

Translation

23rd December, 1987 3243 No. 854

Act to Amend the Patents Act, the Designs Act, the Trade Marks Act, and the Collective Marks Act.

WE, MARGRETHE THE SECOND, by the Grace of God Queen of Denmark, make it known that the Folketing has passed and We have given the Royal Assent to the following Act:

Section 1

The Patents Act, cf. the Consolidate Act No. 110, 11th March, 1986, shall be amended as follows:

(i) Section 7 shall be worded as follows:

(1). The Patent Authority section 7 of this country shall be the Patent Office (Patentdirektoratet), headed by a Director, and the Patent Board of Appeal (Patentankenævnet). For the purposes of this Act the "Patent Authority" means the Patent Authority of this country unless otherwise stated.

(2). The Patent Board of Appeal shall be established by the Minister of Industry for the examination of appeals from decisions of the Patent Office, cf. Sections 25 and 67, and appeals from decisions pursuant to the Designs Act, the Trade Marks Act, etc. The Patent Board of Appeal shall consist of not more than 18 members, who shall be appointed for a term of 5 years. Two of the members, one of whom shall be the chairman, shall possess the general qualifications for appoint to the High-Court judge (landsdommer), while the other members shall have the best possible expert knowledge of patents, designs, trade marks, and in fields, which in accordance with the legislation has otherwise been placed under the authority of the Board of Appeal. They shall have graduated from the Technical University of Denmark (Danmarks Tekniske Højskole) or from another institute of higher education, or in other ways have acquired the necessary expertise.

(3). Having regard to the circumstances of each particular case, the chairman shall decide which and how many of the members of the Board are to participate in the examination of the case.

(4). The Minister of Industry shall lay down further rules for the activities of the Patent Board of Appeal, including rules for the proceedings and the rules concerning the plaintiff's payment of fees for having an appeal examined.

(ii) In Section 69 (1) the words "and of the Patent Board of Appeal" are repealed.

(iii) After Section 74 there shall be inserted:

If the Minister of Industry transfers his authority pursuant Section 74a to the Act under the Patent Office, the Minister may lay down rules for appeals from decisions, including the rule that appeals cannot be brought before a higher, administrative authority.

Section 2

The Designs Act No. 218, 27th May, 1970, shall be amended as follows:

(i) Section 22 (1) shall be worded as follows:

"Appeals from decisions made pursuant to Section 21 shall be made to the Patent Board of Appeal (Ankenævnet for Industriel Ejendomsret) not later than two months after the registration authority has informed the person in question of the decision. Within the same limit the fee for examining the appeal shall be paid. If this does not happen, the appeal shall be refused".

(ii) Section 22(2) shall be repealed, and (3) and (4) shall be renumbered (2) and (3).

(iii) In Section 25(1) there shall be substituted "3 months" for "one year".

(iv) In Section 47(1) "and of the Board of Appeal" shall be repealed.

(v) After Section 48 there shall be inserted in Part IX: If the Minister of Industry transfers his authority pursuant “Section 48a to the Act to the Patent Office, the Minister may lay down rules to the effect that appeals cannot be brought before a higher administrative authority”.

Section 3

The Trade Marks Act, cf. Consolidate Act No. 141, 18th March, 1986, shall be amended as follows:

- (i) Section 19(3) shall be repealed.
- (ii) Section 21(4) shall be repealed.
- (iii) In Section 23(1) there shall be substituted “3 months” for “one year”.
- (iv) Section 44 shall be worded as follows:

“Section 44

(1). Appeals from decisions made pursuant to the Act, including Sections 19 and 21, can be made to the Patent Board of Appeal (Ankenævnet for Industriel Ejendomsret) not later than two months after the registration authority has informed the person in question of the decision. Within the same limit the fee for examining the appeal shall be paid. If this does not happen, the appeal shall be refused.

(2) The decision of the Patent Board of Appeal cannot be brought before a higher, administrative authority.

(3) Legal proceedings for examination of decisions made by the Patent Office, which can be appealed to the Board of Appeal, cannot be brought before the courts of law until the Board of Appeal has made its decision, cf. Section 25, however. Legal proceedings for examination of decisions whereby the Board of Appeal refuses an application for registration shall be instituted not later than two months after the person in question has been informed of the decision”.

- (v) After Section 46 there shall be inserted:

“Section 46a. If the Minister of Industry transfers his authority pursuant to the Act to the Patent Office, the Minister may lay down rules to the effect that appeals cannot be brought before a higher, administrative authority”.

Section 4

The Collective Marks Act No. 212, 11th June 1959, shall be amended as follows:

- (i) In Section 5(2) there shall be substituted “the Patent Office” for the “Ministry of Commerce”.
- (ii) After Section 7 there shall be inserted:

“Section 7a. If the Minister of Industry transfers his authority pursuant to the Act to the Patent Office, the Minister may lay down rules to the effect that appeals cannot be brought before a higher, administrative authority”.

Section 5

- (1) The Act shall enter into force on the 1st January, 1988.
- (2) Appeals filed with the Design Board of Appeal before the 1st January, 1988, and which have not been finally dealt with, shall be finally dealt with by the Patent Board of Appeal in accordance with the provisions of this Act, Section 2, No. 1.
- (3) Appeals from decisions concerning trade marks that have been made by the Patent Office pursuant to Consolidate Act No. 141, 18th March, 1986, before the 1st January, 1988, shall be transferred by the Minister of Industry for processing by the Patent Board of Appeal.



Done at the Fredensborg Castle on the 23rd December, 1987

Under Our Royal Hand and Seal
MAGRETHE R.

/Nils Wilhjelm