



Intellectual Property Office of Papua New Guinea

## **FORMALITY REQUIREMENTS FOR A NEW INDUSTRIAL DESIGN APPLICATION**

In accordance with the Patent and Industrial Designs Act 2002 the following physical requirements are considered mandatory for all clients to comply with when filing new applications for registration.

### **FILING A REQUEST FOR REGISTRATION OF INDUSTRIAL DESIGN IN PAPUA NEW GUINEA**

#### **1. Request for grant of registration of Industrial Design in accordance with Section 43(1) – (6);**

- (1) An application for registration of an industrial design shall be filed with the Registrar.
- (2) The request shall indicate each applicant's name, address, nationality and residence.
  - a. Shall contain –
    - i. A request in the prescribed form; and
    - ii. Drawings, photographs or other adequate graphic representations of the article embodying the industrial design; and
    - iii. An indication of the kind of products for which the industrial design is to be used; and
  - b. Shall be accompanied by the prescribed fee
- 3) Where the applicant is not the creator, the request shall be accompanied by a Statement Justifying the Applicant's Right of the applicant to the registration of the industrial design.
- 4) The Registrar may, at any time prior to the registration of an industrial design, request in writing that an applicant provide a specimen of the article embodying the industrial design where the industrial design is two dimensional.
- 5) Where an application is not accompanied by the prescribed fee the Registrar may refuse to receive it or accept it for filing and the application shall be treated as if it had not been filed.
- 6) Two or more industrial designs may be the subject of the same application, provided they relate to the same class of the international classification or to the same set or composition of articles.

#### **2. Request for Right to Priority of an Industrial Design Application under PID Act, Section 45(1) – (4)**

- (1) An application under Section 43 (1) may contain a declaration claiming a right of priority, as provided for in the Paris Convention, of one or more earlier national, regional or international applications filed by the applicant or his predecessor in title in or for any State which is a party to the Paris Convention or a member of the World Trade Organisation.
- (2) Where an application contains a declaration under Subsection (1), the Registrar may request the applicant to furnish, within a time limit specified by the Registrar and in a manner directed by the Registrar, a copy of the earlier application certified as a true and correct copy by the authority or body with which it was filed.
- (3) The effect of a declaration under Subsection (1) shall be as provided in the Paris Convention.

(4) Where the Registrar finds that the requirements of this section and any matters prescribed in relation to this section have not been fulfilled, the declaration is considered not to have been made.

### **3. Request for According a Filing Date in accordance with Section 46(1) to (2);**

- (1) Subject to Section 43 (5), where an application under Section 43 contains -
  - (a) indications allowing the identity of the applicant to be established; and
  - (b) the drawings, photographs or other adequate graphic representations of the article embodying the industrial design as required under Section 43 (2) (a) (ii),the Registrar shall record as the filing date the date of receipt of the application.
  
- (2) Where the Registrar finds that an application under Section 43 did not, at the time of its receipt by him, contain the matters referred to in Subsection (1), he shall -
  - (a) invite the applicant to file a correction within a time limit specified by the Registrar and in a manner directed by the Registrar; and
  - (b) where the required correction is made in accordance with Paragraph (a), record as the filing date the date of receipt by the Registrar of the required correction; and
  - (c) where the required correction is not made in accordance with Paragraph (a), treat the application as if it had not been filed.

### **4. The Industrial Design MUST be Registrable and MUST be New or Original;**

#### **38. REGISTRABLE INDUSTRIAL DESIGNS.**

- (1) Subject to Subsection (2), an industrial design is registrable if it is new or original.
  
- (2) An industrial design that -
  - (a) is contrary to public order or morality; or
  - (b) which serves solely to obtain a technical result and leaves no freedom as regards to arbitrary features of appearance,is not registrable.

#### **39. NEW OR ORIGINAL INDUSTRIAL DESIGN.**

- (1) An industrial design is new or original if it has not been disclosed to the public, anywhere in the world -
  - (a) by publication in tangible form; or
  - (b) by use; or
  - (c) in any other way,prior to the filing date, or, where applicable, the priority date of the application for registration.
  
- (2) For the purposes of Subsection (1), disclosure to the public of an industrial design shall not be taken into consideration where -
  - (a) it occurred within 12 months preceding the filing date or, where applicable, the priority date of the application; or
  - (b) it was by reason of, or in consequence of, acts committed by the applicant or his predecessor in title, or of an abuse committed by a third party without regard to the applicant or his predecessor in title.