

POLAND
Industrial Design Regulations
as amended on June 13, 2005

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Annexes to the Regulation of the Prime Minister of 30 January 2002
(JoL 2002 No 40, text 358 and 2005 No 106, text 893)

Annex 1 FORMAL REQUIREMENTS CONCERNING THE DESCRIPTION OF AN INDUSTRIAL
DESIGN, A DRAWING AND A PHOTO, AS WELL AS OF SAMPLES OF TEXTILES OR
THREADS WITH THE RELEVANT WEAVE

Annex 2 REQUIREMENTS CONCERNING THE DOCUMENTS ANNEXED TO INDUSTRIAL
DESIGN APPLICATION

Annex 3 LIST OF CLASSES

Chapter 1 General provisions

1.

This Regulation sets:

- (i) the detailed requirements for filing industrial design applications;
- (ii) the detailed scope and procedure of processing applications;
- (iii) the manner of making available and dissemination of industrial design specifications.

2.

References in this Regulation to:

- (i) "Law" mean the Act of 30 June 2000 - Industrial Property Law, and references to undefined Articles mean the Articles of that Law;
- (ii) "Patent Office" mean the Patent Office of the Republic of Poland;
- (iii) "applicant" mean the person who is, on its own behalf, filing an industrial design application with the Patent Office.

Chapter 2 Filing of industrial design applications

3.

(1) In addition to a request and a description of the design together with the illustration, the industrial design application, referred to in Article 108(1) of the Law, shall, in particular, include:

(i) where the applicant claims a right of an earlier priority - the priority document;

(ii) where the application contains forms of the industrial design - the applicant's declaration as to which forms the priority document refers (declaration on priority dates);

(iii) where the priority document is not in the name of the applicant - the applicant's statement of his right to enjoy an earlier priority;

(iv) where the industrial design, as filed, includes the signs referred to in Article 131(2)(ii) - (iv) of the Law - a proof of the right or authorization to use such signs in trade;

(v) where the applicant acts through the intermediary of a representative - a power of attorney.

(2) A textile industrial design application may also include samples of the textile fabric.

(3) The documents listed in paragraph (1)(i) - (iii) may also be filed no later than within three months from the filing date of the industrial design application.

4.

(1) In addition to the elements listed in Article 31(1)(i) of the Law, a request in an industrial design application shall contain the following:

(i) the surname and first name or the name of the applicant together with his address or seat, as well as the Tax Identification Number (TIN) and the PESEL number or the REGON identification number, insofar as the applicant has been accorded such numbers;

(ii) where the applicant acts through the intermediary of a representative - the surname and first name of the representative together with his address;

(iii) where the application is filed by a governmental agency or a state organisational unit not being a legal person on behalf of the State Treasury, the name of that agency or that unit;

(iv) a petition for the grant of a right in registration;

(v) the surname and first name of the author of the industrial design together with his address;

(vi) where the applicant and the author of the industrial design are not one and the same person - a statement of the grounds on which the applicant's right to a right in registration is based;

(vii) a list of attachments;

(viii) the signature of the applicant or, where the applicant acts through the intermediary of a representative - the signature of his representative.

(2) The request referred to in paragraph (1) shall also include:

(i) where the applicant wishes to take advantage of the priority of a previous application and he seeks to be granted the priority - a declaration of priority with the indication of at least the date at, and the country in, which the previous application was filed or the name, location and country of the exhibition and the date or dates at which the industrial design remained displayed at the exhibition in question;

(ii) where there are two or more applicants and they do not have a common representative appointed - an indication of the person authorised to be delivered communications.

(3) Where the application is filed by a legal person or by an agency or a unit acting on behalf of the State Treasury, the person who signs the request for the applicant shall, if he/she is not the applicant's representative, indicate his/her official position.

5.

(1) The description of the industrial design, referred to in section 3(1), hereinafter referred to as "the description", shall present the industrial design in a manner clear and exhaustive enough for it to be reproduced, with the help of a drawing, a photo and samples, in any of the forms presented in the application.

(2) The description shall:

(i) include at the beginning a definition of the industrial design and indication for what it is intended;

(ii) describe the figures of the illustration;

(iii) where the application contains the forms of the industrial design - include a numbered list of the forms;

(iv) describe, at the end, after the words "essential features of the

industrial design", those features of the appearance, which distinguish the applied design from other known designs and enable its identification.

6.

(1) The illustration of the industrial design shall present the subject of the design with the clear indication of the essential features of the design.

(2) All the forms of the industrial design shall be presented in figures on one sheet only.

(3) It is allowed to present each or some of the forms of the industrial design additionally on separate sheets, if the presentation of those forms together with all the necessary details on one sheet is infeasible.

7.

To better illustrate the industrial design, photos of the design may present the subject of the design in various views.

8.

(1) The description and the illustrations of the design, as well as the samples of the textile fabric, shall be filed in three copies or pieces, while other elements of the application - in one copy only.

(2) The illustrations of the industrial design shall be signed by the applicant or his representative and the signatures shall be placed in a space enabling their omission while reproducing the design. Samples of the textile fabric shall be signed on a label.

9.

The detailed requirements for filing industrial design applications are provided for in Annexes 1 and 2 to this Regulation.

Chapter 3 Processing of industrial design applications

10.

(1) After having received an industrial design application the Patent Office shall immediately accord a consecutive number, note the date of receipt and notify the applicant accordingly.

(2) An industrial design application shall be deemed to have been filed, if it contains at least: a request, a description, an illustration or a sample of the textile fabric.

(3) (repealed)

(4) (repealed)

11.

After having performed the acts referred to in section 10(1), the Patent Office shall check whether the application includes:

(i) a request;

(ii) a part which on the face of it seems to be a description of the industrial design;

(iii) a part which on the face of it seems to be the illustration or a sample of the textile fabric.

12.

(1) Where the Patent Office finds that in the request there is no ground for the grant of a right in registration for the industrial design mentioned, it shall notify the applicant accordingly and fix a time limit for him to correct the omission. The Patent Office shall discontinue the proceedings, if the applicant fails to correct the omission within the fixed time limit.

(2) Where it has been found that the filing fee has not been paid, the Patent Office shall invite the applicant to pay the fee within one month from the date of the invitation to pay the fee being served. Failure to pay the fee within the fixed time limit shall result in the discontinuance of the proceeding.

(3) Where the application has been filed by a person claiming to be the applicant's representative and the Patent Office finds that a power of attorney has not been submitted to the files, the Patent Office

shall invite that person and a party to correct the omission within the fixed time limit, failing which the proceeding shall be discontinued.

13. (repealed)

14.

When reasonable, the Patent Office may invite the applicant to submit, within the fixed time limit, evidence and explanations related to the industrial design application, and in particular to state the grounds for his/her right to be granted a right in registration or a right to an earlier priority.

15.

(1) Where the Patent Office finds that the industrial design application contains an unacceptable number of forms, which number is specified in Article 108(5) of the Law, the Patent Office shall fix a time limit for the applicant to file separate applications contained in the original application and to pay filing fees for those applications. The fee paid for the filing of the industrial design application shall be deemed to be a fee related to the application containing the forms listed as first among the forms maintained by the applicant, which application shall keep the number of the original application. The other applications shall be accorded the numbers corresponding to the date of receipt, the original filing date remaining the same.

(1a) A decision on filing separate applications requires to provide substantive evidence that a form of the product lacks essential common features, or that there are more than acceptable 10 forms of the design in the application, or that there is a lack of features enabling the applied products to be considered to form a set.

(2) If the applicant fails, within the fixed time limit, to file separate industrial design applications and pay the respective filing fees, the application shall be deemed to cover the first ten forms presented in the description (list). In that case, the application shall, in part related to the other forms, be deemed withdrawn and the proceeding shall discontinue.

(3) In the case referred to in paragraph (2) the Patent Office shall

not invite the applicant, before checking whether the applied industrial design may be granted a right of protection, to make corrections in the documents, resulting from the withdrawal of some forms of the design. The applicant shall be free to make such corrections by himself.

(4) The provisions of paragraphs (1) and (2) shall apply accordingly, if the applicant, while not being invited by the Patent Office to do so, files a separate application of the industrial designs in respect of the forms of the design contained in the original application, even if the application meets the requirements specified in Article 108 (4) and (5) of the Law.

16.

If the applicant makes additions or corrections in his application, which cannot be accepted, the Patent Office shall, to the extent as it is bound to verify the correctiveness of the application, decide in an order on the inadmissibility thereof and invite the applicant to correct that defect.

17.

(1) If the Patent Office finds that working of the industrial design would be contrary to the public order or morality, the Patent Office shall notify the applicant accordingly and fix a time limit for him to take a stance in respect of the circumstances, which may show the existence of obstacles preventing the grant of a right in registration.

(2) If the Patent Office finds that the industrial design as filed contains signs, use of which have to be subject of authorisation or signs which appear to be such kind of signs, and the applicant failed to produce evidence that he is authorised to use them in trade, the provision of paragraph (1) shall apply accordingly.

(3) In the cases referred to in paragraphs (1) and (2), failure of taking a stance by the applicant within the fixed time limit may not constitute a ground for refusal to grant a right in registration, if the circumstances indicated in the notification are found not being the obstacles preventing the grant of the right.

18.

Where the obstacles preventing the grant of a right in registration,

referred to in section 17(1) and (2), are not eliminated by the applicant and it is not the case as referred to in section 17(3), the Patent Office shall take a decision on refusal to grant a right in registration.

19.

(1) If the Patent Office does not find any irregularities, referred to in section 17(1) and (2), in the industrial design application, the Office shall take a decision on the grant of a right in registration, provided that a fee for the first protection period has been paid and invite the applicant to pay the publication fee.

(2) Before the decision, referred to in paragraph (1), is taken and in cases other than those specified in section 16, the Patent Office may demand in an order that the applicant remove, from the description of the design or from the illustration, within the fixed time limit and under the pain of discontinuance of the proceeding, in particular inscriptions or illustrations contrary to the public order or morality, as well as make corrections, as appropriate, resulting from the withdrawal of certain forms of the design.

(3) The Patent Office shall make itself corrections in the application files only in order to eliminate minor formal defects and other obvious mistakes and language errors, as well as in the cases referred to in paragraph (4).

(4) In case of a decision on the grant of a right in registration in respect of a part of the application only, the Patent Office shall decide at the same time to make modifications in the description and drawings and indicate them clearly in the conclusion of the decision.

(5) When taking the decision referred to in paragraph (1), the Patent Office shall, at the same time, assign the design to an appropriate class specified in Annex 3 to this Regulation.

(6) The modifications in the description, referred to in paragraph (4), shall consist of the deletion or removal of its clearly singled out parts covering the designs for which the grant of protection is refused, as well as of making necessary routine corrections resulting therefrom, in particular such as relating to the title and the definition of the subject of the design. Deletions and corrections

shall be made in a manner ensuring legibility of the text.

20.

(1) In the course of processing an industrial design application the Patent Office shall be authorised to issue, at the request of the applicant, the priority document referred to in Article 19 of the Law.

(2) The priority document, referred to in paragraph (1), shall consist of the following:

(i) a certificate issued by the Patent Office indicating the name of the applicant and the address of his/her domicile or its seat, the country, the determination of the subject of the industrial design, if indicated in the application, the filing date and number;

(ii) copies of the documents, referred to in section 11(1)(ii) and (iii);

(iii) copies of additional illustrations and samples of textiles (in a form of illustrations), attached to the request by the applicant.

(3) The Patent Office shall confirm conformity of the copies, referred to in paragraph (2)(ii) and (iii), to the originals and, if before the issuance of the priority document there has been the change of the applicant, the Office shall place a relevant mention on them.

(4) Where an industrial design has been displayed at an exhibition prior to the filing of an application and the applicant seeks to be granted the priority date, the Patent Office shall annotate the priority date at the certificate referred to in paragraph (2)(i).

(5) The certificate shall be sealed and signed by a person authorised in writing to do so by the President of the Patent Office.

21.

(1) The Patent Office shall refuse, by way of an order, to grant the priority right in whole or in part, if it finds the existence of the circumstances referred to in Article 48 of the Law.

(2) Before the order referred to in paragraph (1) is issued, the Patent Office shall notify the applicant of the facts preventing the Office to grant the priority right and it shall fix a term for submitting explanations or rectifying omissions.

22.

(1) After having checked that a due periodic fee was paid in due time, the Patent Office shall enter the granted right in registration in the industrial designs register, draw up the specification of the industrial design as registered and issue a certificate of registration to the holder of the industrial design registration.

(2) The specification of the industrial design shall consist of the cover page including the basic indications of the right granted, the description, the drawings and photos or the samples of the textile or of the thread with the relevant weave. One copy of the specification shall remain included in the files, while another one shall be made available to the public in the library of the Patent Office.

(3) The certificate of registration of the industrial design, referred to in paragraph (1) shall be sealed and signed by a person authorized in writing to do so by the President of the Patent Office.

(4) The certificate of registration shall consist of the certification of the grant of the right in registration indicating the right holder, the registration number, the determination of the subject of the design and the specification of the design as registered.

(5) In case of loss or destruction of the certificate, referred to in paragraph (3), the Patent Office shall issue a duplicate of the certificate and enclose, in place of the samples of the textile or the thread with the relevant weave, a photo reflecting the structure of the textile.

23.

(1) Specifications of registered industrial designs shall be made available against payment to third parties on demand in a form of printed copies.

(2) The printed copies, referred to in paragraph (1), shall contain only the description and an overall illustration with the mention of the number of the illustrations. On demand of a third party a printed copy of the set of illustrations can be made.

24.

In the publication in the gazette "Wiadomości Urzędu Patentowego" of

the mention of the grant of a right in registration the following data shall, in particular, be published:

- (i) the registration number;
- (ii) the application date and number;
- (iii) the class symbol of the industrial design;
- (iv) determination of the subject of the design;
- (v) the name of the right holder;
- (vi) the surname and name of the designer;
- (vii) the illustration of the industrial design.

Chapter 4 Transitional and final provisions

25.

Applications of ornamental designs pending at the date of entry into force of this Regulation and meeting the former requirements provided for ornamental design applications shall not be required to be adjusted to the requirements provided for industrial designs. For the purpose of the publication referred to in section 24, the Patent Office shall select, from the application files, a drawing (drawings) or photos best illustrating the subject of the design.

26.

This Regulation shall enter into force 14 days following the date of its publication.

**Annexes to the Regulation of the Prime Minister of 30 January 2002
(JoL 2002 No 40, text 358 and 2005 No 106, text 893)**

**Annex 1 FORMAL REQUIREMENTS CONCERNING THE DESCRIPTION OF AN INDUSTRIAL
DESIGN, A DRAWING AND A PHOTO, AS WELL AS OF SAMPLES OF TEXTILES OR
THREADS WITH THE RELEVANT WEAVE**

1.

All the documents making up the application (description, illustrations) shall be presented in a manner enabling their immediate reproduction.

2.

The size of sheets of the description of an industrial design and a drawing shall be A4 format (297 mm x 210 mm).

3.

Each sheet shall be free from creases, cracks and folds, erasures, alterations, overwritings and interlineations. Non-compliance with this rule may be authorised if the authenticity of the content is not in question and the requirements for good reproduction are not in jeopardy.

4.

Only one side of each sheet shall be used.

5.

Each sheet shall be used in an upright position, i.e. the short sides at the top and bottom, the long sides being at the left and right sides.

6.

All elements of the application shall be on paper which shall be flexible, strong, white, smooth, non-shiny and durable.

7.

Each element of the application (description, illustration) shall commence on a new sheet.

8.

If an element of the application consists of two or more sheets, all the sheets shall be so connected that they can be easily turned when

consulted.

9.

The minimum margins of the sheets containing the description and the illustration shall be as follows:

- top margin of the first sheet of the description - 35 mm, top margin of each other sheet of the description or the illustration - 20 mm;
- left side margin - 35 mm, right side margin - 15 mm, bottom margin - 15 mm,

however it is recommended that top and left side margins be of 40 mm, and right side and bottom margins - of 30 mm.

10.

The sheets shall not contain frames or single lines separating any of the margins from the rest of the surface of a sheet.

11.

The margins must be blank.

12.

The sheets of the description and illustration shall, starting from the first sheet of the description, be numbered in consecutive Arabic numerals and the numbers shall be centred at the top of the sheet below the top margin.

13.

The description shall be typed or printed in black.

14.

The typing in the description shall be 1.5 line - ca 6 mm-spaced.

15.

Drawings shall be executed in neat, durable, black, intense and harsh lines enough to make legible in all the details a reproduction shrunken to 1/3 in lines.

16.

The same sheet of the illustration may contain, while keeping the requirements provided for in item 15, figures corresponding to individual forms of the industrial design. The figures shall be numbered in a consecutive order corresponding to the numbers in the

list of forms in the description of the design (section 5(2)(iii) of this regulation). The numbers of the individual figures shall be preceded by the letters "Fig."

17.

The drawings shall not contain text matter, except the marking of the figures' numbers and single words, when absolutely indispensable for the indication of the characteristic features of the industrial design. The height of the numbers and letters in the illustration shall not be less than 6 mm.

18.

Photos of the design (printed copies) may be executed in any technique; it is required, however, that the photos have to be reproducible.

19.

The size of photos of the design (printed copies) may not be less than 5 cm x 5 cm and more than 13 cm x 18 cm. This requirement shall apply accordingly to samples of textiles or threads with the relevant weave.

Annex 2 REQUIREMENTS CONCERNING THE DOCUMENTS ANNEXED TO INDUSTRIAL DESIGN APPLICATION

1.

The document of the priority of an application filed in another country shall consist of:

- (i) a copy or a duplicate of such application filed in another country, certified as to the conformity with the original by the authority with which it was filed;
- (ii) a certificate issued by the authority mentioned in sub-paragraph (i) with the indication of the date of filing of the application.

2.

The document of the priority of the exhibition at which the industrial design was displayed shall consist of:

- (i) a certificate issued by the director of the exhibition with the confirmation that the industrial design was displayed at that exhibition; the certificate shall contain the surname and first name or the name of the displayer, the name, the date and location of the exhibition, and a statement of identity of the displayed product with the annexed description and the drawing of that product;
- (ii) the description and the illustration of the displayed product, disclosing its basic technical features confirmed by the director of the exhibition in a manner that raises no doubts as to the authenticity of the content of these documents;
- (iii) where the exhibition was organised abroad - a document stating that the exhibition has the features prescribed in Article 15 of the Law.

3.

The priority document, referred to in paragraph (1) may cover two or more forms of the design, if all of these forms were displayed at the exhibition.

4.

If the subject of an industrial design is a textile product, samples of the textile, certified by the director of the exhibition in a manner as prescribed in section 8(2) of this Regulation may be attached to the priority document.

5.

A declaration on the priority dates shall contain:

- (i) the surname and name or the name of the applicant;
- (ii) determination of the subject of the industrial design;
- (iii) the number of the application filed with the Patent Office, if the number is already known to the applicant, or the application filing date;
- (iv) a detailed list of the numbers of forms of the industrial design, according to the list contained in the description of the design, together with the dates of priority corresponding to individual forms; next to each of these dates a name of the country in which relevant application has been filed and the number of that application or the name, location and country of the exhibition shall be placed; it is understood that in respect of forms that have not been mentioned, the priority date of the application filed with the Patent Office is relevant.

6.

A declaration of the applicant stating his right to enjoy the earlier priority shall contain:

- (i) the surname and first name of the person or the name of the entity, in favour of which the priority document has been issued;
- (ii) the surname and name or the name of the applicant;
- (iii) determination of the subject of the industrial design and the country, the date and the number of the application or the designation of the exhibition;
- (iv) the statement of the ground on which the right to enjoy the earlier priority is based;
- (v) the signature of the applicant or his representative and the date.

7.

In the case specified in Article 239 of the Law, the power of attorney shall include a copy of the authorisation and the statement, referred to in that Article.

8.

Where the documents referred to in paragraph (1) and (2) of this Annex have been executed in a language other than the Polish, English, French, German or Russian, these documents shall be accompanied by the translation into one of these languages, signed by the translator. The documents and their translations shall be combined in a manner

making sure that their contents are identical.

9.

Where the documents mentioned in paragraphs (5) and (6) of this Annex, as well as the evidences, referred to in section 14 of the Regulation, have been executed in a language other than the Polish language, the provision of paragraph (8), first sentence, shall apply accordingly.

Annex 3 LIST OF CLASSES

Class 01	Groceries
Class 02	Clothes and haberdashery
Class 03	Travel articles (accessories), suitcases, umbrellas and personal possessions not covered by other classes
Class 04	Brush-making articles
Class 05	Textiles; synthetic and natural textiles
Class 06	Furniture
Class 07	House-keeping equipment not covered by other classes
Class 08	Metal tools
Class 09	Containers for storing products, used in transportation
Class 10	Clocks, watches, manometers and other measuring, control and signalling devices
Class 11	Decorations and ornaments
Class 12	Means of transportation, cranes, elevators, lifts, cable cars
Class 13	Devices for electricity production, transmission and processing
Class 14	Reproduction (of sound and picture), devices for communicating and information processing
Class 15	Machines not covered by other classes
Class 16	Cameras, movie cameras, optical devices
Class 17	Musical instruments
Class 18	Office machines, printing machines
Class 19	Office supplies (appliances), note-paper and envelopes; school equipment and materials used in the fine arts
Class 20	Sale and equipment used in advertising, signs
Class 21	Games, toys, tents and sports articles
Class 22	Arms, firework products, hunting and fishing devices, pest-control articles
Class 23	Dispensers; sanitary, heating, ventilation devices; devices for raring air and fuel
Class 24	Medical and laboratory equipment
Class 25	Building materials, building structure elements
Class 26	Lighting articles
Class 27	Tobacco, items for smokers
Class 28	Pharmaceutical and cosmetic products, toilet articles
Class 29	Fire-fighting equipment, rescue equipment
Class 30	Articles for animal breeding and transportation

Class 31	Equipment and devices for preparing food and drinks not covered by other classes
Class 99	Divers