

ROMANIA

Industrial Design Regulations

Regulation for Implementing the Design Law No. 129/1992

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CHAPTER I Protection Conditions

ARTICLE 1 Legal Protection of Designs

The legal protection of designs shall be ensured according to the provisions of the Design Law No. 129/1992, as republished, while observing the conventions, treaties and agreements to which Romania is a party.

ARTICLE 2 Definitions. Abbreviations

Within the meaning of the present regulation, the terms and expressions below are defined as follows:

- a) *Locarno Agreement* - Locarno Agreement concerning the international classification of designs, signed on the 8th of October, 1968 and revised on the 28th of September, 1979, to which Romania adhered through the Law no. 3/1998;
- b) *B.O.P.I - D.M.* - Official Industrial Property Bulletin, Design Section;
- c) *Paris Convention* - Paris Convention for industrial property protection of the 20th of March 1883, ratified by Romania through the Decree no. 1,177/1968 issued by the State Council;
- d) *international application* - application for design registration, drawn up according to the provisions of the Hague Agreement;
- e) *application* - application for design registration;
- f) *international classification* - design classification according to the Locarno Agreement;
- g) *filing date* - date of receiving with the State Office for Inventions and Trademarks (O.S.I.M.) the documents necessary for constituting the regular filing, according to Art. 12 of the Law;
- h) *priority date* - date of the first filing of the application for registration of the design, irrespective of the national competent authority that constituted the application filing or the date of displaying the design in an international exhibition, under the conditions stipulated by the Paris Convention;
- i) *regular deposit* - the application for registration of a design accompanied by the design description and the graphical representations thereof, or by specimens, where appropriate;
- j) *multiple deposit* - the deposit containing several designs intended to be incorporated in the same category of products and which belong to the same class of the international classification, according to the provisions of Art. 14 of the Law;
- k) *description* - brief presentation in writing of the characteristic elements concerning the outer aesthetic aspect of the design and of the novel elements thereof, in the conditions provided for in Art. 12;

- l) *examiner* - specialist of O.S.I.M. whose basic attribution is to examine the applications for registration of the designs;
- m) *law* - the Law no. 129/1992, as republished;
- n) *O.H.I.M.* - the Office for Harmonization in the Internal Market, with the headquarters in Alicante-Spain, having attributions concerning the Community trademark and design;
- o) *W.I.P.O.* - World Intellectual Property Organization;
- p) *person concerned* - any person having a legitimate interest in connection with the mentioned design and whose interests could be prejudiced by the registration thereof;
- q) *publication* - rendering available for the public by any means;
- r) *successor in title* - any natural person or legal entity that has been transmitted either the right to be granted the design registration certificate or the rights deriving from the application for registration or from the registration of a design;
- s) *informed user* - the user that is informed or competent in the field of use of the product on which the design is applied or which incorporates said design;
- t) *Design Division* - the specialized division within O.S.I.M, with attributions in carrying on the procedures concerning the registration of designs.

ARTICLE 3 Time Limits

(1) The time limits shall be the ones provided for in the law and in the present regulation.

(2) Failure to observe the time limits concerning the completions requested by O.S.I.M. brings about the refusal of registration.

(3) The time limits established on days shall comprise calendar days and shall not include either the starting day or the ending day of the time limit.

(4) The time limits established in years, months or weeks shall end on the day of the year, month or week corresponding to the starting day.

(5) The time limit which, starting on the dates of 29th, 30th and 31st of the month, shall expire in a month which has no such a day shall be deemed to expire on the first day of the subsequent month; the time limits expiring on a statutory holiday or when the Office is not open to public shall be extended till the end of the subsequent work day.

(6) The time limits notified by O.S.I.M. by mail shall start to run on the post office stamp date.

(7) The documents of the procedure sent by mail to O.S.I.M shall be deemed to be fulfilled in due time if they were submitted to the post office prior to the date of expiration of the time limit.

(8) A time limit relating to an application or a certificate for registration granted by O.S.I.M. based on the present regulation may be extended by O.S.I.M provided that the following conditions are fulfilled cumulatively:

- a) there exists a justified request signed by the applicant or holder, before the expiration of the time limit;
- b) the legal fee is paid at the time of filing the request with O.S.I.M.

(9) O.S.I.M. shall notify the applicant in writing about the approval or refusal of the request for extension of the time limit.

(10) The provisions of paragraph (8) shall not apply in the following conditions:

- a) invocation of the priority stipulated in Art. 16-18 of the law;
- b) payment of the fees for registration and publication;
- c) filing an opposition according to Art. 21 of the law;
- d) formulating an appeal according to Art. 24 of the law.

(11) When the applicant or the registration certificate holder is in the situation provided in Art. 29 of the Law, O.S.I.M. may dispose the reinstatement within the time limit if the following conditions are fulfilled cumulatively:

- a) a request signed by the applicant or holder is filed with O.S.I.M, within the time limit under Art. 29 paragraph (1) of the law;
- b) the request shall contain the grounds for which the time limit has not been observed;
- c) the legal fee shall be paid at the time of filing the request; the fee shall be paid in the amount provided for by the law for revalidation;
- d) within the time limit provided for in Art. 29 paragraph (1) of the law proofs in sustaining the request for reinstatement shall be filed with O.S.I.M.

(12) The answer relating to the request for reinstatement shall be transmitted to the applicant or the professional representative.

ARTICLE 4 Official Language

(1) The application for registration of the design shall be filed with O.S.I.M. in Romanian language; all the legal procedures shall be carried out in the Romanian language.

(2) The foreign natural persons or legal entities shall file all the documents in the Romanian language.

(3) Documents consisting in publications, used as evidence in the procedures before O.S.I.M., may be filed in any language, provided that their translation into Romanian language is filed within one month, at the most, from filing.

ARTICLE 5 Conditions for Obtaining Protection

(1) A design may be registered if the following conditions are fulfilled cumulatively:

- a) it constitutes a design within the meaning of Art. 2 letters d), i) and j) of the law;
- b) it is new;
- c) it has an individual character.

(2) A design shall be considered to be new if no identical design has been made available to the public before the date of filing of the application for registration or, if a priority is claimed, prior to the date of priority.

(3) Making a design available to the public under the conditions of Art. 7 paragraph (1) of the law may be taken into consideration only if this has a certain date.

(4) The knowledge rendered available to the public by oral means, by use or by any other means is taken into consideration only if it is confirmed by a document containing the same and proving its being rendered available to the public and the moment of its being rendered available to the public; the document may be subsequent to the date of the public oral disclosure, use or presentation by any other means, the relevant date being the date when the knowledge became available to the public.

(5) Within the meaning of Art. 6 of the law, a design has an individual character if the overall impression it produces on the informed user differs from the one produced on such a user by any other design rendered available to the public before the date of filing the application for registration

or before the priority date, if a priority has been claimed.

CHAPTER II Right to the Grant of Registration Certificates

ARTICLE 6 Right to the Grant of Registration Certificates

(1) If several persons have created the same design independently from one another, the right to be granted and issued the registration certificate shall vest in the person who first filed the application for registration with O.S.I.M.; if a priority has been recognized, the right shall vest in the person whose application has the earliest priority date.

(2) If several persons have jointly created a design, the right to be granted the registration certificate shall vest equally in them, unless otherwise stipulated in the contract.

(3) The contracts with a creative mission are those contracts which provide the creative mission explicitly or implicitly.

(4) Employment Duties shall be deemed those attributions provided for in the employment contract or in the annexes recognized or signed by the employee; the job description shall not be taken into consideration except where it is an integral part of the employment contract.

(5) Where the design has been created as a consequence of a contract with creative mission, the right to be granted the registration certificate shall vest in the person who commissioned the carrying out of the design, unless otherwise stipulated in the contract.

(6) Where the designs are carried out by employees within their explicitly entrusted employment duties, the right to be granted and issued the registration certificate shall vest in the employer, unless otherwise stipulated in the contract.

ARTICLE 7 Presumption in Favour of the Applicant

Up to the proof to the contrary, the applicant shall be presumed to have the right to be granted the design registration certificate, according to Art. 4 of the law.

CHAPTER III Registration Procedure

ARTICLE 8 Filing the Applications for Registration of Designs with O.S.I.M.

(1) An application for registration of a design may be filed by any person:

- a) directly at the General Registry of O.S.I.M;
- b) by mail;
- c) in electronic form or by electronic means, provided that the provisions of Art. 11 are fulfilled; with a view to filing and examining the applications and other documents in electronic form or by electronic means, the Director General of O.S.I.M shall issue instructions.

(2) O.S.I.M. shall acknowledge the receiving of the application in one of the forms stipulated under paragraph (1), the date and the filing number to the applicant. Where the application is transmitted by other means than the ones stipulated under paragraph (1), the application shall not be taken into consideration and the filing thereof shall not be acknowledged.

(3) Where there are several applicants, O.S.I.M. shall have correspondence only with the first applicant inscribed in the application, unless one of them is expressly designated as contact person or a professional representative has been appointed. Where the first applicant is a legal entity, an employer thereof may be designated as a contact person.

(4) O.S.I.M. shall mark the date of filing/receiving and the number of filing/receiving on the application and on all the annexes and shall point out by signing the received documents.

(5) After filing/receiving the application, O.S.I.M. shall check the fulfilling of the legal conditions in respect of the grant of the regular national deposit date and shall notify the applicant the ascertained drawbacks.

(6) Where the submitted application and the annexes fulfill the legal conditions provided for in Art. 12 of the law, the application shall be entered in the Register of Filed Applications.

(7) If the application fails to fulfill the minimum conditions stipulated under Art. 12 paragraph (2) of the law for the grant of the deposit and if the deficiencies are not remedied within the granted period of time, the application and the annexes shall be returned to the applicant, on

the expenses thereof, O.S.I.M. keeping a copy as witness.

ARTICLE 9 International Deposits

(1) The international deposits shall be constituted by transmitting the application and annexes, in compliance with the Hague Agreement, directly to W.I.P.O. or through O.S.I.M by the Romanian or foreign applicants which have a real and effective industrial or commercial establishment in Romania, according to Art. 3 of the Paris Convention.

(2) If an international deposit is registered by more applicants, at least one whereof fulfilling the provisions of paragraph (1), the application shall be filed.

(3) The international deposit shall be drawn up by the applicant while observing the provisions of the Hague Agreement and of the Implementing Regulation thereof; the application form to be filled in by the applicant, is the one elaborated by the International Bureau of W.I.P.O.

(4) O.S.I.M. will send the whole documentation to the International Bureau of W.I.P.O. and will inform the applicant about the filing, provided that the applicant pays, to the benefit of O.S.I.M., a fee equal to the amount of the registration fee cumulated with that of the examination fee.

(5) The fees provided for by the Hague Agreement and the Implementing Regulation thereof will be paid by the applicant directly to the International Bureau of W.I.P.O.

(6) A copy of the international deposit registered with O.S.I.M. shall be kept as witness and shall not be available to the public.

(7) After transmitting the international application to the International Bureau of W.I.P.O, the applicant will have the whole correspondence, directly or through a professional representative, with the International Bureau of W.I.P.O. and will follow the registration procedure in the designated States.

ARTICLE 10 Confidentiality of Application for Design Registration

(1) O.S.I.M. shall assure and shall be responsible for the confidentiality of the data contained in the applications for registration of designs and of the graphic representations annexed to the application, from the date of submitting the same to the General Registry of O.S.I.M. up to

the date of their publication in B.O.P.I-Designs, according to Art. 20 of the law.

(2) Disclosure by the applicant or author of the data contained in the application shall not incur the responsibility of O.S.I.M.

ARTICLE 11 Conditions to be Fulfilled by the Application

(1) The application for registration of a design shall be filled in by typing in two copies on a standardized form, established by the instructions issued by the Director General of O.S.I.M.

(2) The standardized form provided under paragraph (1) shall be rendered available to applicants, free of charge, by O.S.I.M.:

- a) directly from the General Registry of O.S.I.M.;
- b) on O.S.I.M. website.

(3) The application for registration of a design shall contain all the elements provided for under Art. 10 of the law and shall be signed in the original; otherwise, the application will be treated as a simple correspondence.

(4) Where the applicant is a legal entity, both the statutory form thereof and the State whose law governs the organic statute thereof shall be specified.

(5) Where the applicant is a foreign natural person or legal entity, there shall be indicated the citizenship and denomination of the State where he/she has the domicile or, the denomination of the State in which the applicant has an establishment within the meaning of Art. 3 of the Paris Convention, as the case may be.

(6) The signature applied on a document transmitted in copy or by facsimile shall be taken into consideration only if within one month at the most of the date of transmittal, the document is sent to O.S.I.M. in the original.

(7) No erasures, corrections, added words or lines shall be accepted in the application for registration without having them certified on the original copy by the applicant.

(8) The applications not allowing to identify the applicant, the address or the registered office thereof shall be refused according to Art. 12

paragraph (3) of the law.

(9) The title of the design and the denomination of the product incorporating the design shall be expressed in Romanian by general and known notions, without commercial codes and type sizes, in compliance with the international classification.

(10) The application shall contain the data and documents provided for by the law; other documents or materials submitted in addition shall be rendered available to the applicant, by O.S.I.M., within 6 months, thereafter they shall be destroyed.

ARTICLE 12 Description

(1) The design description according to Art. 10 paragraph (1) letter e) of the law, shall be made directly on the application or on the signed annexes and shall contain exclusively the characteristic elements of the aesthetic aspect as well as the novel elements that can also be found in the graphic representations annexed to the application.

(2) The description shall not contain: technical or functional details, technical characteristics, dimensions, items or sizes.

(3) In case of a multiple deposit, a description shall be drawn up for each design while fulfilling the provisions of paragraphs (1) and (2).

(4) The description of a design shall contain maximum 100 words.

(5) If the description does not fulfill one of the conditions stipulated under paragraphs (1)-(4), as the case may be, this shall not be taken into consideration and O.S.I.M. shall request a new description which shall be submitted within maximum 30 days of the date of the request.

(6) If, after remedying, the description does not fulfill the provisions of paragraphs (1) and (2) either, it shall not be published or, if, after remedying, the description does not fulfill the provisions of paragraph (3), the application shall be rejected according to Art. 12 paragraph (3) of the law.

ARTICLE 13 Graphic Representations

(1) The graphic representations that are filed together with the application may be:

- a) professional grade black-and-white or colour photographs of sufficient contrast to permit their reproduction by typographic methods;
- b) professional grade black-and-white or colour graphic representations carried out by means of drawing instruments, in China ink on tracing paper or on high quality opaque white paper.

(2) The design shall be represented in perspective without other accessories (persons, animals, plants, etc).

(3) The graphic representations shall have minimum dimensions 60 x 60 mm or a multiple thereof, but maximum 180 x 240 mm.

(4) The originals of the graphic representations shall be signed and, where appropriate, stamped by the applicant of the application for registration.

(5) If the same product is represented in several positions or from different angles, the numbering shall comprise two figures separated by a point (for example 1.1, 1.2, 1.3 etc for the first design and 2.1, 2.2, 2.3 etc for the second design). This numbering shall be written on the original; the designs representing an assembly shall be numbered as follows: assembly 1A and the component parts of the assembly shall be numbered 2A, 3A etc.

(6) The following shall be refused registration as graphic representations:

- a) technical drawings presenting the product in cross-section, schematically or in rupture plane with dimensions, with explanatory texts or legends;
- b) graphic representations that cannot be reproduced by typographic methods.

(7) Graphic representations shall completely render the design that is the subject of the application for registration, so as to highlight the aesthetic characteristics thereof; graphic representations shall be of sufficient quality to highlight all the design details and to allow publication.

(8) Where the graphic representations do not fulfill the provisions of paragraphs (1)-(7), the application for registration shall be refused.

(9) In case of a bidimensional design, the graphic representations may be attended by 3 specimens of maximum dimensions of 297 x 210 mm.

(10) Perishable or harmful specimens shall be refused registration and shall be returned to the applicant.

(11) In case of a multiple deposit it is possible for some designs to be attended by specimens in compliance with the provisions of paragraph (9).

(12) The conditions in which the graphic representations may be filed in electronic format or by electronic means shall be established by instructions issued by the Director General of O.S.I.M., published in B.O.P.I.-Designs.

(13) Where after the preliminary examination other graphic representations are requested and the design is presented from other angles or in a different way as against the initial graphic representations, these shall not be taken into consideration.

(14) In application of Art. 11 paragraph (1) of the law, the design details shall not be accepted registration.

(15) Parts of the design for which exclusive rights are not claimed shall be represented in dotted line or excluded from the graphic representation.

ARTICLE 14 Representation before O.S.I.M.

(1) In the procedures before O.S.I.M. the Romanian applicants or holders may be present in person or may be represented by a professional representative.

(2) The applicant, holder, assigner or any other person concerned may be represented for any procedure concerning a design application or a registered design by a professional representative exercising the profession of industrial property attorney, either independently, or within an employment form provided for by the Government Ordinance no. 66/2000 concerning the organization and exercise of the profession of industrial property attorney, as republished.

(3) The appointment of the professional representative shall be marked by writing on the application form and also by a power of attorney submitted to O.S.I.M. and bearing the applicant's name and signature in the original.

(4) The professional representative shall compulsorily submit a special

power of attorney signed by the applicant, in the original.

(5) The power of attorney shall expressly mention one or several applications for registration of designs by the design denomination and scope of mandate.

(6) The power of attorney may be filed at the time of filing the application or within 15 days from filing the application; O.S.I.M. shall have correspondence with the applicant up to filing the power of attorney. In the case of a foreign applicant who has appointed a professional representative, the preliminary examination procedure shall not start up to submitting the power of attorney.

(7) In case the applicant is represented by a professional representative, this may sign the application.

(8) Where withdrawing or renouncing the application or any other requests, including the ones aiming at a transfer of rights are requested through the professional representative, these shall be made only based on a special mandate bearing the applicant's signature in the original.

(9) The applicant may only have one professional representative. If an application has more applicants and O.S.I.M. is communicated several professional representatives, O.S.I.M. shall only have correspondence with the first professional representative communicated.

(10) Where a new professional representative is communicated to O.S.I.M., the entry related to the old professional representative shall be cancelled ex officio by O.S.I.M.

(11) The addition or change of the professional representative in respect of a design application or a registered design shall be subject to the payment of a fee in the amount provided for by the law for the modifications in the legal status of the application.

ARTICLE 15 Multiple Deposit

(1) A multiple deposit shall comprise up to 100 designs and may be filed in a single application, according to Art. 14 of the Law.

(2) Each design of a multiple deposit shall be treated independently with regard to the procedures stipulated by the present regulation.

(3) Each independent design may be reproduced, exploited, licensed, assigned or may be the object of a surrender, cancellation, renewal.

(4) Upon request by O.S.I.M., the applicant shall be obliged to divide the application when the provisions of paragraph (1) and (2) are not fulfilled; dividing the application shall automatically bring about to dividing the deposit. The applicant shall submit an application for registration, in two copies, for each design or group of designs fulfilling the provisions of the law and of the present regulation.

(5) Where the applicant does not divide the application within 30 days from the examiner's request, O.S.I.M. shall divide it ex officio and shall examine only the first application, while the others shall be rejected.

(6) The divided applications filed with O.S.I.M. shall benefit by the deposit date of the application they were divided from and by the priority date thereof, provided that they contain the same designs contained in the initial deposit, without any modifications.

ARTICLE 16 Claiming Priority

(1) The application may contain a statement wherein, according to art. 17 and 18, one or more priorities are claimed.

(2) The conditions for claiming a priority and the effects of recognizing the claimed priority are the ones provided by the law and the Paris Convention.

(3) Where a priority is claimed, the application shall state precisely:

- a) date of the claimed priority;
- b) number of the priority certificate, and the number of the warranty certificate issued by the exhibition organizer, respectively;
- c) State in which the certificate has been issued.

(4) Where one or more priorities have been claimed in the application for registration, according to Art. 17, 18 of the law, for the priority recognition the following shall be cumulatively fulfilled:

- a) one or more priority documents, in the original, and the legal fees shall be filed within 3 months, at the latest, from the date of filing the application, according to Art. 18 of the law;
- b) the design for which priority is claimed shall be identical to the design for which protection is claimed.

(5) Claiming the priority as a consequence of the design having been displayed in an international exhibition, according to Art. 17 of the law, is justified based on the warranty certificate that shall contain:

- a) name and address of the organizer of the exhibition wherein the design has been displayed;
- b) denomination of the exhibition, address and duration thereof;
- c) family name, given name and address of the natural person or denomination and registered office of the legal entity that has displayed the design in the exhibition;
- d) duration of the public exhibition;
- e) number and date of the warranty certificate, signature and stamp of the organizer of the exhibition;
- f) a graphic representation of the exhibited design;
- g) a description of the exhibited design.

(6) Failure to fulfill the provisions of paragraphs (3), (4) and (5) shall determine the non-recognition of the claimed priority.

(7) Where the applicant for registration of the design invokes a right of priority belonging to another person, for the priority recognition it is necessary to file with O.S.I.M. an authorization from the priority right holder, proving that the applicant is entitled to claim priority of the first deposit. The time limit for filing the authorization is 3 months at the most from priority claiming; otherwise, O.S.I.M. shall not recognize the claimed priority.

ARTICLE 17 Regular Deposit

(1) The regular national deposit shall be constituted by the application for registration and the description presented according to Art. 10 of the law and drawn up in Romanian, accompanied by the graphic representations of the designs. In case of two-dimensional designs, the graphic representations may be accompanied by specimens.

(2) All the applications for which the regular national deposit was constituted, according to Art. 12 of the law, shall be entered in the National Register of Filed Applications, on the provision of paying the legal filing fee stipulated by the law.

ARTICLE 18 Preliminary Examination

(1) The applications for registration of designs shall be subjected to

preliminary examination under the following respects:

- a) fulfilling the conditions provided for in Art. 19 of the law;
- b) if the professional representative is entitled to represent the applicant before O.S.I.M.;
- c) if the conventional priority is correctly invoked and upheld by priority documents filed with O.S.I.M.

(2) Where the application contains additional data or is accompanied by other documents or materials than the ones stipulated in Art. 12 of the law, the application shall be examined without taking into consideration the additional elements; these additional materials may be returned, upon the applicant's request, on the expenses thereof; after a 6-month period, if these materials have not been requested by the applicant, O.S.I.M. shall destroy them and write this in a report attached to the file.

(3) If following to the patent application examination O.S.I.M. has ascertained irregularities concerning the fulfilling of the conditions provided for by the law and the present regulation, these shall be notified to the applicant, granting him a one-month period for remedying.

(4) Where irregularities are not remedied within the legal time period or within the granted period of time, the application shall be rejected, according to Art. 19 paragraph (2) of the law, by the Examination Board within the Design Division or, as the case may be, the priority shall not be recognized.

(5) The Board provided under paragraph (4) may take note of the application withdrawal up to the moment of publishing the application; mention of the withdrawal shall be entered in the Board's Register of Decisions of the Design Division.

(6) The Board shall consist of the head of the division or his deputy, a legally qualified member as examiner within the Design Division and the application examiner.

ARTICLE 19 Dividing the Deposits

(1) Upon the applicant's request, a multiple deposit may be divided into two or several deposits.

(2) The applicant shall file with O.S.I.M. an application for registration of each design or group of designs.

(3) The request for division shall be made by the applicant up to the publication of the application.

(4) The divided applications shall only be filed for the elements not going beyond the initial application content.

(5) The divided applications shall be deemed to have been filed at the initial application filing date.

(6) The applications not fulfilling the multiple deposit conditions shall be treated in compliance with the provisions of Art. 19 paragraphs (4)-(7) of the law.

ARTICLE 20 Connecting the Deposits

(1) Upon the applicant's express request two or more applications for registration may be connected, provided that the following conditions are fulfilled cumulatively:

- a) they have the same national deposit date;
- b) they have the same applicants and authors;
- c) the designs are intended to be incorporated in the same category of products according to the International Classification and fulfill the provisions of Art. 14 of the law.

(2) The request for connection shall be drawn up within maximum two months from the date of filing the application and shall be published in B.O.P.I.-Designs.

ARTICLE 21 Classification of the Application

(1) O.S.I.M. shall classify the application for registration of the design in compliance with the Locarno Agreement and shall write the class and subclass on each application and on other documents.

(2) The application classification is carried out particularly for the purpose of performing the documentary search with regard to novelty.

ARTICLE 22 Publication of the Application for Design Registration

(1) The reference data of the application for registration of the design as well as the graphic representation thereof for which the regular filing was constituted shall be published in B.O.P.I-Designs, within maximum 4 months from the date of constituting the regular deposit.

(2) The reference data to be published in B.O.P.I.-Designs are the following: (21) Number of the national deposit; (22) Date of the national deposit; (43) Date of publication; (71) Name and address of the applicant; (74) Name and address of the professional representative; (72) Name of author; (54) Design denomination; (28) Number of designs; (51) LOCARNO (7) Cl; (80) Number and date of the international registration; (57) Description of design; (3) Claimed priority.

(3) The graphic representations of the design shall be published at the dimensions required by the applicants, without going beyond the limits stipulated in paragraph (4); the representations may be published in black and white or in colour, subject to payment of the corresponding legal fee.

(4) The dimensions of the graphic representations accepted for publication in a standard space shall be of minimum 60x60 mm or a multiple thereof, namely maximum 180x240 mm.

(5) The description of the designs shall be published optionally subject to payment of the legal fees.

(6) If the publication comprises, for reasons imputable to O.S.I.M., an error or the lack of some elements provided for in paragraph (1), O.S.I.M. shall proceed to rectifying the same ex officio or upon the applicant's request; the rectifications performed shall be published in B.O.P.I.-Designs, without the payment of a fee by the applicant.

(7) Information written in the application with no connection to the design proposed to be registered shall not be published in B.O.P.I.-Designs.

(8) Within a multiple deposit the deferment of application publication can only be requested for all the designs and for the same time period, namely maximum 30 months from filing the application or from the date of priority, when this was claimed.

(9) In B.O.P.I.-Designs there are published the reference data of the international applications for which Romania has been designated. This publication does not produce legal effects, being performed for informative purpose.

ARTICLE 23 Opposition by Persons Concerned

(1) Opposition may be filed by any person concerned, within two months of the date of publication of design, for the reasons stipulated under Art. 22 paragraph (3) of the law, within the examination procedure.

(2) Opposition shall contain:

- a) indications relating to the design against which the opposition is filed, namely the deposit number, applicant's name or denomination and B.O.P.I.-Designs in which the publication was made;
- b) indications relating to the prior design or the previously acquired right on which the opposition is based, for each design;
- c) documents indicated in the opposition document shall present the certain date and shall be published before the regular filing;
- d) in the opposition document there shall be exactly indicated the design which is opposed (page, position in the opposable material, respectively); each opposition document and the documents upholding the same shall be filed in two copies, one for the Opposition Examination Board and one for the applicant;
- e) mentions concerning the position and interest of the person filing the opposition;
- f) presentation of reasons for which the opposition is filed;
- g) where appropriate, the professional representative's name or denomination and address or place of business.

(3) The materials submitted in upholding the opposition shall be available to the public, there being taken into consideration the date when they were displayed in places where the public may have taken note of, shall be filed in the original or in a copy certified for conformity.

(4) Opposition to the registration of a design shall be filed within two months of the date of publication thereof in B.O.P.I-Designs and shall be filed at the General Registry of O.S.I.M. or by facsimile, with acknowledging of receipt by mail in the following 7 days.

(5) Opposition shall not be considered if the provisions of paragraphs (1)-(4) have not been fulfilled and the legal fee has not been paid.

(6) Opposition formulated according to the provisions of Art. 21 of the law shall be settled by the Opposition Examination Board consisting of a chairman and two members.

(7) Members of the Board under paragraph (6) are a legally qualified member as examiner within the Design Division and the examiner of the application to which the opposition has been formulated.

(8) Examiner of the application shall communicate the opposition to the applicant for this to present his/her viewpoint within 30 days at the most.

(9) If the applicant fails to express his viewpoint, O.S.I.M. shall decide upon the opposition, based on the documents extant in the file.

(10) If O.S.I.M. has ascertained that the opposition document does not fulfill the provisions of paragraph (3), it shall ask the person who formulated the opposition to remedy the ascertained irregularities within 15 days. If these have not been remedied within the granted time period, O.S.I.M. shall settle the opposition based on the documents extant in the file.

(11) If it is deemed being necessary, the chairman of the Opposition Examination Board may invite the parties to the session established for settling the opposition.

(12) The Opposition Examination Board may accept or reject the opposition, drawing up a report in relation thereto; this report shall be forwarded to the Design Examination Board for continuing the examination in respect of the fulfilling of the substantive conditions and shall be transmitted to the applicant and opponent.

ARTICLE 24 Substantive Examination of Applications for Registration of Designs - Substantive Conditions

(1) The examiner shall examine whether the designs fulfill the following substantive conditions:

a) the subject of the application is a design according to Art. 2 letters d), i) and j) of the law;

b) the subject of the application is included in the provisions of Art. 8 and 9 of the law;

c) the design is new and has an individual character;

d) the application for registration constitutes an improper use of any of the objects mentioned in the list contained in Art. 6 ter of the Paris Convention or an abusive use of emblems and escutcheons, other than specified in Art. 6 ter of the same Convention.

(2) When establishing the novelty of a design, only the closest design shall be considered.

(3) The materials whose exterior aspect is identical and differs only in the insignificant details from the examined designs shall be considered pertinent materials and may be opposed for estimating the novelty.

(4) The examination of novelty and of the individual character is performed by comparing the global impression rendered by the combination of the main characteristics (lines, outlines, colours, shape, texture and/or materials and/or ornamentation of the product per se) with the opposed material which is the closest to the examined design.

ARTICLE 25 Design Examination Board

(1) The Design Examination Board shall consist of a chairman and two members appointed by the chairman, namely a legally qualified member as examiner within the Design Division and the application examiner.

(2) The chairman of the Design Examination Board shall be the chief of the Design Division or the deputy thereof.

ARTICLE 26 Attributions of the Design Examination Board

(1) The Design Examination Board may ask for additional documents and specimens, in case of two-dimensional designs.

(2) The Design Examination Board may take the following decisions:

- a) to accept the application wholly or partly;
- b) to refuse the application;
- c) to take note of the whole or partial surrender of designs that are the subject-matter of the application.

(3) Where the design fulfills the conditions provided for in the present regulation, the Design Examination Board shall take the decision to admit the application wholly or partly.

(4) The Design Examination Board shall take the decision to reject the application in the following cases:

- a) the subject-matter of the application is not a design according to Art. 2 letter d), i) and j) of the law;
- b) the design is not novel and does not have an individual character according to Art. 6 and 7 of the law;
- c) the design is exclusively determined by a technical function according

to Art. 8 of the law;

d) the design is contrary to public policy or accepted principles of morality, according to Art. 9 of the law;

e) the design incorporates, without the holder's consent, according to Art. 22 paragraph (3) letter c) of the law, a work protected by Law no. 8/1996 on copyright and related rights, with further modifications and completions, a wellknown trademark or other marks or any other previously protected intellectual property right;

f) the design constitutes an improper use of any of the objects mentioned in the list contained in Art. 6 ter of the Paris Convention or an abusive use of emblems and escutcheons, other than the ones mentioned in Art. 6 ter of the Paris Convention, according to Art. 22 paragraph (3) letter d) of the law;

g) the applicant has not proved to be the person entitled to the registration of the design within the meaning of Art. 3 of the law;

h) the design conflicts with an earlier design that was the object of a public disclosure after the filing date of the application for registration or after the priority date, where a priority has been claimed, and that is protected from a prior date by the registration of a Community design or by an application for registration of a Community design, either by the registration of a design in Romania, or by an application for obtaining protection in Romania within the meaning of Art. 22 paragraph (3) letter f) of the law;

i) the design uses a distinctive sign conferring the holder of the sign the right to prohibit this use, within the meaning of Art. 22 paragraph (3) letter g) of the law;

j) the designs contain signs of highly symbolic value and particularly a religious symbol;

k) the design reproduces known geometric shapes or non-stylized elements of the nature;

l) the applicant failed to pay the legal fees.

(5) Where the design contains an earlier intellectual property right, O.S.I.M. shall notify the applicant relating thereto and may ask for the consent of the holder of the earlier right or shall exclude said earlier right from the graphic representation.

(6) Where an opposition has been formulated, the decision of the Design Examination Board shall be made based on the report drawn up by the Opposition Examination Board that has pronounced on the opposition.

ARTICLE 27 Examination of International Deposits

(1) The applications for registration of designs filed by the international route shall be examined according to the same procedure applicable to those filed by the national route.

(2) The provisions of this chapter shall apply to international deposits where Romania is a designated State, according to the Hague Agreement.

(3) After the International Designs Bulletin in electronic format is received at O.S.I.M., the international deposit shall be entered in the Register of Filed Applications according to paragraph (2).

(4) Where the Design Examination Board makes the decision to reject, a refusal shall be drawn up and transmitted to the International Bureau of W.I.P.O.

(5) The registered designs filed according to the Hague Agreement shall be entered in the Design Register.

ARTICLE 28 Notifications

(1) Notifications regarding the legal procedures, signed and stamped, shall be communicated to the applicant, or where appropriate, to the representative thereof, either by mail, or personally, by the General Registry of O.S.I.M., by confirmation in writing of the date of receiving.

(2) The notification shall produce its effects even if the addressee refuses to accept the document to be notified or to recognize the receiving thereof.

(3) If a professional representative has been appointed, the notifications shall be addressed to the same; where more parties concerned have a common professional representative, notification shall be addressed to the common appointed representative.

(4) In the notifications transmitted to the applicant, O.S.I.M. shall indicate the time limit for response; the applicant, for justified reasons may ask for the extension of the time limit for response, without going beyond the legal time period for said procedure.

(5) O.S.I.M. may not take decisions prior to the expiration of the time limit granted to the applicant for the response.

(6) If within the established time limit the applicant neither responds, nor requests for an extension of the time limit for the response, the decision concerning the application shall be taken by O.S.I.M. based on the documents extant in the deposit.

ARTICLE 29 Decisions of the Design Examination Board

(1) The decisions made by the Design Examination Board shall be entered in the Board's Register of Decisions of the Design Division. In the same file there are recorded the mentions relating to the surrendered design applications.

(2) Within maximum 30 days, the decisions made by the Design Examination Board, as well as the mentions concerning the surrendered applications shall be communicated to the applicant or his successor in title and shall be entered in the Register of Registered Designs.

(3) According to Art. 24 paragraph (1) of the law, the decision of the Design Examination Board may be appealed against by the applicant for the registration application, within 30 days of the communication thereof; the report of the Opposition Examination Board shall not make an object of the appeal.

ARTICLE 30 Revocation

(1) In the situation provided in Art. 23 of the law, the Design Division may decide the revocation of the registration, renewal or record of a modification and shall reject, modify or accept the application for registration, renewal or record of a modification, as the case may be.

(2) The decision for revocation shall be communicated to the persons concerned, recorded in the Designs Register and published.

(3) The decision made with regard to the design application that was the object of a registration, renewal or recording of a modification may be appealed against, within 30 days by the Board of Appeal.

ARTICLE 31 Materials Opposable in the Examination Procedure

(1) Upon assessing the novelty, the materials existing in the documentary fund of O.S.I.M., Design Division, shall be taken into consideration.

(2) The documentary fund existing in O.S.I.M. within the Design Division shall consist of:

- a) collection of design applications published in B.O.P.I.-Designs;
- b) collection of designs protected in the territory of Romania;
- c) collection of international applications filed according to the Hague Agreement;
- d) collection of applications for registration of designs, published in the Official Bulletin of O.H.I.M.

ARTICLE 32 Fees

(1) The procedures relating to the applications for design registration shall be subject to the payment of the fees in the amounts and within the time limits provided for by the Government Ordinance no. 41/1998 on the fees in the industrial property field and the conditions for using the same, as republished, with subsequent modifications.

(2) If the legal fees are not paid within the provided time limits, O.S.I.M. shall not carry on any procedure concerning the design registration, renewal of the registration certificates or examination of appeals.

(3) The proof of payment of any fee shall be transmitted to the Design Division within the stipulated legal time limits, the applicant being obliged to state precisely the number of the application for registration, as well as the denomination of the design on the payment document in order to allow the identification of deposits and to avoid possible errors.

(4) Any payment document not containing the application identification data (number of the application, applicant) shall be classified as witness document and the amount shall be returned only if the payer may be identified by name and address; in case of returning the amount, this shall be diminished by the cost of the mail service.

(5) For the graphic representations having dimensions which exceed a standard space having the dimensions of 60x60 mm, the fee shall be due and calculated depending on the number of standard spaces wherein the graphic representation is included.

(6) The fees shall not be transferred from a deposit to the other without the applicant's written agreement.

ARTICLE 33 Surrender

(1) The applicant may surrender the application for design registration based on a written notification addressed to O.S.I.M.-Design Division,

up to the date of making a decision in respect of the application for registration.

(2) Where, prior to filing a notification for surrender of the application for registration there were performed some procedures such as the examination or publication of the deposit, the respective fees shall not be returned.

(3) In case of a multiple deposit, the applicant may surrender wholly or partly the designs that are the subject-matter of the application for registration.

ARTICLE 34 Publication of Data and Information in B.O.P.I.-Designs

(1) In B.O.P.I.-Designs, O.S.I.M. shall publish:

- a) the list of designs registered in the Design Register;
- b) the list of applications and designs rejected according to the decision of the Examination Board;
- c) the list of holders who have lost rights for failure to pay the fees for maintenance in force of the validity of a design registration certificate;
- d) the list of revalidated certificates;
- e) the list of renewals of design registration certificates;
- f) modifications in the legal status of the applications for registration and registration certificates.

(2) The Board of Appeal Secretariat shall transmit any decision of the Board to be published.

(3) The Secretariat of the Disputed Claims Division shall transmit for publication:

- a) the final and irrevocable court decisions of cancelling the certificates for registration of designs, communicated to O.S.I.M.;
- b) other final and irrevocable court decisions with regard to certificates for registration of designs, communicated to O.S.I.M.

ARTICLE 35 Modifications, Completions, Corrections

(1) The completions, modifications or corrections with regard to the applications shall be transmitted within the time limit granted by O.S.I.M. and shall only refer to the name and address of the applicant or the professional representative, the title of the design, drawing up or copying, orthography errors or obvious errors, provided that these do not modify

the design representation; the completions or modifications with regard to the description shall only refer to the aesthetic elements contained in the graphic representations annexed to the application.

(2) The completions sent by the applicant, which modify the deposit, namely the addition of data or additional graphic representations shall not be considered.

(3) The filed graphic representations cannot be modified, but they can be substituted with other graphic representations, if the quality of the representation is exclusively improved or the dimensions thereof are modified within the limits provided by Art. 13.

ARTICLE 36 Issuance of Design Registration Certificate

(1) The design registration certificate is issued by O.S.I.M. within 30 days of the date on which the decision to accept remained final and irrevocable, provided that the legal fees for the issuance of the registration certificate and for maintenance in force have been paid.

(2) The fees for the issuance of the registration certificate and for maintenance in force shall be paid concomitantly.

(3) The registration certificate shall contain the reference data, description of design and black-and-white or colour graphic representations, according to the publication in B.O.P.I.-Designs.

(4) In case of loss or destruction of the registration certificate, published in B.O.P.I.-Designs, a duplicate thereof may be issued, upon request, and for other solidly substantiated cases certified copies of the original document may be issued to the holder, subject to payment of the legal fees.

(5) The registration certificates shall be issued in the order in which the fees have been paid.

(6) Where the fees for the grant of the registration certificate and for maintenance in force thereof for the period specified by the law have not been paid, O.S.I.M. shall not issue the certificate and the holder shall lose the rights conferred by the law in conditions of Art. 35 of the law.

(7) The loss of rights shall be entered in the Register of Registered Designs and shall be published in B.O.P.I-Designs.

ARTICLE 37 Renewal of Design Registration Certificate

(1) Renewal of the design registration certificate, wholly or partly, shall be made by O.S.I.M. upon express request by the holder or any person designated by this.

(2) The application for renewal of the registration certificate according to the standardized renewal form, signed in the original, shall be filed with O.S.I.M. at least one month prior to the period of expiration of the registration certificate validity, together with the proof of payment of the fee for the issuance of the renewal certificate and of the renewal fee.

(3) O.S.I.M. shall grant a six-month period, at the most, for the payment of the legal maintenance or renewal fee, for which the increases provided by the law shall be levied.

(4) Renewal may be whole or partial, namely for all the designs or for a part of designs.

(5) O.S.I.M. shall issue a new design registration certificate to the holder, while mentioning the renewal period.

(6) The registration certificate whose validity period was renewed shall contain the period for which the renewal was made and the reference data.

(7) On the design registration certificate whose validity was renewed there will be written (1R) for the first renewal, (2R) for the second renewal period and (3R) for the third renewal period.

(8) Failure to pay the legal fees for the renewal of the registration certificate shall entail the certificate holder's forfeiture of rights conferred by the law, in the conditions of Art. 35 of the law.

(9) The renewals shall be entered in the Design Register and shall be published in B.O.P.I.-Designs.

ARTICLE 38 Reinstatement

Where the registration certificate holder has lost the rights conferred by the law, this could be reinstated provided that the following cumulative

conditions are fulfilled:

- a) a substantiated request made by the holder is filed with O.S.I.M. within a six-month period from the date of the loss of rights;
- b) evidence in sustaining the request for reinstatement is annexed;
- c) the legal fees, namely the fees for maintenance in force or renewal, revalidation and certificate issuance have been paid.

ARTICLE 39 Register of Filed Applications

(1) In the Register of Filed Applications there are entered both the design registration applications filed by the national route and the international design registration applications filed according to the Hague Agreement.

(2) In the Register provided under paragraph (1) there shall be entered the following data:

- a) number and date of filing the application with the General Registry of O.S.I.M.;
- b) filing number and date of the international application, where appropriate;
- c) number and date of the national deposit;
- d) applicant: name/denomination and address/registered office;
- e) professional representative: name/denomination and address/place of business;
- f) author: name, address;
- g) denomination of the design;
- h) product in which the design is incorporated;
- i) number of filed designs;
- j) claimed priority: number, date, country;
- k) modifications in the legal status.

ARTICLE 40 Design Register

(1) In the Design Register there shall be entered the designs accepted for registration. The number in the Design Register is identical to the registration certificate number.

(2) In the Design Register there shall be entered the modifications in the legal status of the registration certificate, maintenance in force, renewals, forfeiture of rights and reinstatement.

(3) The following data shall be entered in the Designs Register:

- a) number of the registration certificate;
- b) number and date of the regular deposit;

- c) number and date of the international deposit;
- d) holder: name/denomination and address/registered office;
- e) professional representative: name/denomination and address/place of business;
- f) author's identification data;
- g) registered design denomination;
- h) number of registered designs (numbered according to the registration certificate);
- i) indicating the class according to the international classification;
- j) recognized priority: number, date, country;
- k) the first protection period;
- l) the second protection period (whole or partial renewal);
- m) the third protection period (whole or partial renewal);
- n) date of loss of holder's rights;
- o) date of reinstatement;
- p) other mentions concerning the modification of the legal status;
- q) mentions concerning the revocation;
- r) mentions concerning the cancellation of the certificate, according to the final and irrevocable court decision.

(4) For entering the modifications, the applicant thereof or the professional representative shall file, with O.S.I.M., an application and the documents based on which the modification will be performed, for each deposit separately.

CHAPTER IV Rights

ARTICLE 41 Transfer of Rights on Designs: Assignments, Licenses and Other Rights

(1) The rights stipulated in Art. 38 paragraph (1) of the law may be transferred by succession, assignment or license.

(2) The assignment is full if it relates to all the rights conferred by the registration certificate.

(3) The assignment is partial if it relates only to a part of the rights conferred by the registration certificate.

(4) The license is exclusive when the licensor commits himself not to further transfer of the rights concerning the exploitation of the design to other persons.

(5) The license is nonexclusive if the licensor keeps a right of exploitation of the design and/or may grant the right to exploitation of the design to other persons.

(6) The license is full if it relates to all the rights conferred by the registration certificate.

(7) The license is partial if it relates only to a part of the rights conferred by the registration certificate.

(8) The transfers of rights shall be communicated to O.S.I.M. in order to be recorded in the Design Register and published in B.O.P.I.-Designs and shall be opposable to third parties only after publication.

ARTICLE 42 Recording the Rights in Designs

(1) The request for recording a change of the holder shall be presented in writing and signed by the holder prior to the change or by the new holder and shall contain the following:

- a) express request for recording the change of the holder;
- b) number of the registration certificate that the assignment relates to;
- c) name and address of the holder prior to the change as well as the name and address of the new holder;
- d) date of changing the holder;

- e) when the new holder is a foreigner, the indication of the State whose citizen he is or in which the new holder has the domicile or registered office or where this has an establishment within the meaning of Art. 3 of the Paris Convention;
- f) manner of transferring the rights;
- g) duration of the transfer of rights.

(2) The request is deemed to have been filed after the payment of the fee provided for by the law.

(3) Where the change of the holder results from a contract, the request will be accompanied by a copy of the contract or an excerpt therefrom, certified for conformity with the original by a notary public.

(4) Where the change of the holder results from a merging or reorganization of a legal entity, the request shall be accompanied by a copy of the corresponding document.

(5) In the situations provided under paragraphs (3) and (4), if the change aims at only one or a part of the co-holders and not at all co-holders, a document signed by the other co-holders containing the express agreement thereof with regard to the new co-holder shall be annexed to the request.

(6) Where the holder's change has been produced by the effect of the law or based on a court decision, the request shall indicate and be accompanied by the document proving this change.

(7) A single request is sufficient even if the change relates to more registration certificates of the same person, provided that the holder's change is the same for all the registration certificates, while indicating all the certificate numbers.

(8) O.S.I.M. may request additional evidence in case of doubts concerning the veridical character of the indications contained in the request or in any document concerning the recording of the holder or correctness of any translation required for recording.

(9) The provisions of paragraphs (1)-(8) shall also be applicable in case of a change of the applicant for the registration of the design.

(10) The change of applicant or holder shall be recorded in the Register

of Filed Applications or in the Designs Register, as the case may be, and shall be published in B.O.P.I.-Designs in the month subsequent to the month when recording was performed.

ARTICLE 43 Recording the Licenses

(1) The request for recording a license shall be submitted in writing and under signature by the holder or licensee and shall contain the following elements:

- a) an express request for recording the license;
- b) the number of the registration certificate the license relates to;
- c) the name/denomination and address/registered office of the holder;
- d) the name/denomination and address/registered office of the licensee;
- e) indication about the fact that the license is exclusive or nonexclusive or any other indications with regard to the type of license;
- f) if appropriate, indication of the State whose citizen the licensee is or on whose territory the licensee has his domicile or registered office or an establishment within the meaning of Art. 3 of the Paris Convention;
- g) the date of granting the license and the license duration.

(2) The request is deemed to have been submitted only after payment of the legal fee.

(3) The request for recording the license shall be accompanied by the copy of the license contract or the copy of an excerpt therefrom, certified for conformity with the original by a notary public.

(4) Where the license is granted based on a decision of the court or results by the effect of the law, the request for recording the license shall be accompanied by the authenticated copy of the final and irrevocable decision.

(5) The licenses shall be recorded in the Designs Register and shall be published in B.O.P.I.-Designs in the month subsequent to the month of recording.

ARTICLE 44 Certificate Co-ownership

(1) The partial assignment of the rights derived from the registration certificate determines a co-ownership condition.

(2) Where a certificate belongs to several holders, each of them is co-owner and may exploit the designs based on a written co-owners' agreement

mentioning the manner of exploitation, licensing and infringement action.

(3) In default of a written agreement of co-owners with regard to the manner of exploiting the designs, each of the co-owners may exploit them to his/her own benefit.

(4) Each of the co-owners may initiate legal remedying procedures for the infringement act to his/her own benefit, the co-owner initiating such infringement procedures in counterfeit having the obligation to notify the other co-owners accordingly.

(5) Each of the co-owners may grant a nonexclusive exploitation license to a third party, to his/her benefit.

(6) A nonexclusive exploitation license may be given only with the agreement of all the co-owners or based on a final and irrevocable court decision.

(7) Each co-owner may, at any moment, assign his/her share of the right to the registration certificate.

(8) For an application with multiple applicants, the provisions of paragraphs (1)-(7) shall also apply in case of the right conferred by Art. 34 of the law.

CHAPTER V Appeal against O.S.I.M. Decisions

ARTICLE 45 Appeal. General Provisions

(1) Within O.S.I.M. there functions the Board of Appeal for Designs, hereinafter called the Board.

(2) The Board shall be organized and function within the meaning of Art. 24 of the law.

ARTICLE 46 Membership and Competence of the Board

(1) The Board shall consist of:

- a) Chairman, the Director General of O.S.I.M. or by devolution of authority, the chief of the Appeal Department;
- b) 2 members, of which one is a legally qualified member.

(2) The Secretaryship of the Board shall be assured by a clerk within the Appeal Department.

(3) The Director General of O.S.I.M. shall approve the competence of the Board.

(4) The appeals shall be submitted in writing to the General Registry of O.S.I.M. within 30 days from communication of the decisions concerning the applications for registration of designs.

(5) The appeals shall be drawn up in Romanian and shall contain:

- a) full name and domicile, residence of the natural person, or the denomination and registered office of the legal entity filing the appeal, as the case may be;
- b) number of O.S.I.M. deposit and of decision appealed against;
- c) object of the appeal;
- d) reasons in fact and in law on which the appeal is based;
- e) power of attorney, if appropriate;
- f) attaching the proof of payment of the legal fee for the examination of the appeal;
- g) signature of the applicant or of the professional representative, as the case may be.

(6) If documents are drawn up in a foreign language, certified translations thereof into Romanian shall be submitted.

(7) Appeals shall be recorded by the Secretary of the Board, in chronological order, in the Register of Appeals.

(8) The appeal shall be made in person or through the professional representative.

(9) The foreign natural persons or legal entities may lodge appeals and put conclusions before the Board only through representative, according to the provisions of Art. 13 of the law.

(10) The Board shall settle the appeals formulated against the decision to refuse or to admit in part, made by the Design Examination Board with regard to the applications for design registration.

ARTICLE 47 Preparation of Appeal Session

(1) The Chairman of the Board shall establish the peremptory dates of the appeal sessions and shall dispose in respect of summoning the parties.

(2) The Secretary of the Board shall summon the parties at least 14 days prior to the established peremptory date established for settling the appeal, by mail with acknowledging of receipt; shall constitute the file of each case and shall transmit, within 14 days from the submission of the appeal, a copy thereof to the Design Division.

(3) Where the summoned party fails to appear on the due date, the procedure before the Board may take part in the absence of the said party.

(4) The presence of the parties on the due date for settling the appeal shall prevail over the deficiencies relating to the procedure of summoning the parties. In the procedure before the Board the parties may appear in person or may be represented by an authorized industrial property attorney or a lawyer.

(5) The legal entities may appear before the Board by a legal representative or by the delegated legal adviser.

(6) The viewpoint of the Design Examination Board drawn up by an examiner within the Design Division, approved by the Chairman of the Design Examination Board will be annexed to the case file at least 5 days prior to the established peremptory date for settling the appeal.

(7) The viewpoint shall contain the response to the grounds in fact and in law invoked by the appellant in sustaining the appeal thereof.

(8) The files of the design registration applications in the original shall be rendered available to the Board by the Design Division, upon the request by the Board.

ARTICLE 48 Sessions and Debates

(1) The appeal session shall be public. The Board may dispose a secret session in case the public debate would be detrimental to one of the parties or to the public order.

(2) The Chairman of the Board shall open, adjourn and dismiss the session.

(3) The Secretary of the Board shall check whether the procedure is complete and whether the fee for settling the appeal has been paid and shall inform the Chairman accordingly.

(4) On the due date, provided that the parties are present or it is ascertained that the summoning procedure is duly complied with, the Chairman shall open the debates and give the floor to the appellant.

(5) The Chairman is entitled to put questions to the parties in order to clear up the facts presented in the appeal and may put in debates any circumstance in fact and in law for solving the case, even if these are not contained in the appeal.

(6) The members of the Board may put questions to the parties only through the intermediary of the Chairman who can agree that the members should address the questions directly.

(7) Upon solidly justified request by the parties or when from the debates there results the need of new evidence, the Board may set a new session date, the present parties being informed on the new session date.

ARTICLE 49 Decisions of the Board

(1) After the closure of the debates, the Board shall deliberate on the matter in the absence of the parties and shall pronounce the decision on the same day during the session or, in special cases the Board may adjourn the pronouncement for utmost three weeks. The Chairman shall hear the opinions of the members of the Board and shall have the final word.

(2) The debates of the session and the decisions of the Board shall be written down by the secretary of the Board in the Register of Sessions.

(3) When a decision is made, the Board shall draw up the operative part thereof which shall be entered in the Register of Sessions in the place corresponding to each file and the rapporteur shall draw up the decision.

(4) The divergent opinions of the members of the Board shall be written down in the operative part of the decision and shall be justified separately.

(5) The Board's decision shall contain:

- a) full name/denomination and domicile/registered office of the appellant;
- b) name and denomination of the professional representative or of the lawyer, as the case may be;
- c) number of the appeal file;
- d) denomination of the Board that pronounced the decision;
- e) subject-matter of the appeal, reasons of the parties and evidence submitted thereby to sustain the appeal;
- f) grounds in fact and in law on which the decision is based;
- g) operative part of the decision;
- h) legal remedies, time limits for the remedies and the court where the decision may be appealed against;
- i) mention that the decision was pronounced in the public session, as well as the signatures of the Chairman and members of the Board.

(6) The Board shall make one of the following decisions for settling the appeal:

- a) admitting the appeal and transmitting the file to the Design Division with a view to applying the decision; or
- b) rejecting the appeal and maintaining the decision appealed against;

(7) Decisions of the Board shall be made with a majority of votes and shall be communicated to the parties by the Secretary of the Board, in a copy certified for conformity with the original, within 15 days of the pronouncement.

(8) Decisions shall be issued in a single original copy to be submitted to the Board's Register of Decisions and kept by the Secretary of the Board.

(9) Decisions shall be signed by the Chairman and members. If one of the members is in impossibility to sign the decision, the Chairman shall write this fact in the decision.

ARTICLE 50 Keeping Evidence of Appeals

(1) The evidence of the appeals submitted to the Board shall be recorded in the following documents: Register of Appeals, Register of Sessions and Board's Register of Decisions.

(2) The Register of Appeals where the appeals are entered shall contain the following elements:

- a) date of submitting the appeal and filing number of the appeal;
- b) full name or denomination of the appellant;
- c) subject-matter of the appeal;
- d) peremptory date set for settling the appeal;
- e) decision pronounced by the Board in respect of the appeal as lodged;
- f) number of the document or order of payment of the fee for settling the appeal;
- g) number of the Board's decision, number and date on which the decisions was communicated.

(3) The discussions in the sessions shall be written down in the Register of Sessions.

(4) The Board's Register of Decisions shall contain:

- a) number of decision;
- b) family name and given name or denomination of the appellant, professional representative or lawyer, as the case may be;
- c) content of the decision of the Board;
- d) number of the Board's file;
- e) number in the session lists of the Board.

(5) Yearly evidence of the appeals shall be kept, each year starting with the current number 1.

CHAPTER VI Transitional and Final Provisions

ARTICLE 51 Transitional Provisions

The provisions of Art. 45-50 in respect of the procedure for settling the appeals shall adequately be completed with the provisions of the Code of Civil Procedure.

ARTICLE 52 Instructions

In the application of the present regulation, the Director General of O.S.I.M. may issue instructions that shall be published in B.O.P.I.-Designs.