



# Guidelines for the Examination of Industrial Designs

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## STRUCTURE OF THE GUIDELINES FOR THE EXAMINATION OF INDUSTRIAL DESIGNS: “THE DESIGNS GUIDELINES”

- **Two parts**
  - I. **Formal examination**
  - II. **Substantive examination**
- **Highlights**

## FORMAL EXAMINATION

**Direct filing of  
application for  
registration before  
TIDO**

### **Assignment of a filing date for the application:**

- **Mandatory** requirements
  - Identification of the applicant and its representative
  - Request for registration
  - Representation of the design
  - Product indication
- **Optional** elements
  - Priority claim and supporting documents
  - Classification of the design
  - Naming of the designer
- **Multiple** applications possible: more than one design in the same application

## WITHDRAWAL AND CORRECTION

**Withdrawal of  
application**

**Correction to an  
application**

- Elements subject to correction:
  - details of applicant, representative, designer,
  - numbering of views,
  - product indication,
  - classification,
  - priority data
- Elements that **cannot** be corrected -  
representations of the design

## OPPOSITION

**Publication of  
application and filing  
of opposition**

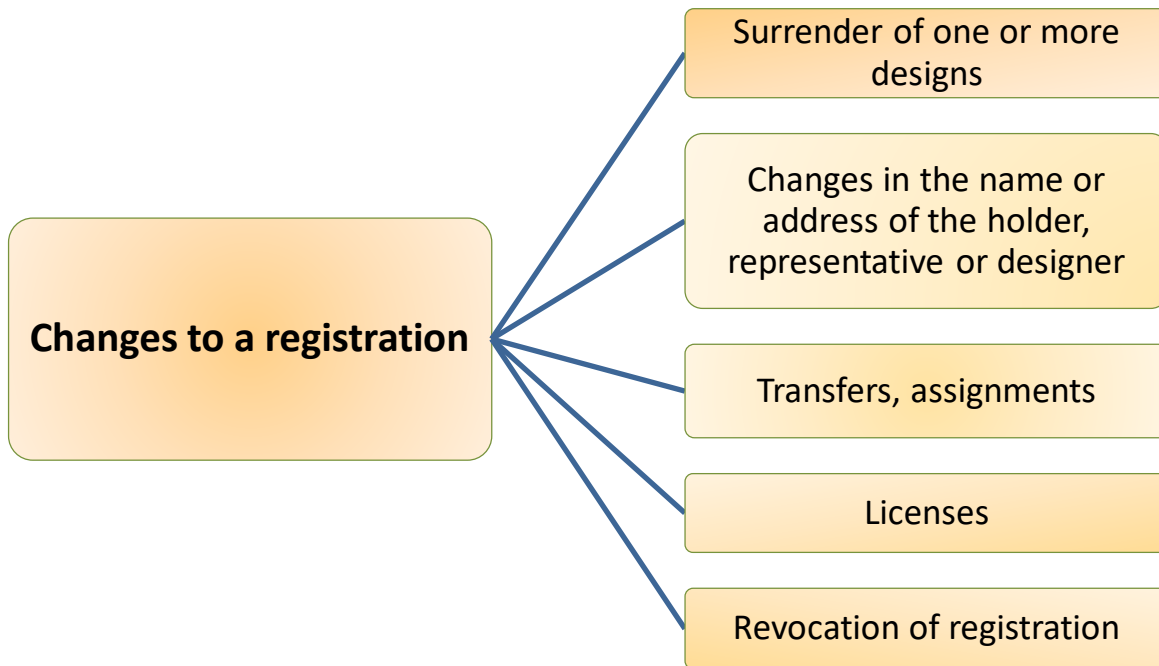
### **Grounds for opposition**

- Conflict with earlier right
- Infringement or non-compliance with legal requirements: novelty, functionality, etc.

### **Identification of the earlier right as a basis for opposition**

- Earlier **design** registration or application
- Earlier **marks**
- Other earlier rights. -  
**copyright** and **personality**  
and **image** rights

## PROCEDURES AFTER REGISTRATION



## INTERNATIONAL DESIGNS – THE HAGUE AGREEMENT

▪ **Direct filing with the International Bureau of WIPO (IB)**

### **Examination; refusal of protection;**

- Entitlement to an international registration: nationality, domicile, residence or commercial establishment
- Contents of an international registration: must designate Egypt; up to 100 designs in same class of Intl Classification
- Examination of international design by TIDO
- If TIDO objects the registration it must **refuse** the protection for the design; this must be notified to IB within six months from publication of the international registration
- Statement of grant of protection is issued by TIDO and notified to IB

## INTERNATIONAL DESIGNS – THE HAGUE AGREEMENT (Contd.)

**Effects** of an international registration - **same** as for national registrations

**Invalidation** of an international registration in Egypt

**Renunciation** and **limitation** of an international registration

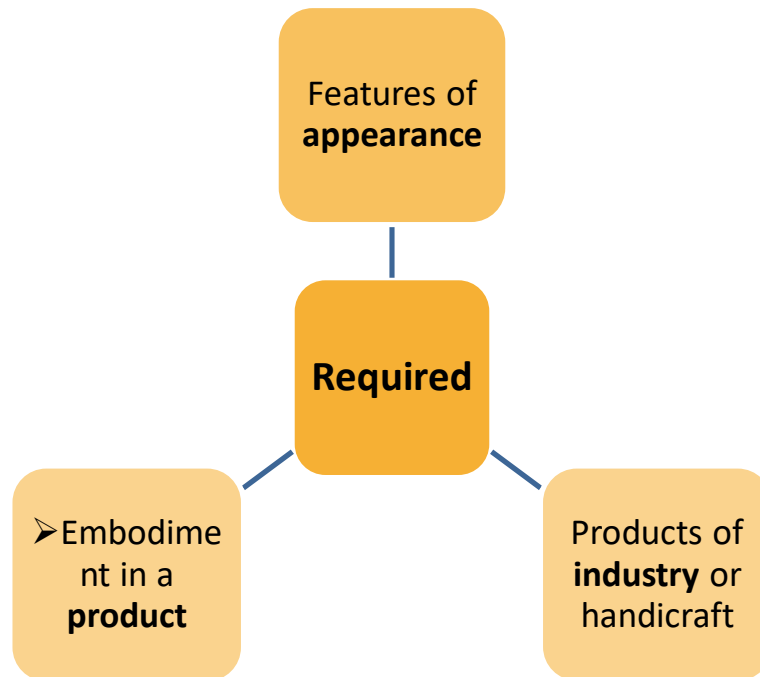
**Renewal** and **changes** affecting an international registration



## SUBSTANTIVE EXAMINATION

### Definition of industrial design:

**any composition** of lines or any three-dimensional form whether or not associated with colors provided that such composition or form gives a **special appearance** of novelty and is **industrially applicable**



## FEATURES OF APPEARANCE

Form, shape,  
lines, contours,  
configuration

Colors

Words,  
letters,  
numerals  
and other  
characters

Music and  
sounds - not  
as such but  
their visual  
representation  
may be a design

Texture and  
material -  
may give a  
special  
appearance

Photographs  
as a basis for  
a design

Architectural  
plans,  
blueprints,  
construction  
plans

Graphs,  
charts,  
maps and  
teaching  
materials

## EMBODIMENT IN A PRODUCT

Designs **cannot** be registered for:

- ⑩ unspecified objects such as: examples of designs, imprecise draft sketches
- ⑩ abstract concepts, principles, methods, ideas not embodied
- ⑩ computer programs and layout-designs
- ⑩ powders, gels and fluids
- ⑩ interior designs

Designs of **parts** of products may be registered

Designs of **complex** products as a whole may be registered

## PRODUCTS OF INDUSTRY OR HANDICRAFT

Product must be **industrially applicable** and amenable to manufacture

Living and **natural** products - **not** registrable as designs

Works of **applied art** may be registered as industrial designs

## NOVELTY

**Standard of novelty:**  
absolute novelty worldwide

**Relevant date to assess novelty:**  
filing of application in Egypt or foreign  
priority date, whichever is earlier

### **Right of priority**

- Entitlement
- Identity of subject matter in both applications

**Grace period:**  
**six months** prior to date of filing in Egypt  
or prior to date of priority

## ASSESSING NOVELTY

- Identity of designs
- Combinations of earlier designs do not destroy novelty
- Novelty is destroyed only by the disclosure of a **single identical earlier design**

Possible **sources of disclosure** of the design relevant for novelty assessment:

- Commercial distribution and use in trade
- General publications, catalogs
- Official publications, databases and search tools
- Disclosure on the internet
- Disclosure at an exhibition

## SPECIAL APPEARANCE (INDIVIDUAL CHARACTER)

**Definition** of special appearance = individual character = **“does not look like other designs”**

Relevant **factors** to consider:

- Products relevant to assess special appearance
- Informed user
- Freedom of designer (practical constraints)
- Overall impression

## FUNCTIONAL OR TECHNICAL FEATURES

**Rationale** for  
refusal of designs:

Need for **free access**  
to technical and  
functional shapes  
that are not covered  
by a patent of  
invention

Assessment of  
**functionality**:

Ban only applies to shapes that  
are **entirely** determined by  
technical or functional  
considerations

Determining the **technical function**

- Functional nature of features of shape
- Existence of other IP rights in the product that embodies the design, e.g. a patent
- Multiplicity of shapes or alternative forms will not avoid objection to registration
- Aesthetic considerations: irrelevant to determine functionality



## FUNCTIONAL OR TECHNICAL FEATURES

**Functionality ban prevails over aesthetic quality:**

incidental beauty of a functional shape will not avoid objection to registration

**Spare parts and interconnections:**

the designs cannot be registered if precise shape is required for technical or functional reasons, or to restore original appearance of a complex product

**Combination of functional and aesthetic features**

- All industrial designs combine functional and aesthetic features
- A combination of functional and aesthetic features can be registered as an industrial design

## OTHER GROUNDS FOR REFUSAL

### CONFLICT WITH EARLIER THIRD- PARTY RIGHTS

Prior rights in  
registered designs

Prior rights in  
distinctive signs

➤ Prior rights in  
works protected by  
copyright

### SPECIFIC STATUTORY PROHIBITIONS

State emblems, flags  
and official signs

Personal rights of  
image and likeness

➤ Public order and  
morality; religious  
symbols and logos

## REPRESENTATION OF THE DESIGN

**Representation** of the industrial design is essential for registration because it defines:

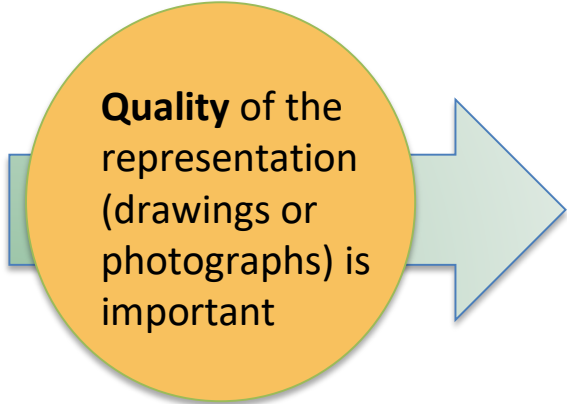
- the **object** of the protection sought by the applicant
- the **scope** of protection

**Strict formal requirements** for the representation of a design

Requirements of the **background** of the representation

- Contrast must allow to ascertain clearly all the features of the design
- Background color: acceptable if not detrimental to contrast
- Shadows may be acceptable if they do not blur the contours of the design
- Elements external to the design must be avoided

## REPRESENTATION OF THE DESIGN



**Quality** of the representation (drawings or photographs) is important

### **Representation *not acceptable* if:**

- Poor line quality or blurriness in lines or picture
- Poor contrast
- Substantial pixilation
- Lines that merge forming black or undefined areas
- Drawings that are excessively small or large
- Drawings or photographs with obvious signs of deletion or correction
- Undefined areas due to a lack of lighting, or showing glare or reflection on shiny or transparent surfaces

## REPRESENTATION OF THE DESIGN

### Number of views:

the applicant is **free to decide on the *number of views*** for a design, provided they are sufficient to disclose all the features to be covered by the registration

### Possible **types of views**

- **Aspect** views
- Views **magnifying** a part of the design
- **Sectional** views
- **Exploded** views
- **Partial** views: shows different **parts** but must include at least one view of the **assembled** design

*Combination* of means of visual representation is **not allowed:**

it would cause **inconsistency** among the different views, and **lack of clarity**

## REPRESENTATION OF THE DESIGN

Different appearances of a product **during use** may be included

- **Complex** products: views of parts **separated** and **assembled**
- **Sets** of articles: group of articles of the same kind

Representation of a design for a **part** of a product

### Visual disclaimers

- Broken lines
- Perimetric boundaries
- Shading and blurring
- Separations and cuts

**Description** and texts:

the representation **should be self-contained and sufficient:** no description, explanatory text, wording or symbols should be included

## PRODUCT INDICATION AND CLASSIFICATION | MULTIPLE APPLICATION AND UNITY OF DESIGN

### PRODUCT INDICATION AND CLASSIFICATION

Classification of products that embody industrial designs is the responsibility of the Office

The applicant may propose a classification

- Office may object a product indication if it is *insufficient, vague, unclear or ambiguous*
- Office may correct the design classification if necessary
- International Classification of Designs (Locarno Classification) included for information only. It is the international classification used under the Hague System

### MULTIPLE APPLICATION AND UNITY OF DESIGN

Standard of **unity of design**:

All products in an application should be in the same class



**THANK YOU**



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