

REGULATION OF THE GOVERNMENT OF THE REPUBLIC OF INDONESIA

NUMBER 1 OF 2005

REGARDING

IMPLEMENTATION OF LAW NUMBER 31 OF 2000

ON INDUSTRIAL DESIGNS

BY THE GRACE OF GOD ALMIGHTY

PRESIDENT OF THE REPUBLIC OF INDONESIA,

- Considering : that in order to implement Law Number 31 of 2000 on Industrial Design, it is necessary to stipulate a Government Regulation regarding the Implementation of Law Number 31 of 2000 on Industrial Design;
- Recalling : 1. Article 5 paragraph (2) of the 1945 Constitution of the Republic of Indonesia;  
2. Law Number 31 of 2000 regarding Industrial Design (State Gazette of the Republic of Indonesia of 2000 Number 243, Supplement to State Gazette of the Republic of Indonesia Number 4045);

HAS DECIDED:

- To stipulate : GOVERNMENT REGULATION REGARDING THE IMPLEMENTATION OF LAW NUMBER 31 OF 2000 REGARDING INDUSTRIAL DESIGNS

CHAPTER I  
GENERAL PROVISIONS

Article 1

In Government Regulation herein:

1. An Industrial Design is a creation of shapes, configuration or composition of lines or colors, or line and colors, or a combination thereof in a three or two-dimensional shape entailing an aesthetic impression and may be realized in a three or two dimensional-pattern and may be used to produce products, goods, industrial commodities, or handicraft.
2. A Description of Industrial Design is an

explanation on the features of the Industrial Design mentioning information about the product to which the industrial design applies, the subject matter of protection and explanation on originality or novelty of the design.

3. A Drawing is the reproduction of the Industrial Design in the form of a two-dimensional or three-dimensional drawing that depicts all the parts to be protected (or "all the features of the industrial design") as complete as possible.
4. An Application is a request for registration of an Industrial Design to be submitted to the Directorate General.
5. An Applicant is the party filing the Application.
6. A Proxy is the Intellectual Property Rights Consultant as stipulated in Law Number 31 of 2000 regarding Industrial Design.
7. An Examiner is a person who due to his/her expertise is assigned by the Director General to perform an examination of the Application.
8. A Designer is the person or several persons who created the Industrial Design.
9. The Right Holder to the Industrial Design is the Designer (as the owner of the Industrial Design Right) or the party to which such rights have been transferred from the Designer or other party receiving such rights subsequently.
- 10 Industrial Design Rights are exclusive rights granted by the State of the Republic of Indonesia to the Designer for his/her creation for a given period of time to exercise [the rights] himself/herself, or to give permission to another party to exercise those rights.
- 11 A Priority Date is the date when the application for registration was first requested for its priority rights in its Country of origin.
- 12 Day is any working day.
- 13 The Law is Law Number 31 of 2000 regarding Industrial Design

- 14 The Minister is the Minister of Justice and Human Rights
- 15 The Directorate General is the Directorate General of Intellectual Property Rights

#### Article 2

- (1) Industrial Design Rights is granted for new Designs.
- (2) An Industrial Design is considered new if on the Filing Date such Industrial Design is not the same as any previous existing disclosures
- (3) The previous disclosure, as referred to in paragraph (2) is the disclosure of Industrial Design which prior to:
  - a. the Filing Date of the Application; or
  - b. the Priority Date, if the Application is filed with Priority Right has been announced or used in Indonesia or outside of Indonesia.

#### Article 3

- (1) The Application can only be filed for:
  - a. 1 (one) Industrial Design; or
  - b. several Industrial Designs that constitute a unity of an Industrial Design, or that have the same class.
- (2) The Industrial Design as referred to in paragraph (1) is an Industrial Design that satisfied the criteria as stipulated in Article 1 paragraph 1.

### CHAPTER II APPLICATION FOR REGISTRARATION OF INDUSTRIAL DESIGN

#### Part One

#### Application Submission

#### Article 4

- (1) An Application is filed in writing in the Indonesian language in 4 (four) copies at the Directorate General.
- (2) The form and contents of the Application form as stipulated in paragraph (1) correspond to the example as attached to this Government Regulation.
- (3) The completion of the Application form as stipulated in paragraph (2) must be in accordance with the provisions in Article 11 paragraph (1), paragraph (2), and paragraph (3) of the Law.

#### Article 5

- (1) Each Application as stipulated in Article 4 must include:
  - a. physical sample or drawing or photograph and the description of the Industrial Design being applied for registration in 3 (three) copies;
  - b. statement of ownership with sufficient duty stamps or legalized by a Notary stating that the Applicant or Designer is the true owner of the Industrial Design being filed; and
  - c. a proof of payment of Application fees.
- (2) In the event that the Application is submitted not by the Designer, the Application as stipulated in paragraph (1) must include:
  - a. statement with sufficient proof that the Applicant has the rights to the Industrial Design in question; and
  - b. a special power of attorney, if the Application is filed by a Proxy.

#### Article 6

- (1) The drawing or photograph as stipulated in Article 5 paragraph (1) letter a is as follows:
  - a. made on white paper in A4 size with the weight of the paper between 100 gsm (one hundred grams/m<sup>2</sup>) up to 200 gsm (two hundred grams/m<sup>2</sup>);
  - b. each drawing or photograph depicted on the A4 paper must be able to be reproduced by means of reproduction of photocopy machine or a scanner without reducing its quality;
  - c. Each drawing must be accompanied by sufficient information and indication of sequence numbers of the drawing and description of appearance for each drawing from corresponding position and angle of how the drawing made in order to provide explanation on the disclosure of the Industrial Design being sought for protection;
  - d. the bottom, right and left borders of the drawing or scanned drawing is 2 cm (two

- centimeters) and the top border is 2.5 cm (two and a half centimeters);
- e. each drawing contains a sequence number;
  - f. the drawing or photograph must conform to the original sample;
  - g. The drawing for industrial design may be made in trace lines for part that is not sought protection; on the contrary, parts of the drawing being sought for protection shall be made in thick lines; and
  - h. the Industrial Design drawings submitted in the Application may be accompanied by a diskette containing the drawing data to facilitate the procedure of announcement.
- (2) An Industrial Design description in foreign language shall be translated into Indonesian language.
- (3) The Industrial Design description includes a clear explanation of the Industrial Design for which protection is sought and of the goods or products to which the Industrial Design applies.
- (4) A special power of attorney as stipulated in Article 5 paragraph (2) letter b is a special power of attorney to file for Application with the following provisions:
- a. signed by the grantor and the recipient of the power of attorney;
  - b. has sufficient duty stamps or is legalized by a Notary;
  - c. if the power of attorney is in foreign language it must be translated into Indonesian.

#### Article 7

- (1) Where the Application is submitted by several persons jointly, the Application is signed by one of the Applicants with (and) a written consent from the other Applicants.
- (2) The Application as stipulated in paragraph (1) is completed with all the names of the Applicants and designate the address of the signing

Applicant.

#### Article 8

- (1) An Applicant who resides outside the territory of the Republic of Indonesia must file the Application through a Proxy).
- (2) The Applicant as referred to in paragraph (1) must state and choose his/her legal domicile in Indonesia.

#### Article 9

An Application with a Priority Right, is filed in accordance with the provisions of Article 16 and Article 17 of the Law.

### Part Two

#### Filing of the Application

##### Article 10

The Date of Receipt of Application is the filing date of the Application provided that the Applicant:

- a. has completed Application form in 4 (four) copies.;
- b. has attached a physical sample or drawing or photograph and a description of the Industrial Design being applied for registration in 3 (three) copies; and
- c. has paid the Application fee as referred to in Article 11 paragraph (1) of the Law.

### Part Three

#### Administrative Examination

##### Article 11

- (1) As stipulated in Article 4 to Article 9 the Directorate General conducts an administrative examination on the Application consisting of physical examination, formality examination and clarification of the disclosure of the Industrial Design within a period of 30 (thirty) days at the latest as of the date of receipt of the notification.
- (2) The Directorate General notifies the Applicant or his/her Proxy on any regularity and irregularity of the Application as stipulated in Article 4 to Article 9 within a period of 30 (thirty) days at the latest as of the date of the filing of

the Application.

- (3) The Applicant or his/her Attorney complete the irregularity as stipulated in paragraph (2) within a period of no later than 3 (three) months as of the date of the notification of irregularity.
- (4) The period of time to fulfill the requirements as stipulated in paragraph (3) may be extended upon request of the Applicant or his/her Proxy for 1 (one) month at the latest.
- (5) If the provisions as stipulated in paragraph (3) and paragraph (2) are not satisfied, the Directorate General notifies the Applicant or his/her Attorney in writing that his/her application is deemed withdrawn within a period of 14 (fourteen) days at the latest as of the expiry of the deadline provision in paragraph (3) and paragraph (4).
- (6) In the event that the Application is deemed withdrawn as stipulated in paragraph (5), any fees paid to the Directorate General shall be forfeited.

#### Article 12

- (1) During the administrative examination as stipulated in Article 11 paragraph (1), the Directorate General shall notify the Applicant or his/her Attorney on unclear disclosure of the Industrial Design in the description, drawings or information including those relating to Application unity no later than 30 (thirty) days from the Filing Date of the Application.
- (2) The Applicant or his/her Attorney shall make correction to the disclosure of the Industrial Design to make it clearer and appropriate to be announced within a period of no later than 3 (three) months from the postal date of the notification as stipulated in paragraph (1).
- (3) The time period for Application corrections as stipulated in paragraph (2) may be extended for a maximum of 1 (one) month at the request of the Applicant or his/her Proxy.
- (4) If the provisions as stipulated in paragraph (2) and (3) are not satisfied, the provisions of Article 11 paragraph (5) and (6) shall take effect.
- (5) During examination, the Examiner shall also

perform a classification for each Application in accordance with applicable regulations.

#### Article 13

- (1) In the event that the administrative examination as stipulated in Article 11 paragraph (1) learns that the Application should be made into separate Applications, the Directorate General shall notify the Applicant or his/her Proxy in writing that he/she shall divide the Application into more than one Application no later than 30 (thirty) days from the Filing Date of the Application.
- (2) The Applicant or his/her Proxy shall divide the Application within a period of no later than 3 (three) months from the postal date of the notification as stipulated in paragraph (1).
- (3) Upon request of the Applicant or his/her Proxy, the time to divide the Application as stipulated in paragraph (2) may be extended for a maximum of 1 (one) month.
- (4) In the event that an Applicant has not divided the Application before the expiry of the deadline stipulated in paragraph (2) and paragraph (3), the Examiner shall only conduct the examination on the Application which class is considered to be the most relevant for the Application.
- (5) Each division of the Application as stipulated in paragraph (2), shall be subject to fees in accordance with the prevailing laws and regulations.

#### Article 14

- (1) The Applicant or his/her Proxy shall be given opportunity to file an objection against the assumption of withdrawal as referred to in Article 11 paragraph (5) and Article 12 paragraph (4) within 30 (thirty) days at the latest as of the date of receipt of the withdrawal notification.
- (2) In the event that the Applicant or his/her



Attorney does not file any objection as stipulated in paragraph (1), the decision on the withdrawal by the Directorate General as stipulated in paragraph (1) shall be final.

- (3) The Directorate General shall provide the decision to accept on to refuse the objection as stipulated in paragraph (1) no later than 30 (thirty) days from the date of receipt of the objection as stipulated in paragraph (1).
- (4) If the objection is accepted, the Directorate General shall continue performing subsequent procedure of Application.

#### Article 15

- (1) Upon the decision on the withdrawal as stipulated in Article 11 paragraph (5) and Article 12 paragraph (4), the Applicant or his/her Proxy can bring a lawsuit at the Commercial Court with the procedure as stipulated in the Law.
- (2) The Directorate General shall perform further Application process after receiving a copy of legally binding decision stating that the claim as stipulated in paragraph (1) is accepted.

#### Part Four

#### Announcement

#### Article 16

- (1) The Director General shall announce the Application that has fulfilled the requirements as referred to in Article 4 to Article 9 of this Government Regulation and Article 4 of the Law by the placement in the Official Gazette of Industrial Designs or Certain Media which can be easily and clearly seen by the public.
- (2) With respect to the announcement of the Application as stipulated in paragraph (1), any party may file an objection that include complete underlying reasons for the objection in writing to the Directorate General.

#### Article 17

- (1) The announcement of the Application as stipulated in Article 16 paragraph (1) shall be conducted at the latest 3 (three) months as of the Filing Date of the Application.
- (2) In the event that there are irregularities in the Application that should be fulfilled within the

period as stipulated in Article 11 paragraph (3) and paragraph (4), Article 12 paragraph (2) and (3), and Article 13 paragraph (2) and (3), the announcement of the Application as stipulated in Article 16 paragraph (1) shall be exercised from the date of the fulfillment of the Application requirements.

- (3) In the event that the Applicant or his/her Proxy files a lawsuit against the rejection or withdrawal of the Application as stipulated in Article 15 paragraph (1) and Article 28 paragraph (1), the announcement of the Application as stipulated in Article 16 paragraph (1) shall be exercised from the date of receipt of the copy of the court decision that has permanent legal power and states that the lawsuit has been granted.

#### Article 18

The announcement of the Application as referred to in Article 16 paragraph (1) shall contain:

- a. the full name and address of the Applicant;
- b. the full name and address of the Proxy, if the Application is filed through a Proxy;
- c. the date and number of submission of the Application;
- d. the name of the country and first Filing Date of Application, if the Application is submitted (filed) with a Priority Right;
- e. the title and class of the Industrial Design; and
- f. drawing or photograph of the Industrial Design.

#### Article 19

- (1) At the time of filing Application, the Applicant or his/her Proxy may request in writing that the announcement of the Application be deterred.
- (2) The postponement deferral of the announcement as stipulated in paragraph (1) shall not exceed 12 (twelve) months from the Filing Date or from the Priority Date.

#### Part Five

#### Changes in Application

#### Article 20

- (1) The Applicant or his/her Proxy may make corrections or changes to the Application that

has been submitted provided that it shall not broaden the scope of the Industrial Design originally filed.

- (2) A Change of the Application resulting more than one Applications shall have the same Filing Date of the Application as the original Application.
- (3) The Directorate General shall refuse corrections or changes in the Application that widen the scope of the original Industrial Design Application.
- (4) Corrections or changes as stipulated in paragraph (1) may be made by the Applicant or his/her Attorney before the Application shall be granted by the Directorate General.

Part Six  
Withdrawal of Application  
Article 21

A withdrawal of an Application must be submitted in writing to the Directorate General by the Applicant or his/her Attorney, provided that a decision has not been made upon such Application.

Article 22

In the event that the Application is withdrawn as stipulated in Article 21, any fees paid to the Directorate General shall be forfeited.

CHAPTER III  
SUBSTANTIVE EXAMINATION, REJECTION  
AND  
GRANTING OF INDUSTRIAL DESIGN  
CERTIFICATE

Part One  
Substantive Examination

Article 23

- (1) During the announcement period as stipulated in Article 17 paragraph (1), any party may file a written objection that includes substantive matters with the payment of fees in accordance with the provisions of the Law.

- (2) The objection as stipulated in paragraph (1) shall be made in accordance with the provisions of Article 26 and Article 28 paragraph (1) of the Law.

#### Article 24

- (1) In the event that there are objections against the Application as stipulated in Article 23, the Examiner shall conduct a substantive examination concerning:
  - a. the novelty of the Industrial Design;
  - b. matters that are in contravention to applicable statutory laws, public order, religion or morality;
  - c. the Application unity; and
  - d. matters relating to the clarity of the Industrial Design.
  
- (2) The examination as stipulated in paragraph (1) shall apply to:
  - a. objections filed by the parties;
  - b. disputed Application along with the objections; and
  - c. relevant comparison.
  
- (3) The examination as stipulated in paragraph (2) shall be conducted by the Examiner by:
  - a. researching and comparing the Application applying due diligence on Industrial Designs that has existed before for related classes.
  - b. examining and comparing the Application against the objections filed by the parties; and
  - c. reporting the results to the Directorate General.
  
- (4) The results of the examination as stipulated in paragraph (2) letter (c) shall include:
  - a. the novelty of the Industrial Design;
  - b. matters that are in contravention to the applicable statutory laws, public order, religion or morality;
  - c. the Application unity; and
  - d. clarity of disclosure of the Industrial Design

Part Two  
Rejection  
Article 25

- (1) During the Application process, the Directorate General may refuse the Application if any matters in contravention to the applicable statutory laws, public order, religion or morality have been discovered and shall be notified in writing to the Applicant or his/her Attorney.  
With respect to the rejection of the Application as stipulated in paragraph (1), the Applicant
- (2) may perform corrections insofar as they do not broaden the scope of the Industrial Design within a period of no later than 30 (thirty) days from the sending date of the notification as stipulated in paragraph (1).
- (3) The Directorate General shall produce a decision whether to accept or to reject the corrections as stipulated in paragraph (2) within a period of no later than 30 (thirty) days from the date of receipt of such corrections.
- (4) If the corrections as stipulated in paragraph (2) are accepted, the Directorate General shall continue the Application process

Article 26

- (1) The Directorate General may reject an Application that contravenes Article 2 of the Law and shall notify the Applicant and his/her Attorney in writing.
- (2) Regarding the rejection of the Application as stipulated in paragraph (1), the Applicant may make corrections provided that it does not broaden the scope of the Industrial Design within a period of no later than 30 (thirty) days from the sending date of the notification as stipulated in paragraph (1).
- (3) The Directorate General shall produce a decision whether to accept or to refuse the corrections as stipulated in paragraph (2) within a period of no later than 30 (thirty) days from the date of receipt of such corrections.
- (4) If the corrections as stipulated in paragraph (2) are accepted, the Directorate General shall continue the Application process.

#### Article 27

- (1) The Applicant or his/her Attorney shall be given an opportunity to file an objection to the rejection as stipulated in Article 25 paragraph (1) and Article 26 paragraph (1), within a period of no later than 30 (thirty) days from the date of receipt of the rejection letter.
- (2) In the event that the Applicant or his/her Attorney does not file objection as stipulated in paragraph (1), the decision on the rejection (refusal) by the Directorate General as stipulated in paragraph (1) shall be permanent.
- (3) The Directorate General shall produce a decision whether to accept or to reject the objection as stipulated in paragraph (1) within a period of no later than 30 (thirty) days from the date of receipt of the objections filing.
- (4) If the objections are accepted, the Directorate General shall continue the Application procedure.

#### Article 28

- (1) Upon the decision on the rejection as stipulated in Article 25 paragraph (1) and Article 26 paragraph (1), the Applicant or his/her Attorney may file a lawsuit at the Commercial Court with the procedures as regulated in this Law.
- (2) The Directorate General shall continue with the Application procedure, after receiving a copy of the final decision stating that the lawsuit as stipulated in paragraph (1) is accepted.

### Part Three

#### Granting the Industrial Design Certificate

#### Article 29

- (1) Where there is no objection against an Application until the termination of the period to file an objection as stipulated in Article 23 paragraph (1), the Directorate General shall issue and grant a Certificate of Industrial Design no later than 30 (thirty) days from the date of termination of that period.
- (2) The Certificate of Industrial Design shall be effective as of the Submission Date of the Application.

- (3) The Certificate of Industrial Design as stipulated in paragraph (2) shall contain:
  - a. the Application number;
  - b. the Title of the Industrial Design;
  - c. the Class of the Industrial Design;
  - d. the name, nationality and address of the Industrial Design Rights Holder;
  - e. the Submission Date of the Application;
  - f. the Registration Number; and
  - g. the signature of an authorized official.

#### Article 30

Parties may request a copy of the Certificate of Industrial Design from the Directorate General against payment of a fee as stipulated in the Law.

#### Article 31

The Director General shall record the Industrial Designs that have been granted the Certificate of Industrial Design in the General Register of Industrial Designs and shall announce it in the Official Gazette of Industrial Designs.

### CHAPTER IV REGISTRATION OF CHANGE OF NAME AND/OR ADDRESS OF THE RIGHTS HOLDER OF THE INDUSTRIAL DESIGN AND TRANSFER OF INDUSTRIAL DESIGN RIGHTS

#### Part One

Application for the Registration of Name and/or Address Change of the Holder of Industrial Design Rights

#### Article 32

- (1) An Application to register a change of name and/or address of the Industrial Design Rights Holder shall be submitted in writing in the Indonesian language and in duplicates of 2 (two) to the Directorate General.  
The Application to register a change of name

- (2) and/or address change of the Industrial Design Rights Holder as stipulated in paragraph (1) shall be submitted containing:
- a. the registration number of the registered Industrial Design subject to the name and/or address change registration of the Industrial Design Rights Holder;
  - b. name, nationality and address of the old and new Industrial Design Rights Holder;
  - c. name of the legal entity and the country where the legal entity is established if the Right Holder of the Industrial Design is a legal entity;
  - d. address of the chosen Attorney in Indonesia if the Industrial Design Rights Holder subject to name and/or address change registration has residence or domicile outside the territory of the Republic of Indonesia.

#### Article 33

- a. Each Application to register a change of name and/or address of the Industrial Design Rights Holder shall have:
- b. a proof of the name and/or address change documents of the Industrial Design Rights Holder;
- c. a special power of attorney, if the Application is filed by a Attorney; and
- d. attached proof of payment of the application.

#### Article 34

A Documentary proof of a change of name and/or address of the Industrial Design Rights Holder as stipulated in Article 33 Letter a in a foreign language, shall be accompanied by a translation in the Indonesian language.

#### Article 35

The special power of attorney as stipulated in Article 33 letter b to apply for a change of name and/or address of the Industrial Design Rights Holder shall contain the following provisions:

- a. stating the registration number of the



Industrial Design subject to the Application of a change of name and/or address of the Industrial Design Rights Holder;

- b. signed by the grantor and the recipient of the (special?) power of Attorney;
- c. has sufficient duty stamps or legalized by a Notary; and
- d. in the event that the power of attorney letter is in a foreign language it shall be translated into Indonesian.

#### Article 36

(1) The Directorate General shall register the name and/or address change of the Industrial Design Rights Holder in the General Register of Industrial Designs and shall announce it in the Official Gazette of Industrial Designs within a period of no later than 30 (thirty) days from the date of receipt of the application as stipulated in Article 32 paragraph (1).

(2) The Directorate General shall notify in writing the registration to the Applicant or his/her Attorney within a period of no later than 14 (days) from the date of the registration as stipulated in paragraph (1).

#### Part two

Application for Registration of Transfer of Rights to Industrial Design

#### Article 37

(1) The application for registration of the transfer of Industrial Design rights shall be submitted in writing in Indonesian language to the Directorate General in duplicates of 2 (two).

(2) The application for registration of the transfer of Industrial Design rights as stipulated in paragraph (1) shall be submitted by stating:

- a. the registration number of the Industrial Design which rights shall be transferred;
- b. the full name, nationality and address of the Industrial Design Rights Holder and the rights recipient being applied;
- c. the name of the legal entity and the country where the legal entity is established, if the Rights Holder or the Beneficiary of the

Industrial Design rights is a legal entity; and  
d. the full name and address of the Attorney that is selected in Indonesia, if the application for registration of the transfer of rights is submitted by the Rights Holder or the assignee of the Industrial Design residing or domiciled outside the territory of the Republic of Indonesia.

#### Article 38

Every application for registration of transfer of the Industrial Design rights shall contain:

- a. documentary proof of the transfer of rights in part or in whole;
- b. proof of ownership of the transferred rights to the Industrial Design;
- c. the special power of attorney, if the Application for the transfer of rights is submitted through an Attorney; and
- d. proof of payment for the Application of registration of the transfer of rights.

#### Article 39

The documentary proof of the transfer of rights as stipulated in Article 38 letter a that is in a foreign language, shall be accompanied by a translation in the Indonesian language.

#### Article 40

The special power of attorney letter? as stipulated in Article 38 Letter c is a special power of attorney to apply for registration of Industrial Design Rights transfer and shall fulfill the following requirements:

- a. specifying the registration number of the Industrial Design the transfer of rights of which is being registered;
- b. signed by the grantor and the recipient of the power of Attorney;
- c. having sufficient duty stamps or legalized by a Notary; and
- d. if the power of attorney is in a foreign language it shall be translated into Indonesian language.

#### Article 41

(1) The Directorate General shall register the Industrial Design Rights transfer in the General Register of Industrial Designs and shall announce it in the Official Gazette of Industrial Designs within a period of no later than 30 (thirty) days from the date of receipt of the application as stipulated in Article 37 paragraph (1).

(2) The Directorate General shall notify in writing such registration to the Applicant or his/her Attorney within a period of no later than 14 (fourteen) days from the registration date as stipulated in paragraph (1).

#### Article 42

The Industrial Design [Rights] transfer that is not registered in the General Register of Industrial Designs shall not be legally binding on third parties.

### CHAPTER V ANNULMENT OF AN INDUSTRIAL DESIGN REGISTRATION

#### Article 43

Industrial Designs that are registered with the Directorate General may be annulled:

- a. On the Industrial Design Rights Holder's request submitted to the Directorate General; or
- b. pursuant to a claim to annul the Industrial Design Registration by interested parties that has obtained a final Court decision accepting the claim

#### Article 44

(1) The application for annulment of an Industrial Design registration by the Industrial Design Rights Holder shall be submitted in writing in the Indonesian language to the Directorate General in duplicates of 2 (two).

(2) The application to annul an Industrial Design registration shall contain:

- a. the registration number of the Industrial Design to be annulled; and
- b. reasons for the annulment.

#### Article 45

Each application for the annulment of an Industrial Design registration as stipulated in Article 44 shall contain:

- a. the Industrial Design Certificate;
- b. the no objection written consent letter from the Licensee of the Industrial Design Rights that is registered in the General Register of Industrial Designs;
- c. the special power of attorney letter for the annulment of the Industrial Design registration application, if submitted by an Attorney; and
- d. the proof of payment for the Application of Industrial Design registration annulment.

#### Article 46

The special power of attorney letter as stipulated in Article 45 letter c is the power of attorney to file an Application annulment and shall fulfill the following requirements:

- a. specifying the registration number of the Industrial Design to be annulled;
- b. signed by the Grantor and Receiver of the power of attorney;
- c. has sufficient duty stamps or legalized by a Notary; and
- d. if the power of attorney letter is in a foreign language, it shall be translated into Indonesian language.

#### Article 47

(1) The Directorate General shall make a decision on the annulment of the Industrial Design Rights within a period of no later than 30 (thirty) days from the date of receipt of the Industrial Design annulment application as stipulated in Article 44 paragraph (1).

(2) The Directorate General shall register the Industrial Design annulment in the General Register of Industrial Designs and shall announce it in the Official Gazette of Industrial Designs within a period of no later than 30 (thirty) days from the date of the decision by the Directorate General as stipulated in paragraph (1).

(3) The Directorate General shall notify the

decision as stipulated in paragraph (1) in writing within a period of no later than 14 (fourteen) days from granting the decision to:

- a. the Industrial Design Rights Holder; and
- b. the Licensee, if it has been licensed in accordance with the General Register of Industrial Designs;

#### Article 48

(1) With respect to the application for the annulment of the Industrial Design registration by the interested parties as stipulated in Article 43 letter b, the Directorate General shall record the annulment of the Industrial Design registration in the General Register of Industrial Designs and shall announce it in the Official Gazette of Industrial Designs, within a period of no later than 30 (thirty) days from the receipt of a copy of the final Court decision.

(2) The Directorate General shall notify such record in writing to the Industrial Design Rights Holder and the parties at stake as stipulated in paragraph (1) within a period of no later than 14 (fourteen) days from the recording date as stipulated in paragraph (1).

#### Article 49

The annulment of an Industrial Design registration shall nullify all legal consequences related to the Industrial Design Rights and other rights deriving from such Industrial Design.

### CHAPTER VI GENERAL REGISTER AND OFFICIAL BULLETIN OF INDUSTRIAL DESIGN

#### Article 50

The General Register of Industrial Designs is the collection of all registrations done in the field of Industrial Design informing about:

- a. the name, nationality and address of the Industrial Design Rights Holder;
- b. the name, nationality and address of the Designer;
- c. the name, nationality and address of the Attorney;

- d. the title;
- e. the class;
- f. the drawings or photographs of the Industrial Design;
- g. the description or explanation of the Industrial Design being filed;
- h. the Submission Date of the Application;
- i. the name of the country and the Priority Date;
- j. the registration number; and
- k. blank? columns for recording change of name and/or address, transfer of rights, annulment, licensing agreements and other information if required.

#### Article 51

(1) The Official Gazette of Industrial Designs is a means of notification to the public in the form of an official gazette published periodically by the Directorate General that publishes matters required by Law.

(2) The Official Gazette of Industrial Designs shall contain among others:

- a. the name, nationality and address of the Industrial Design Rights Holder or the Applicant;
- b. the name, nationality and address of the Designer;
- c. the name, nationality and address of the Attorney;
- d. the title;
- e. the class;
- f. the drawings or photographs of the Industrial Design;
- g. the description or explanation of the Industrial Design;
- h. the Submission Date of the Application;
- i. the name of the country and the Priority Date;
- j. the registration number (if the Industrial Design has been registered); and
- k. remarks regarding the recording change of name and/or address, transfer of rights, annulment of registration, licensing agreements and other information if required.

Article 52

The Directorate General shall record every final Decision of the Directorate General and the Court in the General Register of Industrial Designs and shall announce it in the Official Gazette of Industrial Design.

CHAPTER VII  
TRANSITIONAL PROVISIONS

Article 53

(1) Industrial Designs that have received an Industrial Design Certificate before the date of the enactment of this Government Regulation shall remain in force insofar as they do not contravene this Government Regulation.

(2) Applications that were submitted before the enactment of this Regulation shall be processed in accordance with the provisions of this Government Regulation.

Issued in Jakarta

on January 4, 2005

THE PRESIDENT OF THE  
REPUBLIC OF INDONESIA,

signed

Dr. H. SUSILO BAMBANG YUDHOYONO

Promulgated in Jakarta

on January 4, 2005

MINISTER OF LAW AND HUMAN RIGHTS

signed,

Dr. HAMID AWALUDIN

ELUCIDATION  
REGARDING  
REGULATION OF THE GOVERNMENT OF THE REPUBLIC OF INDONESIA  
NUMBER 1 OF 2005  
ON  
IMPLEMENTATION OF LAW NUMBER 31 OF 2000  
REGARDING INDUSTRIAL DESIGN

I. GENERAL EXPLANATORY NOTES

In order to provide legal protection for the Designers as creators of Industrial Design and to stimulate their activity and creativity to continuously create new designs, Law Number 31 of 2000 regarding Industrial Design has been promulgated. The legal protection is granted by the registration system, known as the constitutive system, which is the system adopted in the Law on Industrial Designs. It means that the Industrial Design Right is an exclusive right to exercise an Industrial Design by oneself or to give consent to another party to implement the right granted by the State upon the filing of application for registration.

Article 11 paragraph (7) of the Law regarding Industrial Designs specifies that further provisions on the procedure of Application (request for registration of Industrial Design) shall be determined by Government Regulation. In order to implement the Law regarding Industrial Designs, it is necessary to also regulate the provisions relating to the Industrial Design registration application, namely provisions on the change of name and/or address of the Industrial Design Rights Holder, on the transfer of Industrial Design Rights, and the annulment of Industrial Design registration either based on a request of the Industrial Design Rights Holder or on a Court decision. Due to these considerations, this regulation is thus drafted with the intention to comprehensively regulate the provisions regarding the implementation of Law Number 31 of 2000 regarding Industrial Designs.

Article 11 paragraph (7) of the Law regarding Industrial Designs specifies that further provisions on the procedure of Application (request for registration of Industrial Design) shall be determined by Government Regulation. In order to



implement the Law regarding Industrial Designs, it is necessary to also regulate the provisions relating to the Industrial Design registration application, namely provisions on the recording of alteration of name and/or address of the Industrial Design Rights Holder, on the transfer of Industrial Design Rights, and the annulment of Industrial Design registration either based on a request of the Industrial Design Rights Holder or on a Court decision. Due to these considerations, this regulation is thus drafted with the intention to comprehensively regulate the provisions regarding the implementation of Law Number 31 of 2000 regarding Industrial Designs.

In this Government Regulation, the process of Industrial Design registration, or as defined in the Law as the “Application”, shall be conducted through several phases, which include the receipt of the Application, the administrative examination of the Application requirements, announcements, substantive examination in the event of an opposition to the Application by a third party, issuance of the Industrial Design Certificate, registration in the General Register of Industrial Designs and the announcement in the Official Gazette of Industrial Designs.

An Application shall meet the minimum requirements in order to receive a Filing Date of the Application and to be processed further, in addition to meeting other application requirements. Furthermore, the Application shall be subject to administrative examination to determine whether the Application has met all the requirements and is subject to announcement. The administrative examination includes a physical examination, formality examination and an examination of Industrial Design disclosure clarification.

Provided all the requirements are met, the application shall be announced to the public through the Official Gazette of Industrial Designs or other special medium. The announcement of the Application aims to provide the public with the opportunity to file objections on the submission of an Industrial Design Application based on substantive reasons, namely that the Application is contrary to Article 2 and/or Article 4 of the Law determining that Industrial Design Rights may not be granted if the Industrial Design is in contravention to the applicable statutory laws, public order, religion and morality. With regard to public objections, the Examiner shall conduct a substantive examination. If the Application is actually in contravention to Article 2 and/or Article 4 of the Law, the Directorate General shall be authorized to reject the Application. Pursuant to the decision on rejection of the Directorate General, the Applicant

may file an appeal to the Directorate General or file a lawsuit to the Commercial Court. Furthermore, should the objection be accepted by the Directorate General or a final Court decision that states that the lawsuit is accepted, the Directorate General shall be obliged to proceed with the Application procedure.

In the event that no public objection arises during the Application announcement period, the Directorate General shall grant a Certificate of Industrial Design as proof that the Applicant is the Industrial Design Rights Holder. The Directorate General shall be obliged to record it in the General Register of Industrial Designs and shall announce it in the Official Gazette of Industrial Designs.

In addition to regulating the procedures of the Application, this Government Regulation also governs the provisions concerning the provisions on the change of name and/or address of the Industrial Design Rights Holder, application for the transfer of Industrial Design rights, and the annulment of Industrial Design registration as well as provisions regarding the General Register of Industrial Designs and the Official Gazette of Industrial Designs.

## II. ARTICLE BY ARTICLE

### Article 1

Self-explanatory

### Article 2

#### Paragraph (1)

Self-explanatory

#### Paragraph (2)

"Disclosure" means the disclosure through print or electronic media, including participation in exhibitions.

#### Paragraph (3)

Self-explanatory

### Article 3

Paragraph (1)

“One Industrial Design” means a distinct unit of Industrial Design. However, a set of cups and a teapot, for example, is also 1 (one) Industrial Design, meanwhile the definition of “class” is the class as stated in the International Classification regarding Industrial Designs as stipulated in the Locarno Agreement.

Paragraph (2)

Self-explanatory

Article 4

Paragraph (1)

Self-explanatory

Paragraph (2)

The Directorate General shall provide forms of Application as stipulated in this Article; however, the Applicant or his/her Proxy may self-provide the forms given that the forms and content are in accordance with this Government Regulation.

Paragraph (3)

Self-explanatory

Article 5

Paragraph (1)

Letter a

If the physical form of the Industrial Design applied for is very large it shall be sufficient to provide a drawing or photograph of the design taken from various angles.

Letter b

Self-explanatory

Letter c

Self-explanatory

Paragraph (2)

Letter a

“Sufficient proof” means the proof that is valid, true, and that sufficiently demonstrates that the Applicant has the right to file the Application.

Letter b

Self-explanatory

Article 6

Paragraph (1)

Letter a

The provision regarding the weight of the paper has been aligned with the respective international regulations.

Letter b

Self-explanatory

Letter c

Self-explanatory

Letter d

Self-explanatory

Letter e

Self-explanatory

Letter f

Self-explanatory

Letter g

Self-explanatory

Letter h

“Drawing data” means the data of an image saved in the format of \*.jpg or other similar formats for image.

Paragraph (2)

Self-explanatory

Paragraph (3)

The Industrial Design Description shall include:

1. An explanation or statement that discloses a part of a design for which protection is being sought;
2. An explanation or statement that discloses a part of a design that has a value of novelty;
3. A statement regarding Industrial Design application to goods or products that discloses the scope of use of an Industrial Design in goods or products. The design is not the product or the goods itself, but is related to the products or goods where the design is applied in order to define the scope of protection of an Industrial Design.

Paragraph (4)

Self-explanatory

Article 7

Self-explanatory

Article 8

Self-explanatory

Article 9

Self-explanatory

Article 10

The provisions in this Article are the minimum requirements that must be met in order to receive a Filing Date for the Application of an Industrial Design. That date determines the start to calculate the term of protection for the Industrial Design Registration.

## Article 11

### Paragraph (1)

Physical Examination means the examination of the form, type, size and physical matters of the requirements of of the Application, for example: a drawing attachment submitted within the Application.

Exmination of Formality requirements of the Application means an examination whether all requirements for a complete Application are fulfilled, for example: Application Form, Industrial Design Drawing, Description of the Industrial Design and other letters pertaining to the Application.

Examination of clear disclosure of the Industrial Design means an examination concerning the scope of the design being registered, including the Industrial Design criteria as stipulated in Article 1 paragraph 1 of the Law, the entity of the Application as stipulated in Article 13 of the Law and that the design does not contravene Article 4 of the Law.

### Paragraph (2)

Self-explanatory

### Paragraph (3)

Proof of delivery shall be proven with a postmark, shipping documents or other proof of delivery.

### Paragraph (4)

Self-explanatory

### Paragraph (5)

Self-explanatory

### Paragraph (6)

Self-explanatory

## Article 12

### Paragraph (1)

Self-explanatory

### Paragraph (2)

Self-explanatory

Paragraph (3)

Self-explanatory

Paragraph (4)

Self-explanatory

Paragraph (2)

The provision applicable in the classification shall, among others, follow the international classification in accordance to the applicable Locarno Classification (Locarno Agreement).

Article 13

Paragraph (1)

In this case, if it is known that an Industrial Design Application does not comply with Article 13 of the Law, the Application shall be split, resulting in two or more Applications with the same Filing Date. If the Applicant does not respond to this notification, then the one to be registered shall be the most dominant design.

Paragraph (2)

Self-explanatory

Paragraph (3)

Self-explanatory

Paragraph (4)

Self-explanatory

Paragraph (5)

Self-explanatory

Article 14

Self-explanatory

Article 15

Self-explanatory

Article 16

Paragraph (1)

“Announced” means declaration to the public through the Official Gazette of Industrial Design media, and later through the announcement via other media.

“Special Mediums” include, among others: bulletin boards, journals, Internet, and other means that can accommodate an announcement.

For the purpose of the announcement, the Directorate General shall conduct classification and examine matters that are deemed unclear or inappropriate, should the Application be announced.

Paragraph (2)

Self-explanatory

Article 17

Paragraph (1)

If there are concerns that the announcement of an Industrial Design may cause disturbance to the public the Application announcement may be made without drawings or photographs of such Industrial Design.

Paragraph (2)

Self-explanatory

Paragraph (3)

Self-explanatory

Article 18

Self-explanatory

Article 19

This provision is intended to give an opportunity to Applicants who consider it necessary to delay the announcement ? for his/her own interests.

Article 20



Paragraph (1)

“Expanding the scope of Industrial Design Application” means expanding the appearances for which protection is sought with respect to the Industrial Design Application that was originally filed.

Paragraph (2)

Self-explanatory

Paragraph (3)

Self-explanatory

Paragraph (4)

Self-explanatory

Article 21

“Has not received the decision” means the Application that has not been registered in the General Registrar of Industrial Designs.

Article 22

Self-explanatory

Article 23

Self-explanatory

Article 24

Paragraph (1)

“Substantive examination” means an examination of the Application based on Article 2 and Article 4 of the Law to determine the novelty aspect of the Industrial Design being applied and ensure that it is not in contravention to prevailing laws and regulations, public order, religion, or morality.

Letter a

Self-explanatory

Letter b

For example, if it includes matters that have been protected by statutory laws in the field of Intellectual Property Rights for a different Applicant, the Directorate General may reject such Application, including, among others, paintings or other artwork in the field of Copyright, for example, works of architecture, clothing patterns, computer screen appearance, sketches or drawing of plans and others.

For patents, it may be a product that merely has any function/utility, for example: a hook or nail with fixed shape and so forth. For trademarks, for example, it may be a logo to distinguish similar goods and so forth.

In addition, with respect to Applications that contain matters related to public ownership or State ownership of an Industrial Design, the Directorate General may reject such an application. For example, “public ownership” may include handicraft or traditional artwork and others. “State ownership” refers to State or public symbols, State or public flags, religious symbols or indigenous beliefs or traditions.

Letter c

Self-explanatory

Letter d

Self-explanatory

Paragraph (2)

Letter a

Self-explanatory

Letter b

Self-explanatory

Letter c

“Relevant comparison” means the comparative design in the same field that has existed before the Filing Date of the Application.

Paragraph (3)

Self-explanatory

Paragraph (4)

Self-explanatory

Article 25

Application corrections by the Applicant and the decision of the Directorate General to accept or reject the Application corrections in the provisions of this Article shall be carried out before the expiration of the time limit for granting the Industrial Design Certificate as stipulated in Article 29 paragraph (1) hereof.

What is meant by corrections in this Article is to eliminate elements that contain matters that are in contravention to prevailing laws and regulation, public order, religion or morality.

Article 26

Application corrections by the Applicant and the decision of the Directorate General to accept or reject the Application corrections in the provisions of this Article shall be done before the expiration of the time limit for granting the Industrial Design Certificate as stipulated in Article 29 paragraph (1) hereof.

Article 27

The submission of the objection by the Applicant against the rejection decided by the Directorate General and the decision of the Directorate General to accept or reject the objection in the provisions of this Article shall be exercised before the expiration of the time limit for granting the Industrial Design Certificate as stipulated in Article 29 paragraph (1) hereof.

Article 28

Self-explanatory

Article 29

Self-explanatory

Article 30

“Copy” means a copy containing information concerning the Industrial Design, among others, the name of the Designer, the Rights Holder, and/or Proxy for the Industrial Design.

Article 31

Self-explanatory

Article 32

Self-explanatory

Article 33

Self-explanatory

Article 34

Self-explanatory

Article 35

Self-explanatory

Article 36

Self-explanatory

Article 37

Self-explanatory

Article 38

Self-explanatory

Article 39

Self-explanatory

Article 40

Self-explanatory

Article 41

Self-explanatory

Article 42

Self-explanatory

Article 43

Self-explanatory

Article 44

Self-explanatory

Article 45

Self-explanatory

Article 46

Self-explanatory

Article 47

Self-explanatory

Article 48

Self-explanatory

Article 49

Self-explanatory

Article 50

Self-explanatory

Article 51

Self-explanatory

Article 52

Self-explanatory

Article 53

Self-explanatory

Article 54

Self-explanatory

Article 55

Self-explanatory

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