

LIECHTENSTEIN

Industrial Designs Law

amended by the law of January 9, 1964

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1. General Provisions

Article 1

The Duchy of Liechtenstein awards the rights stated in this Law to the originators of industrial designs and models, and their legal successors.

Article 2

An industrial design or model within the meaning of this Law is an external form, also in conjunction with colours, which is intended to serve as a standard for industrial manufacture of an object.

Article 3

Protection of designs and models does not extend to the method of their manufacture, the intended use or technical effect of the object manufactured in accordance with the design and model.

Article 4

The rights of the author/originator pass to his heirs and can be wholly or partly assigned to third parties.

The author may allow other persons to use his design or model by granting them licences.

Assignment of author's rights and granting of licences to bona fide third parties must be registered in the Register of Designs and Models to be effective.

Article 5

A design or model acquires protection only if it has been registered in accordance with the provisions of this Law.

No person is allowed to use a design or model registered in a valid and due manner for the purpose of distribution or commercial exploitation without the author's or his legal successors' permission before the end of the period of protection.

Article 6

The fact of registration justifies the assumption of novelty in respect of its contents and the correctness of the declared copyright.

Article 7

Designs and models can be registered individually or in blocks.

The number of designs or models registered in each block is only limited by their size and weight; the Government shall set out details on this

point, and on the size and weight of the individual designs or models registered, by ordinance.

Article 8

The maximum period of protection awarded to designs and models is 15 years. This period is calculated in five-yearly periods, the first period commencing on the date of registration, with the subsequent periods following without interruption.

Article 9

Designs and models can be registered in open or sealed envelopes for the duration of the first period of protection of 5 years.

The Government can determine by ordinance that designs and models of certain industries or of a certain type of product could also remain in sealed envelopes throughout the second and third period of protection and that designs and models from certain industries and of a certain type of product are prohibited altogether from being registered in sealed envelopes and must be published by means of an illustration.

Article 10

Fees are payable for each period of protection for each individually registered design or model or for each batch; the fees are set by the Government by ordinance. Their level shall rise at a steep rate from period to period.

The fees for the first period of protection must be paid on registration (Article 15, Para. 2), those for the second and third period are due on their first day in each case.

Article 11

A registration of industrial designs and models lapses if the fee for the continuation of protection is not paid within three months of the date by which it is due.

The validity of a registration of industrial designs and models lapsed due to the fee for extending the validity of protection not having been paid within the required time can be restored if the fee which is due together with the respective renewal fee prescribed for such cases is paid within three months from the date of lapsing.

Article 12

The registration of a design or model is invalid:

1. if it is not novel at the time of registration; a design or model is

regarded as novel in accordance with this Law if it is not known to the public or the interested business circles;

2. when the registering party is neither the author of the design or model nor his legal successor;

3. when, in the case of the object being deposited in a sealed envelope, the registering party relies on contents designed to deceive;

4. when the registered object is not, by its nature, a design or model within the meaning of this Law.

5. when the contents of the registration become entangled in contradictions with regard to legal stipulations or State Treaties or are of an offensive character.

Article 13

Any person who proves his interest in a case has the right to sue for invalidation.

Article 14

Any person who has no fixed domicile in Liechtenstein may only register a design or model and assert his rights arising from such a registration through a representative domiciled in Liechtenstein.

The representative is authorized to provide representation in proceedings which take place in accordance with this Law and in legal disputes concerning the protection of designs and models. The right to apply the legal provisions relating to professional representation in cases of litigation is reserved.

2. Registration

Article 15

To register designs and models with the registration office, an application must be drawn up in the German language, in accordance with the form. The following must be attached to the application:

1. a sample of the design or model which is to be registered, marked with a reference number, either in the form of the industrial product for which it is intended or in the form of another satisfactory representation;
2. the fee for the first period of protection.

The Government can issue additional requirements in respect of those designs and models which are published in illustrated form.

Article 16

The registration office is an intellectual property office appointed for this purpose.

The Government may also name other registration offices for designs and models, as required.

Article 17

Registration applications not compliant with the formalities prescribed by Law or in regulations, and not corrected in accordance with the requirements from the appropriate body must be rejected by the registration office.

The registration office must reject objects submitted in open envelopes or graphic representations which are not designs or models within the meaning of this Law or which are entangled in contradictions with the legal stipulations or State Treaties or are of an offensive nature. These stipulations apply appropriately when a sealed registration is converted into an open one.

Article 17a

An appeal against dispositions/orders issued by the Intellectual Property Office in the matter of designs and models, in particular concerning the rejection of a registration, can be lodged with the Government within 14 days from the date on which the order is served.

Article 18

A design and model registered in due manner shall be entered in the design and model register by the registration office without prior examination of its novelty or the registration party's rights, and the registering

office shall issue a certificate of registration for the registering party.

Article 19

The register of models and designs must contain the following details: the subject of the registration, the type of registration (open or sealed), name and address of the registering party and any of its representatives, the date of registration, the payment of the registration fees and their amount, and changes to the authorized person or to the substance of his rights. These changes are only registered in conjunction with official documents or documents attested to by a public notary.

Article 20

The registering party publishes, on the basis of the entries in the design and model register, the description of the registered designs and models, the type of registration, names and place of residence of the registering parties and their representatives if any, the date and number of the registrations as well as any change in the persons in the registering parties or to the substance of their rights.

The Government specify by ordinance the type of illustration used for publishing designs and models from certain industries or types of product (Article 9).

Article 21

Registrations lodged in sealed envelopes shall be changed into open registrations at any time at the request of a person authorized to make such a request.

Sealed envelopes shall be temporarily opened only on request from an authorized person or following a Court order.

Article 22

Any person can obtain verbal or written information on the contents of the design and model register and can inspect open designs and models in the presence of an official.

The Government prescribe an appropriate scale of charges for this service.

Article 23

The authorized person can renounce legal protection by withdrawing the registered design or model.

If he does not withdraw his design or model, this design or model shall be safeguarded by the registration office for a further three years after the end of the period of protection.

At the end of these three years, the registration office shall return the design or model to the person who has title to it or to his representative or destroy it; it can dispose of it in other ways in special cases.

Article 23a

Any person who makes an international registration of industrial designs or models, acquires the protection of this Law in the same way as if he were registering the designs or models in Liechtenstein. If the provisions of the Hague Agreement Concerning the International Deposit (Registration) of Industrial Designs dated 6 November 1925 award the proprietor of the international registration greater advantages than this Law does, the said provisions take precedence over this Law in all instances.

3. Legal Protection

Article 24

Under the rules below, the following can be prosecuted under civil and criminal Law

1. any person who copies a registered design or model unlawfully or in such a way that a difference between the original and the copy can only be discovered by careful comparison; however, a mere change of colour shall not be regarded as a difference;
2. any person who vends, offers for sale, places on the market or imports an unlawfully copied or imitated object;
3. any person who aids and abets such acts, promotes or facilitates them;
4. any person who refuses to inform the appropriate authorities of the origin of the copied or imitated objects in his possession.

Article 25

Any person who commits any of the acts referred to in Article 24 is liable to pay compensation to the injured party and shall, in addition, be fined between Fr. 15 and Fr. 2500 or sentenced to imprisonment for between one day and six months or fined and imprisoned within the stated limits. These fines and prison sentences can be doubled in the case of recidivism.

Article 26

Committing the offences stated in Article 24 through negligence shall not be punished; on the other hand, the offender shall undertake to compensate the injured party for the harm done.

Article 27

Criminal prosecution shall follow an application by the injured party and in accordance with criminal proceedings.

The Regional Court has jurisdiction over cases concerning an accused with a home address in Liechtenstein or when the offence has been committed here or when a Liechtenstein design or model has been infringed.

Penal proceedings are inapplicable if more than two years have elapsed since the last infringement.

Article 28

Courts of Law must issue any precautionary dispositions which may be regarded necessary, depending on what type of civil or criminal action is involved.

For example, they can order full descriptions to be produced of the allegedly

copied objects, the tools and the equipment exclusively used for copying and, if necessary, have these objects confiscated.

If reasons for confiscation exist, the Court can make the plaintiff provide security which he must deposit before confiscation.

Article 29

The Court of Law may order seizure and exploitation of the attached objects. It can order the tools and equipment intended exclusively for imitating to be destroyed even in the case of acquittal. The net proceeds from other seized objects shall be used for paying the fine, the costs and the compensation payable to the injured party; any surplus shall be returned to the previous proprietor.

Article 30

The Court of Law can arrange for the verdict to be published at the convicted person's expense in the Liechtenstein Press or in one of more other papers.

Article 31

Whoever, being unauthorized, produces his business papers, advertisements or products with a description intended to lead to the mistaken belief that a design or model has been registered in accordance with this Law shall be fined on official or private disclosure between Fr. 20 and Fr. 500 or imprisoned for an appropriate term.

These fines and prison sentences can be doubled in the case of recidivism.

Article 32

Money collected in fines shall be allocated to the country's poors' fund. If imposing a fine does not apply, the Court must deliver a prison sentence on account of uncollectability.

Article 33

The Provincial Court decides as first instance in matters of civil dispute concerning the protection of designs and models.

Appeals are allowed regardless of the value of the matter in dispute and must be addressed direct to the Supreme Court of Appeal.

4. Final Provisions

Articles 34-35 [Repealed]

Article 36

The Government are instructed to issue the necessary decrees for implementing this Law.

Article 37

This Law replaces the existing regulations concerning industrial designs and models.

Those designs and models, since the registration of which two years have not yet passed when this Law came into force enjoy, without further formalities, legal protection for the first five-year period but including the time which has already passed since the registration.

This Law is declared not to be urgent and comes into force on the day of its announcement.

The Government of the Duchy are responsible for implementing it.