

Order on application and registration of designs

Pursuant to [section 7](#), [section 8](#), [section 14\(1\)](#), [section 46](#) and [section 47](#) of the Danish Designs Act, cf. Consolidated Act No. 251 of 17th April 1989, and by authorisation under Order No. 416 of 27th May 1992 of the Ministry of Industry the following shall hereby be laid down¹⁾:

Part 1

Filing and recording of design applications

1. Design applications shall be filed with the Patent Office. Application forms shall be provided free of charge by the Patent Office.

2. (1) The application shall indicate:

- (i) the applicant's name or firm name, mailing address and, if the applicant is not represented by an agent, telephone and fax number, if any, and, if the applicant is represented by an agent, the latter's name or firm name, mailing address and telephone and fax number, if any,
- (ii) the design inventor's name and mailing address.
- (iii) the product or products for which registration of the design is applied.
- (iv) the class or classes in which the design is placed by the applicant, cf. [section 27](#) of this Order.
- (v) whether the design is a model for the appearance of a product or an ornament,
- (vi) where a design registration is applied for by several applicants jointly, and these are not represented by an agent, which of the applicants shall be authorised to receive communications from the Registration Authority on behalf of all the applicants,
- (vii) if priority is claimed under [section 8](#) of the Designs Act, the information laid down in [section 7](#),
- (viii) if the applicant requests postponement of the publication, cf. [section 18](#) of the Designs Act, information hereof, and
- (ix) the documents accompanying the application.

(2) The documents accompanying the application shall include:

- (i) representations showing the design, cf. [section 4](#) of this Order,
- (ii) if the applicant is represented by an agent, a power of attorney for the agent unless a power of attorney is given in the application,

¹⁾ 1) The words »fee« and »fees« include the same concept as the words »duty« and »duties« in the Designs Act.

(iii) if the design is originated by someone other than the applicant, documentary evidence of the applicant's title, and

(iv) declaration of novelty, cf. [section 10 \(3\)](#) of the Designs Act.

(3) The Registration Authority may grant exemption from the requirement to provide a written power of attorney.

(4) The prescribed fees shall accompany the application.

3. (1) The application and documents accompanying the application shall be in Danish, Norwegian or Swedish. The Registration Authority may require that the statement of the products is in Danish.

(2) If a document is drawn up in any other language than those prescribed in [subsection 1](#), 1st sentence, a translation shall be filed. The Patent Office may require that the translation be certified by a translator or in another manner approved by the Patent Office. The Registration Authority may abstain from the requirement of translation.

Patentdirektoratet,

J. H. Schultz Grafisk A/S 117787

4. (1) Representations which show the design and which may be photos or drawings shall be filed in triplicate in a size not above A4 size (21 cm x 29.7 cm). If the size is smaller than A4 two copies shall be reproduced on paper of A4 size. The representations shall be suitable for reproduction in black/white printing including in a different size.

(2) If the applicant files a model of the design the model shall be made up of a durable material. The size model may not exceed a length of 40 cm in any direction or exceed a weight of 4 kg. Models of a perishable or hazardous material may not be filed.

(3) If an application includes several designs, cf. [section 11](#) of the Designs Act, separate representations of each design shall be filed. Representations and models, if any, shall be clearly marked with consecutive numbers.

5. The Patent Office shall mark the application with an application number and the date on which it was filed.

6. (1) The Patent Office shall keep a record of applications filed.

(2) In the record, for each application shall be entered:

(i) the date of filing and number of the application,

(ii) the date, when a representation or model was initially filed, if this did not occur concurrently with the application,

(iii) the product or the products for which registration of the design is applied,

(iv) the class or classes in which the design is placed by the applicant, cf. [section 27](#) of this Order,

(v) whether the design is a model for the appearance of a product or an ornament,

- (vi) the applicant's name or firm name and mailing address,
- (vii) if the applicant is represented by an agent, the latter's name or firm name and mailing address,
- (viii) the design originator's name and mailing address,
- (ix) if priority is claimed under **section 8** of the Designs Act, where the previous application whose priority is claimed was filed and the date of filing and number of that application,
- (x) where the application is made on the basis of division or excision, the number of the parent application,
- (xi) where new applications result from diversion from the application, information to that effect and indication of the numbers of those applications,
- (xii) if the applicant has requested a postponement of the publication, information thereof,
- (xiii) information on communications, notifications, representations, models, if any, received and fees paid in respect of the application, and
- (xiv) information on whether the design is claimed registered in colours,
- (xv) notifications and communications sent in respect of the application.

(3) The record shall in respect of the individual application be available to the public when the application is made available to the public. However, the Patent Office may decide that some of the data referred to in [subsection 2](#) thereof shall be available to the public before the said date.

Part 2

Priority, etc.

7. (1) Where a design is included in an application for registration of a design or for utility model protection in another State being a party to the Paris Convention for the Protection of Industrial Property of 20th March 1883 or being a member of the World Trade Organisation (WTO) and where the design registration is applied for in this State within 6 months from the date of filing in this other State the application shall for the purposes of **sections 2** and **6** of the Designs Act be considered filed at the same time as the application in this other State. The same right of priority applies even though the prior application for protection does not originate from a State being a party to the Convention or WTO when an equivalent priority from a Danish design application is granted in the State where the prior application was filed and the legislation in the State under consideration in substance is in accordance with the Paris Convention. The same right of priority also applies if the design is included in an application for utility model protection in this country.

(2) Priority claim for the application shall be put forward in the application with information from which date and on which basis the priority is claimed and the number

of the claimed application or shall be filed with the information mentioned not later than 1 month after the date of application.

(3) If an application is divided under [section 11](#) of this Order, the priority claim for the parent application shall apply, without any separate claim for priority, to new applications resulting herefrom.

(4) Withdrawal of priority shall be effected by separate letter.

8. (1) The Registration Authority may require documentation of the priority claimed by filing of a certificate from the Authority which has received the original application. The certificate shall give the date of filing of the original application and the applicant's name or firm name. In addition, the Registration Authority may require that a certified copy of the application and accompanying drawings showing the design shall be filed.

(2) If the applicant fails to file the said documentation in due time, the applicant's right of priority shall lapse.

9. (1) For an application to be capable of serving as a basis for priority under [section 7](#) of this Order, it shall be the first application in which the design is given.

(2) Where the person who filed the first application or his successor in title has filed a subsequent application relating to the same design with the same authority, the subsequent application may, however, be claimed as a basis for priority provided that, at the time of the filing of the subsequent application, the first application has been withdrawn, shelved or refused without the design having been made available to the public and without leaving any rights outstanding or having served as a basis for claiming a right of priority. Where priority has been obtained on the basis of such subsequent application, the prior application may no longer serve as a basis for claiming a right of priority.

10. (1) In the event of an application for a joint registration, cf. [section 11](#) of the Designs Act, priority may be claimed for one or several of the designs.

(2) In the event of such application priority may be claimed on the basis of several applications even if these have been filed in different countries. If priority is claimed on the basis of several applications, the time limits commencing on the date of priority shall have effect from the earliest priority date.

11. Where an application includes several designs, the applicant may divide the application into several applications which as claimed by the applicant shall be considered filed simultaneously with the original application.

Part 3

Examination and other Processing of Applications

12. (1) On examining whether the design is registrable the Registration Authority shall consider everything that comes to its attention.

(2) The examination by the Registration Authority includes valid Danish design registrations and Danish pending applications. In addition, the examination includes Danish design registrations which have been cancelled within the last 5 years from the date of filing of the application.

13. In the event of collision with a prior design application the processing of a newer application may be suspended until the prior application has been decided on or has become available to the public.

Advertisement of the application, etc.

14. (1) The publication of the application's availability to the public shall contain information on:

- (i) the number of the application,
- (ii) the date on which the application was filed or shall be considered filed,
- (iii) the applicant's name or firm name and mailing address,
- (iv) the product or products for which registration of the design is applied,
- (v) the class or classes in which the design is placed, cf. [section 27](#) of this Order, and
- (vi) whether the design is a model for the appearance of a product or for an ornament.

(2) Publication of applications under [section 18 \(1\)](#) of the Designs Act shall contain specification of:

- (i) the number of the application,
- (ii) information on the date on which the application was filed or shall be considered filed,
- (iii) the product or products for which registration of the design is applied,
- (iv) the class or classes to which the design is assigned, cf. [section 27](#) of this Order,
- (v) whether the design is a model for the appearance of a product or for an ornament,
- (vi) the applicant's name or firm name and mailing address,
- (vii) if the applicant is represented by an agent, the latter's name or firm name or mailing address,
- (viii) the design originator's name and mailing address,
- (ix) if priority has been claimed under [section 8](#) of the Designs Act, information on where the previous application whose priority is claimed was filed and the application date and number of this application,
- (x) representations showing the design,

- (xi) information on whether a model has been filed, and
- (xii) information on whether the design is claimed registered in colours.

15. (1) Dansk Mønstertidende (the Danish Designs Gazette), cf. [section 26](#) of this Order, shall contain information on the right of lodging opposition against the registration of a design.

(2) Oppositions and subsequent contributions from opponents and applicants shall be filed with the Registration Authority in duplicate.

(3) The opposition shall state the grounds.

16. If, during the examination of a design application, information significant to the assessment of the application is filed later than the prescribed time-limit for filing oppositions, the applicant shall be notified hereof. The person having brought forward such information shall be notified of the right of lodging an opposition whenever the design application might be published, unless a claim for better right in the design has been filed.

Part 4

Register of Designs, etc.

17. The Patent Office shall keep a register of the designs registered in this country.

18. (1) Where there is a final decision to grant a registration of a design it shall be entered in the Register and a Certificate of Registration shall be submitted to the registration proprietor.

(2) In the Register of Designs the following information shall be given:

- (i) the number of the application and the registration number of the design,
- (ii) the product or products for which the design is registered,
- (iii) the class or classes in which the design is placed, cf. [section 27](#) of this Order,
- (iv) whether the design is registered as a model for the appearance of a product or an ornament,
- (v) the design proprietor's name or firm name and mailing address,
- (vi) where the design proprietor is represented by an agent, his name or firm name and mailing address,
- (vii) the design originator's name and mailing address,
- (viii) information on the date when:
 - a) the application was filed or shall be considered filed,
 - b) the documents of the application became available to the public,
 - c) the application was published, and

- d) the design was registered,
 - (ix) if priority has been claimed under [section 8](#) of the Designs Act, where the application claimed as a basis for priority has been filed and the date of filing and number of this application,
 - (x) a representation or representations showing the design, and
 - (xi) information on whether a model has been filed.
- (3) In case of joint registration all designs are assigned a joint registration number.

19. (1) If, on the same date, several applicants have filed applications for registration of designs not essentially differing from each other, this will be entered in the Register of Designs and on the Certificate of Registration upon registration. On entering the application number or registration number of the design or the designs resembling the design included by the registration shall be entered.

(2) Where an applicant on the same date has filed several applications for registration of designs serving as model for the same product or similar products, this shall be entered in the Register of Designs and on the Certificate of Registration upon registration. The application number or registration number of the design or the other designs shall be indicated upon entry.

20. Publication of registration, cf. [section 23 \(1\)](#) of the Designs Act, shall contain information on the date of registration, the registration number and reference to the prior publication.

21. When the Registration Authority receives information of a final decision on the actions referred to in [section 42 \(1\)](#) of the Designs Act, this shall be entered in the Register.

22. (1) An entry under [section 27](#) of the Designs Act concerning the transfer of the right to a registered design, grant of licence, mortgage or effectuation of claims includes the name or firm name and mailing address of the holder of the said right and the time of the establishment of this right. As far as licenses are concerned, an entry shall be made, if so requested, as to whether the right of the proprietor of the registered design to grant additional licences is restricted. If the question of entering the transfer of a registered design or the grant of a licence cannot be decided upon immediately, it shall be stated in the Register that an entry has been requested.

(2) Notifications with respect to changes regarding the agent or the name, firm name or mailing address of the proprietor of the utility model shall be entered in the Register.

(3) A request for an entry as referred to in [subsections 1](#) and [2](#) hereof shall be accompanied by proper documentation for such changes.

23. (1) Where design registration has been renewed this shall be entered in the Design Register.

(2) Publication of the renewal shall include information on number of the registration and the date of expiry of the registration period.

(3) Where payment of the fee or fees for renewal of the registration has not been effected on expiry of the registration period, the Registration Authority shall send information to the registration holder or his agent hereof. The Registration Authority has no responsibility for failing information.

24. (1) If the registration has ceased the design shall be deleted from the Register.

(2) Where a design is deleted from the Register or when the right in a registered design is transferred to another person through final and conclusive sentence, this shall be advertised.

Part 5 Other Provisions

25. Sections 12 and 45 of the Designs Act shall not be applicable against Norwegian and Swedish applicants or design proprietors.

26. Advertisements shall be inserted in Dansk Mønstertidende (the Danish Designs Gazette) issued by the Patent Office.

27. Designs shall be registered in accordance with the current classification according to the Locarno Agreement of 8th October 1968, cf. the list of classes which has been adopted as appendix to this Order.

28. Notwithstanding a design registration, spareparts and accessories for aircraft may be imported into and used in this country for the repair of aircraft belonging to another State being a party to the Convention of 7th December 1944 on International Civil Aviation and either being a party to the Paris Convention for the Protection of Industrial Property of 20th March 1883 or having a design legislation which recognises creations made by nationals of another State which is a party to the firstmentioned Convention and protects such creations by a legislation which is in principle in conformity with the Paris Convention.

Part 6 Entry into force

29. When handling applications ect., the Patent Office may, when necessary, request the forwarding of further material as documentation for filed claims, requests, etc.

30. This Order shall enter into force on 1st July 1998. At the same time Order No. 1192 of 23rd December 1992 by the Patent Office on application and registration of designs shall be repealed.

The Danish Patent Office, 19th June 1998

Appendix I

- Class 1 — Foodstuffs.
- Class 2 — Garments and sewing materials and trimmings for clothes
- Class 3 — Articles for travelling, cases, sunshades and goods for personal use (not included in other classes).
- Class 4 — Brushware.
- Class 5 — Textiles in metres, foils or sheets of artificial or natural materials.
- Class 6 — Furniture and other housing equipment articles
- Class 7 — Household articles (not included in other classes).
- Class 8 — Tools and hardware.
- Class 9 — Boxes and containers for transportation or handling of goods.
- Class 10 — Watches and other measuring instruments, instruments for control and signalling.
- Class 11 — Decoration articles.
- Class 12 — Means of transportation and hoists.
- Class 13 — Equipment for production, distribution and transformation of electricity.
- Class 14 — Equipment for reception and reproduction of data, telecommunication equipment.
- Class 15 — Machines (not included in other classes).
- Class 16 — Photographic, cinematographic and optic articles.
- Class 17 — Musical instruments.
- Class 18 — Printing and office machines.
- Class 19 — Stationery goods and office articles, material for the use of artists and for teaching.
- Class 20 — Equipment for sales and advertisement, signs.
- Class 21 — Articles for games, plays and sports, tents.
- Class 22 — Weapons, pyrotechnic goods, equipment for hunting, fishing and extermination of vermin.
- Class 23 — Equipment for distribution of liquids and gasses, equipment for sanitation, heating, ventilation and air condition, solid fuel.
- Class 24 — Medical and laboratory equipment.
- Class 25 — Buildings and building units.
- Class 26 — Lighting apparatus.
- Class 27 — Tobacco and articles for smokers.
- Class 28 — Pharmaceutical and cosmetic articles and products, toiletware and instruments.
- Class 29 — Arrangements and equipment for the prevention of and protection from fire, for protection against and rescue in case of accidents.
- Class 30 — Articles and equipment for care and handling of animals.
- Class 31 — Machines and instruments for preparation of food and drinks (not included in other classes).
- Class 99 — Miscellaneous.