

DENMARK

Designs Regulations

as amended on September 18, 2001

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Appendix 1 List of design classes under the Locarno Agreement

Part 1

1. Design application

Applications for registration of designs shall be filed with the Patent and Trademark Office, from whom application forms shall be available free of charge.

2. Content of the application

(1) The application shall indicate:

(i) the name or company name of the applicant and the applicant's mailing address,

(ii) reproductions illustrating the design and, if necessary, a model of the design in accordance with section 4 of this Order, cf. section 13(3) of the Designs Act,

(iii) a specification of the product in connection with which the design will be used (product specification),

(iv) the class or classes in which the product is categorized under the Locarno Agreement of international classification of industrial designs, cf. Appendix 1.

(2) The application shall furthermore indicate:

(i) a request for priority under section 16 of the Designs Act and information in pursuance of sections 5 and 7 if the applicant claims priority,

(ii) the name or company name of an agent and the agent's mailing address, if the applicant is represented by an agent, together with a power of attorney except where a power of attorney is unnecessary because the agent is a solicitor or a trademark or patent agent entitled to represent the applicant in relation to the Patent and Trademark Office,

(iii) the name of the designer, including the design group or company, and the designer's mailing address, if a request is being made for registration of one or more designers in the design register, cf. section 13(4) of the Designs Act,

(iv) information as to who shall be authorized to receive notification from the Patent and Trademark Office on behalf of all applicants, if design registration is applied for by several persons acting jointly and they are not represented by an agent,

(v) a statement of the period for which publication of registration should be deferred, if the applicant requests deferment under section 18, last sentence, of the Designs Act,

(vi) a statement to the effect that the design shall be registered in colour if protection is to include the design in colour.

3.

(1) The application and documents accompanying the application shall be in Danish, Norwegian or Swedish. The Patent and Trademark Office may require that the product specification shall be in Danish.

(2) If the application or accompanying documents are in a language other than stipulated in (1) above, a translation shall be filed. The translation shall be certified by a sworn translator or certified in any other form considered necessary by the Patent and Trademark Office.

(3) The Patent and Trademark Office can waive the request for translation.

4.

(1) Reproductions shall illustrate only the design and can be photographs or drawings. Reproductions shall be suitable for black-and-white printing, if necessary of a different size. Reproductions of the design shall be filed in duplicate on sheets of A4 paper.

(2) Where the design is sought registered in colour, the reproductions shall illustrate the colours to which the design right shall apply.

(3) Where the applicant files a model of the design, the model shall not exceed 40 cm in any direction and shall not weigh more than four kg. The model shall be of a durable nature and shall not be made of or contain hazardous materials.

(4) Where an application relates to more than one design, cf. section 15 of the Designs Act, a separate reproduction shall be given of each design. Reproductions and models, if applicable, shall be marked clearly with consecutive numbers for each design. If there is more than one reproduction of an individual design, the number must be supplemented by a letter for each reproduction.

5. Priority

(1) Where priority is claimed under section 16(1)-(3) of the Designs Act, this shall be explicitly stated in the application. Priority cannot be claimed after the application has been filed with the Patent and Trademark Office.

(2) A claim of priority shall contain information as to from which date and from which country priority is claimed and shall state the number of the application claimed. This information shall be filed with the Patent and Trademark Office not later than one month after the date of application. If the applicant does not provide the said information by the stated time-limit, priority shall not be obtained.

(3) The Patent and Trademark Office can demand proof of the priority claimed in the form of submission of a certificate from the authority which received the original application. The certificate shall state the date of filing of the original application and the name of the applicant or company. The Patent and Trademark Office can also demand from the said authority a certified copy of the application and accompanying reproductions of the design. If the applicant does not provide the required proof by the stated time-limit, priority shall not be obtained.

(4) Withdrawal of priority shall be effected by separate letter.

6.

(1) In order for an application to form the basis of priority under section 16(1)-(3) of the Designs Act, the application shall be the first in which the design is given.

(2) An application may, however, be claimed as the basis of priority notwithstanding that it is not the first in which the design is given, provided:

(i) the first application has been withdrawn, shelved or refused without the design having been made available to the public when the later application was filed,

(ii) the first application does not form the basis for any subsisting right,

(iii) the first application has not served as the basis for any claim of priority, and

(iv) the later application has been filed with the same office as the first one and by the same applicant or the legal successor of that applicant.

7.

(1) Where priority is claimed under section 16(4) of the Designs Act, this shall be explicitly stated in the application. Priority cannot be

claimed after the application has been filed with the Patent and Trademark Office.

(2) A claim of priority shall contain information concerning the exhibition at which the design has been displayed and the time at which the design was first displayed at the exhibition. This information shall be submitted to the Patent and Trademark Office not later than one month after the date of application. If the applicant does not provide the said information by the stated time limit, priority shall not be obtained.

(3) The Patent and Trademark Office can demand proof of the priority claimed in the form of submission of a statement by the responsible management of the exhibition. If the applicant does not provide the said proof by the stated time limit, priority shall not be obtained.

(4) Withdrawal of priority shall be effected by separate letter.

8.

Where an application concerns more than one design, cf. section 15 of the Designs Act, priority under section 16 of the Act may be claimed for one or more designs in the application.

Part 2

9. Processing of the application

When the applicant for design registration has paid the prescribed fees pursuant to section 13(5) of the Designs Act, the Patent and Trademark Office will begin the processing of the application.

10.

(1) The Patent and Trademark Office shall mark the application with an application number and the date on which it was filed. Where the application is not accompanied by reproductions or a model at the time the application is filed, an application date shall not be given in respect of the application until such time as the Patent and Trademark Office receives reproductions or a model of the design, cf. section 14(1) of the Designs Act. If the Office receives neither reproductions nor a model before the expiry of the stipulated time limit, the application shall be refused.

(2) Where the Office does not receive reproductions illustrating the design suitable for reproduction, cf. section 4 of this Order, before the expiry of the stipulated time limit, the application shall be refused.

(3) Where an application concerns more than one design, cf. section 15 of the Designs Act, all such designs shall be given the same application number and application date.

11. Supplementary examination

(1) A supplementary examination conducted by the Patent and Trademark Office pursuant to section 17(2) of the Designs Act includes a search of existing Danish design registrations and pending design applications. The search also includes Danish design registrations which have been cancelled during the five-year period prior to the date of filing of the application. Where the Office has knowledge of other facts which may be of significance in protecting the design, these will be included in the supplementary examination of the design.

(2) Where an application concerns more than one design, cf. section 15 of the Designs Act, the supplementary examination by the Patent and Trademark Office relates only to that or those design(s) listed in the request for the supplementary examination.

12.

(1) The Patent and Trademark Office shall prepare a report (search report) for the applicant on the basis of the supplementary examination under section 11 of this Order.

(2) The supplementary examination is only for the guidance of the applicant and cannot be grounds for refusal of registration.

Part 3 Registration and publication

13. Registration

The Patent and Trademark Office shall register the design when the application is in accordance with the stipulated requirements, cf. section 18, first sentence, of the Designs Act, and shall send a registration certificate to the proprietor of the design or his agent. Where an application concerns more than one design, cf. section 15 of the Act, all such designs shall be given the same registration date and registration number.

14.

(1) Where the Patent and Trademark Office during its supplementary examination finds nothing of significance to the design applied for, the design shall be registered forthwith unless the applicant has requested deferment of registration. Registration can be deferred for up to two months and in special circumstances it can be further deferred.

(2) Where during the supplementary examination matters come to light which are of significance to the design applied for, the design shall be registered two months after the date stated in the search report. If before expiry of the time limit the applicant has requested that the design be registered, the design shall be registered forthwith. At any time during the period prior to expiry of the time limit the applicant can withdraw the application or request deferment of registration.

15. Publication

Publication of a design registration in pursuance of section 18, second sentence, of the Designs Act shall include:

- (i) the name or company name of the proprietor of the design and the proprietor's mailing address,
- (ii) the name or company name of an agent and the agent's mailing address, if the applicant is represented by an agent,
- (iii) reproductions illustrating the design,
- (iv) product specification,
- (v) the class or classes in which the product is categorized under the Locarno Agreement of international classification of industrial designs, cf. Appendix 1,
- (vi) application number and application date,
- (vii) registration number,

(viii) priority date and information on the country in which the original application was filed and the number of the application, if priority has been granted pursuant to section 16(1)-(3) of the Designs Act,
(ix) priority date and information on the exhibition at which the design was displayed, if priority has been granted in pursuance of section 16(4) of the Designs Act,
(x) the name of the designer, including the design group or company, and the designer's mailing address, if a request is being made for registration of one or more designers in the design register, cf. section 13(4) of the Designs Act,
(xi) information, if applicable, on a model of the design which may have been filed, and
(xii) information to the effect that the design is registered in colour, if this is the case.

16.

(1) Publication pursuant to section 18, second sentence, section 24(4) and section 33(1) of the Designs Act shall be in the Danish Industrial Design Gazette published by the Patent and Trademark Office.

(2) Publication of any renewal of a design registration, cf. section 24(4) of the Designs Act shall include details of the registration number and of the date of renewal or expiry of the registration period.

(3) The Patent and Trademark Office shall also publish information on other matters of significance to the design right, including information on licences, mortgages, bankruptcy, etc., cf. section 51(1) of the Designs Act.

Part 4

17. Design register

The Patent and Trademark Office shall keep a register of designs applied for and registered in Denmark.

18.

(1) The design register shall record:

- (i) the name or company name of the applicant and the applicant's mailing address,
- (ii) the name or company name of the proprietor of the registration and the proprietor's mailing address,
- (iii) reproductions illustrating the design,
- (iv) product specification,
- (v) the class or classes in which the product is categorized under the Locarno Agreement of international classification of industrial designs, cf. Appendix 1,
- (vi) application number and application date,
- (vii) registration number and date of registration, and
- (viii) renewal date or expiry date for the registration period.

(2) The design register shall also record:

- (i) priority date and information on the country in which the original application justifying priority was filed and the number of the application, if priority has been granted pursuant to section 16(1)-(3) of the Designs Act,
- (ii) priority date and information on the exhibition at which the design was displayed, if priority has been granted in pursuance of section 16(4) of the Designs Act,
- (iii) the name or company name of an agent and the agent's mailing address, if the applicant is represented by an agent,
- (iv) the name of the designer, including the design group or company, and the designer's mailing address, if a request is being made for registration of one or more designers in the design register, cf. section 13(4) of the Designs Act,
- (v) information on who shall be authorized to receive notification on behalf of all applicants, if design registration is applied for by several persons acting jointly and they are not represented by an agent,
- (vi) a statement of the period for which publication of registration should

be deferred, if the applicant has requested deferment under section 18, third sentence, of the Designs Act,

(vii) the number of the separated applications, if the application has been subdivided, cf. section 22 of this Order,

(viii) the number of the separated registrations, if the registration has been subdivided, cf. section 23 of this Order,

(ix) the number of the original application, if the application is the result of a subdivision, cf. section 22 of this Order,

(x) the number of the original registration, if the registration is the result of a subdivision, cf. section 23 of this Order,

(xi) information on material received in connection with the case, including correspondence, notices, accompanying documents, models, etc., and fees paid,

(xii) information on registration of the design in colour, if the applicant has so requested,

(xiii) notification of the final decision in the proceedings, cf. section 27(1) and section 31(1) of the Designs Act,

(xiv) information on transfer, licence, mortgage, bankruptcy, etc., cf. section 51(1) of the Designs Act,

(xv) other information of significance to the design right.

(3) When the Patent and Trademark Office receives notification of changes in circumstances relating to sub-sections (1) and (2) hereof, such changes shall be recorded in the design register.

Part 5

19. Administrative examination

(1) A request for administrative examination in pursuance of section 25 of the Designs Act shall include a reason, and the prescribed fee shall be paid.

(2) The request and subsequent letters from the parties in the case shall be submitted to the Patent and Trademark Office in duplicate.

(3) Where a request for administrative examination is made in respect of a registration containing more than one design, cf. section 15 of the Designs Act, the request shall stipulate how many designs the Patent and Trademark Office shall examine.

20.

(1) Where the Patent and Trademark Office receives more than one request for an administrative examination in respect of the same design registration, the Office shall notify the parties to this effect.

(2) The Patent and Trademark Office can process simultaneously more than one request for administrative examination in respect of the same design registration. The Office can suspend the processing of one or more requests if engaged in the processing of another request for administrative examination.

(3) Where a registration is cancelled completely, suspended requests for administrative examination shall be deemed to be withdrawn.

21.

The decision of the Patent and Trademark Office in response to a request for administrative examination shall be communicated to all parties in the matter.

Part 6

22. Subdivision of applications and registrations

(1) Where an application relates to more than one design, cf. section 15 of the Designs Act, the applicant can request the Patent and Trademark Office to subdivide the application into two or more applications. A request for subdivision shall contain details of the original application number and of which design should be included in the individual application after subdivision.

(2) When a request for subdivision has been processed, the separated application shall be given an independent application number.

(3) A separated application shall be given the same application and priority date as the original application.

23.

(1) Where a registration relates to more than one design, cf. section 15 of the Designs Act, the proprietor of the design can request the Patent and Trademark Office to subdivide the registration into two or more registrations. A request for subdivision shall contain details of the registration number for the original registration and of which design should be included in the individual registration after subdivision.

(2) When a request for subdivision has been processed, the separated registration shall be given an independent application number.

(3) A separated registration shall be given the same application, priority and registration date as the original registration.

Part 7

24. Other provisions

A time limit stipulated by the Patent and Trademark Office shall be calculated from the date of the letter from the Office. The time limit is two months unless otherwise stipulated under this Order or in the event of special circumstances, which may justify a longer time limit.

25.

(1) Correspondence, notices, accompanying documents, etc., received after the application has been filed with the Patent and Trademark Office shall be in Danish, Norwegian or Swedish.

(2) If correspondence, notices, accompanying documents, etc., are in a language other than stipulated in (1) hereof, a translation shall be filed. The translation shall be certified by a sworn translator or certified in any other form considered necessary by the Patent and Trademark Office.

(3) The Patent and Trademark Office can waive the request for translation.

26.

In the processing of applications, etc., the Patent and Trademark Office may, when necessary, request further documentation in the matter.

27.

The Patent and Trademark Office shall retain any model submitted, cf. section 13(3) of the Designs Act, for a period not exceeding five years after termination of the registration period. If during this period the owner of the model has not requested that the model be returned, the Office can destroy the model.

Part 8

28. Provisions as to entry into force

(1) This Order shall enter into force on 1 October 2001.

(2) On that date, Order No. 377 of June 19 1998, concerning applications for and registration of designs shall be repealed.

(3) Order No. 377 of June 19 1998, shall, however, continue to apply in respect of registered designs and the processing of design applications filed with the Patent and Trademark Office before 1 October 2001, cf. section 60(3) of the Designs Act.

Appendix 1 List of design classes under the Locarno Agreement

Class 1 Foodstuffs

Class 2 Articles of clothing and haberdashery

Class 3 Travel goods, cases, parasols and personal belongings, not elsewhere specified

Class 4 Brushware

Class 5 Textile piecegoods, artificial and natural sheet material

Class 6 Furnishing

Class 7 Household goods, not elsewhere specified

Class 8 Tools and hardware

Class 9 Packages and containers for the transport or handling of goods

Class 10 Clocks and watches and other measuring instruments, checking and signalling instruments

Class 11 Articles of adornment

Class 12 Means of transport or hoisting

Class 13 Equipment for production, distribution or transformation of electricity

Class 14 Recording, communication or information retrieval equipment

Class 15 Machines, not elsewhere specified

Class 16 Photographic, cinematographic and optical apparatus

Class 17 Musical instruments

Class 18 Printing and office machinery

Class 19 Stationery and office equipment, artists' and teaching materials

Class 20 Sales and advertising equipment, signs

Class 21 Games, toys, tents and sports goods

Class 22 Arms, pyrotechnic articles, articles for hunting, fishing and pest killing

Class 23 Fluid distribution equipment, sanitary, heating, ventilation and air-conditioning equipment, solid fuel

Class 24 Medical and laboratory equipment

Class 25 Building units and construction elements

Class 26 Lighting apparatus

Class 27 Tobacco and smokers' supplies

Class 28 Pharmaceutical and cosmetic products, toilet articles and apparatus

Class 29 Devices and equipment against fire hazards, for accident prevention and for rescue

Class 30 Articles for the care and handling of animals

Class 31 Machines and appliances for preparing food or drink, not elsewhere specified

Class 99 Miscellaneous