the name and address of a
REPRESENTATIVE FOR SERVICE in
Canada must be provided.

Nom du représentant aux fins de signification /
Name of representative for service
Adresse au Canada du représentant aux fins de signification /
Address in Canada of representative for service

SCHEDULE 2
(Subsections 9(1) and 10(3), and Sections 18, 19 and 21)
TARIFF OF FEES

Item	Column 1 Service	Column 2 Fees (\$)
1.	Examination of an application to register a design pursuant to subsection 4(1) of the Act, (a) basic fee	400.00
	(b) plus, for each page of drawings in excess of 10 pages	10.00
2.	Maintenance of a registration of a design pursuant to subsection 18(1) or (2)	350.00
3.	Maintenance of a registration of a design pursuant to subsection 18(2)	50.00
4.	Recording an assignment or any document affecting a design pursuant to subsection 13(1) of the Act, for each design	100.00
5.	Providing a copy in paper form of a document, for each page, (a) where the user of the service makes the copy using Office equipment	0.50
	(b) where the Office makes the copy	1.00
6.	Providing a copy in electronic form of a document, (a) for each request	10.00
	(b) plus, for each design to which the request relates	10.00
	(c) plus, if the copy is requested on a physical medium, for each physical medium requested in addition to the first	10.00
7.	Providing a certified copy in paper form of a document, (a) for each certification	35.00
	(b) plus, for each page	1.00
8.	Providing a certified copy in electronic form of a document, (a) for each certification	35.00
	(b) plus, for each design to which the request relates	10.00
9.	Delaying registration	100.00
10.	Reinstatement of an abandoned application	200.00
11.	Issuance of a correcting certificate required as a result of an error not committed by the Office	50.00
12.	Processing a request for accelerated examination of an application to register a design	500.00

SOR/2003-210, s. 1.

* Disclaimer: This document is not the official version (more).
Source: <http://laws.justice.gc.ca/en/I-9/SOR-99-460/140154.html>
Regulation current to February 21, 2006

^a S.C. 1993, c. 44, s. 170

¹ C.R.C., c. 964

² SOR/93-584