

BULGARIA

Industrial Design Regulations

Amended up to SG. 32 of 25 Mar 2008

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Chapter one: GENERAL PROVISIONS

Art. 1.

The ordinance shall regulate the way of drawing up and the order of presentation and investigation at the Patent department of applications for registration of industrial design, further on referred to as "the applications".

Art. 2.

(1) One application can include one or several designs.

(2) If the application refers to several designs, the products in which they are included or to which the designs are attached, it is necessary that they belong to:

1. One class of the International classification of the designs and drawings pursuant to the Agreement from Locarno, or
2. One and the same complect, or
3. A composition of articles.

(3) When the multiple application refers to ornaments for the products in which are included or applied the designs the conditions of para 2 shall not be applied.

Chapter two: DRAWING UP AND SUBMITTING AN APPLICATION

Section I Submitting an application

Art. 3.

(1) The application shall be submitted to the Patent department directly, by post or by a telecommunication device sending facsimile or electronic copy.

(2) If the application has been submitted by a telecommunication device under Para 1, the original materials on it shall be submitted to the Patent department within a one-month-term of the receipt of the facsimile or the electronic copy of the application. Applications for registration of design, determined by the specifics of the color combination, shall not be accepted through a telecommunication device sending a facsimile.

(3) The term under Para 2 shall not be considered exceeded when the filing of the materials was made within the term by mail.

Section II Requirements to the application

Art. 4.

(1) The application shall contain the following documents:

1. Application for registration;
2. Copies of the depictions of the design;
3. A document for paid charges;
4. Power of attorney if submitted through a local representative of industrial ownership pursuant to art. 5 of the Law of the industrial design (LID), further on referred to as "the representative";
5. Priority certificate in the event of a claim for a convention priority;
6. A brief description of the peculiarities of the design -up to 100 words, presented on the initiative of the applicant;
7. a written approval for registration by the Ministry of Defence and by the Ministry of Interior regarding industrial design of products related to the defence and security of the state.

(2) The documents shall be submitted in Bulgarian language. If submitted in another language the date of submitting pursuant to art. 31, para 2 LID shall be preserved if within a three month term of that

date they are submitted in Bulgarian translation. Translation of the priority certificate shall be submitted only if need be on the request of the Patent department.

Art. 5.

The application for registration shall be submitted in one copy according to form of the Patent department and shall contain:

1. Identification data of the applicant:

a) when the applicant is a physical person the application shall contain the name, surname and family name, the state of which he is a citizen, or the state in which he has permanent address, as well as his address;

b) when the applicant is a corporate body the application shall include its name, the seat and address of management in compliance with the court registration, the type of the corporate body and the state in which it is engaged in an actual commercial or production activity;

2. Identification data on the representative, if authorised - name and address;

3. Address for correspondence in the Republic of Bulgaria -the address indicated by the applicant or the representative to be used for the correspondence; if no such address has been included, the correspondence shall be sent to the address of the applicant number one in the application; when the applicants are more than one they can include a common address for correspondence.

4. Claim for priority, if any, and in the event of a convention priority stressed shall be the date and state of the preceding application, while concerning a priority of a national application - its entry number;

5. Name and address of the author or the authors of the design;

6. Number of the designs for which is requested protection;

7. List of the products in which the design is either included or attached to, with instructions on the classification index of the International classification of designs and drawings pursuant to the Agreement from Locarno;

8. Depictions of the design;

9. Inventory of the submitted depictions;

10. Inventory of the documents attached to the application;

11. Application for registration representing the personal will of the applicant for registration of the declared design;

12. The name and signature of the applicant or of his representative; when the applicant is a corporate body or one-man dealer indicated

shall be the post of the person who has signed the application and the document shall be affixed with a seal.

Art. 6.

(1) The depiction of the design shall present it in one basic view and in as many additional views as needed (no more than 7) for its clear-cut, complete and detailed reflection. On each depiction there shall be the type of the view, for example "basic view", "rear view", "rear from above", etc.

(2) When the application includes several designs, presented shall be depictions pursuant to para 1 of each one of them. Each design shall be presented in depictions of similar style -photographic or graphical.

(3) The products, to which the design is applied, shall be presented in the position in which they are usually used. Where the products, when normally used, are closed, folded, etc., they shall be presented opened or unfolded.

(4) Concerning a set or composition of articles, there shall be presented depictions pursuant to para 1 of the set or the composition in the mass. To an application for registration of a design of a set or composition may be included also designs of the separate articles from the set.

(5) When the application concerns a packing, a depiction of the unfolded packing can be presented.

(6) The photographic depictions shall be made on even lighting, against a neutral background without any other articles and without retouching. The graphic depictions shall be contrast, drawn in thick lines and shall present the design. The depictions shall be presented on a white non-transparent paper, shall be in good quality, without special effects or hologram signs, so that they can be reproduced. All specifics of the design shall be easily visible.

(7) Where the design specifics are determined by the color composition, color depictions shall be presented.

(8) Where the application concerns a type font, its depiction shall be in font size at least 16 and shall contain at least a sequence of

all small and big letters of the alphabet, of all Arabic numerals, accompanied by a text in the font, covering five rows.

(9) The depictions for every design shall be consequently numbered in Arabic figures, starting from the basic view. If a design has been presented with additional views, each view shall be marked by noting the number of the design, a dot after it and the consequent number of the view.

(10) The size of the depictions shall be no less than 3/4 cm and no bigger than 14/24 cm.

(11) Attached to the application shall also be two copies of every depiction. Written on the reverse side of the copies of the depictions shall be the number according to Para 9.

(12) The depiction of the design on an electronic carrier may be also enclosed with the application.

Art. 7.

(1) The correspondence of the Patent department shall necessarily contain the entry number of the application and the signature of the applicant or his representative.

(2) The correspondence, sent via a communication device, transmitting facsimile or electronic copy, shall be regarded received if the original is presented to the Patent department within a one month's term of the receipt of the facsimile.

The term shall not be considered exceeded, including when the submission of the original was made by mail.

(3) The correspondence from the Patent Office to the applicant or to his representative shall be sent with a proof of delivery certifying the date of its receipt. Where the proof of delivery is not returned within one month or the correspondence is returned by the postal service because the addressee was not found on the address provided by him, on the official internet site of the Patent Office and on the board for notifications in the Patent Office a publication regarding the existence of such correspondence shall be made. The publication shall contain the application number, the name and the address of the applicant or his representative, the name of the design and the type

of correspondence. The time limits established in the correspondence shall commence from the date of removing the publication in the official internet site and the board for notifications.

(4) Where the correspondence to the Patent Office was sent by post, the date of receiving of such correspondence shall be deemed to be the date of the postal stamp of the sending post office. If the date of the postal stamp cannot be read, the date of receiving shall be deemed to be the date of delivery of the correspondence to the Patent Office.

Section III Representation

Art. 8.

(1) If a representative or patent specialist has been authorised under the application pursuant to § 3 of the Ordinance for the industrial property representatives, adopted by Decree N 137 of CM of 1993, attached to it shall be a power of attorney. If the applicants are several and one of them is a Bulgarian physical person or corporate body, the authorisation of a representative is not compulsory. Included in this case shall be an address for correspondence in the Republic of Bulgaria.

(2) The power of attorney under para 1 shall contain:
the name and address of the applicant;
the name, the address and the registration number of the representative in the register of the industrial property representatives;
the entry number and date of filing the application, where available;
the actions for which the representative has been authorised;
the signatures of the applicants;
the date of the authorisation and a seal, if the applicant is a legal person. If a patent specialist has been authorised the power of attorney shall include the number and date of his labour contract.

(3) The power of attorney shall be presented according to a form of the Patent department or in another form chosen by the applicant.

(4) When the presented power of attorney is in another language it shall be legalised in the Consular department of the foreign ministry of the Republic of Bulgaria, unless no legalisation is required under the terms of reciprocity.

(5) If under the power of attorney the representative is authorised under several applications, required shall be a copy of the power of attorney for every application. The agreement of the copies with the original power of attorney shall be certified by the signature of the representative.

(6) If the representative is acting through a re-authorisation, required shall be a power of attorney certifying that the authorising person has such powers. This document or legalised copy of it pursuant to para 5 shall be attached to the power of attorney of the representative.

(7) To withdraw the authorisation the Patent department shall be notified in written.

(8) Explicit authorisation shall be required for withdrawing the application.

(9) Where in the course of the examination a second industrial property representative is authorised, the correspondence shall be carried out with both of the representatives, unless an explicit withdrawal of the authorisation of the first representative is made.

Chapter three: INVESTIGATION

Section I Formal investigation

Art. 9.

(1) Every application filed with the Patent department shall be checked for compliance with the requirements of art. 31, para 2 LID for establishing a filing date.

(2) When the requirements under para 1 have been met the application is entered in the Entry register of the Patent department for the applications for design and the applicant is notified in written of its entry number and the established date of presentation.

(3) If the application has been submitted by a telecommunication device, transmitting facsimile or electronic copies and complies with the requirements under para 1, and the original is received at the Patent department after the term under art. 3, para 2, the date of receipt of the facsimile of the original documents at the department shall be considered as the date of submitting.

(4) When the requirements under Art. 31, Para 2 LID a filing date shall not be established and the filed documents shall be stored in the Patent Office of the Republic of Bulgaria.

Art. 10.

(1) For each application with established date of submitting shall be checked whether a document for paid fees for declaring, expertise and publication of the application has been attached. In case such document has not been attached or the fees paid do not correspond to the amount, provided in the Tariff for the fees, collected by the Patent department, the applicant shall be given three months term to remove this defect. If in this term the fees are not paid, the application shall be considered withdrawn.

(2) In two months term from submitting the document for paid fees every application shall be subjected to formal examination, checking:

1. If the applicant is a person meeting the requirements of art. 2 LID;
2. The presence of the documents under art. 32 LID and the data in them;

3. Whether the designs in a multiple application meet the requirement of Art. 33 LID;
4. The compliance between the inventory, number of the presented depictions and their copies;
5. Whether the provided depictions are clear and made in compliance with Art. 6.

(3) If flaws are established under para 2, the applicant shall be notified of that and shall be granted a three month term for their removal. If the applicant fails to remove the flaws, does not respond or object without any ground, a decision to terminate procedure on the application shall be taken.

(4) If established that included in the application is a representative or a patent specialist, but a power of attorney is not provided or it is not duly drawn up pursuant to art. 8, para 2 and 4, or a person is indicated, who hasn't been entered in the register of the representatives competent in the field of design, the applicant or his representative shall be invited to remove the established flaws within the term under para 3.

(5) If the flaws under Para 4 are not corrected in the cases of compulsory representation under art. 5, para 2 LID, a decision shall be taken to terminate the procedure. If the applicant resides permanently or is seated in the Republic of Bulgaria, the procedure continues and the correspondence is kept directly with him.

(6) If priority is claimed in compliance with the requirements of art. 35, para 2 LID and no priority document has been supplied or no priority fee has been paid, the applicant shall be notified that his priority claim is not accepted and the application priority shall be determined from the date of its submission to the Patent Office.

(7) In case of division of an industrial design application, the divisional applications shall use the filing date, or priority date, of the initial application, if filed within three months from the notification for division, or from the request of the applicant for division of the application, and shall include designs contained in the initial application.

Art. 10a.

Within one month from the end of the formal examination, every application meeting the requirements, shall be published in the Official Bulletin of the Patent Office.

Section II Investigation in essence

Art. 12.

Within one month from expiration of the time limit under Art. 36b, Para 1 LID every application shall be subjected to substantive examination.

Art. 12a.

(1) If the Ministry of Interior and/or the Ministry of Defence express in writing disagreement with the registration of design, which concerns a product, related to the security and defence of the country, the applicant shall be notified thereof in writing and shall be provided three months for a reply.

(2) If, within the time limit under Para 1, the applicant does not provide a written consent or the disagreement is not withdrawn by the competent authorities under Para 1, the Patent Office shall take a decision for termination of the procedure.

Art. 13.

(1) An investigation of the materials under the application and shall assess if design refers to the visible outer appearance of a product or a part of a product and his specifics shall be determined pursuant to the definition under art. 3, para 1 LID.

(2) The department shall assess if the product to which the design is included or attached, can be obtained industrially or by craftsmanship and if it can be reproduced repeatedly. The products obtained by industrial reproduction shall include all specifics of the design.

Art. 14.

An assessment shall be made, if the declared design:

1. Concerns a computer program under Art. 3, Para 2 LID;
2. Falls in the exceptions to art. 11, para 2 LID.

Art. 15.

(1) The determined class under the effective edition of the International Classification shall be checked, and also a sub-class classification shall be made. Where necessary, the determined class shall be corrected and the change shall be notified to the applicant.

(2) A search in the fund of the registered designs shall be made with the aim of establishing if another identical design by the sense of art. 12 LID exists, registered according to the national order or under the order of the Hague Agreement for international registration with effect on the territory of the Republic of Bulgaria prior to the date of submitting the application, respectively prior to the priority date, or whether a Community Design is registered in the Office of Harmonization for the Internal Market, which was published before the date of filing the application, respectively before the priority date.

(3) A search in the fund of the submitted applications according to a national and international order shall be also made, as well as in the database of the Office of Harmonization for the Internal Market for Community Designs, filed after 1 January 2007, to establish if another identical design by the sense of art. 12, para 2 LID exists, which is subject of an application with an earlier date of submitting, a priority date respectively.

(4) The investigation under para 2 and 3 shall be carried out on the basis of applicant submitted depictions of the declared design within the determined classes, as well as in the classes of the products to which the design can be applied or included.

(5) The designs -subjects of earlier applications, found during the search under para 3, shall be taken into account if subsequently registered.

(6) The search shall also include the materials, provided by third parties after the publication of the application. Materials, proving the dissemination or the usage of the design in whatever other way may be also searched.

Section III Passing a decision

Art. 17.

(1) When after a substantive examination it is found that the design meets the requirements of LID, the applicant shall be notified and shall be granted a one month term to pay charges for registration, for issuance of a certificate and for publication.

(2) When within the time limit under Para 1 the due fees are paid, a decision for registration shall be taken, in which shall be noted the registration number of entry of the design in the State register of the designs.

(3) When no due fees have been paid within the time limit under Para 1, the application shall be considered withdrawn.

Art. 18.

(1) When established after an analysis of the results of the investigation that the declared design or some of the designs under an application cannot be registered because they do not meet the requirements of art. 3, Art. 11, Para 2 and 12 LID, the applicant shall be notified thereof and shall be provided a three month term for objections. In the notification shall state all grounds and motives for rejection of the registration.

(2) If the applicant does not respond, within the term granted to him, does not remove the flaws, does not restrict the application to the designs which can be registered, or his objections are assessed as groundless, a decision for rejection of the registration of all applied designs shall be taken. The decision shall be taken not later than a month of the expiration of the term under para 1.

(3) If the objections of the applicant are assessed as substantiated or he restricts the designs' application to the designs which can be registered, valid shall be the actions under art. 17.

Section IV Withdrawal, restriction and changes in the application

Art. 19.

(1) The application for a design can be withdrawn by a written declaration by the applicant till the adoption of a decision on it.

(2) A designs' application can be restricted when the withdrawal

concerns only some of the designs.

(3) The withdrawal or restriction shall be carried out when under the application:

1. There is an explicit written demand which does not contain any additional terms for the withdrawal and has been signed by all applicants or by a person authorised by them with observance of the requirements of art. 16, para 1 LID;
2. No official document has been submitted for the transfer of rights or such a document has been submitted but the application has been signed by the legal heirs or by their representatives;
3. There has been no notification from the court or a third person to the effect that there is an argument on establishing a right to applying.

(4) If the terms under para 3 have been met:

1. On withdrawal of the application the applicant shall be notified that the request for withdrawal was granted and the application shall be considered as not submitted;
2. On restricting the application the applicant shall be informed.

(5) If any of the terms under para 3 is not met the applicant shall be invited to meet it. If he doesn't respond or meet the respective term, the procedure on the application continues for which the applicant shall be notified.

Art. 20.

(1) The application can be amended as follows concerning:

1. The name or address of the applicant;
2. Obvious flaws which do not affect the submitted design.

(2) To carry out the changes and amendments under para 1 the applicant shall submit an explicit request accompanied by a document for paid charge.

Art. 20a.

If, before taking a decision, a request for assignment of rights in one or several designs of a multiple application, the assignee of the right in the application shall be notified that the assignment will be completed, if within three months from receiving the notification he files an application including the assigned designs. The new

application shall use the filing date, respectively the priority date, of the initial application.

Chapter four: SUBMITTING AND REGISTRATION OF A DESIGN BY THE ORDER OF THE HAGUE AGREEMENT FOR INTERNATIONAL PRESENTATION OF INDUSTRIAL DESIGNS

Art. 21.

(1) Concerning an international application to which the Republic of Bulgaria is a party, the Patent department shall carry out an investigation in essence by the order of art. 12 - 16.

(2) Where grounds for refusal of registration have been found, a notification for refusal shall be sent to the International Bureau, stating:

1. all grounds and reasons for refusal;
2. time limits for objection against the reasons for refusal under Art. 37, Para 3 and 7 and Art. 41, Para 1, Item 1 LID.

(3) If an objection is filed within the provided time limits, the correspondence shall be carried out with an authorised representative.

(4) If the objections of the applicant are considered grounded or he restricts the multiple application to the designs, which can be registered, the representative shall be notified and a notification shall be sent to the International Bureau for withdrawal of the refusal, in which shall be stated:

1. which designs are affected by the withdrawal of the refusal, when it does not concern all designs;
2. the date of withdrawal of the refusal.

Art. 22.

(1) The international application under which the Republic of Bulgaria is a country of origin, shall be submitted personally or through a representative directly to the International bureau or through the Patent department.

(2) The application shall be submitted in French or English in one copy, which is a form of the International bureau.

(3) Apart from the depictions of the design, the applicant can also submit copies or miniature models of the design which shall meet the requirements of art. 5, para 3, item 3B of the Hague agreement.

(4) Attached to the application shall be a document for paid charge according to the Tariff of the charges collected by the Patent department.

(5) If the applicant hasn't paid the charges under para 4, he shall be invited, without a one month term, to remove this flaw.

(6) If the Patent department is informed by the International bureau of flaws in the international application, it shall notify the applicant of them and shall grant him a one month term for reply. If the flaws are not removed within the fixed term the application shall be considered as abandoned by the sense of the Hague agreement.

Chapter five: COMMUNITY DESIGN APPLICATION

Art. 23.

(1) When the Community Design application is filed through the Patent Office, it shall be accompanied by a document for paid fee for forwarding.

(2) The Patent Office shall place a date of receipt on the application, shall number the pages in Arabic numerals and shall notify the applicant for the date of receipt, for the type and number of the documents and for the date of forwarding the application.

(3) Within two weeks from its receipt the application shall be sent to the Office for Harmonization of the Internal Market, accompanied by a certificate, containing a description of the documents, filed with the application, and the date of their receipt by the Patent Office.

Transitional and concluding provisions

§ 3.

The investigation of the applications for registration of industrial samples on which there is no final decision by effecting LID shall be carried out by the order of the ordinance.

§ 4.

The ordinance is issued pursuant to para 12 of the transitional and concluding provisions of LID.

§ 5.

The implementation of the ordinance is assigned to the chairman of the Patent department.

Concluding provisions: TO DECREE NO 1 FROM THE 2ND OF FEBRUARY 2006
FOR AMENDMENT AND SUPPLEMENT OF THE ORDINANCE FOR DRAWING UP,
PRESENTATION AND INVESTIGATION OF APPLICATIONS FOR REGISTRATION OF
INDUSTRIAL DESIGN

§. 12.

The ordinance shall also be applicable to applications for industrial design registration, for which the formal expertise has not been concluded till the entrance into force of the ordinance.

Transitional and concluding provisions: TO DECREE NO 50 FROM 17 MARCH 2008 ON AMENDMENT AND SUPPLEMENTATION OF THE ORDINANCE ON DRAWING UP, LODGEMENT AND INVESTIGATION OF APPLICATIONS FOR REGISTRATION OF INDUSTRIAL DESIGN

§ 24.

The amendments and supplementations to the Ordinance, which are specified in the Decree, shall apply also to applications for registration of industrial design, on which no final decision has been taken before its entry into force.

§ 26.

This Decree shall enter into force from the day of its promulgation in the State Gazette.