

# **Design Protection Act**

**No. 46, 19 May 2001 with amendments according to Acts No. 76/2002, No. 54/2004, No. 108/2006, No. 167/2007 and No. 88/2008.**

## **CHAPTER I**

### **General provisions**

#### **Article 1**

A designer or his successor in title can, through registration pursuant to this Act, acquire exclusive rights to a design (design rights).

#### **Article 2**

For the purposes of this Act the following concepts shall be defined as stated here:

1. *design* means the appearance of the whole or a part of a product resulting from its individual features or ornamentation, in particular, its lines, contours, colours, shape, type and/or materials;
2. *product* means any handcrafted or industrial item, including inter alia any part intended to be assembled into a complex product, packaging, get-up, graphic symbols and typographic typefaces, but excluding computer programs;
3. *complex product* means a product which is composed of multiple components which can be replaced permitting disassembly and re-assembly of the product.

#### **Article 3**

Design rights can only apply to a new design with an individual character.

A design shall be considered new if no identical design has been made available to the public before the date of filing of the application or, if priority is claimed, the date of priority. A design shall be deemed to be identical to another design if individual features of the design differ only in immaterial details.

A design shall be considered to have individual character if the overall impression it produces on the informed user differs from his overall impression of another design which has been made available to the public before the date of filing of the application or, if priority is claimed, the date of priority. In assessing whether a design has individual character, the degree of freedom of the designer in developing the design shall be taken into consideration.

#### **Article 4**

A design of a product, which constitutes part of a complex product, shall only be considered to be new and have individual character:

1. if the part of it, which has been incorporated into the complex product, remains visible during normal use and
2. the visible part fulfils the requirement as to novelty and individual character.

Normal use shall mean utilisation by the end user of the complex product, excluding maintenance, servicing or repair work.

#### **Article 5**

A design shall be deemed to have been made available to the public in accordance with this Act if it has been registered or otherwise made public, or exhibited, used in trade or otherwise disclosed.

The design shall not be deemed to have been made available to the public:

1. where the events of the first paragraph could not reasonably have become known in the normal course of business to the circles specialised in the sector concerned, operating within the European Economic Area (EEA), before the date of filing of the application or, if priority is claimed, the date of priority, or
2. if knowledge of the design has been disclosed to others under explicit or implicit conditions of confidentiality.

#### **Article 6**

A design shall not be deemed to have been made available to the public if it has, during the 12-month period preceding the date of filing of the application or, if priority is claimed, the date of priority, been made available to the public:

1. by the designer, his successor in title, or a third person as a result of information provided or action taken by the designer, or his successor in title; or
2. as a consequence of an abuse in relation to the designer or his successor in title.

#### **Article 7**

A design shall not enjoy protection if it or its use:

1. is contrary to accepted principles of morality or public order,
2. constitutes unauthorised use of indications protected under Article 6 of the Paris Convention for the Protection of Industrial Property of 20 March 1883, or of other badges, emblems and escutcheons which are of particular public interest,
3. constitutes an unauthorised use of a trade mark or the name of an active commercial activity of another party,
4. constitutes unauthorised use of a work protected under the copyright law,
5. violates a design which is already protected by an application for or registration of design rights in this country or pursuant to international registration which applies in this country.

#### **Article 8**

A design right shall not include features of appearance of a product which:

1. are solely dictated by its technical function, or
2. must necessarily be produced in their exact form and dimensions in order to permit the product in which the design is incorporated to be mechanically connected to or placed in, around or against another product so that both products may perform their functions.

Notwithstanding the provisions of Point 2 of paragraph 1, a design right may be acquired if the design is new and of individual character pursuant to Article 3 and allows multiple assembly or connection of mutually interchangeable products within a modular system.

#### **Article 9**

Design rights shall mean that no party except the designer may exploit the design without authorisation, cf. however the exceptions in Articles 10 to 12. For example, the unauthorised making, offering, putting on the market, importing, exporting or using of a product which is characterised by the design is prohibited, as well as stocking such a product for those purposes.

The design rights provided for in paragraph 1 shall include any design which does not produce on the informed user a different overall impression.

#### **Article 10**

Design rights shall not include:

1. acts done for private purposes,
2. acts done for experimental purposes, and
3. reproduction for use in citations or education provided that such acts are compatible with fair trade practices, do not unduly prejudice the normal exploitation of the design, and that mention is made of the source.

#### **Article 11**

Furthermore, the design rights shall not cover:

1. equipment on ships and aircraft registered in another country when these are temporarily located under Icelandic jurisdiction;
2. the importation to Iceland of spare parts and accessories for the purpose of repairing ships and aircraft as referred to in Point 1; and
3. execution of repairs on ships and aircraft as referred to in Points 1 and 2.

#### **Article 12**

Design rights shall not extend to acts relating to a product which enjoys protection if the product has been put on the market in the European Economic Area by the proprietor of the design right or with his consent.

### **CHAPTER II**

#### **Application for registration of a design**

##### **Article 13**

Application for registration of a design shall be submitted to the Icelandic Patent Office which maintains the Registry of Designs.

An application must include information on the name of the applicant and specification of the product or products covered by the design.

An application must be accompanied by illustrations (graphic or photographic reproductions) which show clearly the design for which protection is sought. In addition, a model may be submitted with the application.

The name of the designer or designers shall be specified in the application. If the applicant is not the designer, he shall prove his right to the design.

The application must be accompanied by the prescribed fee, cf. Article 53.

##### **Article 14**

An application for registration of a design shall not be deemed to have been filed until an applicant has submitted illustrations depicting the design, specified the product which the design covers and paid the prescribed fee, cf. Article 53.

An application may not be altered to refer to another design than that which is described in the application.

##### **Article 15**

A single application may be made for protection for one or more designs if the products connected with the designs form a set or belong to the same classification under the Locarno Agreement of 8 October 1968 on international classification of designs.

More detailed provisions on such multiple registration shall be prescribed in a Regulation.

#### **Article 16**

If application has been made for registration of a design in another application for a design or utility patent in Iceland or in another state, which is a member of the Paris Convention for the Protection of Industrial Property of 20 March 1883 or of the World Trade Organisation, within six months of the date of filing in the first country, the later application shall be considered to have been made at the same time as the previous application, provided that the applicant submits such request.

The provisions of paragraph 1 shall also apply in the case of a state which is not a member of the Paris Convention or the World Trade Organization if that state recognises the corresponding priority claim of Icelandic applications and its laws are generally in accordance with the Paris Convention.

If application is made for the registration of a design within six months from the date the design is first exhibited at a public or publicly recognised international exhibition the application shall be deemed to have been filed at that time. International exhibitions shall mean exhibitions in accordance with the agreement on world expositions signed in Paris on 22 November 1928.

#### **Article 17**

In addition to formal requirements, the Patent Office shall determine whether an application refers to a design in the understanding of point 1 of Article 2 and is in accordance with Points 1 and 2 of Article 7.

An applicant may request that the Patent Office also examine whether the application fulfils the requirements of Points 3 and 5 of Article 7 and is in other respects in accordance with the provisions of this Act.

A request for an examination in accordance with paragraph 2 must be accompanied by the prescribed fee, cf. Article 53.

#### **Article 18**

If an application is deemed to fulfil the prescribed rules it shall be registered. The Patent Office shall classify the design in accordance with the provisions of the Locarno Agreement of 8 October 1968 on the international classification of designs. A notification of the registration of the design shall be published in the Patent Gazette issued by the Patent Office.

[The Gazette may be published and distributed electronically, for example on the Internet.]<sup>1)</sup>

At the request of an applicant, however, registration may be deferred for up to six months from the date of filing or priority date where priority is claimed. A request for deferment must be made in the application.

<sup>1)</sup> Act No. 54/2004, Art. 1 (Valid from June 14 2004).

#### **Article 19**

If an application for registration of a design is not in accordance with the provisions of laws or regulations, or if the Patent Office deems that as a result of other obstacles registration should be refused, an applicant shall be notified thereof and given the opportunity to express comments or correct the application within a prescribed time limit.

If an applicant fails to express his comments or correct the application within the prescribed time limit, the application shall be dismissed.

At the request of an applicant, an application shall be examined once again if, within two months of the expiry of the prescribed time limit, he expresses comments on the case or corrects the application, provided he pays the fee for re-opening an application, cf. Article 53. Re-opening an application may only occur once.

If the Patent Office deems there to be anything to prevent the approval of an application, and the applicant has been given the opportunity to express comments on the deficiency, the application shall be refused unless the Patent Office deems there to be reason to give the applicant once more the opportunity of the procedure referred to in the first paragraph.

#### **Article 20**

If the Icelandic Patent Office deems there to be anything to prevent registration, cf. Article 19, the design may be registered in an altered form if it fulfils the requirements for protection and retains its individual character.

If an applicant does not agree to the altered form the application shall be refused.

### **CHAPTER III**

#### **Access to application and information disclosure**

#### **Article 21**

From the date of registration of a design the application documentation shall be made accessible to the public.

After six months have elapsed from the date of filing or priority date where priority is claimed, the documentation shall be made accessible to the public even if publication as provided for in Article 18 has not yet taken place. If a decision has been taken to dismiss or refuse an application, however, the application documentation may not be made accessible unless an applicant request its re-opening or appeals against a decision on refusal.

If an applicant so requests the application documentation shall be made accessible earlier than provided for in paragraphs 1 and 2.

When application documentation becomes accessible as provided for in paragraphs 2 and 3 an advertisement to this effect shall be published.

#### **Article 22**

If an applicant for registration of a design makes claims to others based on his application before it is made accessible to the public, he must grant the party concerned access to the application documentation if such is requested.

If a person indicates by directly approaching another party, in an advertisement, by an inscription on a product or its packaging, or by other means, that application for registration of a design has been made or that it has been registered, without specifying at the same time the number of the application or registration, he must provide anyone so requesting with this information without undue delay. If information is such as to suggest that application for registration of a design has been made or it has been registered, without this being explicitly stated, information as to whether this is the case must be provided without undue delay upon request.

**CHAPTER IV**  
**Term of protection of a registered design**

**Article 23**

A registered design shall be valid for one or more five-year periods from the date of filing. Registration may be renewed for five years at a time until a 25-year term of protection is reached.

**Article 24**

A request for renewal of registration, together with the prescribed renewal fee, as referred to in Article 53, shall be submitted to the Patent Office no earlier than three months before the period of registration ends and at the latest six months after its conclusion.

Should the Patent Office fail to receive a request for renewal during the period referred to in the first paragraph, the registration shall be eradicated from the Registry of Designs.

If a request is not in accordance with the provisions of laws or regulations the Patent Office shall inform the person concerned and give him an opportunity to express comments within a prescribed time limit.

Following the expiry of this period the Patent Office shall make a decision on the request, unless the person concerned is given the opportunity to express comments once more.

Notification of the renewal of registration shall be published in the Patent Gazette.

**CHAPTER V**  
**Lapse of a registered design**

**Article 25**

Registration of a design may be invalidated in whole or in part by a court decision if:

1. registration is not in accordance with the provisions of Articles 1-8, or
2. an application has been altered in such a way that it violates the provisions of paragraph 2 of Article 14.

Anyone may initiate proceedings in accordance with the paragraph 1 but in the following cases, however, only:

1. concerning the right to a design: a party claiming to be the legal owner of the design;
2. concerning rights pursuant to Point 2 of Article 7: a party with interests at stake regarding the usage concerned;
3. concerning rights pursuant to Points 3 to 5 of Article 7: the proprietor of those rights.

Legal proceedings as referred to in Point 1 of paragraph 2 must be initiated within one year from the date the party concerned became aware of the registration and of other circumstances upon which the case is based. Proceedings may not, however, be initiated more than three months after the registration of a design if the registration proprietor was acting in good faith when the design was registered or the person concerned acquired design rights.

Registration of a design may be cancelled after design rights have lapsed or have been surrendered.

### **Article 26**

If a design has been registered to another owner than the person who, in accordance with Article 1, is entitled to design rights, a court shall, at the demand of the proprietor, transfer the right to the latter.

If a person whose design rights have been revoked in this manner has, in good faith, exploited the new design commercially in Iceland, or made extensive preparations to do so, he may, in return for fair remuneration and in other respects on fair terms, continue this exploitation or commence the planned exploitation provided such exploitation is not altered substantially. On the same premises, a registered licensee shall have the same right.

Rights as provided for in paragraph 2 may only be transferred together with the industrial operations where the right has been exploited or was to be exploited.

### **Article 27**

After a design has been registered a request may be submitted to the Patent Office to cancel the registration in whole or in part, provided the prescribed fee is paid, cf. Article 53. A request may only be based upon the following:

1. that registration is not in accordance with the provisions of Articles 1-8 or
2. an application has been altered in such a way that it violates the provisions of the second paragraph of Article 14.

A request as provided for in paragraph 1 may only be submitted by the following parties:

1. concerning the right to a design: a party claiming to be the legal owner of the design;
2. concerning rights pursuant to point 2 of Article 7: a party with interests at stake regarding the usage concerned;
3. concerning rights pursuant to points 3 to 5 of Article 7: the proprietor of those rights.

If the owner of design rights has waived those rights, the Patent Office shall eradicate the registration of the design.

If a request as provided for in paragraph 1 is revoked, the Patent Office may continue the process insofar as the office deems there to be reason for so doing.

### **Article 28**

A request as provided for in paragraph 1 of Article 27 must be made in writing and grounds provided. If documentation is insufficient the Patent Office may request further documentation in order to be able to reach a conclusion on the request.

If a request is submitted as provided for in paragraph 1 of Article 27, the owner of a registered design shall be informed thereof and given an opportunity to express his comments.

### **Article 29**

If a design, which is based on right of priority in accordance with Article 16, has been registered after a comparable design has been registered, the owner of the registered design shall be notified thereof and be given the opportunity to express comments thereupon. The Patent Office may partially or fully invalidate the earlier registration.

The provisions of paragraph 1 shall also apply when the Patent Office receives notice requesting that an international registration apply in this country. In such case it must be clear that the international registration has become valid in Iceland, cf.

paragraph 1 of Article 57, before application was made for registration of the design already registered.

### **Article 30**

If anything prevents a design registration from maintaining its validity as the result of a court verdict or a decision by the Patent Office following a request as referred to in paragraph 1 of Article 27, the registration shall be cancelled. When the final verdict or decision has been delivered, the Patent Office shall publish a notice to this effect.

If the Patent Office deems that a request as referred to in paragraph 1 of Article 27 should not result in the partial or full cancellation of a registration, the request shall be refused and the registration remain unchanged.

### **Article 31**

On the basis of a court verdict or decision resulting from a request as referred to in paragraph 1 of Article 27, the registration may be maintained in an altered form if the design in such form fulfils the requirements for protection and maintains its individual character.

The Patent Office shall publish a notification of the registration in altered form.

If the owner of design rights does not agree with a decision by the Patent Office in the wake of a request as referred to in paragraph 1 of Article 27, for registration of a design in an altered form, the design registration shall be cancelled.

### **Article 32**

If legal proceedings have been instigated for the invalidation of the registration of a design as provided for in Article 25, a request as referred to in paragraph 1 of Article 27 may not be submitted concerning the design which is the subject of the court case.

If legal proceedings have been instigated following the submission of a request as referred to in paragraph 1 of Article 27, the Patent Office shall postpone its handling of the request until the court case is finally concluded, unless the request has been made by the proprietor of the design rights.

### **Article 33**

If any person contends to the Patent Office that he is the proprietor of a design application or registration and not the applicant for or registered proprietor of the design rights, the Patent Office may, if it deems there to be grounds for doubt, instruct the person concerned to initiate legal proceedings to confirm his claim within a prescribed time limit. If the person concerned fails to comply with these instructions the Patent Office may disregard his contention. This shall also be stated in the instructions.

If legal proceedings are instigated concerning the right to a design, the Patent Office may postpone further processing until the case is finally concluded.

### **Article 34**

If anyone provides evidence that he and not the applicant for or registered proprietor of the design rights is entitled to the design, the Patent Office shall register the design in his name, provided the person concerned has so requested. Anyone who

has an application or registration transferred to his name in this manner shall pay the application fee again, cf. Article 53.

Should a request for the transfer of an application or registration be submitted, the application or registration shall remain unaltered until a final decision has been reached concerning the request.

## **CHAPTER VI**

### **Appeal**

#### **Article 35**

An applicant for or proprietor of design rights may refer a final decision by the Patent Office to the Board of Appeal on industrial property rights. Anyone who has submitted a request that the registration of a design be cancelled may refer to the Board of Appeal a decision that the registration shall remain in altered or unaltered form. If an appeal is withdrawn, the Board of Appeal may, nevertheless proceed to a decision on the question where special circumstances so warrant.

#### **Article 36**

An appeal must be received by the [Ministry of Business Affairs]<sup>1)</sup> within two months of the time the party concerned was notified of a decision. The appeal fee shall be paid to the Ministry within the same time limit. The appeal fee shall be set as a maximum for the cost or partial cost of the Board of appeal on industrial property rights, for instance, remuneration to committee members in individual cases, postal fees, reproduction costs and other administrative costs arising from the Board's work. If the appeal fee is not paid within the prescribed time limit the appeal shall be dismissed. An appeal shall suspend further processing of a case by the Patent Office.

Decisions of the appeals committee may not be referred to another authority.

<sup>1)</sup> Act No. 167/2007, Art. 88 (Valid from January 1 2008).

## **CHAPTER VII**

### **Punishment and liability for compensation, etc.**

#### **Article 37**

Wilful violation of design rights shall be liable to a fine. Serious violation, especially with the intent to acquire substantial and clearly illegitimate gains through such violation, may be liable to imprisonment of up to one year.

Fines as provided for in this Act may be levied against legal entities or individuals. Legal entities may be fined without regard to whether an employee of the legal entity has been found guilty of an infringement. If an employee of a legal entity has committed an infringement against this Act or rules set in accordance with it, the legal entity may also be fined or deprived of its operating authorisation, provided the infringement has brought financial advantage for the legal entity or it has profited from the infringement. A legal entity shall be responsible for the payment of a fine levied against its employee due to an infringement against this Act, provided the infringement is connected to his work for the legal entity.

Proceedings shall be instigated by an injured party. Violations as referred to in the second sentence of paragraph 1...<sup>1)</sup> shall, however, be subject to public prosecution if so requested by the injured party. ...<sup>1)</sup>

<sup>1)</sup> Act No. 88/2008, Art. 234 (Valid from January 2009).

### **Article 38**

Anyone who wilfully or negligently violates a design right shall be obliged to make reasonable remuneration for utilisation of the design and compensation for other damage resulting from his violation.

Anyone profiting from an infringement of a design right, which involves neither intention nor negligence, shall be obliged, to such extent as is considered fair, to make remuneration and pay compensation as referred to in paragraph 1. Such compensation may not, however, exceed the assumed profit of the party responsible as a result of the violation.

### **Article 39**

Where design rights have been violated a court may, for the purpose of preventing further violation and at the demand of the injured party insofar as this is deemed fair, decide that goods which have been manufactured or imported illegally shall be altered in a prescribed manner, destroyed or delivered to the victim of damage in return for remuneration. The same shall apply to articles whose use involves a violation of design rights. The provisions of the first and second sentences shall not, however, be applied against anyone who has acquired the goods concerned or rights to them in good faith and who has not himself violated design rights.

Under exceptional circumstances and when such is required, a court may, notwithstanding the provisions of paragraph 1, authorise the control of illegally produced or imported goods, during the period of design protection or part of such period, in return for reasonable remuneration and on fair terms in other respects.

### **Article 40**

If a design for which registration has been applied is exploited without authorisation after the application documentation has been made accessible to the public, the provisions on violation of design rights shall apply in the same manner provided the application results in the registration of design rights. This shall not, however, apply to provisions of Article 39. If a damage results from a violation committed before the application documentation is made accessible to the public, the party concerned shall pay compensation but not exceeding such as provided for in paragraph 2 of Article 38.

### **Article 41**

In cases concerning violations of design rights it may only be claimed that a design right does not exist if a claim has been directed towards the proprietor of a design right for invalidation of registration, as the case may be, after proceedings had been initiated against the latter in accordance with the rules of Article 45. If a registration is invalidated the provisions of Articles 37 to 40 may not be applied.

### **Article 42**

Anyone who neglects to comply with his obligations in accordance with Article 22, or provides incorrect information, shall be liable to fines unless provision is made for more serious punishment in other acts. He shall also compensate for any damages as a result thereof, insofar as this is deemed fair.

The provisions of the paragraphs 2 and 3 of Article 37 shall apply as appropriate.

## **CHAPTER VIII**

### **Legal procedure**

#### **Article 43**

In court cases concerning rights to a design, invalidation of registration and transfer of registration to a party other than an applicant or proprietor of design rights, an applicant or proprietor of design rights who is not legally domiciled in Iceland, shall be deemed to have legal venue in Reykjavík.

#### **Article 44**

Anyone initiating legal proceedings to invalidate a registered design, in order to have the registration transferred to another name, must notify this to the Patent Office; such shall be entered in the Registry of Designs. He must concurrently send notification of the proceedings by registered mail to all registered licensees whose addresses are listed in the Registry of Designs. A licensee, who initiates legal proceedings due to a violation of design rights, must notify the proprietor of the design rights thereof in the same manner.

Should a plaintiff fail to comply with notification obligations as provided for in paragraph 1, a judge may grant him a short time limit in order to comply. Failing this, his case shall be dismissed by the court.

#### **Article 45**

When a proprietor of design rights initiates legal proceedings due to a violation of design rights and the respondent demands that a design be declared invalid, the respondent must send notification as provided for in paragraph 1 of Article 44 to the Patent Office and registered licensees. The provisions of paragraph 2 of Article 44 shall also apply here.

In cases concerning violations of design rights initiated by a licensee, a respondent may bring a case against the proprietor of design rights without regard to his legal venue and raise a claim concerning invalidation of a design.

#### **Article 46**

A judge shall upon his own initiative provide the Patent Office with a copy of judgements in cases tried pursuant to this Act.

## **CHAPTER IX**

### **Miscellaneous provisions**

#### **Article 47**

An applicant for or proprietor of design rights, who is not domiciled in this country, must have an agent established [in the European Economic Area (EEA), in a member state of the incorporation of the European Free Trade Association or in the Faroe Islands]<sup>1)</sup> who can receive on his behalf summonses and all notifications concerning the design with binding effect. The name and address of the agent shall be entered in the Registry of Designs.

Should an applicant for or owner of design rights fail to appoint an agent in accordance with paragraph 1 within the prescribed time limit his application shall be eradicated.

<sup>1)</sup> Act No. 108/2006, Art. 31 (Valid from November 1 2006).

#### **Article 48**

Should an applicant lose rights as a result of the fact that he or his agent failed to comply with a time limit set by the Patent Office on the basis of this Act, the Patent Office shall re-establish his right if such an applicant has done everything which may be reasonably demanded of him to comply with the time limit. Such a request must be received within two months from the lapse of the obstacle which caused the delay, but in no case later than one year from the expiry of the time limit. Within this same time limit an applicant must rectify any deficiencies and pay the prescribed fee for re-establishment, cf. Article 53.

The provisions of paragraph 1 shall also similarly apply if the proprietor of design rights or his agent has not paid a renewal fee within the time limit as referred to in Article 24 cf. Article 53. A request for re-establishment in such instances must, however, have been received and the renewal fee been paid within six months from the expiry of the time limit.

The provisions of paragraph 1 shall not apply to a time limit as referred to in Articles 16 and 36.

#### **Article 49**

If the proprietor of design rights has granted others the right to utilise the design (a licence) the licensee may not transfer his right unless this has been agreed upon.

A licence granted to an enterprise may be transferred together with the enterprise unless otherwise agreed.

#### **Article 50**

A licensee may, with the consent of the proprietor of design rights, initiate legal proceedings as the result of a violation of design rights.

The licensee may be party to a legal action which is initiated by the proprietor of design rights provided the licensee is entitled to compensation for damages which he has suffered or could suffer as the result of a violation.

#### **Article 51**

Should there be a change of right holders to a registered design, for instance a licence granted, a design mortgaged, or should it be the object of execution or be consigned to a bankrupt estate, such shall be entered in the Registry of Designs provided a request thereto has been received from the party concerned.

In the case of multiple registration, a change of right holders shall not be entered in the Registry of Designs unless this includes the entire group of designs.

Legal proceedings concerning a design may always be brought against the party who is the registered proprietor in the Registry of Designs; notifications of the Patent Office are to be sent to him.

#### **Article 52**

The Patent Office may, if so requested, undertake special assignments in the area of design and design rights.

[The Minister of Business Affairs]<sup>1)</sup> shall set rules for such services and payment for them, cf. Article 53.

<sup>1)</sup> Act No. 167/2007, Art. 88 (Valid from January 1 2008).

### **Article 53**

[The Minister of Business Affairs]<sup>1)</sup> shall set detailed rules<sup>2)</sup> on the implementation of this Act, for instance concerning applications for designs and their processing, the handling of oppositions, renewal and lapse of registration, entry in the Registry of Designs, content and publication of the Patent Gazette and working procedures of the Patent Office. Furthermore, the Minister shall determine the fees prescribed by the Act, cf. Article 36.

The fees shall cover costs incurred by the operations of the Patent Office as far as design affairs are concerned and for services provided, for instance examination by the Patent Office that formal and even substantial requirements of ordinary applications, international applications and re-opened applications are fulfilled, services due to multiple registration, publication, for instance, of illustrations, transfer of international applications, administration concerning renewal of applications, examinations for the invalidation of registration, print-outs from the Registry of Designs and service tasks.

Fees provided for in this Act shall accrue directly to the Patent Office which shall collect the fees.

<sup>1)</sup> *Act No. 167/2007, Art. 88 (Valid from January 1 2008).*

<sup>2)</sup> *Regulation No. 706/2001, cf. 531/2004; Regulation No. 916/2001, cf. 15/2003, 898/2003; Regulation No. 275/2008*

## **CHAPTER X**

### **International Registration of Designs**

#### **Article 54**

International registration of designs shall mean the registration of a design in accordance with the Geneva Act of 2 July 1999, amending the Hague Agreement concerning International Registration of Industrial Designs.

#### **Article 55**

An application for international registration of a design shall be submitted to the Patent Office or International Bureau operating on behalf of the World Intellectual Property Organisation (WIPO). The requirement for acceptance of an application for international registration under this Act in Iceland is that an applicant be an Icelandic national, Icelandic legal entity or individual residing in Iceland or a party with active industrial operations in Iceland.

If an application for international registration is submitted to the Patent Office, the Office shall forward it to the international office. The prescribed fee for reception and handling of applications must be paid, cf. Article 53.

#### **Article 56**

If the Patent Office deems an international design registration to be ineligible for registration in Iceland, its conclusion shall be sent to the International Bureau together with the grounds for such within a prescribed time limit. The proprietor of a registration may express comments on the matter and request that it be examined anew. The proprietor of the registration shall in such case appoint an agent in accordance with Article 47.

If the Patent Office is of the opinion that there is nothing preventing an international design registration from being valid in this country it shall be published in the Patent Gazette.

### **Article 57**

An international design registration which is valid in Iceland shall have the same legal effect as other designs registered in this country as of the date of registration of the international registration or date of priority.

Renewal of an international registration shall comply with the rules of the Geneva Act. When the Patent Office receives notification from the international office on the renewal of an international registration, this shall be entered in the Registry of Designs and published in the Patent Gazette.

### **Article 58**

Unless expressly provided for otherwise in this Chapter, the provisions of Chapter II shall apply to application for and processing of international design registrations.

### **Article 59**

The Minister shall set detailed rules on the implementation of this Chapter, including for instance rules on the publishing of international design registrations, opposition to registration, renewal and fees.

## **CHAPTER XI**

### **Entry into force**

#### **Article 60**

This Act which is adopted in part on the basis of the Directive of the European Parliament and of the Council No. 98/71/EU, of 13 October 1998, on the legal protection of designs, shall enter into force 1 October 2001. The provisions of Chapter X of the Act shall not, however, enter into force until the publication of an advertisement by the Minister that the Geneva Act of 2 July 1999, amending the Hague Agreement concerning International Registration of Industrial Designs, has entered into force with respect to Iceland.

...

The provisions of previous acts on design protection shall apply to unregistered design rights which were established prior to the entry into force of this Act.

Apart from those exceptions listed in paragraphs 5 and 6, the provisions of this Act shall also apply to a design for which application has been made or registration been granted upon the entry into force of this Act.

Processing of applications, which have been submitted to the Patent Office prior to the entry into force of this Act, shall be in accordance with the provisions of previous acts on design protection.

Should anyone have exploited a design, prior to the entry into force of this Act, in such a manner that the approval of the proprietor of the design was not required in accordance with previous acts on design protection but for which his approval is required in accordance with this Act, the party concerned may continue this exploitation in spite of the provisions of this Act. Anyone who, upon the entry into force of this Act, had made extensive preparations to exploit a design may, under the same conditions, proceed to exploit it.

*Done at Bessastaðir, 19 May 2001*