

MINISTERIAL DECISION 12625/1/2014

“Electronic distribution of documents to and from the Industrial Property Organisation (OBI) and electronic filing of industrial design or model registration”

THE MINISTER OF DEVELOPMENT AND COMPETITIVENESS

Having regard to the following:

1. Articles 1 (2), 2 (13), 4 (2) and 7 (11) of L. 1733/1987, «Technology transfer, inventions, and technological innovation », as amended by Art. 18, of Law No 1733/1987 (GG 201, A' of 20.11.1987)
2. provisions of PD 232/92 "Exit of the Industrial Property Organization from the Public Sector» [GG 120/A/14.7.1992].
3. L. 3429/2005 «State Owned Organizations (SOE/DEKO)» [GG 314/A/27.12.2005], as amended and in force.
4. L. 3979/2011 «On Electronic Government and other provisions» [GG 138/A/16.06.2011].
5. provisions of article 79 in L. 4144 / 2013 "Tackling delinquency in the sector of Social Security and the labor market and other provisions of the Ministry of Labor, Social Security and Welfare» [GG 88/A/18.04.2013],.
6. provisions of article 41 on "National time" in L. 4155/2013 "National Electronic Public Procurement System and other provisions» [GG 120/A/29.05.2013].
7. Presidential Decree 259/1997 "Implementing Provisions of the Hague Agreement Concerning the International Deposit of Industrial Designs and Models as ratified by Law 2417/1996 and provisions regarding the national protection title» [GG 185/A/19.09.1997).
8. Presidential Decree No. 150/2001 "Adaptation to Directive 99/93/EC of the European Parliament and of the Council on a Community framework for electronic signatures» [GG 125/A/ 25.06.2001].
9. Presidential Decree No 63/2005 "Codification of the legislation on Government and Governmental Bodies» [GG 98/A/22.04.2005].
10. provisions of PD 116/2014, Article 45 "Organization of the Ministry for Development and Competitiveness» (GG 185/A/3.9.2014)
11. Presidential Decree No. 85/2012 [GG 141/A/21.06.2012] «Establishment and renaming of Ministries, transference and elimination of services».
12. Presidential Decree No. 118/2013 [GG 152/A/25.06.2013] regarding amendment of PD 85/2012 [GG 141/A/21.06.2012] « Establishment and renaming of Ministries »
13. Presidential Decree no D 158/2014 [GG 240/A/3.11.2014 «Appointment of Ministers» and the Presidential Decree no 89/2014 (GG 134/A/10.06.2014) « Appointment of

Ministers, Alternate Ministers and Deputy Ministers»

14. Decision no 54169/31-10-2014 [GG 2944/B/3.11.2014] of the Prime Minister and the Minister for Development and Competitiveness for delegating powers to the Deputy Minister of Development and Competitiveness, Mr. Odysseas Konstantinopoulos

15. Decision no 54248/ 30.10.2014 [GG 676/YOΔΔ/ 3.11.2014] of the Prime Minister and the Minister for Development and Competitiveness for appointing Mr Georgios Stergiou to the post of revocable General Secretary of Industry

16. Ministerial Decision no 15928/EFA/1253/13.12.1987 [GG 778/B/31.12.1987] «Filing of applications for granting patents or utility model certificates with O.B.I. and keeping of record books».

17. Document No. 4579/ 09.05.2014 registered at the Deputy Minister's Office submitting OBI's request for issuance of an MD on "Electronic distribution of documents to and from the Industrial Property Organization (OBI) and electronic filing of industrial design or model registration" and the attached therein abstracts of the Board minutes no. 07 dated 04.10.2014

18. The set of actions of the Quality Policy Directorate of the General Secretariat for Industry before the date when the PD 116/2014 enters into force and the undertaking of OBI supervision by the Department for Business Innovation and New Technologies

19. The fact that the decision does not incur any expenses on the state budget.

WE DECIDE

CHAPTER ONE

GENERAL PROVISIONS

Article 1

Scope

This ministerial decision aims to establish the conditions and technical requirements for the safe electronic distribution of documents to and from OBI using information and communication technologies (ICT) and implementing electronic filing of applications of industrial designs or models.

Article 2

Application field

1. This Ministerial Decision shall be applied for all kinds of titles, certificates, certifications, copies and documents of correspondence or information issued by the OBI, under the current legislation in the framework of its powers.

2. This Ministerial Decision shall not apply to documents or certificates for inventions classified as temporarily or permanently confidential, pursuant to Law 4325/1963 (A' 156).

Article 3

Definitions

For the purposes of this Decision:

a. «OBI» or «Organisation» is the Industrial Property Organization based in Athens (Article 1 law 1733/1987).

b. «ICT» are the Information and Communication Technologies.

c. «System», is the ICT system used by the Industrial Property Organisation.

d. «Advanced electronic signature», is the electronic signature, which meets the following conditions: a) is uniquely linked to the signatory, b) is capable of determining the identity of the signatory in a special and exclusive manner, c) is created using means that the signatory can maintain under his/her sole control and d) is connected to the data to which it relates in such a manner that it can identify any subsequent change of the data

e. «Signatory», is the natural or legal person who holds the signature creation device and acts either in his/her own name or in the name of another natural or legal person or entity

f. «Time stamp»: Sequence of characters or figures that indicate safely the date and time when an act or action occurred and is issued by means of a time-stamping service provider

g. «Exact time»: The reference to data which determine the year, month, date, hour, minute and second. For OBI, in accordance with the provisions herein, the exact time is determined by the National Greek time, pursuant to Article 41 (1) of law 4155/2013 on National e-procurement system and other provisions (A' 120).

CHAPTER TWO

MEANS OF ELECTRONIC COMMUNICATION WITH OBI

Article 4

Access to the website

The access to the website of the Organisation is free in case of information ac-

cessible to all interested parties, such as documents and other instructions or in case of OBI's search engine results regarding applications or industrial property titles, pursuant to the current legislation.

Article 5

Electronic mail

The copies of published applications or titles, the provisions of technological information, or the answers to questions regarding Organisation's services may, upon request of the interested party, be sent via email. In this case the relevant request is to be sent to OBI via email by the concerned party at Organisation's email address and it constitutes the express consent of that party to use this specific e-mail address for reception of any OBI's response.

Article 6

Proof of disclosure of documents

OBI shall, obligatorily, and for any electronic transmission, issue proof of dispatch of any document comprising of, at least, the document that was sent, identification of the signatory as the sender on the part of the OBI, the details of the recipient's identity or the identity of his/her legal representative and the exact time of sending the document.

Article 7

Certified electronic communication

1. For any communication or transaction with the Organisation, which concerns the process of filing or granting industrial property titles or certificates, the registration process related to any ownership

changes, according to the current legislation, as well as any act or decision of the Organisation having legal consequences for the transacting party, it is required that the transacting natural or legal person or their legal representative provide proof of identity and authentication.

2. The requirement of paragraph 1 above is met by means of using an advanced electronic signature based on a qualified certificate and created by a secure device, pursuant to Presidential Decree 150/2001.

CHAPTER THREE

ELECTRONIC TRANSACTION SERVICES

Article 8

Use of electronic transaction services with OBI

The realization of any transactions in the system is at the option of the transacting party and requires compliance with current system safety rules.

Article 9

Sign up for electronic transaction services

1. In order to use the OBI electronic transaction services the transacting party shall be registered and his/her registration shall be accompanied by the necessary supporting documents and legal evidence to confirm their identity. The registration request constitutes a declaration of intent by the operator to use the OBI's electronic transaction services.

2. Confirmation of the identity (authentication) of the transacting party is based on credentials held according to which the correctness of his/her identity is recognized and confirmed

3. In order to use an advanced electronic signature the transacting party should hold a qualified certificate, which is generated by a secure device, pursuant to Presidential Decree 150/2001.

Article 10

Personal mailbox

1. By subscribing to the services of OBI, a personal communication account is created between the transacting party and OBI and a personal mailbox is opened.

2. In this case any correspondence or communications of the Organization to the transacting parties are made using the mailbox.

3. The mailbox provides automatic document sending confirmation with the OBI marked as the sender.

4. The mailbox holder and whoever is legally authorized by him/her have access to electronic documents in the mailbox.

Article 11

Disclosure of documents through the mailbox

1. It is assumed that the party transacting with OBI accesses the content of the disclosed document through the mailbox granted by OBI at the exact time of automatic confirmation of dispatch as stated on the document by using the secure Time-Stamp.

2. All OBI mailboxes have an automatic document sending alarm system to the holder by use of an icon and an audible signal.

Article 12

Electronic signature certificates

1. For the issuance of electronic signature certificates to employees of OBI or to parties transacting with OBI, Regulation No. 248/71 on Electronic Signature Certification Service (B 603) dated May 16, 2002 by the National Telecommunications and Post Commission (EETT) applies, as in force.

2. OBI informs the contracting parties on the electronic signature certificates of paragraph 1 above, which the central electronic system of the Organisation recognizes and accepts.

3. Qualified certificates shall be granted only to natural persons with legal capacity.

4. If a document or an act has to be signed by more persons, the procedure of certification of the electronic signature applies to each of them, sequentially.

Article 13

Validity of electronic documents and evidence value

1. All kinds of electronic documents drawn up by the OBI bear an advanced electronic signature authorized by the Director General of OBI, employee of the Organisation, based on a qualified certificate and created by a secure signature device.

2. Electronic documents shall obligatorily bear a secure timestamp.

3. The documents meeting the terms of the above paragraphs have the same legal and evidential value with documents bearing a manual OBI signature and stamp.

Article 14

Electronic document copies

1. Electronic copies produced by the system are considered to be valid as exact copies if the original electronic or paper document is held by the Organisation and if after the process of registration, digitization, reproduction and printing the resulting document is identical to the electronic copy and the copy bears an advanced electronic signature by an authorized OBI officer of and safe Time Stamp.

2. If printed material contained in registers or industrial property titles' records held by OBI is digitized in accordance with the applicable law, certification of the identity of the original with the exact electronic copy is accompanied by a certificate of integrity and authenticity of the copy.

3. Destruction of any original paper documents after production of digitized equivalent copy is not permitted without observance of the process described in PD 162/1979 "On liquidation of the files of the Public Services" (A'42), as valid today.

CHAPTER FOUR
ELECTRONIC FILING OF
APPLICATION FOR THE
REGISTRATION OF INDUSTRIAL
DESIGN OR MODEL

Article 15

Electronic application filing

1. An application for a design registration with the OBI may be filed electronically via the Internet.
2. Electronic design or model submission means transmission over the Internet to the OBI of a request to register a design or model with the details of Article 20 (2) of PD 259/1997.
3. Electronic filing may be accompanied by the documents of Article 20 (3) of PD 259/1997 attached therein.
4. In order to proceed to online application for design registration it is required that the transacting party is registered in the corresponding application on the website of the Organization, pursuant to Article 9 herein.

Article 16

Filing date

1. The date of transmission of the electronic application online is the timestamp on the receipt of the documents issued by the OBI, which is accompanied by a copy of the completed online application file complying to the system requirements.
2. Electronic filing is considered normal and acceptable if it satisfies the conditions of paragraphs 2 and 6 of Article 20

of Presidential Decree No. 259/1997, in which case OBI gives a filing date and number.

Article 17

Format of electronic documents

1. The graphic illustrations or photographs of the designs or models that accompany any electronic filing in accordance with Article 21 of Presidential Decree No. 259/1997 may be transmitted electronically to OBI only in a file in the format set in the system requirements.
2. The maximum permissible limit of layouts per design is set to twenty (20).
3. Any other supporting documents are attached to the electronic filing only in the file format that meets the system requirements.
4. For any other matter, the provisions of Ministerial Decision 15928 /EFA/ 1253/13.12.1987 and PD 259/1997 apply accordingly.
5. OBI is obliged to inform the transacting parties, in a timely manner and in every possible way, about the requirements of the System, pursuant to the provisions of this Decision.

Article 18

Commencement of force

1. This Decision shall come into force three (3) months after its publication in the Government Gazette.
2. This decision shall be published in the Government Gazette.