

The Danish Patent Office Order No. 1192 of 23rd December 1992

Order on Application and Registration of Designs

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Appendix 1

Pursuant to section 7, section 8, section 14(1), section 46 and section 47 of the Danish Designs Act, cf. Consolidated Act No. 251 of 17th April 1989, and by authorisation under Order No. 416 of 27th May 1992 of the Ministry of Industry the following shall hereby be laid down¹):

Part 1

Filing and Recording of Design Applications

1. Design applications shall be filed with the Patent Office.

2.-(1) A design application shall be made in writing. Application forms shall be provided free of charge by the Patent Office.

(2) The application shall be signed by the applicant or his agent and shall indicate:

(i) the applicant's name or firm name, mailing address and, if the applicant is not represented by an agent, telephone and fax number, if any, and, if the applicant is represented by an agent, the latter's name or firm name, mailing address and telephone and fax number, if any,

(ii) the design inventor's name and mailing address,

(iii) the product or products for which registration of the design is applied,

(iv) the class or classes in which the design is placed by the applicant, cf. section 27 of this Order,

- (v) whether the design is a model for the appearance of a product or an ornament,
 - (vi) where a design registration is applied for by several applicants jointly, and these are not represented by an agent, which of the applicants shall be authorised to receive communications from the Registration Authority on behalf of all the applicants,
 - (vii) if priority is claimed under section 8 of the Registered Designs Act, the information laid down in section 7,
 - (viii) if the applicant requests postponement of the publication, cf. section 18 of the Registered Designs Act, information hereof, and
 - (ix) the documents accompanying the application.
- (3) The documents accompanying the application shall include:
- (i) representations showing the design, cf. section 4 of this Order,
 - (ii) if the applicant is represented by an agent, a power of attorney for the agent unless a power of attorney is given in the application,
 - (iii) if the design is originated by someone other than the applicant, documentary evidence of the applicant's title, and
 - (iv) declaration of novelty, cf. section 10(3) of the Registered Designs Act.
- (4) The Registration Authority may grant exemption from the requirement to provide a written power of attorney.
- (5) The prescribed application fee shall accompany the application.
- (6) An application may be processed urgently, if the applicant submits a request in writing to that effect and pays the prescribed fee.
- 3.-(1)** The application and documents accompanying the application shall be in Danish, Norwegian or Swedish. The Registration Authority may require that the statement of the products is in Danish.
- (2) If a document is drawn up in any other language than those prescribed in subsection 1, 1st sentence, a translation shall be filed. The Patent Office may require that the translation be certified by a translator or in another manner approved by the Patent Office. The Registration Authority may abstain from the requirement of translation.
- 4.-(1)** Representations which show the design and which may be photos or drawings shall be filed in triplicate in a size not above A4 size (21 cm x 29.7 cm.). If the size is smaller than A4 two copies shall be reproduced on paper of A4 size. The representations shall be suitable for reproduction in black/white printing including in a different size.

(2) If the applicant files a model of the design the model shall be made up of a durable material. The size model may not exceed a length of 40 cm in any direction or exceed a weight of 4 kg. Modes of a perishable or hazardous material may not be filed.

(3) If an application includes several designs, cf. section 11 of the Registered Designs Act, separate representations of each design shall be filed. Representations and models, if any, shall be clearly marked with consecutive numbers.

5. The Patent Office shall mark the application with an application number and the date on which it was filed.

6.-(1) The Patent Office shall keep a record of applications filed.

(2) In the record, for each application shall be entered:

(i) the date of filing and number of the application,

(ii) the date, when a representation or model was initially filed, if this did not occur concurrently with the application,

(iii) the product or the products for which registration of the design is applied,

(iv) the class or classes in which the design is placed by the applicant, cf. section 27 of this Order,

(v) whether the design is a model for the appearance of a product or an ornament,

(vi) the applicant's name or firm name and mailing address,

(vii) if the applicant is represented by an agent, the latter's name or firm name and mailing address,

(viii) the design originator's name and mailing address,

(ix) if priority is claimed under section 8 of the Registered Designs Act, where the previous application whose priority is claimed was filed and the date of filing and number of that application,

(x) where the application is made on the basis of division or excision, the number of the patent application,

(xi) where new applications result from diversion from the application, information to that effect and indication of the numbers of those applications,

(xii) if the applicant has requested a postponement of the publication, information thereof,

(xiii) communications, representations, models if any, received and fees paid in respect of the application, and

(xiv) notifications and communications sent in respect of the application.

(3) The record shall in respect of the individual application be available to the public when the application is made available to the public. However, the Patent Office may decide that some of the data referred to in subsection 2 thereof shall be available to the public before the said date.

Part 2

Priority, etc.

7.-(1) Where a design is included in an application for registration of a design or for utility model protection in another State being a party to the Paris Convention for the Protection of Industrial Property of 20th March 1883 and where the design registration is applied for in this State within 6 months from the date of filing in this other State the application shall for the purposes of sections 2 and 6 of the Registered Designs Act be considered filed at the same time as the application in this other State. The same right of priority applies even though the prior application for protection does not originate from a State being a party to the Convention when an equivalent priority from a Danish design application is granted in the State where the prior application was filed and the legislation in the State under consideration in substance is in accordance with the Convention.

(2) If an application is divided under section 11 of this Order, the priority claim for the patent application shall apply, without any separate claim for priority, to new applications resulting herefrom.

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

8.-(1) The Registration Authority may require documentation of the priority claimed by filing of a certificate from the Authority which has received the original application. The certificate shall give the date of filing of the original application and the applicant's name or firm name. In addition, the Registration Authority may require that a certified copy of the application and accompanying drawings showing the design shall be filed.

(2) If the applicant fails to file the said documentation in due time, the applicant's right of priority shall lapse.

9.-(1) For an application to be capable of serving as a basis for priority under section 7 of this Order, it shall be the first application in which the design is given.

(2) Where the person who filed the first application or his successor in title has filed a subsequent application relating to the same design with the same authority, the subsequent application may, however, be claimed as a basis for priority provided that, at the time of the filing of the subsequent application, the first application has been withdrawn, shelved or refused without the design having been made available to the public and without leaving any rights outstanding or having served as a basis for claiming a right of priority. Where priority has been obtained on the basis of such subsequent application, the prior application may no longer serve as a basis for claiming a right of priority.

10.-(1) In the event of an application for a joint registration, cf. section 11 of the Registered Designs Act, priority may be claimed for one or several of the designs.

(2) In the event of such application priority may be claimed on the basis of several applications even if these have been filed in different countries. If priority is claimed on the basis of several

applications, the time limits commencing on the date of priority shall have effect from the earliest priority date.

11. Where an application includes several designs, the applicant may divide the application into several applications which as claimed by the applicant shall be considered filed simultaneously with the original application.

Part 3

Examination and other Processing of Applications

12.-(1) On examining whether the design is registrable the Registration Authority shall consider everything that comes to its attention.

(2) The examination by the Registration Authority includes valid Danish design registrations and Danish pending applications. In addition, the examination includes Danish design registrations which have been cancelled within the last 5 years from the date of filing of the application.

13. In the event of collision with a prior design application the processing of a newer application may be suspended until the prior application has been decided on or has become available to the public.

Advertisement of the Application, etc.

14.-(1) The publication of the application's availability to the public shall contain information on:

- (i) the number of the application,
- (ii) the date on which the application was filed or shall be considered filed,
- (iii) the applicant's name or firm name and mailing address,
- (iv) the product or products for which registration of the design is applied,
- (v) the class or classes in which the design is placed, cf. section 27 of this Order, and
- (vi) whether the design is a model for the appearance of a product or for an ornament.

(2) Publication of applications under section 18 (1) of the Registered Designs Act shall contain specification of:

- (i) the number of the application,
- (ii) information on the date on which the application was filed or shall be considered filed,
- (iii) the product or products for which registration of the design is applied,
- (iv) the class or classes to which the design is assigned, cf. section 27 of this Order,
- (v) whether the design is a model for the appearance of a product or for an ornament,

- (vi) the applicant's name or firm name and mailing address,
- (vii) if the applicant is represented by an agent, the latter's name or firm name or mailing address,
- (viii) the design originator's name and mailing address,
- (ix) if priority is claimed under section 8 of the Registered Designs Act, information on where the application claimed as a basis for priority has been filed and the date of filing and number of this application,
- (x) representations showing the design,
- (xi) information on whether a model has been filed, and
- (xii) information on whether the design is claimed registered in colours.

15.-(1) Dansk Mønstertidende" (the Danish Designs Gazette), cf. section 26 of this Order, shall contain information on the right of lodging opposition against the registration of a design.

(2) Oppositions and subsequent contributions from opponents and applicants shall be filed with the Registration Authority in duplicate.

(3) The opposition shall state the grounds.

16. If, during the examination of a design application, letters significant to the assessment of the application are filed outside the period prescribed for filing oppositions, the applicant shall be notified hereof. The person having filed such a letter shall be informed of the right of lodging an opposition whenever the design application may be published, unless the letter concerns better right in the design.

Part 4

Register of Designs, etc.

17. The Patent Office shall keep a register of the designs registered in this country.

18.-(1) Where there is a final decision to grant a registration of a design it shall be entered in the Register and a Certificate of Registration shall be submitted to the registration proprietor.

(2) In the Register of Designs the following information shall be given: