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►M2 COUNCIL REGULATION (EC) No 6/2002

of 12 December 2001

on European Union designs ◄

(OJ L 3, 5.1.2002, p. 1)

Amended by:

		Official Journal		
		No	page	date
►M1	Council Regulation (EC) No 1891/2006 of 18 December 2006	L 386	14	29.12.2006
►M2	Regulation (EU) 2024/2822 of the European Parliament and of the Council of 23 October 2024	L 2822	1	18.11.2024

Amended by:

►A1	Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded	L 236	33	23.9.2003
►A2	Act of accession of Bulgaria and Romania	L 157	203	21.6.2005
►A3	Treaty of Accession of Croatia (2012)	L 112	21	24.4.2012

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COUNCIL REGULATION (EC) No 6/2002

of 12 December 2001

on European Union designs

▼B

TITLE I

GENERAL PROVISIONS

Article 1

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EU design

1. A design which complies with the conditions contained in this Regulation is hereinafter referred to as a 'European Union design' ('EU design').

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2. A design shall be protected:

(a) by an 'unregistered ►M2 EU design ◄', if made available to the public in the manner provided for in this Regulation;

(b) by a 'registered ►M2 EU design ◄', if registered in the manner provided for in this Regulation.

3. A ►M2 EU design ◄ shall have a unitary character. It shall have equal effect throughout the ►M2 Union ◄. It shall not be registered, transferred or surrendered or be the subject of a decision declaring it invalid, nor shall its use be prohibited, save in respect of the whole ►M2 Union ◄. This principle and its implications shall apply unless otherwise provided in this Regulation.

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Article 2

European Union Intellectual Property Office

The European Union Intellectual Property Office ('the Office'), established by Regulation (EU) 2017/1001 of the European Parliament and of the Council [1], shall carry out the tasks entrusted to it by this Regulation.

Article 2a

Capacity to act

For the purpose of implementing this Regulation, companies or firms and other legal bodies shall be regarded as legal persons if, under the terms of the law governing them, they have the capacity in their own name to have rights and obligations of all kinds to make contracts or accomplish other legal acts, and to sue and be sued.

[1] Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union trade mark (OJ L 154, 16.6.2017, p. 1).

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TITLE II

THE LAW RELATING TO DESIGNS

Section 1

Requirements for protection

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Article 3

Definitions

For the purposes of this Regulation, the following definitions apply:

(1) ‘design’ means the appearance of the whole or a part of a product resulting from the features, in particular the lines, contours, colours, shape, texture and/or materials, of the product itself and/or of its decoration, including the movement, transition or any other sort of animation of those features;

(2) ‘product’ means any industrial or handicraft item, other than a computer program, regardless of whether it is embodied in a physical object or materialises in a non-physical form, including:

(a) packaging, sets of articles, spatial arrangements of items intended to form an interior or exterior environment, and parts intended to be assembled into a complex product;

(b) graphic works or symbols, logos, surface patterns, typographic typefaces, and graphical user interfaces;

(3) ‘complex product’ means a product that is composed of multiple components which can be replaced, permitting disassembly and reassembly of the product.

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Article 4

Requirements for protection

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1. A design shall be protected by an EU design, if it is new and has individual character.

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2. A design applied to or incorporated in a product which constitutes a component part of a complex product shall only be considered to be new and to have individual character:

(a) if the component part, once it has been incorporated into the complex product, remains visible during normal use of the latter; and

(b) to the extent that those visible features of the component part fulfil in themselves the requirements as to novelty and individual character.

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3. ‘Normal use’ within the meaning of paragraph (2)(a) shall mean use by the end user, excluding maintenance, servicing or repair work.

Article 5

Novelty

1. A design shall be considered to be new if no identical design has been made available to the public:

(a) in the case of an unregistered ►M2 EU design ◄, before the date on which the design for which protection is claimed has first been made available to the public;

(b) in the case of a registered ►M2 EU design ◄, before the date of filing of the application for registration of the design for which protection is claimed, or, if priority is claimed, the date of priority.

2. Designs shall be deemed to be identical if their features differ only in immaterial details.

Article 6

Individual character

1. A design shall be considered to have individual character if the overall impression it produces on the informed user differs from the overall impression produced on such a user by any design which has been made available to the public:

(a) in the case of an unregistered ►M2 EU design ◄, before the date on which the design for which protection is claimed has first been made available to the public;

(b) in the case of a registered ►M2 EU design ◄, before the date of filing the application for registration or, if a priority is claimed, the date of priority.

2. In assessing individual character, the degree of freedom of the designer in developing the design shall be taken into consideration.

Article 7

Disclosure

1. For the purpose of applying Articles 5 and 6, a design shall be deemed to have been made available to the public if it has been published following registration or otherwise, or exhibited, used in trade or otherwise disclosed, before the date referred to in Articles 5 (1)(a) and 6(1)(a) or in Articles 5(1)(b) and 6(1)(b), as the case may be, except where these events could not reasonably have become known in the normal course of business to the circles specialised in the sector concerned, operating within the ►M2 Union ◄. The design shall not, however, be deemed to have been made available to the public for the sole reason that it has been disclosed to a third person under explicit or implicit conditions of confidentiality.

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2. A disclosure shall not be taken into consideration for the purpose of applying Articles 5 and 6 if the disclosed design, which is identical with or does not differ in its overall impression from the design for which protection is claimed under a registered EU design, has been made available to the public:

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(a) 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; and

(b) during the 12-month period preceding the date of filing of the application or, if a priority is claimed, the date of priority.

3. Paragraph 2 shall also apply if the design has been made available to the public as a consequence of an abuse in relation to the designer or his successor in title.

Article 8

Designs dictated by their technical function and designs of interconnections

1. A ►M2 EU design ◄ shall not subsist in features of appearance of a product which are solely dictated by its technical function.

2. A ►M2 EU design ◄ shall not subsist in features of appearance of a product which must necessarily be reproduced in their exact form and dimensions in order to permit the product in which the design is incorporated or to which it is applied to be mechanically connected to or placed in, around or against another product so that either product may perform its function.

3. Notwithstanding paragraph 2, a ►M2 EU design ◄ shall under the conditions set out in Articles 5 and 6 subsist in a design serving the purpose of allowing the multiple assembly or connection of mutually interchangeable products within a modular system.

Article 9

Designs contrary to public policy or morality

A ►M2 EU design ◄ shall not subsist in a design which is contrary to public policy or to accepted principles of morality.

Section 2

Scope and term of protection

Article 10

Scope of protection

1. The scope of the protection conferred by a ►M2 EU design ◄ shall include any design which does not produce on the informed user a different overall impression.

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2. In assessing the scope of protection, the degree of freedom of the designer in developing his design shall be taken into consideration.

Article 11

Commencement and term of protection of the unregistered ►M2 EU design ◄

1. A design which meets the requirements under Section 1 shall be protected by an unregistered ►M2 EU design ◄ for a period of three years as from the date on which the design was first made available to the public within the ►M2 Union ◄.

2. For the purpose of paragraph 1, a design shall be deemed to have been made available to the public within the Community if it has been published, exhibited, used in trade or otherwise disclosed in such a way that, in the normal course of business, these events could reasonably have become known to the circles specialised in the sector concerned, operating within the Community. The design shall not, however, be deemed to have been made available to the public for the sole reason that it has been disclosed to a third person under explicit or implicit conditions of confidentiality.

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Article 12

Commencement and term of protection of the registered EU design

1. Protection of a registered EU design shall arise upon registration by the Office.

2. A registered EU design shall be registered for a period of five years calculated from the date of filing of the application for registration. The right holder may renew the registration, in accordance with Article 50d, for one or more periods of five years each, up to a total term of protection of 25 years from the date of filing of the application for registration.

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Section 3

Right to the ►M2 EU design ◄

Article 14

Right to the ►M2 EU design ◄

1. The right to the ►M2 EU design ◄ shall vest in the designer or his successor in title.

2. If two or more persons have jointly developed a design, the right to the ►M2 EU design ◄ shall vest in them jointly.

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3. However, where a design is developed by an employee in the execution of his duties or following the instructions given by his employer, the right to the ►M2 EU design ◄ shall vest in the employer, unless otherwise agreed or specified under national law.

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Article 15

Claims relating to the entitlement to an EU design

1. If an unregistered EU design is disclosed or claimed by a person who is not entitled to it under Article 14 or if a registered EU design has been applied for or registered in the name of such a person, the person entitled to it under that Article may, without prejudice to any other remedy which may be open to that person, claim before the competent court or authority of the Member State concerned recognition as the legitimate holder of the EU design.

2. Where a person is jointly entitled to an EU design, that person may, in accordance with paragraph 1, claim recognition as joint holder.

3. Proceedings under paragraphs 1 or 2 shall be barred three years after the date of publication of a registered EU design or the date of disclosure of an unregistered EU design. This provision shall not apply if the person who is not entitled to the EU design was acting in bad faith at the time when such design was applied for, disclosed or acquired.

4. The person entitled to an EU design under Article 14 may submit a request, pursuant to paragraph 1 of this Article, for a change of ownership to the Office, together with a final decision of the competent court or authority of the Member State concerned on the entitlement to the EU design.

5. In the case of a registered EU design, the following shall be entered in the Register of EU designs referred to in Article 72 (‘the Register’):

(a) an indication that proceedings under paragraph 1 have been instituted before the competent court or authority of the Member State concerned;

(b) the date and particulars of the final decision of the competent court or authority of the Member State concerned on the entitlement to the EU design or any other termination of the proceedings;

(c) any change in the ownership of the registered EU design resulting from the final decision of the competent court or authority of the Member State concerned on the entitlement to the EU design.

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Article 16

Effects of a final decision on entitlement to a registered EU design

1. Where there is a complete change of ownership of a registered EU design as a result of proceedings under Article 15(1), licences and other rights shall lapse upon the entry in the Register of the new holder of the registered EU design.

2. If, before the institution of proceedings under Article 15(1) has been registered, the holder or a licensee of the registered EU design has exploited the design within the Union or made serious and effective preparations to do so, that holder or licensee may continue such exploitation provided that they request, within a period of three months of the date of the entry in the Register of the new holder, a non-exclusive licence from the new holder whose name is entered in the Register. The licence shall be granted for a reasonable period and upon reasonable terms.

3. Paragraph 2 shall not apply if the holder of the registered EU design or the licensee was acting in bad faith at the time when that holder or licensee began to exploit the design or to make preparations to do so.

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Article 17

Presumption in favour of the registered holder of the design

The person in whose name the registered ►M2 EU design ◄ is registered or, prior to registration, the person in whose name the application is filed, shall be deemed to be the person entitled in any proceedings before the Office as well as in any other proceedings.

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Article 18

Right of the designer to be cited

The designer shall have the right, in the same way as the applicant for or the holder of a registered EU design, to be cited as such before the Office and in the Register. If the design is the result of teamwork, the citation of the team may replace the citation of the individual designers. That right shall include the right to enter a change of the name of the designer or of the team in the Register.

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Section 4

Effects of the ►M2 EU design ◄

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Article 18a

Object of protection

Protection shall be conferred for those features of the appearance of a registered EU design which are shown visibly in the application for registration.

Article 19

Rights conferred by the EU design

1. A registered EU design shall confer on its holder the exclusive right to use it and to prevent any third party not having the consent of the holder from using it.

2. The following, in particular, may be prohibited under paragraph 1:

(a) making, offering, placing on the market or using a product in which the design is incorporated or to which the design is applied;

(b) importing or exporting a product referred to in point (a);

(c) stocking a product referred to in point (a) for the purposes referred to in points (a) and (b);

(d) creating, downloading, copying and sharing or distributing to others any medium or software which records the design for the purpose of enabling a product referred to in point (a) to be made.

3. The holder of a registered EU design shall be entitled to prevent all third parties from bringing products, in the course of trade, from third countries into the Union, that are not released for free circulation in the Union, where the design is identically incorporated in or applied to those products, or the design cannot be distinguished in its essential aspects from such products, and the right holder's authorisation has not been given.

The right referred to in the first subparagraph of this paragraph shall lapse, if, during proceedings to determine whether the EU design has been infringed, initiated in accordance with Regulation (EU) No 608/2013 of the European Parliament and of the Council [1], evidence is provided by the declarant or the holder of the products that the holder of the registered EU design is not entitled to prohibit the placing of the products on the market in the country of final destination.

[1] Regulation (EU) No 608/2013 of the European Parliament and of the Council of 12 June 2013 concerning customs enforcement of intellectual property rights and repealing Council Regulation (EC) No 1383/2003 (OJ L 181, 29.6.2013, p. 15).

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4. The holder of an unregistered EU design shall be entitled to prevent acts referred to in paragraphs 1 and 2 only if the contested use results from copying the protected design.

The contested use referred to in the first subparagraph shall not be deemed to result from copying the unregistered EU design if it results from an independent work of creation by a designer who may be reasonably thought not to be familiar with the design made available to the public by the holder.

5. Paragraph 4 of this Article shall also apply to a registered EU design subject to deferment of publication as long as the relevant entries in the Register and the file have not been made available to the public in accordance with Article 50(4).

Article 20

Limitation of the rights conferred by an EU design

1. The rights conferred by an EU design shall not be exercised in respect of:

(a) acts carried out privately and for non-commercial purposes;

(b) acts carried out for experimental purposes;

(c) acts of reproduction for the purpose of making citations or of teaching;

(d) acts carried out for the purpose of identifying or referring to a product as that of the design right holder;

(e) acts carried out for the purpose of comment, critique or parody;

(f) the equipment on ships and aircraft that are registered in a third country and that temporarily enter the territory of the Union;

(g) the importation into the Union of spare parts and accessories for the purpose of repairing ships and aircraft referred to in point (f);

(h) the execution of repairs on ships and aircraft referred to in point (f).

2. Paragraph 1, points (c), (d) and (e), shall only apply where the acts are compatible with fair trade practices and do not unduly prejudice the normal exploitation of the design, and in the case referred to in point (c), where mention is made of the source of the product in which the design is incorporated or to which the design is applied.

Article 20a

Repair clause

1. Protection shall not be conferred on an EU design which constitutes a component part of a complex product upon whose appearance the design of the component part is dependent, and which is used within the meaning of Article 19(1) for the sole purpose of the repair of that complex product so as to restore its original appearance.

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2. Paragraph 1 shall not be invoked by the manufacturer or the seller of a component part of a complex product who failed to duly inform consumers, through a clear and visible indication on the product or in another appropriate form, about the commercial origin, and the identity of the manufacturer, of the product to be used for the purpose of the repair of the complex product, so that they can make an informed choice between competing products that can be used for the repair.

3. The manufacturer or seller of a component part of a complex product shall not be required to guarantee that the component parts they make or sell are ultimately used by end users for the sole purpose of repair so as to restore the original appearance of the complex product.

Article 21

Exhaustion of rights

The rights conferred by an EU design shall not extend to acts relating to a product in which a design included within the scope of protection of the EU design is incorporated or to which it is applied, when the product has been placed on the market in the European Economic Area (EEA) by the holder of the EU design or with the holder's consent.

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Article 22

Rights of prior use in respect of a registered ►M2 EU design ◄

1. A right of prior use shall exist for any third person who can establish that before the date of filing of the application, or, if a priority is claimed, before the date of priority, he has in good faith commenced use within the ►M2 Union ◄, or has made serious and effective preparations to that end, of a design included within the scope of protection of a registered ►M2 EU design ◄, which has not been copied from the latter.

2. The right of prior use shall entitle the third person to exploit the design for the purposes for which its use had been effected, or for which serious and effective preparations had been made, before the filing or priority date of the registered ►M2 EU design ◄.

3. The right of prior use shall not extend to granting a licence to another person to exploit the design.

4. The right of prior use cannot be transferred except, where the third person is a business, along with that part of the business in the course of which the act was done or the preparations were made.

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Article 23

Government use

Any provision in the law of a Member State allowing use of national designs by or for the government may be applied to ►M2 EU designs ◄, but only to the extent that the use is necessary for essential defence or security needs.

Section 5

Invalidity

Article 24

Declaration of invalidity

1. A registered ►M2 EU design ◄ shall be declared invalid on application to the Office in accordance with the procedure in Titles VI and VII or by a ►M2 EU design court ◄ on the basis of a counterclaim in infringement proceedings.

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2. An EU design may be declared invalid even after the EU design has lapsed or has been surrendered, if the applicant shows a legitimate interest in obtaining a decision on the merits.

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3. An unregistered ►M2 EU design ◄ shall be declared invalid by a ►M2 EU design court ◄ on application to such a court or on the basis of a counterclaim in infringement proceedings.

Article 25

Grounds for invalidity

1. A ►M2 EU design ◄ may be declared invalid only in the following cases:

(a) if the design does not correspond to the definition under ►M2 Article 3, point (1) ◄;

(b) if it does not fulfil the requirements of Articles 4 to 9;

(c) if, by virtue of a court decision, the right holder is not entitled to the ►M2 EU design ◄ under Article 14;

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(d) if the ►M2 EU design ◄ is in conflict with a prior design which has been made available to the public after the date of filing of the application or, if priority is claimed, the date of priority of the ►M2 EU design ◄, and which is protected from a date prior to the said date

(i) by a registered ►M2 EU design ◄ or an application for such a design,

or

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(ii) by a registered design right of a Member State, or by an application for such a right,

or

(iii) by a design right registered under the Geneva Act of the Hague Agreement concerning the international registration of industrial designs, adopted in Geneva on 2 July 1999, hereinafter referred to as 'the Geneva Act', which was approved by Council Decision 954/2006 and which has effect in the Community, or by an application for such a right;

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(e) if a distinctive sign is used in a subsequent design, and Community law or the law of the Member State governing that sign confers on the right holder of the sign the right to prohibit such use;

(f) if the design constitutes an unauthorised use of a work protected under the copyright law of a Member State;

(g) if the design constitutes an improper use of any of the items listed in Article 6ter of the 'Paris Convention' for the Protection of Industrial Property hereafter referred to as the 'Paris Convention', or of badges, emblems and escutcheons other than those covered by the said Article 6ter and which are of particular public interest in a Member State.

2. The ground provided for in paragraph (1)(c) may be invoked solely by the person who is entitled to the ►**M2** EU design ◄ under Article 14.

3. The grounds provided for in paragraph (1)(d), (e) and (f) may be invoked solely by the applicant for or holder of the earlier right.

4. The ground provided for in paragraph (1)(g) may be invoked solely by the person or entity concerned by the use.

5. Paragraphs 3 and 4 shall be without prejudice to the freedom of Member States to provide that the grounds provided for in paragraphs 1 (d) and (g) may also be invoked by the appropriate authority of the Member State in question on its own initiative.

6. A registered ►**M2** EU design ◄ which has been declared invalid pursuant to paragraph (1)(b), (e), (f) or (g) may be maintained in an amended form, if in that form it complies with the requirements for protection and the identity of the design is retained. 'Maintenance' in an amended form may include registration accompanied by a partial disclaimer by the holder of the registered ►**M2** EU design ◄ or entry in the register of a court decision or a decision by the Office declaring the partial invalidity of the registered ►**M2** EU design ◄.

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Article 26

Consequences of invalidity

1. A ►M2 EU design ◄ shall be deemed not to have had, as from the outset, the effects specified in this Regulation, to the extent that it has been declared invalid.

2. Subject to the national provisions relating either to claims for compensation for damage caused by negligence or lack of good faith on the part of the holder of the ►M2 EU design ◄, or to unjust enrichment, the retroactive effect of invalidity of the ►M2 EU design ◄ shall not affect:

(a) any decision on infringement which has acquired the authority of a final decision and been enforced prior to the invalidity decision;

(b) any contract concluded prior to the invalidity decision, in so far as it has been performed before the decision; however, repayment, to an extent justified by the circumstances, of sums paid under the relevant contract may be claimed on grounds of equity.

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Section 6

Notice of registration

Article 26a

Registration symbol

The holder of a registered EU design may inform the public that the design is registered by displaying on the product in which the design is incorporated or to which it is applied the letter D enclosed within a circle (Ⓓ). Such design notice may be accompanied by the registration number of the design or hyperlinked to the entry of the design in the Register.

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TITLE III

►M2 EU DESIGNS ◄ AS OBJECTS OF PROPERTY

Article 27

Dealing with ►M2 EU designs ◄ as national design rights

1. Unless Articles 28, 29, 30, 31 and 32 provide otherwise, a ►M2 EU design ◄ as an object of property shall be dealt with in its entirety, and for the whole area of the ►M2 Union ◄, as a national design right of the Member State in which:

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(a) the holder has his seat or his domicile on the relevant date; or

(b) where point (a) does not apply, the holder has an establishment on the relevant date.

2. In the case of a registered ►M2 EU design ◄, paragraph 1 shall apply according to the entries in the register.

3. In the case of joint holders, if two or more of them fulfil the condition under paragraph 1, the Member State referred to in that paragraph shall be determined:

(a) in the case of an unregistered ►M2 EU design ◄, by reference to the relevant joint holder designated by them by common agreement;

(b) in the case of a registered ►M2 EU design ◄, by reference to the first of the relevant joint holders in the order in which they are mentioned in the register.

4. Where paragraphs 1, 2 and 3 do not apply, the Member State referred to in paragraph 1 shall be the Member State in which the seat of the Office is situated.

Article 28

Transfer of the registered ►M2 EU design ◄

The transfer of a registered ►M2 EU design ◄ shall be subject to the following provisions:

(a) at the request of one of the parties, a transfer shall be entered in the register and published;

(b) until such time as the transfer has been entered in the register, the successor in title may not invoke the rights arising from the registration of the ►M2 EU design ◄;

(c) where there are time limits to be observed in dealings with the Office, the successor in title may make the corresponding statements to the Office once the request for registration of the transfer has been received by the Office;

(d) all documents which by virtue of Article 66 require notification to the holder of the registered ►M2 EU design ◄ shall be addressed by the Office to the person registered as holder or his representative, if one has been appointed.

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Article 28a

Conferral of implementing powers regarding transfer

The Commission shall adopt implementing acts specifying:

(a) the details to be contained in the request for registration of a transfer referred to in Article 28(3);

(b) the kind of documentation required to establish a transfer as referred to in Article 28(3), taking account of the agreements given by the registered holder and the successor in title.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 109(2).

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Article 29

Rights in rem on a registered ►M2 EU design ◄

1. A registered ►M2 EU design ◄ may be given as security or be the subject of rights *in rem*.

2. On request of one of the parties, the rights mentioned in paragraph 1 shall be entered in the register and published.

Article 30

Levy of execution

1. A registered ►M2 EU design ◄ may be levied in execution.

2. As regards the procedure for levy of execution in respect of a registered ►M2 EU design ◄, the courts and authorities of the Member State determined in accordance with Article 27 shall have exclusive jurisdiction.

3. On request of one of the parties, levy of execution shall be entered in the register and published.

Article 31

Insolvency proceedings

1. The only insolvency proceedings in which a ►M2 EU design ◄ may be involved shall be those opened in the Member State within the territory of which the centre of a debtor's main interests is situated.

2. In the case of joint proprietorship of a ►M2 EU design ◄, paragraph 1 shall apply to the share of the joint proprietor.

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3. Where a ►M2 EU design ◄ is involved in insolvency proceedings, on request of the competent national authority an entry to this effect shall be made in the register and published in the ►M2 EU designs ◄ Bulletin referred to in Article 73(1).

Article 32

Licensing

1. A ►M2 EU designs ◄ may be licensed for the whole or part of the Community. A licence may be exclusive or non-exclusive.

2. Without prejudice to any legal proceedings based on the law of contract, the holder may invoke the rights conferred by the ►M2 EU design ◄ against a licensee who contravenes any provision in his licensing contract with regard to its duration, the form in which the design may be used, the range of products for which the licence is granted and the quality of products manufactured by the licensee.

3. Without prejudice to the provisions of the licensing contract, the licensee may bring proceedings for infringement of a ►M2 EU design ◄ only if the right holder consents thereto. However, the holder of an exclusive licence may bring such proceedings if the right holder in the ►M2 EU design ◄, having been given notice to do so, does not himself bring infringement proceedings within an appropriate period.

4. A licensee shall, for the purpose of obtaining compensation for damage suffered by him, be entitled to intervene in an infringement action brought by the right holder in a ►M2 EU design ◄.

5. In the case of a registered ►M2 EU design ◄, the grant or transfer of a licence in respect of such right shall, at the request of one of the parties, be entered in the register and published.

Article 33

Effects vis-à-vis third parties

1. The effects vis-à-vis third parties of the legal acts referred to in Articles 28, 29, 30 and 32 shall be governed by the law of the Member State determined in accordance with Article 27.

2. However, as regards registered ►M2 EU designs ◄, legal acts referred to in Articles 28, 29 and 32 shall only have effect vis-à-vis third parties in all the Member States after entry in the register. Nevertheless, such an act, before it is so entered, shall have effect vis-à-vis third parties who have acquired rights in the registered ►M2 EU design ◄ after the date of that act but who knew of the act at the date on which the rights were acquired.

3. Paragraph 2 shall not apply to a person who acquires the registered ►M2 EU design ◄ or a right concerning the registered ►M2 EU design ◄ by way of transfer of the whole of the undertaking or by any other universal succession.

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4. Until such time as common rules for the Member States in the field of insolvency enter into force, the effects vis-à-vis third parties of insolvency proceedings shall be governed by the law of the Member State in which such proceedings are first brought under the national law or the regulations applicable in this field.

Article 34

The application for a registered ►M2 EU design ◄ as an object of property

1. An application for a registered ►M2 EU design ◄ as an object of property shall be dealt with in its entirety, and for the whole area of the Community, as a national design right of the Member State determined in accordance with Article 27.

2. Articles 28, 29, 30, 31, 32 and 33 shall apply *mutatis mutandis* to applications for registered ►M2 EU design ◄. Where the effect of one of these provisions is conditional upon an entry in the register, that formality shall be performed upon registration of the resulting registered ►M2 EU design ◄.

TITLE IV

APPLICATION FOR A REGISTERED ►M2 EU DESIGN ◄

Section 1

Filing of applications and the conditions which govern them

▼M2

Article 35

Filing of applications

1. An application for a registered EU design shall be filed at the Office.

2. The Office shall issue to the applicant, without delay, a receipt which shall include at least the file number, a representation, description or other identification of the design, the nature and the number of 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.

▼B

Article 36

Conditions with which applications must comply

▼M2

1. An application for a registered EU design shall contain:

(a) a request for registration;

(b) information identifying the applicant;

(c) a sufficiently clear representation of the design, which permits the subject matter for which protection is sought to be determined.

▼M2

2. The application shall further contain an indication of the products in which the design is intended to be incorporated or to which it is intended to be applied.

3. In addition, the application may contain:

(a) a description explaining the representation;

(b) a request for deferment of publication of the registration in accordance with Article 50;

(c) information identifying the representative if the applicant has appointed one;

(d) the classification of the products in which the design is intended to be incorporated or to which it is intended to be applied according to class and subclass of the Locarno Classification, as amended and in force at the date of filing of the application;

(e) the citation of the designer or of the team of designers or a statement under the applicant's responsibility that the designer or the team of designers has waived the right to be cited.

4. The application shall be subject to the payment of the application fee. Where a request for deferment under paragraph 3, point (b), is filed, it shall be subject to an additional fee for deferment of publication.

▼B

5. The application shall comply with the conditions laid down in the implementing regulation.

6. The information contained in the elements mentioned in paragraph 2 and in paragraph 3(a) and (d) shall not affect the scope of protection of the design as such.

▼M2

Article 36a

Conferral of implementing powers regarding the application

The Commission shall adopt implementing acts specifying the details to be contained in the application for a registered EU design. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 109(2).

▼B

Article 37

Multiple applications

▼M2

1. A maximum number of 50 designs may be combined in one multiple application for registered EU designs. Each design contained in a multiple application shall be numbered by the Office in accordance with a system to be determined by the Executive Director.

▼M2

2. In addition to the fees referred to in Article 36(4), the multiple application shall be subject to payment of an application fee in respect of each additional design included in the multiple application and, in the event the application contains a request for deferment of publication, a fee for deferment of publication in respect of each design included in the multiple application for which deferment is requested.

▼B

3. The multiple application shall comply with the conditions of presentation laid down in the implementing regulation.

▼M2

4. Each of the designs contained in a multiple application or a registration based on such application may be dealt with separately from the others. Such a design may, separately from the others, be enforced, be licensed, be the subject of a right *in rem*, a levy of execution or insolvency proceedings, be surrendered, renewed or assigned, be the subject of deferred publication or be declared invalid.

Article 37a

Conferral of implementing powers regarding multiple applications

The Commission shall adopt implementing acts specifying the details to be contained in the multiple application. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 109(2).

Article 38

Date of filing

The date of filing of an application for a registered EU design shall be the date on which documents containing the information specified in Article 36(1) are filed with the Office by the applicant, subject to the payment of the application fees referred to in Article 36(4) and Article 37(2) within one month of filing those documents.

Article 39

Equivalence of Union filing with national filing

An application for a registered EU design which has been accorded a date of filing shall, in the Member States, be equivalent to a regular national filing, including where appropriate the priority claimed for the EU design application.

▼B

Article 40

Classification

For the purpose of this Regulation, use shall be made of the Annex to the Agreement establishing an International Classification for Industrial Designs, signed at Locarno on 8 October 1968.

▼B

Section 2

Priority

Article 41

Right of priority

1. A person who has duly filed an application for a design right or for a utility model in or for any State party to the Paris Convention for the Protection of Industrial Property, or to the Agreement establishing the World Trade Organisation, or his successors in title, shall enjoy, for the purpose of filing an application for a registered ►**M2** EU design ◄ in respect of the same design or utility model, a right of priority of six months from the date of filing of the first application.

2. Every filing that is equivalent to a regular national filing under the national law of the State where it was made or under bilateral or multilateral agreements shall be recognised as giving rise to a right of priority.

3. 'Regular national filing' means any filing that is sufficient to establish the date on which the application was filed, whatever may be the outcome of the application.

4. A subsequent application for a design which was the subject of a previous first application, and which is filed in or in respect of the same State, shall be considered as the first application for the purpose of determining priority, provided that, at the date of the filing of the subsequent application, the previous application has been withdrawn, abandoned or refused without being open to public inspection and without leaving any rights outstanding, and has not served as a basis for claiming priority. The previous application may not thereafter serve as a basis for claiming a right of priority.

5. If the first filing has been made in a State which is not a party to the Paris Convention, or to the Agreement establishing the World Trade Organisation, paragraphs 1 to 4 shall apply only in so far as that State, according to published findings, grants, on the basis of a filing made at the Office and subject to conditions equivalent to those laid down in this Regulation, a right of priority having equivalent effect.

Article 42

Claiming priority

An applicant for a registered ►**M2** EU design ◄ desiring to take advantage of the priority of a previous application shall file a declaration of priority and a copy of the previous application. If the language of the latter is not one of the languages of the Office, the Office may require a translation of the previous application in one of those languages.

▼M2

Article 42a

Conferral of implementing powers regarding the claim of priority

The Commission shall adopt implementing acts specifying the kind of documentation to be filed for claiming the priority of a previous application in accordance with Article 42(1). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 109(2).

Article 43

Effect of priority right

The right of priority shall have the effect that the date of priority shall count as the date of the filing of the application for a registered EU design for the purposes of Articles 5, 6, 7 and 22, Article 25(1), points (d), (e) and (f), and Article 50(1).

▼B

Article 44

Exhibition priority

1. If an applicant for a registered ►M2 EU design ◄ has disclosed products in which the design is incorporated, or to which it is applied, at an official or officially recognised international exhibition falling within the terms of the Convention on International Exhibitions signed in Paris on 22 November 1928 and last revised on 30 November 1972, he may, if he files the application within a period of six months from the date of the first disclosure of such products, claim a right of priority from that date within the meaning of Article 43.

2. An applicant who wishes to claim priority pursuant to paragraph 1, under the conditions laid down in the implementing regulation, must file evidence that he has disclosed at an exhibition the products in or to which the design is incorporated or applied.

3. An exhibition priority granted in a Member State or in a third country does not extend the period of priority laid down in Article 41.

▼M2

Article 44a

Conferral of implementing powers

The Commission shall adopt implementing acts specifying the type and details of evidence to be filed for claiming an exhibition priority in accordance with Article 44(2). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 109(2).

▼B

TITLE V

REGISTRATION PROCEDURE

▼M2

Article 45

Examination as to formal requirements for filing

1. The Office shall examine whether the application for a registered EU design complies with the requirements for the accordance of a date of filing laid down in Article 38.

2. The Office shall examine whether:

(a) the application for a registered EU design complies with the requirements referred to in Article 36(2), (3) and (5) and, in the case of a multiple application, in Article 37(1) and (3);

(b) where relevant, the additional fee for deferment of publication pursuant to Article 36(4) has been paid within the prescribed period;

(c) where relevant, the additional fee for deferment of publication in respect of each design included in a multiple application pursuant to Article 37(2) has been paid within the prescribed period.

3. Where the application for a registered EU design does not satisfy the requirements referred to in paragraph 1 or 2, the Office shall request the applicant to remedy the deficiencies or the default on payment within two months of the notification of that request.

4. If the applicant does not comply with the Office's request referred to in paragraph 3 to comply with the requirements referred to in paragraph 1, the application shall not be dealt with as an application for a registered EU design. If the applicant complies with that request with regard to those requirements, the Office shall accord as the date of filing of the application the date on which the deficiencies or the default on payment are remedied.

5. If the applicant does not comply with the Office's request referred to in paragraph 3 to comply with the requirements referred to in paragraph 2, points (a) and (b), the Office shall refuse the application.

6. If the applicant does not comply with the Office's request referred to in paragraph 3 to comply with the requirements referred to in paragraph 2, point (c), the application shall be refused in respect of the additional designs unless it is clear which designs the amount paid is intended to cover. In the absence of other criteria to determine which designs are intended to be covered, the Office shall treat the designs in the consecutive numerical order in which they are contained in the multiple application. The application shall be refused in respect of those designs for which the additional fee for deferment of publication has not been paid or has not been paid in full.

7. Failure to satisfy the requirements concerning a priority claim shall result in the loss of the right of priority for the application.

▼B

Article 47

Grounds for non-registrability

1. If the Office, in carrying out the examination pursuant to Article 45, notices that the design for which protection is sought:

(a) does not correspond to the definition under ►M2 Article 3, point (1) ◄; or

(b) is contrary to public policy or to accepted principles of morality, it shall refuse the application.

2. The application shall not be refused before the applicant has been allowed the opportunity of withdrawing or amending the application or of submitting his observations.

▼M2

Article 47b

Delegation of power regarding the amendment of the application

The Commission is empowered to adopt delegated acts in accordance with Article 109a to supplement this Regulation by specifying the details of the procedure for the amendment of the application as referred to in Article 47a(2).

Article 48

Registration

1. If the requirements for an application for a registered EU design have been fulfilled, and to the extent that the application has not been refused pursuant to Article 47, the Office shall enter the design contained in the application and the particulars referred to in Article 72(2) in the Register.

2. If the application contains a request for deferment of publication pursuant to Article 50, an indication of that request and the date of expiry of the period of deferment shall also be entered in the Register.

3. The registration shall bear the date of filing of the application referred to in Article 38.

4. The fees payable pursuant to Article 36(4) and Article 37(2) shall not be refunded even if the design applied for is not registered.

▼B

Article 49

Publication

Upon registration, the Office shall publish the registered ►M2 EU design ◄ in the ►M2 EU Designs ◄ Bulletin as mentioned in Article 73(1). The contents of the publication shall be set out in the implementing regulation.

▼M2

Article 49a

Conferral of implementing powers regarding publication

The Commission shall adopt implementing acts laying down the details to be contained in the publication referred to in Article 49. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 109(2).

Article 50

Deferment of publication

1. The applicant for a registered EU design may request, when filing the application, that the publication of the registered EU design be deferred for a period of up to 30 months from the date of filing of the application or, if priority is claimed, from the date of priority.

2. Upon a request referred to in paragraph 1 of this Article, where the conditions set out in Article 48 are satisfied, the registered EU design shall be registered, but neither the representation of the design nor any file relating to the application shall, subject to Article 74(2), be open to public inspection.

3. The Office shall publish in the EU Designs Bulletin an indication of a request referred to in paragraph 1. The indication shall be accompanied by information identifying the right holder of the registered design, the name of the representative, if any, the date of filing of the application and of registration of the design, and the file number of the application. Neither the representation of the design nor any particulars identifying its appearance shall be published.

4. At the expiry of the period of deferment, or at any earlier date requested by the right holder, the Office shall open to public inspection all the entries in the Register and the file relating to the application and shall publish the registered EU design in the EU Designs Bulletin.

5. The right holder may prevent publication of the registered EU design as referred to in paragraph 4 of this Article, by submitting a request for surrender of the EU design in accordance with Article 51 at the latest three months before expiry of the period of deferment. Any requests for the entry of the surrender in the Register that do not comply with the requirements set out in Article 51 and the implementing acts adopted pursuant to Article 51a, or that are submitted after the three month-time limit referred to in this paragraph, shall be rejected.

6. In the case of a registration on the basis of a multiple application pursuant to Article 37, the holder shall, together with the request for earlier publication referred to in paragraph 4 or the request for surrender referred to in paragraph 5, clearly indicate which of the designs contained in that application are to be published earlier or surrendered and for which designs deferment of publication is to be continued.

7. If the holder fails to comply with the requirement set out in paragraph 6, the Office shall request the holder to remedy the deficiency within a specified time limit, which shall in no case expire after the 30-month deferment period.

▼M2

8. Failure to remedy the deficiency referred to in paragraph 7 within the specified time limit shall result in the request for early publication being deemed not to have been filed or the request for surrender being rejected.

9. The institution of legal proceedings on the basis of a registered EU design during the period of deferment of publication shall be subject to the condition that the information contained in the Register and in the file relating to the application has been communicated to the person against whom the action is brought.

Article 50c

Conferral of implementing powers

The Commission shall adopt implementing acts specifying the details to be contained in and the form of the certificate of registration referred to in Article 50b. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 109(2).

Article 50d

Renewal

1. Registration of the EU design shall be renewed at the request of the right holder of the registered EU design or of any person expressly authorised by the right holder to request the renewal, provided that the renewal fees have been paid.

2. The Office shall inform the right holder of the registered EU design and any person having a registered right in respect of the EU design of the expiry of the registration at least six months before the date of such expiry. Failure to give such information shall not involve the responsibility of the Office and shall not affect the expiry of the registration.

3. The request for renewal shall be submitted within a six months period prior to the expiry of the registration. The renewal fee shall also be paid within that period.

Failing that, the request may be submitted and the fee paid within a further period of six months following the expiry of the registration, provided that an additional fee for late payment of the renewal fee or late submission of the request for renewal is paid within that further period.

4. The request for renewal referred to in paragraph 1 shall include:

(a) the name of the person requesting renewal;

(b) the registration number of the EU design to be renewed;

(c) in case of a registration on the basis of a multiple application, an indication of the designs for which renewal is requested.

▼M2

If the renewal fees are paid, the payment shall be deemed to constitute a request for renewal provided that it contains all necessary indications to establish the purpose of the payment.

5. In the case of a registration on the basis of a multiple application pursuant to Article 37, where the fees paid are insufficient to cover all the designs for which renewal is requested, registration shall be renewed in respect of those designs which the amount paid is clearly intended to cover. In the absence of other criteria for determining which designs are intended to be covered, the Office shall treat the designs in the consecutive numerical order in which they are contained in the multiple application.

6. Renewal shall take effect from the day following the date on which the existing registration expires. The renewal shall be entered in the Register.

7. Where the request for renewal is filed within the periods provided for in paragraph 3, but the other conditions for renewal provided for in this Article are not satisfied, the Office shall inform the applicant of the deficiencies found.

8. Where a request for renewal is not submitted or is submitted after the expiry of the period provided for in paragraph 3, or where the fees are not paid or are paid only after the period in question has expired, or where the deficiencies referred to in paragraph 7 are not remedied within that period, the Office shall determine that the registration has expired and shall notify the holder of the EU design accordingly. Where the determination has become final, the Office shall cancel the design from the Register. The cancellation shall take effect from the day following the date on which the existing registration expired. Where the renewal fees have been paid but the registration is not renewed, those fees shall be refunded.

9. A single request for renewal may be submitted for two or more designs provided that the holder or the representative is the same for all designs covered by the request. The required renewal fee shall be paid in respect of each design for which renewal is requested.

Article 50f

Conferral of implementing powers regarding alteration

The Commission shall adopt implementing acts specifying the details to be contained in the request for alteration referred to in Article 50e(2). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 109(2).

Article 50h

Conferral of implementing powers regarding change of name or address

The Commission shall adopt implementing acts specifying the details to be contained in a request for a change of name or address pursuant to Article 50g(1). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 109(2).

▼B

TITLE VI

SURRENDER AND INVALIDITY OF THE REGISTERED ►M2 EU DESIGN ◄

Article 51

Surrender

1. The surrender of a registered ►M2 EU design ◄ shall be declared to the Office in writing by the right holder. It shall not have effect until it has been entered in the register.

2. If a ►M2 EU design ◄ which is subject to deferment of publication is surrendered it shall be deemed from the outset not to have had the effects specified in this Regulation.

3. A registered ►M2 EU design ◄ may be partially surrendered provided that its amended form complies with the requirements for protection and the identity of the design is retained.

4. Surrender shall be registered only with the agreement of the proprietor of a right entered in the register. If a licence has been registered, surrender shall be entered in the register only if the right holder in the registered ►M2 EU design ◄ proves that he has informed the licensee of his intention to surrender. This entry shall be made on expiry of the period prescribed by the implementing regulation.

5. If an action pursuant to Article 14 relating to the entitlement to a registered ►M2 EU design ◄ has been brought before a ►M2 EU design court ◄, the Office shall not enter the surrender in the register without the agreement of the claimant.

▼M2

Article 51a

Conferral of implementing powers regarding surrender

The Commission shall adopt implementing acts specifying:

(a) the details to be contained in a declaration of surrender pursuant to Article 51(1);

(b) the kind of documentation required to establish the agreement of a third party pursuant to Article 51(3) and the agreement of a claimant pursuant to Article 51(4).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 109(2).

▼B

Article 52

Application for a declaration of invalidity

▼M2

1. Subject to Article 25(2) to (5), any natural or legal person, as well as a public authority empowered to do so, may submit to the Office an application for a declaration of invalidity of a registered EU design.

▼B

2. The application shall be filed in a written reasoned statement. It shall not be deemed to have been filed until the fee for an application for a declaration of invalidity has been paid.

▼M2

3. An application for a declaration of invalidity shall not be admissible if an application relating to the same subject matter and cause of action, and involving the same parties, has been adjudicated on its merits, either by the Office or by an EU design court as referred to in Article 80, and the decision of the Office or the EU design court on such application has become final.

▼B

Article 53

Examination of the application

1. If the Office finds that the application for a declaration of invalidity is admissible, the Office shall examine whether the grounds for invalidity referred to in Article 25 prejudice the maintenance of the registered ►M2 EU design ◄.

2. In the examination of the application, which shall be conducted in accordance with the implementing regulation, the Office shall invite the parties, as often as necessary, to file observations, within a period to be fixed by the Office, on communications from the other parties or issued by itself.

3. The decision declaring the registered ►M2 EU design ◄ invalid shall be entered in the register upon becoming final.

▼M2

Article 53a

Delegation of power regarding the declaration of invalidity

The Commission is empowered to adopt delegated acts in accordance with Article 109a to supplement this Regulation by specifying the details of the proceedings for the declaration of invalidity of an EU design as referred to in Articles 52 and 53, including the possibility of examining an application for a declaration of invalidity as a matter of priority where the holder of the registered EU design does not contest the grounds of invalidity or the relief sought.

▼B

Article 54

Participation in the proceedings of the alleged infringer

1. In the event of an application for a declaration of invalidity of a registered ►M2 EU design ◄ being filed, and as long as no final decision has been taken by the Office, any third party who proves that proceedings for infringement of the same design have been instituted against him may be joined as a party in the invalidity proceedings on request submitted within three months of the date on which the infringement proceedings were instituted.

The same shall apply in respect of any third party who proves both that the right holder of the ►M2 EU design ◄ has requested that he cease an alleged infringement of the design and that he has instituted proceedings for a court ruling that he is not infringing the ►M2 EU design ◄.

▼B

2. The request to be joined as a party shall be filed in a written reasoned statement. It shall not be deemed to have been filed until the invalidity fee, referred to in Article 52(2), has been paid. Thereafter the request shall, subject to any exceptions laid down in the implementing regulation, be treated as an application for a declaration of invalidity.

TITLE VII

APPEALS

Article 55

Decisions subject to appeal

1. An appeal shall lie from decisions of the examiners, the Administration of Trade Marks and Designs and Legal Division and Invalidity Divisions. It shall have suspensive effect.

2. A decision which does not terminate proceedings as regards one of the parties can only be appealed together with the final decision, unless the decision allows separate appeal.

▼M2

Article 55a

Delegation of power regarding appeal proceedings

The Commission is empowered to adopt delegated acts in accordance with Article 109a to supplement this Regulation by specifying:

(a) the formal content of the notice of appeal referred to in Article 68 of Regulation (EU) 2017/1001 and the procedure for the filing and examination of the appeal;

(b) the formal content and form of the decisions of the Boards of Appeal as referred to in Article 71 of Regulation (EU) 2017/1001;

(c) the reimbursement of the appeal fee referred to in Article 68 of Regulation (EU) 2017/1001.

▼B

Article 56

Persons entitled to appeal and to be parties to appeal proceedings

Any party to proceedings adversely affected by a decision may appeal. Any other parties to the proceedings shall be parties to the appeal proceedings as of right.

Article 57

Time limit and form of appeal

Notice of appeal must be filed in writing at the Office within two months after the date of notification of the decision appealed from. The notice shall be deemed to have been filed only when the fee for appeal has been paid. Within four months after the date of notification of the decision, a written statement setting out the grounds of appeal must be filed.

▼B

Article 58

Interlocutory revision

1. If the department whose decision is contested considers the appeal to be admissible and well founded, it shall rectify its decision. This shall not apply where the appellant is opposed by another party to the proceedings.

2. If the decision is not rectified within one month after receipt of the statement of grounds, the appeal shall be remitted to the Board of Appeal without delay and without comment as to its merits.

Article 59

Examination of appeals

1. If the appeal is admissible, the Board of Appeal shall examine whether the appeal is to be allowed.

2. In the examination of the appeal, the Board of Appeal shall invite the parties, as often as necessary, to file observations, within a period to be fixed by the Board of Appeal, on communications from the other parties or issued by itself.

Article 60

Decisions in respect of appeals

1. Following the examination as to the merits of the appeal, the Board of Appeal shall decide on the appeal. The Board of Appeal may either exercise any power within the competence of the department which was responsible for the decision appealed against or remit the case to that department for further prosecution.

2. If the Board of Appeal remits the case for further prosecution to the department whose decision was appealed, that department shall be bound by the *ratio decidendi* of the Board of Appeal, in so far as the facts are the same.

3. The decisions of the Boards of Appeal shall take effect only from the date of expiry of the period referred to in Article 61(5) or, if an action has been brought before the Court of Justice within that period, from the date of rejection of such action.

Article 61

Actions before the Court of Justice

1. Actions may be brought before the Court of Justice against decisions of the Boards of Appeal on appeals.

2. The action may be brought on grounds of lack of competence, infringement of an essential procedural requirement, infringement of the Treaty, of this Regulation or of any rule of law relating to their application or misuse of power.

▼B

3. The Court of Justice has jurisdiction to annul or to alter the contested decision.

4. The action shall be open to any party to proceedings before the Board of Appeal adversely affected by its decision.

5. The action shall be brought before the Court of Justice within two months of the date of notification of the decision of the Board of Appeal.

6. The Office shall be required to take the necessary measures to comply with the judgment of the Court of Justice.

TITLE VIII

PROCEDURE BEFORE THE OFFICE

Section 1

General provisions

Article 62

Statement of reasons on which decisions are based

Decisions of the Office shall state the reasons on which they are based. They shall be based only on reasons or evidence on which the parties concerned have had an opportunity to present their comments.

Article 63

Examination of the facts by the Office of its own motion

▼M2

1. In proceedings before it, the Office shall examine the facts of its own motion. However, in proceedings relating to a declaration of invalidity, the Office shall be restricted in this examination to the grounds, facts, evidence and arguments provided by the parties and the relief sought.

▼B

2. The Office may disregard facts or evidence which are not submitted in due time by the parties concerned.

▼M2

Article 64

Oral proceedings

1. If the Office considers that oral proceedings would be expedient, they shall be held either at the instance of the Office or at the request of any party to the proceedings.

2. Oral proceedings before the examiners and the department in charge of the Register shall not be public.

▼M2

3. Oral proceedings, including delivery of the decision, before the Invalidity Divisions and the Boards of Appeal shall be public, unless the department before which the proceedings are taking place decides otherwise in cases where admission of the public could have serious and unjustified disadvantages, in particular for a party to the proceedings.

Article 64a

Delegation of power regarding oral proceedings

The Commission is empowered to adopt delegated acts in accordance with Article 109a to supplement this Regulation by setting out the detailed arrangements for oral proceedings referred to in Article 64, including the detailed arrangements for the use of languages in accordance with Article 98.

▼B

Article 65

Taking of evidence

1. In any proceedings before the Office the means of giving or obtaining evidence shall include the following:

(a) hearing the parties;

(b) requests for information;

(c) the production of documents and items of evidence;

(d) hearing witnesses;

(e) opinions by experts;

(f) statements in writing, sworn or affirmed or having a similar effect under the law of the State in which the statement is drawn up.

2. The relevant department of the Office may commission one of its members to examine the evidence adduced.

3. If the Office considers it necessary for a party, witness or expert to give evidence orally, it shall issue a summons to the person concerned to appear before it.

4. The parties shall be informed of the hearing of a witness or expert before the Office. They shall have the right to be present and to put questions to the witness or expert.

▼M2

Article 65a

Delegation of power regarding the taking of evidence

The Commission is empowered to adopt delegated acts in accordance with Article 109a to supplement this Regulation by setting out the detailed arrangements for the taking of evidence referred to in Article 65.

▼B

Article 66

Notification

The Office shall, as a matter of course, notify those concerned of decisions and summonses and of any notice or other communication from which a time limit is reckoned, or of which those concerned must be notified under other provisions of this Regulation or of the implementing regulation, or of which notification has been ordered by the President of the Office.

▼M2

Article 66a

Delegation of power regarding notification

The Commission is empowered to adopt delegated acts in accordance with Article 109a to supplement this Regulation by setting out the detailed arrangements for notification referred to in Article 66.

Article 66d

Delegation of power regarding communications to the Office

The Commission is empowered to adopt delegated acts in accordance with Article 109a to supplement this Regulation by specifying the rules on communications addressed to the Office as referred to in Article 66c and the forms for such communication that are to be made available by the Office.

Article 66f

Delegation of power regarding calculation and duration of time limits

The Commission is empowered to adopt delegated acts in accordance with Article 109a to supplement this Regulation by specifying the details regarding the calculation and duration of time limits referred to in Article 66e.

Article 66i

Delegation of power regarding cancellation of entries and revocation of decisions

The Commission is empowered to adopt delegated acts in accordance with Article 109a to supplement this Regulation by setting out the procedure for the cancellation of an entry in the Register or the revocation of a decision as referred to in Article 66h.

▼B

Article 67

Restitutio in integrum

1. The applicant for or holder of a registered ►M2 EU design ◄ or any other party to proceedings before the Office who, in spite of all due care required by the circumstances having been taken, was unable to observe a time limit vis-à-vis the Office shall, upon application, have his rights re-established if the non-observance in question has the direct consequence, by virtue of the provisions of this Regulation, of causing the loss of any rights or means of redress.

▼M2

2. The applicant shall file the application in writing within two months of the removal of the cause of non-observance of the time limit. The omitted act shall be completed within that period. The application shall only be admissible within the year immediately following the expiry of the unobserved time limit. In the case of non-submission of the request for renewal of registration or of non-payment of a renewal fee, the further period of six months following the expiry of registration provided for in Article 50d(3) shall not be deducted from the period of one year.

3. The application shall state the grounds on which it is based and shall set out the facts on which it relies. It shall not be deemed to be filed until the fee for the re-establishment of rights has been paid. If *restitutio in integrum* is granted, the fee shall be reimbursed.

▼B

4. The department competent to decide on the omitted act shall decide upon the application.

5. The provisions of this Article shall not be applicable to the time limits referred to in paragraph 2 and Article 41(1).

6. Where the applicant for or holder of a registered ►M2 EU design ◄ has his rights re-established, he may not invoke his rights vis-à-vis a third party who, in good faith, in the course of the period between the loss of rights in the application for or registration of the registered ►M2 EU design ◄ and publication of the mention of re-establishment of those rights, has put on the market products in which a design included within the scope of protection of the registered ►M2 EU design ◄ is incorporated or to which it is applied.

7. A third party who may avail himself of the provisions of paragraph 6 may bring third party proceedings against the decision re-establishing the rights of the applicant for or holder of the registered ►M2 EU design ◄ within a period of two months as from the date of publication of the mention of re-establishment of those rights.

8. Nothing in this Article shall limit the right of a Member State to grant *restitutio in integrum* in respect of time limits provided for in this Regulation and to be complied with vis-à-vis the authorities of such State.

▼M2

Article 67c

Delegation of power regarding the resumption of proceedings

The Commission is empowered to adopt delegated acts in accordance with Article 109a to supplement this Regulation by setting out the detailed arrangements for the resumption of proceedings before the Office referred to in Article 67b(2).

▼M2

Article 68

Reference to general principles

In the absence of procedural provisions in this Regulation or in acts adopted pursuant to this Regulation, the Office shall take into account the principles of procedural law generally recognised in the Member States.

▼B

Article 69

Termination of financial obligations

▼M2

1. Rights of the Office to the payment of fees shall lapse after four years from the end of the calendar year in which the fee fell due.

2. Rights against the Office for the refunding of fees or sums of money paid in excess of a fee shall lapse after four years from the end of the calendar year in which the right arose.

▼B

3. The periods laid down in paragraphs 1 and 2 shall be interrupted, in the case covered by paragraph 1, by a request for payment of the fee and, in the case covered by paragraph 2, by a reasoned claim in writing. On interruption it shall begin again immediately and shall end at the latest six years after the end of the year in which it originally began, unless in the meantime judicial proceedings to enforce the right have begun. In this case the period shall end at the earliest one year after the judgment has acquired the authority of a final decision.

Section 2

Costs

Article 70

Apportionment of costs

1. The losing party in proceedings for a declaration of invalidity of a registered ►M2 EU design ◄ or appeal proceedings shall bear the fees incurred by the other party as well as all costs incurred by him essential to the proceedings, including travel and subsistence and the remuneration of an agent, adviser or advocate, within the limits of scales set for each category of costs under the conditions laid down in the implementing regulation.

2. However, where each party succeeds on some and fails on other heads, or if reasons of equity so dictate, the Invalidity Division or Board of Appeal shall decide a different apportionment of costs.

3. A party who terminates the proceedings by surrendering the registered ►M2 EU design ◄ or by not renewing its registration or by withdrawing the application for a declaration of invalidity or the appeal, shall bear the fees and the costs incurred by the other party as stipulated in paragraphs 1 and 2.

4. Where a case does not proceed to judgment, the costs shall be at the discretion of the Invalidity Division or Board of Appeal.

▼B

5. Where the parties conclude before the Invalidity Division or Board of Appeal a settlement of costs differing from that provided for in paragraphs 1, 2, 3 and 4, the body concerned shall take note of that agreement.

6. On request, the registry of the Invalidity Division or Board of Appeal shall fix the amount of the costs to be paid pursuant to the preceding paragraphs. The amount so determined may be reviewed by a decision of the Invalidity Division or Board of Appeal on a request filed within the period prescribed by the implementing regulation.

▼M2

Article 70a

Conferral of implementing powers regarding maximum rates for costs

The Commission shall adopt implementing acts specifying the maximum rates for costs essential to the proceedings and actually incurred by the successful party as referred to in Article 70(1). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 109(2).

When specifying the maximum rates with respect to travel and subsistence costs, the Commission shall take into account the distance between the place of residence or business of the party, representative, witness or expert and the place where the oral proceedings are held, the procedural stage at which the costs have been incurred, and, as far as costs of representation within the meaning of to Article 78(1) are concerned, the need to ensure that the obligation to bear the costs cannot be misused for tactical reasons by the other party. In addition, subsistence expenses shall be calculated in accordance with the Staff Regulations of Officials of the Union and the Conditions of Employment of Other Servants of the Union, laid down in Council Regulation (EEC, Euratom, ECSC) No 259/68 ([1]). The losing party shall bear the costs for one party in the proceedings only and, where applicable, one representative only.

▼B

Article 71

Enforcement of decisions fixing the amount of costs

1. Any final decision of the Office fixing the amount of costs shall be enforceable.

▼M2

2. Enforcement shall be governed by the rules of civil procedure in force in the Member State in the territory of which it is carried out. Each Member State shall designate a single authority responsible for verifying the authenticity of the decision referred to in paragraph 1 and shall communicate its contact details to the Office, the Court of Justice and the Commission. The order for enforcement shall be appended to the decision by that authority, with the verification of the authenticity of the decision as the sole formality.

([1]) OJ L 56, 4.3.1968, p. 1, ELI: http://data.europa.eu/eli/reg/1968/259(1)/oj.

▼B

3. When these formalities have been completed on application by the party concerned, the latter may proceed to enforcement in accordance with the national law, by bringing the matter directly before the competent authority.

4. Enforcement may be suspended only by a decision of the Court of Justice. However, the courts of the Member State concerned shall have jurisdiction over complaints that enforcement is being carried out in an irregular manner.

Section 3

Informing the public and the official authorities of the Member States

▼M2

Article 72

Register of EU designs

1. The Office shall keep a Register of registered EU designs which it shall keep up to date.

2. The Register shall contain the following entries relating to EU design registrations:

(a) the date of filing and registration of the application, pursuant to Article 48(3);

(b) the file number of the application and the file number of each individual design included in a multiple application;

(c) the date of the publication of the registration;

(d) the name, and the city and country of the applicant;

(e) the name and business address of the representative, other than a representative referred to in Article 77(3), first subparagraph;

(f) the representation of the design;

(g) the names of the products, preceded by the numbers of the classes and subclasses of the Locarno classification;

(h) particulars of claims of priority pursuant to Article 42;

(i) particulars of claims of exhibition priority pursuant to Article 44;

(j) the citation of the designer or of the team of designers pursuant to Article 18, or a statement that the designer or the team of designers has waived the right to be cited;

(k) the language in which the application was filed and the second language which the applicant has indicated in the application, pursuant to Article 98(3);

(l) the date of registration of the design in the Register and the registration number pursuant to Article 48(1);

▼M2

(m) an indication of any request for deferment of publication pursuant to Article 50(3), specifying the date of expiry of the period of deferment;

(n) an indication that a description was filed pursuant to Article 36(3), point (a).

3. The Register shall also contain the following entries, each accompanied by the date of their recording:

(b) changes in the name or business address of the representative, other than a representative referred to in Article 77(3), first subparagraph;

(c) where a new representative is appointed, the name and business address of that representative;

(d) changes in the name of the designer or the team of designers pursuant to Article 18;

(g) an indication that entitlement proceedings have been instituted before the competent court or authority under Article 15(5), point (a);

(h) the date and particulars of the final decision of the competent court or authority or other termination of proceedings pursuant to Article 15(5), point (b);

(i) a change of ownership pursuant to Article 15(5), point (c);

(j) a transfer pursuant to Article 28;

(k) the creation or transfer of a right *in rem* pursuant to Article 29 and the nature of the right *in rem*;

(l) a levy of execution pursuant to Article 30 and insolvency proceedings pursuant to Article 31;

(n) the renewal of the registration pursuant to Article 50d and the date from which that renewal takes effect;

(o) the determination of the expiry of the registration pursuant to Article 50d(8);

(p) a declaration of surrender by the holder pursuant to Article 51(1);

(q) the date of submission and the particulars of an application for a declaration of invalidity under Article 52, of a counterclaim for a declaration of invalidity pursuant to Article 84(5) or of an appeal brought pursuant to Article 55;

(r) the date and particulars of the final decision on the application for a declaration of invalidity pursuant to Article 53, of the final decision on a counterclaim for a declaration of invalidity pursuant to Article 86(3), of the final decision on an appeal pursuant to Article 55, or of any other termination of proceedings pursuant, to those Articles;

▼M2

(s) the cancellation of the entry concerning the representative recorded pursuant to paragraph 2, point (e);

(t) the modification or cancellation from the Register of the items referred to in paragraph 3, points (l), (m) and (n).

(u) the revocation of a decision or the cancellation of an entry in the Register pursuant to Article 66h, where the revocation concerns a decision or the cancellation concerns an entry which has been published.

4. The Executive Director may determine that items other than those referred to in paragraphs 2 and 3 are to be entered in the Register.

5. The Register may be maintained in electronic form. The Office shall collect, organise, make public and store the items referred to in paragraphs 1, 2 and 3, including any personal data, for the purposes laid down in paragraph 8. The Office shall keep the Register easily accessible for public inspection.

6. The holder of a registered EU design shall be notified of any change in the Register.

7. The Office shall, where access to the Register is not restricted pursuant to Article 74(5), provide, by electronic means, certified or uncertified extracts from the Register upon request.

8. The processing of the data concerning the entries set out in paragraphs 2 and 3, including any personal data, shall take place for the purposes of:

(a) administering the applications, registrations, or both, as described in this Regulation and any acts adopted pursuant to it;

(b) maintaining a public Register for inspection by, and the information of, public authorities and economic operators, in order to enable them to exercise the rights conferred on them by this Regulation and be informed about the existence of prior rights belonging to third parties;

(c) producing reports and statistics enabling the Office to optimise its operations and improve the functioning of the system for registration of EU designs.

9. All the data, including personal data, concerning the entries set out in paragraphs 2 and 3 of this Article shall be considered to be of public interest and may be accessed by any third party except to the extent that Article 50(2) provides otherwise. The entries in the Register shall be kept for an indefinite period.

Article 72a

Database

1. In addition to the obligation to keep a Register as set out in Article 72, the Office shall collect and store in an electronic database all the particulars provided by holders or any other party to the proceedings pursuant to this Regulation or acts adopted pursuant to it.

▼M2

2. The electronic database may include personal data, beyond those included in the Register pursuant to Article 72, to the extent that such data are required by this Regulation or by acts adopted pursuant to it. The collection, storage and processing of personal data shall serve the purposes of:

(a) administering the applications, registrations, or both, as described in this Regulation and in acts adopted pursuant to it;

(b) accessing the information necessary for conducting the relevant proceedings more easily and efficiently;

(c) communicating with the applicants and other parties to the proceedings; and

(d) producing reports and statistics enabling the Office to optimise its operations and improve the functioning of the system.

3. The Executive Director shall determine the conditions of access to the database and the manner in which the contents, other than the personal data referred to in paragraph 2 of this Article but including the data listed in Article 72, may be made available.

4. Access to the personal data referred to in paragraph 2 shall be restricted and such data shall not be made publicly available unless the party concerned has expressly consented.

5. All data shall be kept indefinitely. However, the party concerned may request the removal of any personal data from the database after 18 months from the expiry of the registered EU design or the closure of the relevant inter partes procedure. The party concerned shall have the right to obtain the correction of inaccurate or erroneous data at any time.

Article 72b

Online access to decisions

1. The decisions of the Office regarding registered EU designs shall be made available online for the information and consultation of the general public. Any party to the proceedings that led to the adoption of the decision may request the removal of any personal data included in the decision.

2. The Office may provide online access to judgments of national and Union courts related to its tasks in order to raise public awareness of intellectual property matters and promote convergence of practices. The Office shall respect the conditions of the initial publication with regard to personal data.

▼B

Article 73

Periodical publications

1. This Office shall periodically publish a ►M2 EU designs ◄ Bulletin containing entries open to public inspection in the register as well as other particulars the publication of which is prescribed by this Regulation or by the implementing regulation.

2. Notices and information of a general character issued by the President of the Office, as well as any other information relevant to this Regulation or its implementation, shall be published in the Official Journal of the Office.

▼M2

Article 73a

Conferral of implementing powers regarding periodical publications

The Commission shall adopt implementing acts specifying:

(a) the date to be considered as the date of publication in the European Union Designs Bulletin;

(b) the manner of publication of entries regarding the registration of a design which do not contain changes as compared to the publication of the application;

(c) the forms in which editions of the Official Journal of the Office may be made available to the public.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 109(2).

▼B

Article 74

Inspection of files

1. The files relating to applications for registered ►M2 EU designs ◄ which have not yet been published or the files relating to registered ►M2 EU designs ◄ which are subject to deferment of publication in accordance with Article 50 or which, being subject to such deferment, have been surrendered before or on the expiry of that period, shall not be made available for inspection without the consent of the applicant for or the right holder in the registered ►M2 EU design ◄.

2. Any person who can establish a legitimate interest may inspect a file without the consent of the applicant for or holder of the registered ►M2 EU design ◄ prior to the publication or after the surrender of the latter in the case provided for in paragraph 1.

This shall in particular apply if the interested person proves that the applicant for or the holder of the registered ►M2 EU design ◄ has taken steps with a view to invoking against him the right under the registered ►M2 EU design ◄.

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3. Subsequent to the publication of the registered ►M2 EU design ◄, the file may be inspected on request.

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4. Where the files are inspected pursuant to paragraph 2 or 3, the following parts of the file shall be excluded from inspection:

(a) documents relating to exclusion or objection pursuant to Article 169 of Regulation (EU) 2017/1001;

(b) draft decisions and opinions, and all other internal documents used for the preparation of decisions and opinions;

(c) parts of the file which the party concerned showed a special interest in keeping confidential before the request for inspection of the files was made, unless inspection of such part of the file is justified by overriding legitimate interests of the party seeking inspection.

5. Where the registration is subject to a deferment of publication pursuant to Article 50(1), access to the Register for persons other than the holder of the registered EU design shall be limited to the name of the holder, the name of any representative, the date of filing and registration, the file number of the application and the indication that publication is deferred. In such cases, the certified or uncertified extracts from the register shall contain only the name of the holder, the name of any representative, the date of filing and registration, the file number of the application and the indication that publication is deferred, except where the request for extracts has been made by the holder or by the holder's representative.

Article 74a

Procedures for the inspection of files

1. Inspection of the files of registered EU designs requested pursuant to Article 74(3) shall be of the technical means of storage of the files. Such inspection shall take place online. The Executive Director shall determine the means of inspection.

2. Where the request for inspection of the files relates to an application for a registered EU design or to a registered EU design which are subject to deferment of publication in accordance with Article 50 or which, being subject to such deferment, have been surrendered before or on the date of expiry of that period, the request shall contain evidence that:

(a) the applicant for or holder of the EU design has consented to the inspection; or

(b) the person requesting the inspection has established a legitimate interest in the inspection of the file.

▼M2

3. Upon request, inspection of the files shall be effected by means of electronic copies of file documents. The Office shall also, upon request, issue certified or uncertified copies of the application for a registered EU design by electronic means.

Article 74b

Communication of information contained in the files

Subject to the restrictions provided for in Article 74, the Office may, upon request, communicate information from any file of any procedure relating to an EU design application or to a registered EU design.

Article 74c

Keeping of files

1. The Office shall keep the files of any procedure relating to EU design applications and to registered EU designs. The Executive Director shall determine the form in which those files are to be kept.

2. Where the files are kept in electronic format, the electronic files, or back-up copies thereof, shall be kept indefinitely. The original documents filed by parties to the proceedings, and forming the basis of such electronic files, shall be disposed of after a period following their reception by the Office, which shall be determined by the Executive Director.

3. Where, and to the extent that, files or parts of the files are kept in any form other than electronically, documents or items of evidence constituting part of such files shall be kept for at least five years from the end of the year in which:

(a) the application is rejected or withdrawn;

(b) the registration of the EU design expires definitively;

(c) the surrender of the registered EU design is entered in the Register pursuant to Article 51;

(d) the registered EU design is definitively removed from the Register.

Article 75

Administrative cooperation

1. Unless otherwise provided for in this Regulation or in national law, the Office and the courts or authorities of the Member States shall upon request give assistance to each other by communicating information or opening files for inspection. Where the Office opens files to inspection by courts, public prosecutors' offices or central industrial property offices, the inspection shall not be subject to the restrictions laid down in Article 74.

2. The Office shall not charge fees for the communication of information or the opening of files for inspection.

▼M2

Article 75a

Conferral of implementing powers regarding administrative cooperation

The Commission shall adopt implementing acts setting out the detailed arrangements for the exchange of information between the Office and the authorities of the Member States and for the opening of files for inspection as referred to in Article 75, taking into account the restrictions to which the inspection of files relating to EU design applications or registrations is subject, pursuant to Article 74, when they are opened to third parties. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 109 (2).

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Section 4

Representation

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Article 77

General principles of representation

1. Subject to paragraph 2, no person shall be compelled to be represented before the Office.

2. Without prejudice to paragraph 3, second subparagraph, of this Article, natural or legal persons having neither their domicile nor their principal place of business or a real and effective industrial or commercial establishment in the EEA shall be represented before the Office in accordance with Article 78(1) in all proceedings provided for by this Regulation, other than the filing of an application for a registered EU design.

3. Natural or legal persons having their domicile or principal place of business or a real and effective industrial or commercial establishment in the EEA may be represented before the Office by an employee.

An employee of a legal person to which this paragraph applies may also represent other legal persons which have economic connections with the first legal person, even if those other legal persons have neither their domicile nor their principal place of business nor a real and effective industrial or commercial establishment within the EEA.

Employees who represent persons within the meaning of this paragraph shall, at the request of the Office or, where appropriate, of the party to the proceedings, provide the Office with a signed authorisation for insertion in the files.

4. Where there is more than one applicant or more than one third party acting in common, a common representative shall be appointed.

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Article 78

Professional representation

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1. Representation of natural or legal persons in proceedings before the Office under this Regulation may only be undertaken by any of the following:

(a) a legal practitioner qualified in one of the States party to the EEA Agreement and having the place of business within the EEA, to the extent that the legal practitioner is entitled, within that State, to act as a representative in industrial property matters;

(b) professional representatives whose names appear on the list of professional representatives referred to in Article 120(1), point (b), of Regulation (EU) 2017/1001;

(c) professional representatives whose names appear on the special list of professional representatives for design matters referred to in paragraph 4.

2. The professional representatives referred to in paragraph 1, point (c), shall only be entitled to represent third persons in proceedings on design matters before the Office.

3. Representatives acting before the Office shall, at the request of the Office or, where appropriate, of the other party to the proceedings, provide the Office with a signed authorisation for insertion on the files.

4. The Office shall establish and maintain a special list of professional representatives in design matters. Any natural person who fulfils all the following conditions may be entered on that list:

(a) being a national of one of the States party to the EEA Agreement;

(b) having the place of business or employment in the EEA;

(c) being entitled to represent natural or legal persons in design matters before the Benelux Office for Intellectual Property or before the central industrial property office of a State party to the EEA Agreement.

Where the entitlement referred to in the first subparagraph, point (c), is not conditional upon the requirement of having special professional qualifications, a person applying to be entered on the list who acts in design matters before the Benelux Office for Intellectual Property or a central industrial property office shall have habitually so acted for at least five years.

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However, persons whose professional qualification to represent natural or legal persons in design matters before the Benelux Office for Intellectual Property or a central industrial property office is officially recognised in accordance with the regulations laid down by the State concerned shall not be required to have exercised the profession.

5. Entry on the list of professional representatives in design matters shall be effected upon request, accompanied by a certificate furnished by the Benelux Office for Intellectual Property or the central industrial property office of the Member State concerned, indicating that the conditions laid down in paragraph 4 are fulfilled. The entries in the list of professional representatives in design matters shall be published in the Official Journal of the Office.

6. The Executive Director may grant an exemption from any of the following:

(a) the requirement set out in paragraph 4, first subparagraph, point (a), in the case of highly qualified professionals, provided that the requirements set out in paragraph 4, first subparagraph, points (b) and (c), are fulfilled;

(b) the requirement set out in paragraph 4, second subparagraph, if the person applying to be entered on the list furnishes proof that he or she has acquired the required qualification in another way.

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7. The conditions under which a person may be removed from the list shall be laid down in the implementing regulation.

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8. Representatives acting before the Office shall be entered in the database referred to in Article 72a and obtain an identification number. The Office may require the representative to prove the real and effective nature of their establishment or employment at any of the addresses identified. The Executive Director may determine the formal requirements for obtaining an identification number, in particular for associations of representatives, and for the entries of the representatives in the database.

Article 78a

Delegation of power regarding professional representation

The Commission is empowered to adopt delegated acts in accordance with Article 109a to supplement this Regulation by specifying:

(a) the conditions and the procedure for the appointment of a common representative as referred to in Article 77(4);

(b) the conditions under which employees referred to in Article 77(3) and professional representatives referred to in Article 78(1) shall file with the Office a signed authorisation in order to undertake representation, and the content of that authorisation;

▼M2

(c) the circumstances in which a person may be removed from the list of professional representatives in design matters referred to in Article 78(7).

▼B

TITLE IX

JURISDICTION AND PROCEDURE IN LEGAL ACTIONS RELATING TO ►M2 EU DESIGNS ◄

Section 1

Jurisdiction and enforcement

▼M2

Article 79

Application of Union rules on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters

1. Unless otherwise specified in this Regulation, the Union rules on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters shall apply to proceedings relating to EU designs and applications for registered EU designs, as well as to proceedings relating to simultaneous and successive actions on the basis of EU designs and national designs.

2. In the case of proceedings in respect of the actions and claims referred to in Article 81 of this Regulation:

(a) Articles 4 and 6, Article 7, points 1, 2, 3 and 5, and Article 35 of Regulation (EU) No 1215/2012 of the European Parliament and of the Council ([1]) shall not apply;

(b) Articles 25 and 26 of Regulation (EU) No 1215/2012 shall apply subject to the limitations set out in Article 82(4) of this Regulation;

(c) the provisions of Chapter II of Regulation (EU) No 1215/2012 which are applicable to persons domiciled in a Member State shall apply also to persons who do not have a domicile in any Member State but have an establishment therein.

3. References in this Regulation to Regulation (EU) No 1215/2012 shall include, where appropriate, the Agreement between the European Community and the Kingdom of Denmark on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters done on 19 October 2005.

([1]) Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ L 351, 20.12.2012, p. 1).

▼B

Section 2

Disputes concerning the infringement and validity of ►M2 EU designs ◄

Article 80

▼M2

EU design courts

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1. The Member States shall designate in their territories as limited a number as possible of national courts and tribunals of first and second instance (►M2 EU design courts ◄) which shall perform the functions assigned to them by this Regulation.

2. Each Member State shall communicate to the Commission not later than 6 March 2005 a list of ►M2 EU design courts ◄, indicating their names and their territorial jurisdiction.

3. Any change made after communication of the list referred to in paragraph 2 in the number, names or territorial jurisdiction of the ►M2 EU design courts ◄ shall be notified without delay by the Member State concerned to the Commission.

4. The information referred to in paragraphs 2 and 3 shall be notified by the Commission to the Member States and published in the *Official Journal of the European Communities*.

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Article 81

Jurisdiction over infringement and validity

The ►M2 EU design courts ◄ courts shall have exclusive jurisdiction:

(a) for infringement actions and — if they are permitted under national law — actions in respect of threatened infringement of ►M2 EU designs ◄;

(b) for actions for declaration of non-infringement of ►M2 EU designs ◄, if they are permitted under national law;

(c) for actions for a declaration of invalidity of an unregistered ►M2 EU design ◄;

(d) for counterclaims for a declaration of invalidity of a ►M2 EU design ◄ raised in connection with actions under (a).

▼B

Article 82

International jurisdiction

▼M2

1. Subject to the provisions of this Regulation and to any provisions of Regulation (EU) No 1215/2012 applicable by virtue of Article 79 of this Regulation, proceedings in respect of the actions and claims referred to in Article 81 of this Regulation shall be brought in the courts of the Member State in which the defendant is domiciled or, if the defendant is not domiciled in any of the Member States, in any Member State in which the defendant has an establishment.

▼B

2. If the defendant is neither domiciled nor has an establishment in any of the Member States, such proceedings shall be brought in the courts of the Member State in which the plaintiff is domiciled or, if he is not domiciled in any of the Member States, in any Member State in which he has an establishment.

3. If neither the defendant nor the plaintiff is so domiciled or has such an establishment, such proceedings shall be brought in the courts of the Member State where the Office has its seat.

▼M2

4. By way of derogation from paragraphs 1, 2 and 3 of this Article:

(a) Article 25 of Regulation (EU) No 1215/2012 shall apply if the parties agree that a different EU design court is to have jurisdiction;

(b) Article 26 of Regulation (EU) No 1215/2012 shall apply if the defendant enters an appearance before a different EU design court.

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5. Proceedings in respect of the actions and claims referred to in Article 81(a) and (d) may also be brought in the courts of the Member State in which the act of infringement has been committed or threatened.

Article 83

Extent of jurisdiction on infringement

1. A ►M2 EU design court ◄ court whose jurisdiction is based on Article 82(1), (2) (3) or (4) shall have jurisdiction in respect of acts of infringement committed or threatened within the territory of any of the Member States.

2. A ►M2 EU design court ◄ whose jurisdiction is based on Article 82(5) shall have jurisdiction only in respect of acts of infringement committed or threatened within the territory of the Member State in which that court is situated.

▼B

Article 84

Action or counterclaim for a declaration of invalidity of a ►M2 EU design ◄

1. An action or a counterclaim for a declaration of invalidity of a ►M2 EU design ◄ may only be based on the grounds for invalidity mentioned in Article 25.

2. In the cases referred to in Article 25(2), (3), (4) and (5) the action or the counterclaim may be brought solely by the person entitled under those provisions.

3. If the counterclaim is brought in a legal action to which the right holder of the ►M2 EU design ◄ is not already a party, he shall be informed thereof and may be joined as a party to the action in accordance with the conditions set out in the law of the Member State where the court is situated.

4. The validity of a ►M2 EU design ◄ may not be put in issue in an action for a declaration of non-infringement.

▼M2

5. The EU design court with which a counterclaim for a declaration of invalidity of a registered EU design has been filed shall not proceed with the examination of the counterclaim, until either the interested party or the court has informed the Office of the date on which the counterclaim was filed. The Office shall record that information in the Register in accordance with Article 72(3), point (q). If an application for a declaration of invalidity of the registered EU design had been filed with the Office before the counterclaim was filed, the court shall be informed thereof by the Office and stay the proceedings in accordance with Article 91(1) until the decision on the application is final or the application is withdrawn.

6. The EU design court hearing a counterclaim for a declaration of invalidity of a registered EU design may, on application by the right holder of the registered EU design and after hearing the other parties, stay the proceedings and request the defendant to submit an application for a declaration of invalidity to the Office within a time limit which the court shall determine. If the application is not made within the time limit, the proceedings shall continue and the counterclaim shall be deemed withdrawn. Article 91(3) shall apply.

▼B

Article 85

Presumption of validity — defence as to the merits

1. In proceedings in respect of an infringement action or an action for threatened infringement of a registered ►M2 EU design ◄, the ►M2 EU design court ◄ shall treat the ►M2 EU design ◄ as valid. Validity may be challenged only with a counterclaim for a declaration of invalidity. However, a plea relating to the invalidity of a ►M2 EU design ◄, submitted otherwise than by way of counterclaim, shall be admissible in so far as the defendant claims that the ►M2 EU design ◄ could be declared invalid on account of an earlier national design right, within the meaning of Article 25(1)(d), belonging to him.

▼B

2. In proceedings in respect of an infringement action or an action for threatened infringement of an unregistered ►M2 EU design ◄, the ►M2 EU design court ◄ shall treat the ►M2 EU design ◄ as valid if the right holder produces proof that the conditions laid down in Article 11 have been met and indicates what constitutes the individual character of his ►M2 EU design ◄. However, the defendant may contest its validity by way of a plea or with a counterclaim for a declaration of invalidity.

▼M2

Article 86

Judgments of invalidity

1. Where in proceedings before an EU design court, the EU design has been put in issue by way of a counterclaim for a declaration of invalidity:

(a) if any of the grounds mentioned in Article 25 are found to prejudice the maintenance of the EU design, the court shall declare the EU design invalid;

(b) if none of the grounds mentioned in Article 25 is found to prejudice the maintenance of the EU design, the court shall reject the counterclaim.

2. An EU design court shall reject a counterclaim for a declaration of invalidity of a registered EU design if a decision taken by the Office relating to the same subject matter and cause of action and involving the same parties has already become final.

3. Where an EU design court has given a judgment which has become final on a counterclaim for a declaration of invalidity of a registered EU design, a copy of the judgment shall be sent to the Office without delay, either by the court or by any of the parties to the national proceedings. The Office or any other interested party may request information about such judgment. The Office shall enter the judgment in the Register in accordance with Article 72(3), point (r).

▼B

Article 87

Effects of the judgement on invalidity

When it has become final, a judgment of a ►M2 EU design court ◄ declaring a ►M2 EU design ◄ invalid shall have in all the Member States the effects specified in Article 26.

Article 88

Applicable law

1. The ►M2 EU design courts ◄ shall apply the provisions of this Regulation.

▼M2

2. On all design matters not covered by this Regulation, an EU design court shall apply the applicable national law.

▼B

3. Unless otherwise provided in this Regulation, a ►M2 EU design court ◄ shall apply the rules of procedure governing the same type of action relating to a national design right in the Member State where it is situated.

▼M2

Article 89

Sanctions in actions for infringement

1. Where an EU design court finds that the defendant has infringed or threatened to infringe an EU design, it shall, unless there are special reasons for not doing so, issue an order prohibiting the defendant from proceeding with the acts which infringed or would infringe the EU design. It shall also take such measures in accordance with its national law as are aimed at ensuring that that prohibition is complied with.

2. The EU design court may also apply measures or orders available under the applicable law which it deems appropriate in the circumstances of the case.

▼B

Article 90

Provisional measures, including protective measures

1. Application may be made to the courts of a Member State, including ►M2 EU design courts ◄, for such provisional measures, including protective measures, in respect of a ►M2 EU design ◄ as may be available under the law of that State in respect of national design rights even if, under this Regulation, a ►M2 EU design court ◄ of another Member State has jurisdiction as to the substance of the matter.

2. In proceedings relating to provisional measures, including protective measures, a plea otherwise than by way of counterclaim relating to the invalidity of a ►M2 EU design ◄ submitted by the defendant shall be admissible. Article 85(2) shall, however, apply *mutatis mutandis*.

▼M2

3. An EU design court whose jurisdiction is based on Article 82(1), (2), (3) or (4) of this Regulation shall have jurisdiction to grant provisional measures, including protective measures, which, subject to any necessary procedure for recognition and enforcement pursuant to Chapter III of Regulation (EU) No 1215/2012, are applicable in the territory of any Member State. No other court shall have such jurisdiction.

▼B

Article 91

Specific rules on related actions

1. A ►M2 EU design court ◄ hearing an action referred to in Article 81, other than an action for a declaration of non-infringement, shall, unless there are special grounds for continuing the hearing, of its own motion after hearing the parties, or at the request of one of the parties and after hearing the other parties, stay the proceedings where the validity of the ►M2 EU design ◄ is already in issue before another ►M2 EU design court ◄ on account of a counterclaim or, in the case of a registered ►M2 EU design ◄, where an application for a declaration of invalidity has already been filed at the Office.

2. The Office, when hearing an application for a declaration of invalidity of a registered ►M2 EU design ◄, shall, unless there are special grounds for continuing the hearing, of its own motion after hearing the parties, or at the request of one of the parties and after hearing the other parties, stay the proceedings where the validity of the registered ►M2 EU design ◄ is already in issue on account of a counterclaim before a ►M2 EU design court ◄. However, if one of the parties to the proceedings before the ►M2 EU design court ◄ so requests, the court may, after hearing the other parties to these proceedings, stay the proceedings. The Office shall in this instance continue the proceedings pending before it.

3. Where the ►M2 EU design court ◄ stays the proceedings it may order provisional measures, including protective measures, for the duration of the stay.

Article 92

Jurisdiction of ►M2 EU design courts ◄ of second instance — further appeal

1. An appeal to the ►M2 EU design courts ◄ of second instance shall lie from judgments of the ►M2 EU design courts ◄ of first instance in respect of proceedings arising from the actions and claims referred to in Article 81.

2. The conditions under which an appeal may be lodged with a ►M2 EU design court ◄ of second instance shall be determined by the national law of the Member State in which that court is located.

3. The national rules concerning further appeal shall be applicable in respect of judgments of ►M2 EU design courts ◄ of second instance.

▼B

Section 3

Other disputes concerning ►M2 EU designs ◄

▼M2

Article 93

Supplementary provisions on the jurisdiction of national courts other than EU design courts

1. Within the Member State whose courts have jurisdiction under Article 79(1), the courts which would have jurisdiction *ratione loci* and *ratione materiae* in the case of actions relating to a national design right in that Member State shall have jurisdiction for actions relating to EU designs other than the actions referred to in Article 81.

2. Actions relating to an EU design, other than the actions referred to in Article 81, for which no court has jurisdiction pursuant to Article 79(1) and paragraph 1 of this Article may be heard before the courts of the Member State in which the Office has its seat.

▼B

Article 94

Obligation of the national court

A national court which is dealing with an action relating to a ►M2 EU design ◄ other than the actions referred to in Article 81 shall treat the design as valid. Articles 85(2) and 90(2) shall, however, apply *mutatis mutandis*.

TITLE X

EFFECTS ON THE LAWS OF THE MEMBER STATES

Article 95

Parallel actions on the basis of ►M2 EU designs ◄ and national design rights

1. Where actions for infringement or for threatened infringement involving the same cause of action and between the same parties are brought before the courts of different Member States, one seized on the basis of a ►M2 EU design ◄ and the other seized on the basis of a national design right providing simultaneous protection, the court other than the court first seized shall of its own motion decline jurisdiction in favour of that court. The court which would be required to decline jurisdiction may stay its proceedings if the jurisdiction of the other court is contested.

2. The ►M2 EU design court ◄ hearing an action for infringement or threatened infringement on the basis of a ►M2 EU design ◄ shall reject the action if a final judgment on the merits has been given on the same cause of action and between the same parties on the basis of a design right providing simultaneous protection.

▼B

3. The court hearing an action for infringement or for threatened infringement on the basis of a national design right shall reject the action if a final judgment on the merits has been given on the same cause of action and between the same parties on the basis of a ►M2 EU design ◄ providing simultaneous protection.

4. Paragraphs 1, 2 and 3 shall not apply in respect of provisional measures, including protective measures.

Article 96

Relationship to other forms of protection under national law

1. The provisions of this Regulation shall be without prejudice to any provisions of ►M2 Union ◄ law or of the law of the Member States concerned relating to unregistered designs, trade marks or other distinctive signs, patents and utility models, typefaces, civil liability and unfair competition.

▼M2

2. A design protected as an EU design shall also be eligible for protection by copyright as from the date on which the design was created or fixed in any form, provided that the requirements of copyright law are met.

▼B

TITLE XI

SUPPLEMENTARY PROVISIONS CONCERNING THE OFFICE

Section 1

General provisions

▼M2

Article 97

Application of Regulation (EU) 2017/1001

Unless otherwise provided for in this Title, Articles 142 to 146, Articles 148 to 158, Article 162, and Articles 165 to 177 of Regulation (EU) 2017/1001 shall apply to the Office with regard to its tasks under this Regulation.

▼B

Article 98

Language of proceedings

1. The application for a registered ►M2 EU design ◄ shall be filed in one of the official languages of the ►M2 Union ◄.

2. The applicant must indicate a second language which shall be a language of the Office the use of which he accepts as a possible language of proceedings before the Office.

If the application was filed in a language which is not one of the languages of the Office, the Office shall arrange to have the application translated into the language indicated by the applicant.

▼B

3. Where the applicant for a registered ►M2 EU design ◄ is the sole party to proceedings before the Office, the language of proceedings shall be the language used for filing the application. If the application was made in a language other then the languages of the Office, the Office may send written communications to the applicant in the second language indicated by the applicant in his application.

4. In the case of invalidity proceedings, the language of proceedings shall be the language used for filing the application for a registered ►M2 EU design ◄ if this is one of the languages of the Office. If the application was made in a language other than the languages of the Office, the language of proceedings shall be the second language indicated in the application.

The application for a declaration of invalidity shall be filed in the language of proceedings.

Where the language of proceedings is not the language used for filing the application for a registered ►M2 EU design ◄, the right holder of the ►M2 EU design ◄ may file observations in the language of filing. The Office shall arrange to have those observations translated into the language of proceedings.

The implementing regulation may provide that the translation expenses to be borne by the Office may not, subject to a derogation granted by the Office where justified by the complexity of the case, exceed an amount to be fixed for each category of proceedings on the basis of the average size of statements of case received by the Office. Expenditure in excess of this amount may be allocated to the losing party in accordance with Article 70.

5. Parties to invalidity proceedings may agree that a different official language of the ►M2 Union ◄ is to be the language of the proceedings.

▼M2

Article 98a

Conferral of implementing powers regarding need and standards of translation

The Commission shall adopt implementing acts specifying:

(a) the extent to which supporting documents to be used in written proceedings before the Office may be filed in any official language of the Union, and the need to supply a translation;

(b) the requisite standards of translations to be filed with the Office.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 109(2).

▼B

Article 99

Publication and register

1. All information the publication of which is prescribed by this Regulation or the implementing regulation shall be published in all the official languages of the Community.

▼B

2. All entries in the Register of ►M2 EU designs ◄ shall be made in all the official languages of the Community.

3. In cases of doubt, the text in the language of the Office in which the application for a registered ►M2 EU designs ◄ was filed shall be authentic. If the application was filed in an official language of the Community other than one of the languages of the Office, the text in the second language indicated by the applicant shall be authentic.

▼M2

Article 100

Supplementary powers of the Executive Director

In addition to the powers conferred upon the Executive Director by Article 157(4), point (o), of Regulation (EU) 2017/1001, the Executive Director shall exercise the powers conferred under Article 36(5), Article 37(1), Article 41(5), Article 42(2), Article 62(2), Article 65 (5), Articles 66, 66c and 66e, Article 72(4), Article 72a(3), Article 73, Article 74a(1), Articles 74c and 78, Article 98(7), Article -106aa, Article -106ab(1) and Articles -106ac and -106ad of this Regulation in accordance with the criteria set out in this Regulation and in the acts adopted pursuant to this Regulation.

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▼B

Section 2

Procedures

▼M2

Article 102

Competence

For taking decisions in connection with the procedures laid down in this Regulation, the following shall be competent:

(a) examiners;

(b) the Department in charge of the Register;

(c) Invalidity Divisions;

(d) Boards of Appeal.

Article 103

Examiners

The examiners shall be responsible for taking decisions on behalf of the Office in relation to an application for a registered EU design.

▼M2

Article 104

The Department in charge of the Register

1. In addition to the powers conferred upon it by Regulation (EU) 2017/1001, the Department in charge of the Register shall be responsible for taking decisions in respect of entries in the Register under this Regulation and other decisions required by this Regulation which do not fall within the competence of the examiners or an Invalidity Division.

2. The Department in charge of the Register shall also be responsible for maintaining the list of professional representatives in design matters.

▼B

Article 105

Invalidity Divisions

1. An Invalidity Division shall be responsible for taking decisions in relation to applications for declarations of invalidity of registered ►M2 EU designs ◄.

2. An Invalidity Division shall consist of three members. At least one of the members must be legally qualified.

▼M2

3. Decisions relating to costs or to procedures shall be taken by a single member of the Invalidity Division.

Article 105a

Conferral of implementing powers regarding decisions taken by a single member

The Commission shall adopt implementing acts specifying the exact types of decisions that are to be taken by a single member as referred to in Article 105(3). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 109 (2).

Article 106

Boards of Appeal

In addition to the powers conferred upon it by Article 165 of Regulation (EU) 2017/1001, the Boards of Appeal shall be responsible for deciding on appeals against decisions of the instances of the Office referred to in Article 102, points (a), (b) and (c) of this Regulation, in connection with the procedures laid down in this Regulation.

▼M2

Article -106a

Delegation of power regarding the Boards of Appeal

The Commission is empowered to adopt delegated acts in accordance with Article 109a of this Regulation to supplement it by specifying the details concerning the organisation of the Boards of Appeal in proceedings relating to designs under this Regulation where such proceedings require the Boards of Appeal to be organised differently from what is laid down in the delegated acts adopted pursuant to Article 168 of Regulation (EU) 2017/1001.

Section 3

Fees and their payment

Article -106aa

Fees and charges and due date

1. The Executive Director shall lay down the amount to be charged for any services rendered by the Office other than those set out in the Annex, as well as the amount to be charged for publications issued by the Office. The amounts of charges shall be set in euro and shall be published in the Official Journal of the Office. The amount of each charge shall not exceed what is necessary to cover the costs of the specific service rendered by the Office.

2. Fees and charges in respect of which the due date is not specified in this Regulation shall be due on the date of receipt of the request for the service for which the fee or the charge is incurred.

With the consent of the Budget Committee, the Executive Director may determine which of the services mentioned in the first subparagraph is not to be dependent upon the advance payment of the corresponding fees or charges.

Article -106ab

Payment of fees and charges

1. Fees and charges due to the Office shall be paid by the methods of payment determined by the Executive Director with the consent of the Budget Committee.

The methods of payment determined pursuant to the first subparagraph shall be published in the Official Journal of the Office. All payments shall be made in euro.

2. Payments through means of payment other than those referred to in paragraph 1 shall be considered not to have been made and the amount which has been paid shall be refunded.

3. Payments shall contain the necessary information to enable the Office to establish immediately the purpose of the payment.

▼M2

4. If the purpose of the payment referred to in paragraph 2 cannot immediately be established, the Office shall require the person making the payment to notify it in writing of that purpose within a certain period. If the person does not comply with the request within that period, the payment shall be considered not to have been made and the amount which has been paid shall be refunded.

Article -106ac

Deemed date of payment

The Executive Director shall establish the date on which payments are to be considered to have been made.

Article -106ad

Insufficient payments and refund of excess payments

1. A time limit for payment shall be considered to have been observed only if the full amount of the fee or charge has been paid in due time. If the fee or charge is not paid in full, the amount which has been paid shall be refunded after the period for payment has expired.

2. The Office shall, however, in so far as is possible within the time remaining before the end of the period for payment, give the person making the payment the opportunity to pay the amount lacking.

3. With the consent of the Budget Committee, the Executive Director may waive action for the enforced recovery of any sum due where the sum to be recovered is minimal or where such recovery is too uncertain.

4. Where an excessive sum is paid to cover a fee or a charge, the excess shall be refunded.

▼M1

TITLE XIa

INTERNATIONAL REGISTRATION OF DESIGNS

Section 1

General provisions

Article 106a

Application of provisions

1. Unless otherwise specified in this title, this Regulation and any Regulations implementing this Regulation adopted pursuant to Article 109 shall apply, mutatis mutandis, to registrations of industrial designs in the international register maintained by the International Bureau of the World Intellectual Property Organisation (hereinafter referred to as ‘international registration’ and ‘the International Bureau’) designating the ►M2 Union ◄, under the Geneva Act.

▼M1

2. Any recording of an international registration designating the ►M2 Union ◄ in the International Register shall have the same effect as if it had been made in the register of ►M2 EU designs ◄ of the Office, and any publication of an international registration designating the ►M2 Union ◄ in the Bulletin of the International Bureau shall have the same effect as if it had been published in the ►M2 EU designs ◄ Bulletin.

Section 2

International registrations designating the community

Article 106b

Procedure for filing the international application

International applications pursuant to Article 4(1) of the Geneva Act shall be filed directly at the International Bureau.

Article 106c

Designation fees

The prescribed designation fees referred to in Article 7(1) of the Geneva Act are replaced by an individual designation fee.

Article 106d

Effects of international registration designating the European Community

1. An international registration designating the ►M2 Union ◄ shall, from the date of its registration referred to in Article 10(2) of the Geneva Act, have the same effect as an application for a registered ►M2 EU design ◄.

2. If no refusal has been notified or if any such refusal has been withdrawn, the international registration of a design designating the ►M2 Union ◄ shall, from the date referred to in paragraph 1, have the same effect as the registration of a design as a registered ►M2 EU design ◄.

▼M2

3. The Office shall provide information on international registrations referred to in paragraph 2 in the form of an electronic link to the searchable database of international registrations of designs maintained by the International Bureau.

▼M1

Article 106e

Refusal

1. The Office shall communicate to the International Bureau a notification of refusal not later than six months from the date of publication of the international registration, if in carrying out an examination of an international registration, the Office notices that the design for which protection is sought does not correspond to the definition under ►M2 Article 3, point (1) ◄, or is contrary to public policy or to accepted principles of morality.

▼M1

The notification shall state the grounds on which the refusal is based.

2. The effects of an international registration in the Community shall not be refused before the holder has been allowed the opportunity of renouncing the international registration in respect of the Community or of submitting observations.

3. The conditions for the examination as to the grounds for refusal shall be laid down in the Implementing Regulation.

Article 106f

Invalidation of the effects of an international registration

1. The effects of an international registration in the Community may be declared invalid partly or in whole in accordance with the procedure in Titles VI and VII or by a ►M2 EU design court ◄ court on the basis of a counterclaim in infringement proceedings.

2. Where the Office is aware of the invalidation, it shall notify it to the International Bureau.

▼M2

Article 106g

Renewals

The international registration shall be renewed directly at the International Bureau in compliance with Article 17 of the Geneva Act.

▼B

TITLE XII

FINAL PROVISIONS

▼M2

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Article 109

Committee Procedure

1. The Commission shall be assisted by the Committee on Implementation Rules established by Regulation (EU) 2017/1001. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Article 109a

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Articles 47b, 53a, 55a, 64a, 65a, 66a, 66d, 66f, 66i, 67c, 78a and -106a shall be conferred on the Commission for an indeterminate period of time from 8 December 2024.

▼M2

3. The delegation of power referred to in Articles 47b, 53a, 55a, 64a, 65a, 66a, 66d, 66f, 66i, 67c, 78a and -106a may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall carry out consultations with experts, including experts designated by each Member State in accordance with the principles laid down in the Inter-institutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Articles 47b, 53a, 55a, 64a, 65a, 66a, 66d, 66f, 66i, 67c, 78a or -106a shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

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▼A1

Article 110a

Provisions relating to the enlargement of the Community

▼A3

1. As of the date of accession of Bulgaria, the Czech Republic, Estonia, Croatia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Romania, Slovenia and Slovakia (hereinafter referred to as 'new Member State(s)'), a ►M2 EU design ◄ protected or applied for pursuant to this Regulation before their respective date of accession shall be extended to the territory of those Member States in order to have equal effect throughout the ►M2 Union ◄.

▼A1

2. The application for a registered ►M2 EU design ◄ may not be refused on the basis of any of the grounds for non-registrability listed in Article 47(1), if these grounds became applicable merely because of the accession of a new Member State.

3. A ►M2 EU design ◄ as referred to in paragraph 1 may not be declared invalid pursuant to Article 25(1) if the grounds for invalidity became applicable merely because of the accession of a new Member State.

▼A1

4. The applicant or the holder of an earlier right in a new Member State may oppose the use of a ►M2 EU design ◄ falling under Article 25(1)(d), (e) or (f) within the territory where the earlier right is protected. For the purpose of this provision, 'earlier right' means a right acquired or applied for in good faith before accession.

5. Paragraphs 1, 3 and 4 above shall also apply to unregistered ►M2 EU designs ◄. ►M2 ———— ◄

▼M2

Article 110b

Evaluation

1. By 1 January 2030, and every five years thereafter, the Commission shall evaluate the implementation of this Regulation.

2. The Commission shall forward the evaluation report together with its conclusions drawn on the basis of that report to the European Parliament, the Council and the Management Board. The findings of the evaluation shall be made public.

▼B

Article 111

Entry into force

1. This Regulation shall enter into force on the 60th day following its publication in the *Official Journal of the European Communities*.

▼M2

2. Applications for registered EU designs may be filed at the Office from 1 April 2003.

▼B

3. Applications for registered ►M2 EU designs ◄ filed within three months before the date referred to in paragraph 2 shall be deemed to have been filed on that date.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

▼**M2**

ANNEX

Amounts of fees as referred to in Article -106aa(1)

The fees to be paid to the Office under this Regulation shall be as follows (in EUR):

1. Application fee referred to in Article 36(4):

   EUR 350.

2. Individual designation fee for an international registration referred to in Article 106c:

   EUR 62 per design.

3. Fee for deferment of publication referred to in Article 36(4):

   EUR 40.

4. Additional application fee in respect of each additional design included in a multiple application referred to in Article 37(2):

   EUR 125.

5. Additional fee for deferment of publication in respect of each additional design included in a multiple application that is subject to deferment of publication referred to in Article 37(2):

   EUR 20.

6. Renewal fee referred to in Article 50d(1), (3) and (9):

   (a) for the first period of renewal: EUR 150 per design;

   (b) for the second period of renewal: EUR 250 per design;

   (c) for the third period of renewal: EUR 400 per design;

   (d) for the fourth period of renewal: EUR 700 per design.

7. Individual renewal fee for an international registration referred to in Article 106c:

   (a) for the first period of renewal: EUR 62 per design;

   (b) for the second period of renewal: EUR 62 per design;

   (c) for the third period of renewal: EUR 62 per design;

   (d) for the fourth period of renewal: EUR 62 per design.

8. Fee for late payment of the renewal fee referred to in Article 50d(3):

   25 % of the renewal fee.

9. Fee for the application for a declaration of invalidity referred to in Article 52(2):

   EUR 320.

10. Fee for continuation of proceedings referred to in Article 67a(1):

    EUR 400.

▼**M2**

11. Fee for *restitutio in integrum* referred to in Article 67(3):

    EUR 200.

12. Fee for the registration of a licence or another right in respect of a registered EU design referred to in Article 32a(1) and (2) (referred to in Article 24(1) of Regulation (EC) No 2245/2002 before 1 July 2026), or for the registration of a licence or another right in respect of an application for an EU design referred to in Article 32a(1) and (2) and Article 34 (referred to in Article 24(1) and (4) of Regulation (EC) No 2245/2002 before 1 July 2026:

    (a) for a grant of a licence: EUR 200 per design;

    (b) for a transfer of a licence: EUR 200 per design;

    (c) for a creation of a right *in rem*: EUR 200 per design;

    (d) for a transfer of a right *in rem*: EUR 200 per design;

    (e) for a levy of execution: EUR 200 per design;

    up to a maximum of EUR 1 000 where multiple requests are submitted in the same application for registration of a licence or another right or at the same time.

13. Fee for the alteration of a registered EU design referred to in Article 50e(3):

    EUR 200.

14. Fee for review of the determination of the procedural costs to be refunded referred to in Article 70(7) (referred to in Article 79(4) of Regulation (EC) No 2245/2002 before 1 July 2026):

    EUR 100.

15. Appeal fee referred to in Article 68(1) of Regulation (EU) 2017/1001, which also applies to appeals under this Regulation pursuant to Article 55 (2) (referred to in Article 57 of this Regulation before 1 July 2026):

    EUR 720.