

Establishment of Legislation Arising from the Industrial Design Protection Act

Regulation No. 1 of the Minister of Economic Affairs of 8 January 1998

(RTL<sup>1</sup> 1998, 14/15, 106),

entered into force 1 February 1998.

Pursuant to subsections 20 (3) and 24 (8) of the Industrial Design Protection Act (RT<sup>2</sup> I 1997, 87, 1466; 1998, 108/109, 1783) and Government of the Republic regulation No. 260 of 30 December 1997 (RT I 1998, 1, 4), I resolve:

To approve the “Formal and Substantive Requirements for Application

Documents for Registration of Industrial Designs and Procedure for Filing of such Documents” (annexed).

Approved by

Regulation No. 1 of the Minister of Economic Affairs of 8 January 1998

Formal and Substantive Requirements for Application Documents for Registration of Industrial Designs and Procedure for Filing of such Documents

Pursuant to the Industrial Design Protection Act (hereinafter Act), upon registration of industrial designs in the Republic of Estonia, the application or registration system applies. In the application of the registration system, the Patent Office shall not verify the novelty and individual character of an industrial design or whether the industrial design may be used for manufacturing industrial or handicraft products. The owner of an industrial design is responsible for the novelty and individual character of the design and shall guarantee that the design may be used for manufacturing industrial or handicraft products.

Part 1

Formal and Substantive Requirements for Application Documents for Registration of Industrial Designs

1. Application documents for registration of industrial designs

1.1. An application for the registration of an industrial design (hereinafter registration application), the variants of an industrial design or a set of industrial designs, shall consist of the following documents:

1) a request for the registration of an industrial design;

- 2) a representation of the industrial design;
- 3) a document certifying payment of the state fee;
- 4) an authorisation document if the application is filed via a patent agent or if the applicants have a joint representative;
- 5) documents certifying priority claim if priority is claimed.

1.2. A registration application may be accompanied by a description explaining the industrial design.

## 2. Number of copies of documents

A request for the registration of an industrial design and the representation(s) of the design, the variants of an industrial design or a set of industrial designs, shall be submitted in three original copies. Other documents shall be submitted in a single copy.

## 3. Request for registration of industrial design

### 3.1. General requirements

3.1.1. A request for the registration of an industrial design shall set out the information specified in § 21 of the Act. The form of the request is provided in the Annex to this Procedure.

3.1.2. Information which cannot be supplied in the space provided in the data fields of the request for the registration of an industrial design may be submitted on an additional sheet of paper signed by the same person who signs the request for the registration of the industrial design pursuant to clause 3.12 of this Procedure.

### 3.2. Name of industrial design

3.2.1. The name of an industrial design shall be provided in data field 1. It is recommended that the terminology of the list of goods of the international classification for industrial designs be used in the names of industrial designs.

3.2.2. The name shall be provided in the singular, except in cases where the term used has no singular, for example “spectacles”, “scissors”, etc.

3.2.3. The name shall not be shortened and abbreviations shall not be used.

3.2.4. The numbers of the classes and subclasses of the Locarno Agreement Establishing an International Classification for Industrial Designs (RT II 1996, 23, 87) to which the industrial design belongs may also be indicated in data field 1.

### 3.3. Information concerning applicant

3.3.1. Information concerning the applicant shall be provided in data field 2 of the request for the registration of an industrial design.

3.3.2. It must be clearly evident from a request for the registration of an industrial design whether the applicant is a natural or legal person.

3.3.3. Information concerning a natural person shall consist of the given name, surname and residential address of the person. It is recommended that a phone number and/or fax number be included. If it is not evident from the name of a natural person which part of the name is the given name and which part is the surname, the surname shall be underlined or provided in capital letters.

3.3.4. Information concerning a legal person shall consist of the full or abbreviated name of the legal person which is entered in the commercial register or in another official register pursuant to the law of the home country of the legal person and the full address of the seat of the legal person. The seat of a legal person is the place where its management board or a substituting body thereof is located.

3.3.5. If there are several applicants, information concerning all applicants shall be submitted.

3.3.6. If the residence or seat of an applicant is located outside of Estonia, the name of the country or the two-letter code thereof pursuant to Standard ST. 3 of the World Intellectual Property Organization (hereinafter WIPO) for the identification of countries shall be indicated in the address.

3.3.7. If the applicant is a person of a federal state, the federated state shall be indicated in the address in addition to the country; the name of the city or other settlement shall be underlined or indicated in some other manner.

3.3.8. An applicant is required to notify the Patent Office of any changes to the information concerning the applicant during the processing of the application. In the absence of such notification, the information known to the Patent Office shall be used in the processing.

### 3.4. Information concerning representative of applicant

3.4.1. Data field 3 shall be completed only if the applicant is represented by a patent agent in filing the registration application or performing procedures with the Patent Office, or if several applicants are represented by a joint representative.

3.4.2. In the case of a joint representative, only the name of the natural or legal person shall be entered in the data field. The name of a joint representative shall be identical

with the name of the joint representative as it is entered in data field 2 as the name of the applicant.

3.4.3. Information concerning a patent agent shall consist of his or her given name and surname. It is recommended that a postal address, the registration number of the patent agent in the state register of Estonian patent agents and a phone number and/or fax number be included; in the absence of a phone number and/or fax number, a corresponding notation shall be made.

3.4.4. If both the names of a joint representative and a patent agent are provided in the data field, the patent agent is deemed to be the representative of the applicants.

### 3.5. Correspondence data

3.5.1. Data field 4 shall be completed if the registration application is filed and procedures related to registration are performed by the applicant or, in the case of several applicants, by a joint representative. Information concerning the applicant or the joint representative shall also be indicated in the data field if the information concerning a patent agent is indicated in data field 3 but the patent agent is not authorised to receive written communications from the Patent Office or exchange oral information.

3.5.2. If the applicant is a natural person or, in the case of several applicants, the joint representative is a natural person, the name and postal address of such person shall be indicated in data field 4.

3.5.3. If the applicant is a legal person or, in the case of several applicants, the joint representative is a legal person, the name and postal address of the legal person shall be indicated in data field 4. It is recommended that a phone number and/or fax number be included.

3.5.4. If data field 4 is not completed, contains incorrect information or mistakes, the Patent Office shall send communications to the joint representative indicated in data field 3 or, in the absence thereof, to the applicant indicated in data field 2. If, in the case of several applicants, a joint representative is not indicated, communications shall be sent to the applicant indicated first in data field 2 at the address of the residence or seat of the applicant. If there are persons among the applicants whose residence or seat is in the Republic of Estonia and persons whose residence or seat is in a foreign country, communications shall be sent to the person whose residence or seat is in the Republic of Estonia and who is indicated first in data field 2.

### 3.6. Information concerning author

3.6.1. The given name, surname and residential address of the author shall be indicated in data field 5.

3.6.2. If there are several authors, the information specified in clause 3.6.1. concerning all authors shall be indicated in data field 5.

3.6.3. If the author is also the applicant, only the given name and surname of the author or the word “*taotleja*” [applicant] need to be written in the data field. In such case, the address is not required.

3.6.4. An author who wishes not to disclose his or her name as the author and/or his or her residential address shall complete data field 6.

3.7. Information concerning acquisition of right to apply for registration of industrial design

Legal basis of applying for the registration pursuant to § 14 of the Act and becoming the owner of an industrial design shall be indicated in data field 7 by marking the appropriate box.

3.8. Priority claim

3.8.1. If data field 8 is completed, priority is deemed to be claimed. The data field shall be completed if the applicant wishes to use the opportunities provided for in § 11 of the Act to establish priority.

3.8.2. If, pursuant to subsection 11 (2) of the Act, priority is claimed on the basis of a first registration application filed in a State party to the Paris Convention for the Protection of Industrial Property or a first registration application filed in a state which is not a state party to the Paris Convention for the Protection of Industrial Property, the filing date of the first application, the number of the application and the name of the country or a two-letter code for the identification of countries according to Standard ST. 3 of WIPO shall be indicated in the data field.

3.8.3. If the applicant does not know the number of the first registration application on the filing date of the registration application with the Patent Office, the applicant shall indicate only the date and country of filing the first application in the priority claim.

3.8.4. If, pursuant to subsection 11 (3) of the Act, priority is claimed on the basis of an application which is filed for the registration of an identical industrial design after the first registration application, the number and filing date of the registration application which is filed after the first application shall be indicated in the data field.

3.9. Request for suspension of processing of registration application of industrial design

Data field 9 shall be completed if the applicant wishes to suspend the processing of a registration application.

3.10. Information concerning state fee

The amount and method of payment of the state fee paid and the number and date of the document certifying payment of the state fee shall be indicated in data field 10.

### 3.11. Information concerning annexes

In data field 11, the appropriate boxes shall be marked according to the documents included in the registration application. The number of pages and original copies of each document shall also be indicated. If a registration application contains a document which is not listed, the list shall be supplemented by adding the name, number of pages and original copies of the document.

### 3.12. Signature

3.12.1. A request for the registration of an industrial design shall be signed by the applicant, or a patent agent if he or she has authorisation. If there are several applicants, all applicants or a patent agent shall sign the request.

3.12.2. If a signature is not legible, a deciphered form of the signature shall be added thereto. If the applicant is a legal person, the title of the competent official shall be included.

3.12.3. When signing a request, the place and date of signing shall be indicated.

3.12.4. A signature on an additional sheet of paper shall be in compliance with the requirements provided for in clauses 3.12.2 and 3.12.3 of this Procedure.

## 4. Representation

4.1. A registration application shall contain a representation (photos, drawings) which shall give a clear and complete depiction of the industrial design.

4.2. A representation of an industrial design shall contain the perspective view of the industrial design and other views which are necessary for a clear and complete impression of the industrial design.

4.3. A representation of a variant of an industrial design shall contain the perspective view of the variant of the industrial design and other views which are necessary for a clear and complete impression of the variant of the industrial design.

4.4. A representation of a set of industrial designs shall contain the perspective view of the set of industrial designs and other views which are necessary for a clear and complete impression of the set of industrial designs as a whole.

4.5. Where registration of an industrial design in colour is applied for, the representation shall be in colour.

## 5. State fee

5.1. A state fee shall be paid upon the filing of a registration application.

5.2. The name of the industrial design and the number of receipt of the registration application, if the applicant knows the latter, shall be indicated on the document certifying payment of the state fee (payment order, receipt, etc. ).

5.3. If a registration application contains more than two variants of an industrial design, a supplementary state fee shall be paid upon filing the registration application for every variant commencing with the third variant.

5.4. The document certifying payment of the state fee shall generally be submitted for each registration application separately. If state fees paid at once for the filing of several registration applications are paid at the same time, the name of the industrial design or the number of receipt of the registration application and the amount of the state fee paid shall be indicated in the document certifying payment of the state fee concerning each registration application.

5.5. The state fee is deemed to be paid upon receipt of a document by the Patent Office certifying payment of the state fee.

## 6. Authorisation document

6.1. An authorisation document is issued to a patent agent or several patent agents or, if the applicants have a joint representative, to the joint representative for the filing of a registration application or performance of all or certain procedures related to the registration or continued validity of an industrial design.

6.2. If an authorisation document is issued to several patent agents, each of them may represent the applicant separately unless otherwise provided in the authorisation document.

6.3. An authorisation document shall set out the following:

1) the given name, surname and residential address of the person represented if the person is a natural person, or the name and address of the seat of the person represented if the person is a legal person;

2) in the case of a patent agent, the given name and surname of the patent agent;

3) in the case of a joint representative who is a natural person, the given name and surname of the representative or, in the case of a joint representative who is a legal person, the name of the representative.

4) the scope of the authorisation;

- 5) the term of the authorisation, if the authorisation is granted for a specified term;
- 6) the signature of the person represented;
- 7) the place and date of issue of the authorisation document.

6.4. An authorisation document shall be signed by the applicant. If there are several applicants, all of them shall sign the authorisation document. An authorisation document shall be signed pursuant to clause 3.12.2 of this Procedure.

6.5. Notarisation or legalisation of an authorisation document is not required.

6.6. If the term of an authorisation is not indicated in the authorisation document, the authorisation is deemed to be granted for an unspecified term.

6.7. An authorisation document may be issued on the basis of the right to delegate authority if the right to delegate authority is granted in the initial authorisation document. Authority shall not be delegated in the extent exceeding authority granted by the initial authorisation document. The term of delegated authority shall not exceed the term of the initial authorisation document. The place and time of signing the initial authorisation document, the given name and surname of the person to whom the initial authorisation document was issued and the given name and surname of the patent agent to whom authority is delegated shall be indicated in the authorisation document issued on the basis of the right to delegate authority.

6.8. If an applicant whose residence or seat is located outside the Republic of Estonia files a registration application without using the services of a patent agent, the applicant shall authorise a patent agent to perform procedures related to the processing of the registration application. An authorisation document shall be submitted during the term provided for in the Act.

6.9. A request for the registration of an industrial design in which information required in clause 26 (2) 2) or 26 (2) 3) of the Act is entered in data field 3 and which is signed by the applicant shall be considered by the Patent Office as a document certifying authorisation and substituting for an authorisation document. In such case, the performance of all procedures related to the processing of a registration application and the continued validity of the registration of an industrial design is deemed to be the extent of authorisation of the patent agent and the place and time of signing the request is deemed to be the place and time of issue of the authorisation document.

6.10. If a registration application is submitted via a representative and the request for the registration of an industrial design is signed by the representative, an authorisation document shall be submitted during the term provided for in the Act.



6.11. If several authorisation documents for the performance of the same procedure are issued to different persons, the Patent Office shall correspond with the person indicated in the more recent authorisation document.

## 7. Documents certifying priority claim

7.1. Upon filing a priority claim pursuant to the Paris Convention for the Protection of Industrial Property, a document from the administrative agency which received the first registration application certifying the filing date of the registration application and a copy of the first registration application the authenticity of which is certified by the administrative agency which received the first registration application shall be included in the documents of a registration application.

7.2. If priority is claimed on the basis of several earlier applications for the registration of an industrial design, documents certifying priority shall be included concerning all such applications.

## 8. Language requirements

8.1. The language of the documents of a registration application and of translations thereof shall be in compliance with the Estonian Literary Standard.

8.2. A translation shall correspond to the original document.

8.3. Upon the filing and processing of a registration application, the Patent Office shall consider translations to be authentic registration application documents.

8.4. If documents certifying a priority claim submitted by applicants or their representatives to the Patent Office are not in Estonian, the Patent Office may require translation of the documents in the course of the processing of the application.

## 9. Requirements for completion of registration application documents

### 9.1. Requirements for completion of representation

9.1.1. A representation shall be submitted on an even neutral background.

9.1.2. A representation shall be of good quality, with clear contours and suitable for making reductions or enlargements.

9.1.3. The drawing(s) shall be made with thick black lines using drawing instruments on strong white and smooth paper in format A4 (210 x 297 mm). The minimum margins of a sheet of paper shall be:

top margin – 25 mm;

left margin – 25 mm;

right margin – 15 mm;

bottom margin – 10 mm.

9.1.4. The drawing(s) shall be presented without titles, descriptive texts or a scale.

9.1.5. If images on two or more sheets are parts of one drawing, the images shall be placed in such a way that it is possible to form the whole drawing by putting the sheets together.

9.1.6. It is recommended that the drawings be placed on a sheet in portrait format so that the sheet would be filled to the maximum. If drawings cannot be placed on a sheet in portrait format, they shall be placed so that the upper part is on the left side of the sheet (as seen in the case of portrait format).

9.1.7. More than one image may be placed on one sheet of the drawings but the images must be clearly separated from each other. All images shall be numbered with arabic numerals, for example fig 1 (always the perspective view), fig 2, fig 3, etc. If only one image is used to explain an industrial design, the image need not be numbered.

9.1.8. The pages of drawings shall be numbered with arabic numerals which are placed in the centre of the page under the top margin and which measure at least 3.2 mm. The number of each page shall consist of two arabic numerals which are separated by a slash and of which the first numeral is the number of the page and the second numeral is the total number of pages of the representation (for example 1/3, where number 1 indicates the sequence number of the page of the drawing and number 3 the total number of pages of the drawing).

9.1.9. The drawings shall not be folded, rolled up or attached to other documents.

9.1.10. Photographs shall be of good quality, with clear contours; only the protected industrial design may be depicted on a photograph, it shall contain no other objects. Slides or negatives shall not be submitted.

9.1.11. A photograph shall not be larger in size than format A4 (210 x 297 mm).

9.1.12. The number of the image, the name of the industrial design and the given name and surname or the name of the applicant shall be indicated on the back side of the photograph.

9.1.13. Designs of two-dimensional textile products (fabrics, tablecloths, serviettes, towels, bed linen, scarves, shawls, etc. ) shall be depicted on a representation as two-dimensional so as to give a clear and precise depiction of the design submitted, for

example of the texture or pattern of a fabric. If the pattern of a material is repeated, the entire repeated part of the pattern shall be depicted on a representation.

9.1.14. In the case of a set of industrial designs, the entire set shall be depicted on each photograph or drawing.

9.1.15. In the case of protection of variants of an industrial design, a separate set of photographs or drawings shall be submitted for each variant of the design.

9.1.16. It is recommended to show such parts of a product which are of interest but which are not presented sufficiently clearly on a representation separately as enlargements.

9.2. General requirements for completion of text documents (if description of industrial design is submitted)

9.2.1. Text documents of a registration application shall be completed and submitted on strong white paper in format A4 (210 x 297 mm).

9.2.2. Each sheet of paper shall be used in portrait format and on one side only.

9.2.3. The margins of a page of text documents shall be the following:

top margin – 20-40 mm;

left margin – 25-40 mm;

right margin – 20-30 mm;

bottom margin – 20-30 mm.

9.2.4. The pages of text documents shall be numbered with arabic numerals. The number of a page shall be placed in the centre of the page under the top margin. The number of the page shall not be indicated on the first page.

9.2.5. The text of the documents shall be in typewritten form.

9.2.6. Documents must be typed with black non-erasable permanent ink and with such contrast which allows making of the necessary number of copies of the documents using modern copying devices.

9.2.7. The text shall be typed with minimum line spacing of 1.5 and using a font in which the height of capital letters is at least 2.1 mm.

9.3. Terminology and symbols

9.3.1. Terms, symbols, abbreviations and measurement units ordinarily used in scientific and technical literature shall be used in descriptions of industrial designs.

9.3.2. If a term or sign is used which is not common in professional publications, the meaning of the term or sign shall be explained when the term or sign is first used in the description of the industrial design.

9.3.3. All conventional signs shall be explained.

9.3.4. Descriptions of industrial designs shall be in compliance with the requirement of uniform terminology.

9.4. Non-permissible expressions

9.4.1. The text of registration application documents shall not contain expressions which are contrary to good practice or derogatory to other persons and their industrial designs.

9.4.2. Texts or images advertising an industrial design or the applicant shall not be included in the description of the industrial design or other registration application documents.

Part II

Filing of Applications for Registration of Industrial Designs

10. Filing of registration applications

A registration application is filed by an applicant or the representative of an applicant with the receiving section of the Patent Office in person or by post. Registration applications filed by telefax or electronic means are not accepted.

11. Filing of document certifying payment of state fee

11.1. A document certifying payment of the state fee shall be filed either on the filing date of the registration application or within one month after the filing date of the registration application.

11.2. If the document certifying payment of the state fee is not filed with the Patent Office on time, the Patent Office shall refuse to process the registration application.

12. Submission of authorisation document

12.1. An authorisation document shall be submitted on the filing date of the registration application or within two months after the filing date of the registration application.

12.2. If the authorisation document is not filed with the Patent Office on time, the Patent Office shall refuse to process the registration application.

### 13. Submission of documents certifying priority claim

13.1. A priority claim shall be submitted on the filing date of the registration application.

13.2. Documents certifying a priority claim shall be filed either on the filing date of the registration application or within nine months after the date of priority.

13.3. If priority is claimed in a registration application but the applicant does not file the documents certifying the priority claim with the registration application or within nine months after the date of priority, or if the documents filed are not in compliance with the requirements provided for in subsections 11 (2)-(4) and § 23 of the Act, the Patent Office shall refuse to satisfy the priority claim.

### 14. Registration application with deficiencies

If the registration application filed by an applicant contains deficiencies, the Patent Office shall notify the applicant thereof in writing and set a term for the elimination of deficiencies or provision of explanations pursuant to the procedure provided for in subsections 31 (5) and (6) of the Act.

STATE PATENT OFFICE

Request for registration of industrial design

Utility Models Department

To be submitted in three original copies

Toompuiestee 7

EE0100 Tallinn

Phone (2) 631 1734

(2) 631 4103

Fax (2) 645 1342

To be completed by the Patent Office

21. Application number (11)

22. Filing date of application

30. Priority: date country document number

(15) Date of registration of industrial design

51. Class(es)

To be completed by applicant

1. Name of industrial design Class

(54)

2. Applicant(s) (given name and surname, or name, address, phone number, fax, country code)

(71)

3. Representative of applicant(s)

(74)  Joint representative (given name and surname, or name)

Patent agent (given name and surname, address, phone number and/or fax, registration number)

4. Correspondence data (person's given name and surname, title, postal address, phone number and/or fax)

5. Author(s) (given name and surname, address, country code)

(72)

6. Prohibition to disclose information concerning author(s)

7. Applicant acquired the right to apply for registration of industrial design as

author  legal successor of author  employer  other person pursuant to contract

8. Priority claim

on the basis of application pursuant to Paris Convention or other agreement

(32) date (33) country (31) application number

9. Request for suspension of processing if applicant wishes to postpone entry of

industrial design in the register by a term of ... (maximum 12) months.

10. State fee .....kroons

Method of payment Payment document no. Date

11: Annexes

Representation

drawing(s)

black-and-white ..... drawing(s) on ..... page(s) in three original copies

in colour ..... drawing(s) on ..... page(s) in three original copies

photograph(s)

black-and-white ..... photograph(s) on ..... page(s) in three original copies

in colour ..... photograph(s) on ..... page(s) in three original copies

Document certifying payment of state fee on ..... page(s) in a single copy

Authorisation document on ..... page(s) in a single copy

Documents certifying priority claim on ..... page(s) in a single copy

Description of industrial design (optional) on ..... page(s) in a single copy

Signature(s)

Place

Date

<sup>1</sup> RTL = *Riigi Teatja Lisa* = *Appendix to the State Gazette*

<sup>2</sup> RT = *Riigi Teataja* = *State Gazette*