

ORGANIZACIÓN MUNDIAL DEL COMERCIO

IP/N/1/ISL/D/2

15 de octubre de 1996

(96-4262)

Consejo de los Aspectos de los Derechos de Propiedad
Intelectual relacionados con el Comercio

Original: inglés

PRINCIPALES LEYES Y REGLAMENTOS DEDICADOS A LA PROPIEDAD INTELECTUAL NOTIFICADOS EN VIRTUD DEL PÁRRAFO 2 DEL ARTÍCULO 63 DEL ACUERDO

Islandia

En el presente documento se reproducen las leyes y reglamentos siguientes¹, notificados por Islandia en virtud de lo dispuesto en el párrafo 2 del artículo 63 del Acuerdo (véase el documento IP/N/1/ISL/1).

	<u>Página</u>
- Reglamento sobre el registro de un dibujo o modelo, N° 178/1994 .	2
- Reglamento N° 285/1996, por el que se modifica el Reglamento sobre el registro de un dibujo o modelo, N° 178/1994	11

¹En inglés solamente.

Regulation on registration of a design

CHAPTER I

Application

Article 1

An application for the registration of a design shall be written on an application form for the purpose and filed with the Patent Office. The application shall be signed by the applicant or his agent and shall include a request for registration.

Applications shall also specify:

- 1) the name, address of the applicant, as well as his identification number, if the applicant does not have an agent,
- 2) if the applicant has an agent, his name, address and identification number,
- 3) the name and address of the designer,
- 4) a name which describes the design,
- 5) whether the design concerns the appearance and composition of the product or its decoration,
- 6) whether protection is sought for the design in colour,
- 7) which of the applicants, in cases where more than one person is applying jointly for a design, shall be empowered to receive notifications from the registration authorities,
- 8) information in accordance with Article 9 if priority is claimed on the basis of provisions of Article 7 of the Design Protection Act (hereafter referred to only as "the Act"),
- 9) information concerning a request for the postponement of registration, if applicable.

The application shall include:

- 1) three copies of each graphic or photographic reproduction showing the design clearly. When applying for protection for a decoration such illustration must show the decoration on a product,
- 2) power of attorney, if the applicant has an agent,
- 3) proof of the right of the applicant to the design if the applicant is not the designer.

The time limit for submitting power of attorney and proof of the right of the applicant to the design is three weeks from the date the application was received.

The prescribed application fee shall accompany the application.

Article 2

The following may be included in an application:

- 1) a description of the design,
- 2) a model of the design,
- 3) specification of the product for which the design is to be registered,
- 4) specification of the classifications to which the applicant considers the design to belong.

The applicant may only submit the above-mentioned documentation and information when filing the application.

The registration authorities may, however, request the submission of such documentation later if considered necessary for purposes of clarification.

The description shall contain a short explanation (max. 150 words) of what protection is sought for. It shall mention the main aspects which make the design unique. Such description shall neither discuss the advantages of the design nor make any contention as to its value.

The name of the design shall serve primarily to explain the illustration. The name of the design does not limit the scope of protection. In the case of multiple registration each design must have its own name.

Article 3

The application and description shall be in Icelandic. Other accompanying documents may be in Icelandic, Danish, Norwegian, Swedish or English.

The registration authorities may demand that an authorised translator, or other party recognised by the registration authorities, attest to the translation of the accompanying documents.

Article 4

Three copies of each illustration of a design shall be filed, no larger than A4 (21 cm x 29.7 cm). Each illustration may only show one design from a single point of view. If more than one illustration is submitted of the same design they shall be distinguished from each other and lettered or numbered in the proper order. Words of explanation may appear on the illustrations (e.g. "up", "down", "cross-section"). The illustrations and written text must be suitable for offset reproduction in black and white and be reproducible in various sizes. If registration in colour is requested, one copy of the illustration shall be in colour.

If an applicant submits a model of a design it must be of durable material. The model may not weigh more than 4 kg and shall be encompassable within a cube having 40 cm long edges. Models made of sensitive or dangerous materials may not be submitted.

Should more than one design be involved in the application, illustrations of each individual design must be submitted. Illustrations of the same design shall have the same number. There must be clear indication as to which illustrations belong to which design.

Article 5

The registration authorities shall mark each application with the date of filing and give it an application number.

An application is considered to have been received if it includes:

- 1) the name and address of the applicant,
- 2) the name and address of the designer,
- 3) a request for the registration of the design,
- 4) illustrations, i.e. drawings or photographs which show the design clearly, or a model of it,
- 5) application fee.

An application sent by facsimile is considered to have been received if the documents, especially the illustrations, are sufficiently clear and evidence is included that payment has been made. The applicant must, however, file the original documents within 14 days of the receipt of the facsimile.

An application which is filed without the payment of the required fees is not considered to have been received. The registration authorities shall, however, preserve the application for one week, at the end of which it shall be dismissed if payment has not been received.

The object of an application may not be altered after it has been received.

Article 6

The registration authorities shall classify the design in accordance with the provisions of the Locarno Agreement of 8 October 1968, cf. the Annex to this Regulation.

The applicant or his agent shall be notified of the classification of the design and given a time limit of at least one week to submit his comments on the classification. The registration authorities shall make the final decision as to classification.

CHAPTER II

Journal

Article 7

The registration authorities shall keep a computerised journal of applications received.

The following information for each application shall be entered into this journal:

- 1) the application number and date of filing,
- 2) the name and address of the applicant,
- 3) if the applicant has an agent, his name, address and identification number,
- 4) the name and address of the designer,
- 5) the name of the design,
- 6) whether protection is sought for appearance and composition of a product or a decoration,
- 7) whether protection is sought for the design in colour,
- 8) which of the applicants, in cases where more than one person is applying jointly for a design, shall be empowered to receive notifications from the registration authorities,
- 9) the name of the country where a prior application was filed if priority is claimed on its basis, in addition to the number and date of filing,
- 10) information concerning a request by the applicant for the postponement of registration,
- 11) information on fees paid concerning the application,
- 12) information as to the processing and progress of the application.

Information shall be available from the journal concerning applications which have already been made accessible to the public. Up until that time, however, the registration authorities may provide any information mentioned in the second paragraph.

Article 8

Should notification be received of the transfer of ownership of a design for which registration has been sought, the name of the new applicant shall only be entered into the journal if proof of the transfer is provided.

CHAPTER III

Priority

Article 9

In order to benefit from priority, in accordance with Article 7 of the Act, an applicant must request this in his application and specify where the application, upon which the claim of priority is based, was filed, its date and application number.

Article 10

The registration authorities may require that priority be confirmed within a certain period of time, by means of a certificate from the registration authorities who received the application upon which the applicant is basing his priority. The certificate shall specify the date of filing and the name of the applicant. The registration authorities may, in addition, require a copy of the application together with illustrations of the design.

Should the above-mentioned documentation not be received by the time prescribed the right to claim priority shall lapse.

If a claim of priority is withdrawn this shall be notified in writing.

Article 11

An application may only serve as the basis for priority if it is the first involving the design in question.

Should the applicant of the first application, or a transferee, subsequently have filed an application concerning the same design at the same location, the latter application may, however, serve as the basis for a claim of priority if the former application has been withdrawn upon the delivery of the latter, or dismissed or rejected

before it was made accessible to the public, and provided that no rights or claim of priority are based upon it. If priority has been established on the basis of such a subsequent application, priority may not be based on the former application.

Article 12

When protection is sought for more than one design in the same application priority may be claimed for each individual design. A claim for priority may be based on applications from more than one State.

CHAPTER IV

Division

Article 13

If an application, in the opinion of the registration authorities, covers more than one design the applicant shall be given the opportunity to divide it into two or more applications. The applicant shall be allowed a time limit of two weeks to this end. This time limit shall be calculated from the date upon which the applicant filed the original application or the date of the letter from the registration authorities concerning the necessity of division.

An applicant may also submit a request for division within two weeks of filing even though the registration authorities have not made any suggestions to this effect.

At the request of the applicant any new application may be considered as having been filed the same day as the original application.

An application, which arises from the division of an original application, must include the date of filing and application number of the original application.

CHAPTER V

Search

Article 14

If a search by the registration authorities reveals that an application does not fulfil the requirements of Articles 1 and 3 of the Act, it shall be rejected. Before an application is eradicated the applicant shall be given the opportunity to explain his case and/or seek the required authorisations for marks or symbols included in the design. If an applicant's explanation or documentation does not give grounds for altering the previous conclusion of the registration authorities, the application shall be eradicated from the Register of Designs forthwith.

Should an application fail to comply with the requirements of Articles 14, 15 and 17 of the Act, the applicant shall be notified of formal errors in the application as soon as possible. The notification shall include information to the effect that the application may be dismissed if the errors are not rectified within four weeks' time.

Article 15

Only designs registered in this country and designs for which registration has been sought and which have been made accessible to the public form the basis of a search in accordance with Article 18 of the Act.

If a search is requested in accordance with the first paragraph of Article 18 of the Act, unconnected to an application, the results of such search shall not affect the handling of a subsequent application for that design.

Should the registration authorities refuse to register a design on the basis of a search carried out at the demand of the applicant, the applicant shall be notified of such as soon as possible. The notification shall explain the reasons for the rejection of the registration. An applicant shall be allowed a time limit of two months to express himself concerning the rejection before an application is dismissed.

CHAPTER VI

Registration

Article 16

When an application for design fulfils the requirements specified in the Act and the demands made concerning applications in this Regulation, the design shall be registered and the proprietor sent a confirmation of the registration.

CHAPTER VII

Register of Designs

Article 17

The registration authorities shall keep a register of registered designs.

The Register of Designs shall include the following information:

- 1) the numbers of application and registration,
- 2) the name and address of the registered proprietor,
- 3) if the proprietor has an agent, his name, address and identification number,
- 4) the name and address of the designer,
- 5) the name of the design,
- 6) whether protection concerns the appearance and composition of a product or its decoration,
- 7) whether protection is sought for the design in colour,
- 8) the classification or classifications to which the design is considered to belong,
- 9) information as to the products which are to be characterised by the design, if available,
- 10) the date upon which the application was:
 - a) received, or considered to have been received,
 - b) registered,
 - c) made accessible to the public, if this was not done concurrent with the date of registration,
 - d) published,
- 11) which of the applicants, in cases where more than one person is applying jointly for a design, shall be empowered to receive notifications from the registration authorities,
- 12) if priority is claimed, information as to where an application upon which a claim of priority is based was filed, its date of filing and number,
- 13) illustrations of the design.

If the registration covers more than one design, cf. Article 17 of the Act, they shall have only one joint registration number.

Article 18

Should the registration authorities receive on the same date more than one application which involves the same or similar designs and is not from the same applicant, this shall be mentioned in the Register of Designs and in the registration document. The application or registration number of the design which is the same as or similar to the design concerned shall be indicated.

The same shall apply if an applicant has on the same date submitted more than one application for registration of similar designs.

Article 19

Court actions on the basis of Articles 11 and 25 shall be indicated in the Register of Designs.

If the registration authorities declare a registered design invalid on the basis of Article 26 of the Act, the design shall be eradicated from the Register of Designs. A design shall not be eradicated, however, until the time limit allowed for referring the case to the Committee of Appeal has expired.

The party initiating proceedings on the basis of Articles 11 or 25 of the Act shall provide the registration authorities with a copy of the verdict so that the Register of Designs may be altered in accordance with the decision of the court. The Register of

Designs shall not, however, be altered in accordance with a verdict from a district court until the appeal period has expired.

The result of court action in accordance with Articles 11 or 25 of the Act shall be published in the publication of the registration authorities.

Article 20

A party acquiring the right to a registered design, cf. Article 34 of the Act, shall notify the registration authorities of such in writing. The notification shall include the name, address and identification number of the proprietor, the date as of which he acquired the right and when the change of ownership took place.

Upon request, it shall be recorded in the Register of Designs whether the right of a licensee to grant licenses is limited.

Notification of a change of agent, as well as change of name or address of a proprietor, shall be entered in the Register of Designs.

Notifications in accordance with the first to third paragraphs shall be in writing and shall be accompanied by the necessary documentation and the prescribed fee. Notifications shall be published in the publication of the registration authorities.

Article 21

Registration authorities may require that signatures on a transfer, licence or declaration that a design has been eradicated be attested to by a notary public, lawyer or two witnesses. Registration authorities may also require attestation to the signatures on other documents if considered necessary.

CHAPTER VIII

Publication

Article 22

Once a design has been registered it shall be published as soon as possible in a special publication of the registration authorities. Such publication shall include, in addition to clear illustrations, the following information:

- 1) the numbers of application and registration,
- 2) the date of filing,
- 3) the name and address of the applicant,
- 4) if the applicant has an agent, his name, address and identification number,
- 5) the name and address of the designer,
- 6) the name of the design,
- 7) whether the registered design concerns the appearance and composition of a product or its decoration,
- 8) the classification or classifications to which the design is considered to belong,
- 9) whether protection is sought for the design in colour,
- 10) information on priority, together with information as to where an application for which priority is claimed was filed and the filing date and number of that application,
- 11) illustrations showing the design,
- 12) when the application was made accessible to the public, if this was not done concurrent with the date of registration.

CHAPTER IX

Postponement of Registration

Article 23

A request for the postponement of registration, cf. the third paragraph of Article 21 of the Act, shall be made in the application. Such applications shall at first receive the same processing as other applications, until the point of registration is reached.

When an application in accordance with the first paragraph complies with the requirements of the Act and this Regulation, the applicant shall be notified of such as soon as possible.

Article 24

Should a request for postponement of registration in accordance with the third paragraph of Article 21 of the Act be submitted all documents which concern an application shall be kept secret until the design is registered. However, a notification of the filing of an application, together with the following information, shall be published in the publication of the registration authorities:

- 1) the name and address of the applicant and his identification number, if the applicant does not have an agent,
- 2) the date of filing,
- 3) for how long the registration is to be postponed,
- 4) the classification or classifications to which the design is considered to belong.

When the period for which registration was to be postponed has expired, the registration shall be published in the publication of the registration authorities.

CHAPTER X Invalidation

Article 25

The publication of the registration authorities shall include information on means to have a registered design invalidated.

Article 26

Should the registration authorities receive written objection to an application, before the design applied for is registered, the applicant shall be notified of such. The party submitting the objection shall be informed of the possibility of claiming invalidation of registered design protection. Such objection shall not result in further action on the part of the registration authorities.

Article 27

Registration authorities do not issue rulings on the right to ownership of a design. Registration authorities shall dismiss opposition which concerns the right to a specific design and inform the opponent of remedies provided for by Article 11 of the Act.

Article 28

A claim for the invalidation of registered design protection shall be submitted to the registration authorities in writing in two copies.

The claim shall include the following information:

- 1) the name and address of the claimant,
- 2) the registration number and name of the design for which invalidation is claimed, together with the name of its proprietor,
- 3) if the claimant has an agent, his name, address and identification number.

A claim of invalidity shall be reasoned and shall be accompanied by the documentation necessary for verification.

A claim of invalidity shall be accompanied by the prescribed fee.

If a court has already reached a verdict in a case concerning the same subject and the same parties, the claim of invalidity shall be dismissed.

Article 29

Should a claim of invalidity fail to fulfil the requirements of Article 26 of the Act, or the first, second and fourth paragraphs of Article 28 of this Regulation, it shall be rejected.

If the basis of the claim of invalidity is declared, but the claim not reasoned further or if documentary proof is lacking, the opponent shall be allowed a time limit of four weeks to submit further arguments and/or documentary proof.

Article 30

A proprietor of a design shall be informed as soon as possible of a claim for its invalidation and be allowed a time limit of two months to express himself.

A proprietor of a registered design shall be sent copies of all correspondence and documentation submitted by the claimant for invalidation of a design and *vice versa*.

If written communication is sent to a proprietor of a registered design concerning the handling of substantial aspects of the case the claimant for invalidation of a design shall also be sent a copy concurrently.

After a proprietor of a registered design has responded to the claim of invalidity, the registration authorities shall decide on whether further correspondence between the parties is necessary.

Article 31

If the registration authorities consider it necessary for the handling of the invalidation case for the parties to have the opportunity of expressing themselves orally, the presence of both parties shall be requested.

Article 32

Notification that a claim of invalidity of a design has been submitted shall be published in the publication of the registration authorities.

The following information shall be included in the notification:

- 1) the name of the proprietor,
- 2) the date of filing and application number,
- 3) the date and number of registration,
- 4) the name of the design,
- 5) the classification to which the design is considered to belong,
- 6) the name of the person advancing the claim of invalidity.

Notice of claims for invalidation pending a court decision shall also be published.

Article 33

The parties to the invalidation case shall procure their own evidence. The decisions of the registration authorities in invalidation cases shall be based only upon the facts, evidence and arguments which the parties are able to present.

If the position of the parties and their arguments are not evident from the documents in the case, the parties shall have the opportunity to express themselves on the substance of the case twice before the registration authorities make their decision, provided this is not obviously unnecessary.

The registration authorities may set a time limit for the parties to acquaint themselves with the circumstances of the case and express themselves thereupon.

When the parties have had an opportunity of expressing themselves in accordance with the above the registration authorities shall notify them that the case will be submitted for decision and that no further evidence will be accepted.

Article 34

A copy of the final decision of the registration authorities concerning a claim of invalidity shall be sent to both the proprietor of a design and the person claiming invalidation. Registration authorities shall always provide reasons for their final decision.

If the time limit for referral in accordance with Article 30 of the Act has expired without the decision of the registration authorities concerning the invalidation having been referred to the Committee of Appeal, the decision shall be published in the publication of the registration authorities.

CHAPTER XI

Renewal

Article 35

An application for renewal of a registered design must be submitted in writing to the registration authorities on an application form for this purpose. The provisions of Article 1 shall apply to renewal as appropriate.

An application for renewal shall be accompanied by the prescribed fee.

If an application for renewal is flawed the applicant shall be accorded a brief time limit to correct the application. If an application is not corrected within the time limit allowed it shall be rejected, the applicant notified of this and the registered design eradicated from the Register of Designs, provided the period of its registration has expired.

Renewal of registration shall be entered in the Register of Designs and notification of such published in the publication of the registration authorities. This shall include the registration number of the design and the date when registration shall be considered to expire.

CHAPTER XII Miscellaneous provisions

Article 36

A request that a design be eradicated from the Register of Designs must be signed by the proprietor of the design.

If a license is registered in the Register of Designs, the design may only be eradicated if the proprietor proves that the licensee has been informed of this intention.

Notification that a design was eradicated from the Register of Designs, or that the right to a design has been transferred to another name in accordance with a final court decision, shall be published.

Article 37

This Regulation is set in accordance with the Design Protection Act, No. 48/1993, and shall enter into force 21 May 1994.

Ministry of Industry, 25 March 1994.

On behalf of the Minister,
Porkell Helgason

Ásta Valdimarsdóttir

31 May 1996

No. 285

REGULATION
amending the Regulation on registration
of a design, No. 178/1994

Article 1

Article 9 shall read as follows:

Priority in accordance with Article 7 of the Act may be based on an application for protection which has been filed in a State which is a party to the Agreement on the World Trade Organisation (WTO). Priority may also be based on an application for protection which has been filed in a State which is not a party to the Agreement on the World Trade Organisation if Icelandic applications for design enjoy similar rights in that State and its legislation complies in general with the Paris Convention.

Article 2

Article 10 shall read as follows:

To enjoy priority in accordance with Article 7 of the Act the applicant must advance this claim in his application and specify where an application, for which priority is claimed, was filed, its date of filing and application number.

Registration authorities may require that priority be confirmed within a certain period of time, by means of a certificate from the registration authorities who received the application upon which the applicant is basing his priority. The certificate shall specify the date of filing and the name of the applicant. The registration authorities may in addition require a copy of the application together with illustrations of the design.

Should the above-mentioned documentation not be received by the time prescribed the right to claim priority shall lapse.

If a claim of priority is withdrawn this shall be notified in writing.

Article 3

This Regulation is set by authorisation of Articles 40 and 7 of the Design Protection Act, No. 48/1993, cf. Act No. 36/1996, and shall enter into force 1 June 1996.

Ministry of Industry, 31 May 1996.

Halldór Ásgrímsson

Steinunn Bjarman