

Commission Regulation (EC) No 2245/2002 of 21 October 2002
implementing Council Regulation (EC) No 6/2002 on Community designs

CHAPTER I

APPLICATION PROCEDURE

Article 1

Content of the application

- 1 The application for a registered Community design shall contain:
 - a a request for registration of the design as a registered Community design;
 - b the name, address and nationality of the applicant and the State in which the applicant is domiciled or in which it has its seat or establishment. Names of natural persons shall take the form of the family name and the given name(s). Names of legal entities shall be indicated by their official designation, which may be abbreviated in a customary manner; furthermore, the State whose law governs such entities shall be indicated.

The telephone numbers as well as fax numbers and details of other data-communications links, such as electronic mail, may be given. Only one address shall, in principle, be indicated for each applicant; where several addresses are indicated, only the address mentioned first shall be taken into account, except where the applicant designates one of the addresses as an address for service. If the Office has given the applicant an identification number, it shall be sufficient to mention that number together with the name of the applicant;
 - c a representation of the design in accordance with Article 4 of this Regulation or, if the application concerns a two-dimensional design and contains a request for deferment of publication in accordance with Article 50 of Regulation (EC) No 6/2002, a specimen in accordance with Article 5 of this Regulation;
 - d an indication, in accordance with Article 3(3), of the products in which the design is intended to be incorporated or to which it is intended to be applied;
 - e if the applicant has appointed a representative, the name of that representative and the address of his/her place of business in accordance with point (b); if the representative has more than one business address or if there are two or more representatives with different business addresses, the application shall indicate which address shall be used as an address for service; where no such indication is made, only the first-mentioned address shall be taken into account as an address for service. If there is more than one applicant, the application may indicate the appointment of one applicant or representative as common representative. If an appointed representative has been given an identification number by the Office, it shall be sufficient to mention that number together with the name of the representative;
 - f if applicable, a declaration that priority of a previous application is claimed pursuant to Article 42 of Regulation (EC) No 6/2002, stating the date on which the previous application was filed and the country in which or for which it was filed;
 - g if applicable, a declaration that exhibition priority is claimed pursuant to Article 44 of Regulation (EC) No 6/2002, stating the name of the exhibition and the date of the first disclosure of the products in which the design is incorporated or to which it is applied;

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- h a specification of the language in which the application is filed, and of the second language pursuant to Article 98(2) of Regulation (EC) No 6/2002;
 - i the signature of the applicant or his/her representative in accordance with Article 65.
- 2 The application may contain:
- a a single description per design not exceeding 100 words explaining the representation of the design or the specimen; the description must relate only to those features which appear in the reproductions of the design or the specimen; it shall not contain statements as to the purported novelty or individual character of the design or its technical value;
 - b a request for deferment of publication of registration in accordance with Article 50(1) of Regulation (EC) No 6/2002;
 - c an indication of the ‘Locarno classification’ of the products contained in the application, that is to say, of the class or classes and the subclass or subclasses to which they belong in accordance with the Annex to the Agreement establishing an international classification for industrial designs, signed at Locarno on 8 October 1968 (hereinafter ‘the Locarno Agreement’), referred to in Article 3 and subject to Article 2(2);
 - d the citation of the designer or of the team of designers or a statement signed by the applicant to the effect that the designer or team of designers has waived the right to be cited under Article 36(3)(e) of Regulation (EC) No 6/2002.

Article 2

Multiple application

- 1 An application may be a multiple application requesting the registration of several designs.
- 2 When several designs other than ornamentation are combined in a multiple application, the application shall be divided if the products in which the designs are intended to be incorporated or to which they are intended to be applied belong to more than one class of the Locarno Classification.
- 3 For each design contained in the multiple application the applicant shall provide a representation of the design in accordance with Article 4 and the indication of the product in which the design is intended to be incorporated or to be applied.
- 4 The applicant shall number the designs contained in the multiple application consecutively, using arabic numerals.

Article 3

Classification and indication of products

- 1 Products shall be classified in accordance with Article 1 of the Locarno Agreement, as amended and in force at the date of filing of the design.
- 2 The classification of products shall serve exclusively administrative purposes.
- 3 The indication of products shall be worded in such a way as to indicate clearly the nature of the products and to enable each product to be classified in only one class of the Locarno classification, preferably using the terms appearing in the list of products set out therein.

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4 The products shall be grouped according to the classes of the Locarno classification, each group being preceded by the number of the class to which that group of products belongs and presented in the order of the classes and subclasses under that classification.

Article 4

Representation of the design

1 The representation of the design shall consist in a graphic or photographic reproduction of the design, either in black and white or in colour. It shall meet the following requirements:

- a save where the application is filed by electronic means pursuant to Article 67, the representation must be filed on separate sheets of paper or reproduced on the page provided for that purpose in the form made available by the Office pursuant to Article 68;
- b in the case of separate sheets of paper, the design shall be reproduced on opaque white paper and either pasted or printed directly on it. Only one copy shall be filed and the sheets of paper shall not be folded or stapled;
- c the size of the separate sheet shall be DIN A4 size (29,7 cm × 21 cm) and the space used for the reproduction shall be no larger than 26,2 cm × 17 cm. A margin of at least 2,5 cm shall be left on the left-hand side; at the top of each sheet of paper the number of views shall be indicated pursuant to paragraph 2 and, in the case of a multiple application, the consecutive number of the design; no explanatory text, wording or symbols, other than the indication 'top' or the name or address of the applicant, may be displayed thereon;
- d where the application is filed by electronic means, the graphic or photographic reproduction of the designs shall be in a data format determined by the President of the Office; the manner of identifying the different designs contained in a multiple application, or the different views, shall be determined by the President of the Office;
- e the design shall be reproduced on a neutral background and shall not be retouched with ink or correcting fluid. It shall be of a quality permitting all the details of the matter for which protection is sought to be clearly distinguished and permitting it to be reduced or enlarged to a size no greater than 8 cm by 16 cm per view for entry in the Register of Community Designs provided for in Article 72 of Regulation (EC) No 6/2002, hereinafter 'the Register', and for direct publishing in the *Community Designs Bulletin* referred to in Article 73 of that Regulation.

2 The representation may contain no more than seven different views of the design. Any one graphic or photographic reproduction may contain only one view. The applicant shall number each view using arabic numerals. The number shall consist of separate numerals separated by a point, the numeral to the left of the point indicating the number of the design, that to the right indicating the number of the view.

In cases where more than seven views are provided, the Office may disregard for registration and publication any of the extra views. The Office shall take the views in the consecutive order in which the views are numbered by the applicant.

3 Where an application concerns a design that consists in a repeating surface pattern, the representation of the design shall show the complete pattern and a sufficient portion of the repeating surface.

The size limits set out in paragraph 1(c) shall apply.

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4 Where an application concerns a design consisting in a typographic typeface, the representation of the design shall consist in a string of all the letters of the alphabet, in both upper and lower case, and of all the arabic numerals, together with a text of five lines produced using that typeface, both letters and numerals being in the size pitch 16.

Article 5

Specimens

1 Where the application concerns a two-dimensional design and contains a request for a deferment of publication, in accordance with Article 50(1) of Regulation (EC) No 6/2002, the representation of the design may be replaced by a specimen pasted on a sheet of paper.

Applications for which a specimen is submitted must be sent by a single mail or directly delivered to the office of filing.

Both the application and the specimen shall be submitted at the same time.

2 The specimens shall not exceed 26,2 cm × 17 cm in size, 50 grams in weight or 3 mm in thickness. The specimen shall be capable of being stored, unfolded, alongside documents of the size prescribed in Article 4(1)(c).

3 Specimens that are perishable or dangerous to store shall not be filed.

The specimen shall be filed in five copies; in the case of a multiple application, five copies of the specimen shall be filed for each design.

4 Where the design concerns a repeating surface pattern, the specimen shall show the complete pattern and a sufficient portion of the repeating surface in length and width. The limits set out in paragraph 2 shall apply.

Article 6

Fees for the application

1 The following fees shall be paid at the time when the application is submitted to the Office:

- a the registration fee;
- b the publication fee or a deferment fee if deferment of publication has been requested;
- c an additional registration fee in respect of each additional design included in a multiple application;
- d an additional publication fee in respect of each additional design included in a multiple application, or an additional deferment fee in respect of each additional design included in a multiple application if deferment of publication has been requested.

2 Where the application includes a request for deferment of publication of registration, the publication fee and any additional publication fee in respect of each additional design included in a multiple application shall be paid within the time limits specified in Article 15(4).

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Article 7

Filing of the application

1 The Office shall mark the documents making up the application with the date of its receipt and the file number of the application.

Each design contained in a multiple application shall be numbered by the Office in accordance with a system determined by the President.

The Office shall issue to the applicant without delay a receipt which shall specify the file number, the representation, description or other identification of the design, the nature and the number of the documents and the date of their receipt.

In the case of a multiple application, the receipt issued by the Office shall specify the first design and the number of designs filed.

2 If the application is filed with the central industrial property office of a Member State or at the Benelux Design Office in accordance with Article 35 of Regulation (EC) No 6/2002, the office of filing shall number each page of the application, using arabic numerals. The office of filing shall mark the documents making up the application with the date of receipt and the number of pages before forwarding the application to the Office.

The office of filing shall issue to the applicant without delay a receipt specifying the nature and the number of the documents and the date of their receipt.

3 If the Office receives an application forwarded by the central industrial property office of a Member State or the Benelux Design Office, it shall mark the application with the date of receipt and the file number and shall issue to the applicant without delay a receipt in accordance with the third and fourth subparagraphs of paragraph 1, indicating the date of receipt at the Office.

Article 8

Claiming priority

1 Where the priority of one or more previous applications is claimed in the application pursuant to Article 42 of Regulation (EC) No 6/2002, the applicant shall indicate the file number of the previous application and file a copy of it within three months of the filing date referred to in Article 38 of that Regulation. The President of the Office shall determine the evidence to be provided by the applicant.

2 Where, subsequent to the filing of the application, the applicant wishes to claim the priority of one or more previous applications pursuant to Article 42 of Regulation (EC) No 6/2002, he/she shall submit, within one month of the filing date, the declaration of priority, stating the date on which and the country in or for which the previous application was made.

The applicant shall submit to the Office the indications and evidence referred to in paragraph 1 within three months of receipt of the declaration of priority.

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Article 9

Exhibition priority

1 Where exhibition priority has been claimed in the application pursuant to Article 44 of Regulation (EC) No 6/2002, the applicant shall, together with the application or at the latest within three months of the filing date, file a certificate issued at the exhibition by the authority responsible for the protection of industrial property at the exhibition.

That certificate shall declare that the design was incorporated in or applied to the product and disclosed at the exhibition, and shall state the opening date of the exhibition and, where the first disclosure of the product did not coincide with the opening date of the exhibition, the date of such first disclosure. The certificate shall be accompanied by an identification of the actual disclosure of the product, duly certified by that authority.

2 Where the applicant wishes to claim an exhibition priority subsequent to the filing of the application, the declaration of priority, indicating the name of the exhibition and the date of the first disclosure of the product in which the design was incorporated or to which it was applied, shall be submitted within one month of the filing date. The indications and evidence referred to in paragraph 1 shall be submitted to the Office within three months of receipt of the declaration of priority.

Article 10

Examination of requirements for a filing date and of formal requirements

1 The Office shall notify the applicant that a date of filing cannot be granted if the application does not contain:

- a a request for registration of the design as a registered Community design;
- b information identifying the applicant;
- c a representation of the design pursuant to Article 4(1)(d) and (e) or, where applicable, a specimen.

2 If the deficiencies indicated in paragraph 1 are remedied within two months of receipt of the notification, the date on which all the deficiencies are remedied shall determine the date of filing.

If the deficiencies are not remedied before the time limit expires, the application shall not be dealt with as a Community design application. Any fees paid shall be refunded.

3 The Office shall call upon the applicant to remedy the deficiencies noted within a time limit specified by it where, although a date of filing has been granted, the examination reveals that:

- a the requirements set out in Articles 1, 2, 4 and 5 or the other formal requirements for applications laid down in the Regulation (EC) No 6/2002 or in this Regulation have not been complied with;
- b the full amount of the fees payable pursuant to Article 6(1), read in conjunction with Commission Regulation (EC) No 2246/2002⁽¹⁾, has not been received by the Office;
- c where priority has been claimed pursuant to Articles 8 and 9, either in the application itself or within one month after the date of filing, the other requirements set out in those Articles have not been complied with;

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- d in the case of a multiple application, the products in which the designs are intended to be incorporated or to which they are intended to be applied belong to more than one class of the Locarno classification.

In particular, the Office shall call upon the applicant to pay the required fees within two months of the date of notification, together with the late payment fees provided for in Article 107(2)(a) to (d) of Regulation (EC) No 6/2002 and as set out in Regulation (EC) No 2246/2002.

In the case of the deficiency referred to in point (d) of the first subparagraph, the Office shall call upon the applicant to divide the multiple application in order to ensure compliance with the requirements under Article 2(2). It shall also call upon the applicant to pay the total amount of the fees for all the applications resulting from the separation of the multiple application, within such a time limit as it may specify.

After the applicant has complied with the request to divide the application within the time limit set, the date of filing of the resulting application or applications shall be the date of filing granted to the multiple application initially filed.

4 If the deficiencies referred to in paragraph 3(a) and (d) are not remedied before the time limit expires, the Office shall reject the application.

5 If the fees payable pursuant to Article 6(1)(a) and (b) are not paid before the time limit expires, the Office shall reject the application.

6 If any additional fees payable pursuant to Article 6(1)(c) or (d) in respect of multiple applications are not paid or not paid in full before the time limit expires, the Office shall reject the application in respect of all the additional designs which are not covered by the amount paid.

In the absence of any criteria for determining which designs are intended to be covered, the Office shall take the designs in the numerical order in which they are represented in accordance with Article 2(4). The Office shall reject the application in so far as it concerns designs for which additional fees have not been paid or have not been paid in full.

7 If the deficiencies referred to in paragraph 3(c) are not remedied before the time limit expires, the right of priority for the application shall be lost.

8 If any of the deficiencies referred to in paragraph 3 is not remedied before the time limit expires and such deficiency concerns only some of the designs contained in a multiple application, the Office shall reject the application, or the right of priority shall be lost, only in so far as those designs are concerned.

Article 11

Examination of grounds for non-registrability

1 Where, pursuant to Article 47 of Regulation (EC) No 6/2002, the Office finds, in the course of carrying out the examination under Article 10 of this Regulation, that the design for which protection is sought does not correspond to the definition of design provided in Article 3(a) of Regulation (EC) No 6/2002 or that the design is contrary to public policy or to accepted principles of morality, it shall inform the applicant that the design is non-registrable, specifying the ground for non-registrability.

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2 The Office shall specify a time limit within which the applicant may submit his/her observations, withdraw the application or amend it by submitting an amended representation of the design, provided that the identity of the design is retained.

3 Where the applicant fails to overcome the grounds for non-registrability within the time limit, the Office shall refuse the application. If those grounds concern only some of the designs contained in a multiple application, the Office shall refuse the application only in so far as those designs are concerned.

f¹ Article 11a

Examination of grounds for refusal

1 Where, pursuant to Article 106e(1) of Regulation (EC) No 6/2002, the Office finds, in the course of carrying out an examination of an international registration, that the design for which protection is sought does not correspond to the definition of design provided for in Article 3(a) of that Regulation or that the design is contrary to public policy or to accepted principles of morality, it shall send to the International Bureau of the World Intellectual Property Organisation (hereinafter ‘the International Bureau’) a notification of refusal not later than six months from the date of publication of the international registration, specifying the grounds for refusal pursuant to Article 12(2) of the Geneva Act of the Hague Agreement concerning the International Registration of Industrial Designs adopted on 2 July 1999 (hereinafter ‘the Geneva Act’) approved by Council Decision 2006/954/EC⁽²⁾.

2 The Office shall specify a time limit within which the holder of the international registration has the possibility, pursuant to Article 106e(2) of Regulation (EC) No 6/2002, to renounce the international registration in respect of the Community, to limit the international registration to one or some of the industrial designs in respect of the Community or to submit observations.

3 Where the holder of the international registration is obliged to be represented in proceedings before the Office pursuant to Article 77(2) of Regulation (EC) No 6/2002, the notification shall contain a reference to the obligation of the holder to appoint a representative as referred to in Article 78(1) of that Regulation.

The time limit specified in paragraph 2 of this Article shall apply *mutatis mutandis*.

4 If the holder fails to appoint a representative within the specified time limit, the Office shall refuse the protection of the international registration.

5 Where the holder submits observations that would satisfy the Office within the specified time limit, the Office shall withdraw the refusal and notify the International Bureau in accordance with Article 12(4) of the Geneva act.

Where, pursuant to Article 12(2) of the Geneva act, the holder does not submit observations that would satisfy the Office within the specified time limit, the Office shall confirm the decision refusing protection for the international registration. That decision is subject to appeal in accordance with Title VII of Regulation (EC) No 6/2002.

6 Where the holder renounces the international registration or limits the international registration to one or some of the industrial designs in respect of the Community, he shall inform the International Bureau by way of recording procedure in accordance with Article 16(1)(iv) and (v) of the Geneva Act. The holder can inform the Office submitting a corresponding statement.]

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Textual Amendments

- F1** Inserted by [Commission Regulation \(EC\) No 876/2007 of 24 July 2007 amending Regulation \(EC\) No 2245/2002 implementing Council Regulation \(EC\) No 6/2002 on Community designs following the accession of the European Community to the Geneva Act of the Hague Agreement concerning the international registration of industrial designs \(Text with EEA relevance\)](#).

Article 12

Withdrawal or correction of the application

1 The applicant may at any time withdraw a Community design application or, in the case of a multiple application, withdraw some of the designs contained in the application.

2 Only the name and address of the applicant, errors of wording or of copying, or obvious mistakes may be corrected, at the request of the applicant and provided that such correction does not change the representation of the design.

3 An application for the correction of the application pursuant to paragraph 2 shall contain:

- a the file number of the application;
- b the name and the address of the applicant in accordance with Article 1(1)(b);
- c where the applicant has appointed a representative, the name and the business address of the representative in accordance with Article 1(1)(e);
- d the indication of the element of the application to be corrected and that element in its corrected version.

4 If the requirements for the correction of the application are not fulfilled, the Office shall communicate the deficiency to the applicant. If the deficiency is not remedied within the time limits specified by the Office, the Office shall reject the application for correction.

5 A single application may be made for the correction of the same element in two or more applications submitted by the same applicant.

6 Paragraphs 2 to 5 shall apply *mutatis mutandis* to applications to correct the name or the business address of a representative appointed by the applicant.

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- (1) See page 54 of this Official Journal.
- (2) [^{F1}OJ L 386, 29.12.2006, p. 28.]

Textual Amendments

- F1** Inserted by Commission Regulation (EC) No 876/2007 of 24 July 2007 amending Regulation (EC) No 2245/2002 implementing Council Regulation (EC) No 6/2002 on Community designs following the accession of the European Community to the Geneva Act of the Hague Agreement concerning the international registration of industrial designs (Text with EEA relevance).

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Changes and effects yet to be applied to :

- [Regulation revoked by 2023 c. 28 Sch. 1 Pt. 2](#)