

Decree No. 19/2001. (XI. 29.) IM (Minister of Justice)
on the detailed formal requirements of applications for design protection

By virtue of the authorization under Article 68 of Act XLVIII of 2001 on the Legal Protection of Designs (hereinafter referred to as "the Design Act") – in agreement with the President of the Hungarian Patent Office (hereinafter referred to as "HPO") – I order the following:

Application for design protection

Article 1

(1) An application for design protection (hereinafter referred to as "design application") shall contain the following:

- (a) a request for the grant of design protection and, in the request, the indication of the products in which the design is intended to be incorporated or to which it is intended to be applied;
- (b) the representation of the design;
- (c) the document on the appointment of a representative, if any;
- (d) documentary evidence of succession, if the applicant is the successor in title of the designer;
- (e) the priority document where convention priority is claimed;
- (f) the exhibition certificate where exhibition priority is claimed;
- (g) the consent of the competent authority that the design, which consists of or contains any of the emblems defined under Article 8(1) of the Design Act, may obtain protection, if in the absence thereof the ground for refusal under Article 8(1) of the Design Act would apply;

(h) *[repealed]*

(2) Design applications may also contain the following:

- (a) markings, in accordance with Article 4(2) to (6), which serve the purpose of clearly delimiting parts not belonging to the design;

(b) *[repealed]*

(c) the number of the class to which the product embodying the design belongs according to the Locarno Agreement Establishing an International Classification for Industrial Designs (hereinafter referred to as "international classification").

(3) In one and the same design application the applicant may seek protection for a maximum of fifty designs.

(4) Both the request for the grant of design protection and the representation of the design shall be prepared so that each of them begins on a separate page and the pages of each are numbered sequentially; their contents shall be in accordance with each other.

Request for the grant of design protection

Article 2

(1) A request for the grant of design protection shall be filed in one copy and they shall contain the following:

(a) the name and address of the applicant, and, if there are several applicants, the shares of their respective entitlement if they are not equal;

(b) the indication of the products in which the design is intended to be incorporated or to which it is intended to be applied;

(c) an indication of the number of designs for which protection is sought;

(d) a declaration stating that the applicant is the designer of the design or his successor in title;

(e) the name and address of the designer, and if there are several designers, the shares of authorship if they are not equal; if the designer requests in writing that his name not be included in the design documents to be disclosed, this has to be stated in the request for the grant of design protection and the name of the designer shall be given on a separate sheet;

(f) the name and business address of the representative, if any;

(g) when claiming convention, exhibition or internal priority, a declaration to this effect, indicating the filing date, country and number of the foreign application for convention priority, the designation and date of the exhibition for exhibition priority, and the date and reference number of the pending application for internal priority, respectively;

(h) in the case of division, a declaration to this effect, indicating the reference number, as well as the filing and priority date(s) of the original application;

(i) a request for the granting of design protection;

(j) a list of the annexes attached to the request for the grant of design protection;

(k) the signature of the applicant, or of all applicants, or of the representative.

(2) A request for the grant of design protection may also be prepared by filling in a form that can be obtained, free of charge, at the Hungarian Intellectual Property Office.

Indication of products in which the design is intended to be incorporated or to which it is intended to be applied

Article 3

(1) The indication of products in which the design is intended to be incorporated or to which it is intended to be applied shall, whenever possible, be given by using the name appearing in the international classification. Even where the indication of products in which the design is intended to be incorporated or to which it is intended to be applied differs from the name appearing in the international classification or cannot be found therein, the indication shall express the intended function of the product, or it may consist of another well-known name for the product. If the indication of the products might refer to several fields of use, it shall be specified by enumerating the fields of use or by providing the class number according to the international classification.

(2) The indication of products in which the design is intended to be incorporated or to which it is intended to be applied may not contain made-up words, fancy names, make or type marking.

(3) If the design refers to a set of products, the indication shall contain a reference thereto.

(4) If in a design application protection is sought for a group of several designs as specified by Article 38(1) of the Design Act, then a concise generic name shall be given for the products in which the design is intended to be incorporated or to which it is intended to be applied.

Representation of the design

Article 4

- (1) In the design application the representation of the design shall be filed in one copy.
- (2) A representation of the design shall be given as a photograph, as a drawing or by way of some other graphical representation in accordance with the following:
 - (a) the representation shall present the design clearly, i.e. it shall show all features which have an impact on the outward appearance of the whole or a part of the product in which the design is intended to be incorporated or to which it is intended to be applied;
 - (b) objects, persons or animals which could impair the clear identification of the design may not be included in the representation;
 - (c) where appropriate, the design shall be presented from several views or in various situations of use or other situations;
 - (d) at least one representation shall present the design in its entirety; cross-sections, cut-offs and enlarged details may be used as far as necessary to adequately present the design;
 - (e) in the case of objects which do not have a specified length or which are two-dimensional (e.g. profile forms, textiles) it is sufficient to present a part that otherwise meets the other requirements;
 - (f) in one representation only one view of one design may be presented;
 - (g) from the individual representations themselves it shall appear, even without additional explanation, how they relate to the other representations;
 - (h) each element of a design relating to a set of products shall be presented together in at least one representation;
 - (i) an at least 2.5 cm wide blank space shall be left at the top margin of the sheet(s).
 - (j) markings which indicate parts not belonging to the design shall clearly delimit the design from those parts of the representation for which the applicant does not seek protection.
- (3) Representations may be filed in colour or in black and white. However, the representation shall be made in colour if the colours belong to the features making up the design.
- (4) If the design is represented as a photograph, the representation shall – in addition to those laid down in paragraphs (2) and (3) – comply with the following requirements:
 - (a) the photograph shall represent the design against a neutral background with contrasts and sharp contours; when taking the photograph, light conditions shall be chosen so as to avoid gleaming, reflections or shadow effects which could impair the recognition of the features making up the design;
 - (b) the photograph may not contain any element that has been physically added, nor may elements be physically deleted therefrom, in particular by way of retouching;
 - (c) the size of the photographs may not be smaller than 3 cm by 4 cm and larger than 12 cm by 15 cm;

(d) if an application is accompanied by several photographs, they shall be pasted or printed on A/4 size sheets, leaving an at least 2 cm wide blank space between the photographs for inserting the figure numbers.

(5) If the design is represented as a drawing or by way of some other graphical representation, the representation shall – in addition to those laid down in paragraphs (2) and (3) – comply with the following requirements:

(a) the graphical representation shall be made on a white, non-transparent sheet of a maximum size of A/4, with dark, clearly visible, permanent, lines of an equal thickness, without folding or breaking;

(b) if there are several figures on a sheet, they shall be clearly arranged and separated by empty spaces;

(c) with the exception of figure numbers, representations may not contain any explanations or inscriptions, nor any lines or any other graphical element that might impair clarity;

(d) the design shall be represented as it is visually perceived in reality and, where possible, in perspective – this, however shall not prevent the marking of parts not belonging to the design pursuant to paragraph (2)(j);

(e) technical drawings and their symbols may not be used;

(f) if there are cross-sections and cut-offs in the representations, they shall also be represented true to reality.

(6) The representations attached to an application shall be given figure numbers. The figure numbers shall consist of two Arabic numerals separated by a dot, the first being the number of the designs attached to the application, and the second being the number of the figures belonging to the given design, (e.g.: 1.1, 1.2, 1.3 are the figure numbers of the representations of the first design, while 2.1, 2.2, 2.3 are the figure numbers of the representations of the second design). The figure numbers shall be placed next to the representations they refer to, in the space between the representations, in such a manner that the relationship of the figure numbers and the figures be clear. It is not necessary to use a figure number if the design application contains just one representation of the design.

(7) [repealed]

Partial disclaimer

Article 5

(1) Partial disclaimers shall be filed in one copy.

(2) The partial disclaimer defined in Article 48(2) of the Design Act shall declare very clearly which part of the representation does not belong to the design. A representation shall be annexed to the declaration, from which representation it can be clearly established for which parts of the earlier representation the applicant does not seek protection. The provisions of Article 4(2) to (6) shall apply to this representation as well.

(3) The provisions of paragraph (2) shall apply *mutatis mutandis* to declarations of the holder of the design protection made in an invalidation procedure in which he initiated the maintenance of design protection in an amended form or its limitation.

Final provisions

Article 6

(1) This decree shall enter into force on 1 January 2002; its provisions shall apply to design applications filed after its entry into force.

(2)-(3) *[repealed]*