



DESIGNS FILING REQUIREMENTS

# MALAYSIA



JULY 2015



## RECEIPT OF THE APPLICATION

An application for the registration of an industrial design shall be made on ID Form 1, accompanied by the prescribed fee in Malay or English. It shall be accompanied by the prescribed number of representations of the article to which the industrial design is applied. It also shall contain a statement of novelty in respect of the industrial design to which the application relates.

The application may be filed in the Malaysian Intellectual Property Corporation (MyIPO) or online.

Only the owner of a design may apply to register the design, though an agent can be authorized to make the application.

If the applicant is not the author, the application shall specify each author's name and address and be accompanied with Statement Justifying Applicant's Rights (SJAR)

## FILING REQUIREMENTS

### Size, etc. of documents

(1) Subject to any directions that may be given by the Registrar in any particular case, all applications, notices, papers having representations thereon, and other documents filed under the Act or the Regulations –

(a) shall be in A4 size (29.7 cm x 21 cm) strong paper;

(b) except where otherwise required, shall appear on one side only;

(c) shall be free from cracks, creases or folds; and

(d) shall be so presented as to admit of direct reproduction by photography, and any associated reproduction in any form, mode or manner, with representations appearing on one side with a left-hand margin of approximately 3 cm.

(2) Representations shall be filed in one copy.

(3) Where representations consist of specimens, the specimens shall be of a size not exceeding 20 cm x 20 cm x 20 cm.

(4) The Registrar may require the specimens to be replaced by representations comprising of drawings, or photographs.

(5) The photographs and drawings shall be of a size of 12.5 cm x 9 cm.

(6) In an application where words, letters or numerals appear in an industrial design, the Registrar may require that a disclaimer of any right to their exclusive use shall appear on each representation.

Each representation of an industrial design which consists of a repeating surface pattern shall show a complete pattern and a sufficient portion of the repeat in length and width, and shall be of a size not less than 18 cm x 13 cm x 18 cm x 13 cm



### **Numbering of industrial designs**

- (1) Each industrial design contained in an application shall be given a number.
- (2) The numbering shall appear in the margin next to each representation.
- (3) When the same article is represented on the representation from different angles, the numbering shall consist of two separate figures separated by a dot.
- (4) Each industrial design included in a multiple application shall be shown by a different number.

The application shall indicate a class and subclass in accordance with the International Classification for Industrial Designs.

The name of natural person, nationality, legal entities and current postal address, including email and telephone number, shall be complete and specified in full in the application form.

Any document given or sent to or filed with the Registrar, or any part of the document containing words in characters other than Roman or in a language other than the national language or English language shall be accompanied by a translation or transliteration of each word in the English language and a statement as to the language to which each word belongs.

### **FILING DATE**

The filing date for an application for the registration of an industrial design shall be the earliest date on which all documents required to be submit during the receipt of the application at MyIPO are satisfied.

### **NOTIFYING THE FILING DATE**

The Registrar shall cause the application for registration of an industrial design to be examined to determine whether the application satisfies the conditions in “consent to registration”.

Once the Registrar accords a filing date, a copy of the application form with the filing date and application number marked on it shall be sent to the applicant.

### **STATEMENT OF NOVELTY**

Except in the case of an application to register the pattern or ornament of a design to be applied to a textile article, to wallpaper or similar wall covering or to lace or to sets of textile articles, wallpaper or similar wall covering or lace, the statement of novelty required shall appear on each representation.

The statement of novelty shall appear only on the front of the first sheet of each representation except in a case which the Registrar, in the guidelines issued by him specifies that it is impracticable, such statement shall appear at a place specified by the Registrar in the same guidelines, and shall be separated from any other statement or disclaimer.



## PRIORITY

An application may, pursuant to any international treaty or convention to which Malaysia is party, contain a declaration claiming the priority of one or more earlier national, regional or international applications filed by the applicant or his predecessor in title in or for any state party to the said treaty or convention; and in any such case, the priority date shall be the earliest date on which such earlier national, regional or international applications were filed. Provided that the application has been filed within six months from such earliest date.

## WHAT MAY BE REGISTERED

To be registrable an industrial design must be new on the date an application for its registration is filed. A design is considered new only if it has not been made available or disclosed to the public in any way whatsoever in Malaysia or elsewhere before the filing date of the application and it is not on the record of the Register of Designs.

## WHAT IS NOT REGISTRABLE

The designs of certain types of article are specifically excluded from design registration. An industrial design is not registrable if:

- the aesthetic appearance of an article is not significant or the design features differ only in immaterial details;
- it is a method or principle of construction;
- the designs are contrary to public order or morality;
- the designs of the articles concern exclusively with how an article functions; and
- the designs of articles that are integral parts of other articles and whose features are dependent upon the appearance of other article.

Where a portrait of Seri Paduka Baginda Yang di-Pertuan Agong or Ruler of a State, or the reproduction of the armorial bearings, insignia, orders of chivalry, decorations of flags of any country, state, city, town, society, body corporate, institution or person appears on an industrial design, the Registrar shall consider whether to refuse to accept an application for the registration of the industrial design unless a consent to the registration and use of such portrait or reproduction from such official or other person as appears to the Registrar to be entitled to give consent is filed.



## EXAMINATION AND REGISTRATION

Where the Registrar is satisfied that an application for the registration of an industrial design complies with the requirements he shall—

- (a) register the industrial design by recording the prescribed particulars in the Register; and
- (b) issue to the applicant a certificate of registration of the industrial design in the prescribed form.

As soon as possible thereafter, the Registrar shall cause to be published in the Official Journal.

## INVALIDATION

Subject to the Court order, an application to the Registrar for rectification or a request for revocation of registration of the industrial design shall be made on ID Form 6 accompanied by the prescribed fee and a statement setting out fully the applicant's interest and the facts upon which he relies.

Where the applicant is other than the owner of the industrial design, a copy of the application and the statement shall be given to the owner.

If the owner desires to oppose the application for rectification of the Register or revocation of registration of the industrial design he shall within three months from the date of receipt of the application file a notice of opposition which shall include a statement of the grounds upon which the owner objects to the application and shall give a copy to the applicant.

## TERM OF PROTECTION

A registered industrial design is given an initial protection period of 5 years from the date of filing and is extendable for further four consecutive terms of 5 years each. The maximum protection period is 25 years.

## CONTACT

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