



EUROPEAN UNION

THE EUROPEAN PARLIAMENT

THE COUNCIL

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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

**Subject: REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE
COUNCIL on European Union designs (codification)**

REGULATION (EU) 2026/...
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of ...

on European Union designs
(codification)

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 118, first paragraph, thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure¹,

¹ Position of the European Parliament of 10 February 2026 (not yet published in the Official Journal) and decision of the Council of ...

Whereas:

- (1) Council Regulation (EC) No 6/2002² has been substantially amended several times³. In the interests of clarity and rationality, that Regulation should be codified.
- (2) Regulation (EC) No 6/2002 created a system of design protection specific to the European Community, now the European Union, which has since then provided for the protection of designs at Union level in parallel to the protection of designs available at national level in Member States in accordance with their national law on design protection, harmonised pursuant to Directive 98/71/EC of the European Parliament and of the Council⁴.
- (3) Protection for industrial design not only promotes the contribution of individual designers to the achievement of Union excellence in the field, but also encourages innovation and development of new products and investment in their production.
- (4) Consequently, an accessible design protection system adapted to the needs of the internal market is essential for Union industries.

² Council Regulation (EC) No 6/2002 of 12 December 2001 on European Union designs (OJ L 3, 5.1.2002, p. 1, ELI: <http://data.europa.eu/eli/reg/2002/6/oj>). The original title was ‘Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs’. It was amended by Regulation (EU) 2024/2822 of the European Parliament and of the Council of 23 October 2024 amending Council Regulation (EC) No 6/2002 on Community designs and repealing Commission Regulation (EC) No 2246/2002 (OJ L, 2024/2822, 18.11.2024, ELI: <http://data.europa.eu/eli/reg/2024/2822/oj>).

³ See Annex II.

⁴ Directive 98/71/EC of the European Parliament and of the Council of 13 October 1998 on the legal protection of designs (OJ L 289, 28.10.1998, p. 28, ELI: <http://data.europa.eu/eli/dir/1998/71/oj>).

- (5) Since the establishment of the Community design system, now the European Union design ('EU design') system, experience has shown that individual designers and undertakings from within the Union and from third countries have accepted the system and it has become a successful and viable complement or alternative to the protection of designs at the national level of the Member States.
- (6) National design protection systems continue nevertheless to be necessary for those individual designers and undertakings that do not want the protection of their designs at Union level, or are unable to obtain Union-wide protection, even though they do not face any obstacles for obtaining national protection. It should be left to each person seeking design protection to decide what kind of protection they wish to obtain, be it a national design right in one or more Member States, an EU design only, or both.
- (7) National design laws and practices should be in line with the EU design system to the extent appropriate, in order to lay down, as far as possible, equal conditions for the registration and protection of designs throughout the Union. This should be complemented by efforts of the European Union Intellectual Property Office ('the Office'), the central industrial property offices of the Member States and the Benelux Office for Intellectual Property to promote convergence of practices and tools in the field of designs under the cooperation framework laid down in Regulation (EU) 2017/1001 of the European Parliament and of the Council⁵.

⁵ 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, ELI: <http://data.europa.eu/eli/reg/2017/1001/oj>).

- (8) As a complement to the administration of the EU design system, it is essential that the Office adequately promote that system with a view to raising awareness and improving understanding of the possibility, value and benefits of obtaining and using design protection at Union level.
- (9) Since the establishment of the Community design system, the rise of information technology has entailed the advent of new designs which are not embodied in physical products. The definition of products eligible for design protection should clearly cover those embodied in a physical object, or visualised in a graphic, or that are apparent from the spatial arrangement of items intended to form an interior or exterior environment. In this context, it should be recognised that animation, such as movement or transition, of the features of a product can contribute to the appearance of designs, in particular designs that are not embodied in a physical object.
- (10) In order to ensure legal certainty, it is appropriate to provide that protection is conferred on the right holder, by way of registration of an EU design, for those design features of a product, in whole or in part, which are shown visibly in an application for registration of such design and made available to the public by way of publication.
- (11) Apart from being shown visibly in an application for registration of an EU design, design features of a product do not need to be visible at any particular time or in any particular situation of use in order to benefit from design protection. An exception to that principle should apply to the design protection of component parts of a complex product that need to remain visible during normal use of that product.

- (12) The assessment as to whether a design has individual character should be based on whether the overall impression produced on an informed user viewing the design clearly differs from that produced on such a user by the existing design corpus, taking into consideration the nature of the product to which the design is applied or into which it is incorporated, and in particular the industrial sector to which it belongs and the degree of freedom of the designer in developing the design.
- (13) Technological innovation should not be hampered by granting design protection to features dictated solely by a technical function. It is understood that this does not entail that a design must have an aesthetic quality. Likewise, the interoperability of products of different makes should not be hindered by extending protection to the design of mechanical fittings. Consequently, those features of a design which are excluded from protection for those reasons should not be taken into consideration for the purpose of assessing whether other features of the design fulfil the requirements for protection.
- (14) The mechanical fittings of modular products might nevertheless constitute an important element of the innovative characteristics of modular products and present a major marketing asset and, therefore, should be eligible for protection.
- (15) An EU design should, as far as possible, serve the needs of all sectors of industry in the Union.

- (16) Some of those sectors produce large numbers of designs for products frequently having a short market life where protection without the burden of registration formalities is an advantage and the duration of protection is of lesser significance. On the other hand, there are sectors of industry which value the advantages of registration for the greater legal certainty it provides and which require the possibility of a longer term of protection corresponding to the foreseeable market life of their products.
- (17) This calls for two forms of protection, one being a short-term unregistered design and the other being a longer term registered design.
- (18) A registered EU design requires the maintenance of a register in which all those applications which comply with formal conditions and which have been accorded a date of filing will be registered (the 'Register of EU designs'). That registration system should in principle not be based upon substantive examination as to compliance with requirements for protection prior to registration, thereby keeping to a minimum the registration and other procedural burdens on applicants.
- (19) An EU design should not be upheld unless the design is new, and unless it also possesses an individual character in comparison with other designs.

- (20) It is also necessary to allow the designer or the designer's successor in title to test the products embodying the design in the market place before deciding whether the protection resulting from a registered EU design is desirable. To that end, it is necessary to provide that disclosures of the design by the designer or the designer's successor in title, or abusive disclosures during a period of 12 months prior to the date of filing of the application for a registered EU design should not be prejudicial in assessing the novelty or the individual character of the design in question.
- (21) In view of the growing deployment of 3D printing technologies in different areas of industry, including with the help of artificial intelligence, as well as the resulting challenges for design right holders to effectively prevent illegitimate copying of their protected designs, it is appropriate to provide that the creation, downloading, copying and making available of any medium or software which records the design for the purpose of reproducing a product that infringes the protected design constitutes use of the design which should be subject to the right holder's authorisation.

- (22) In order to ensure design protection and combat counterfeiting effectively, and in line with international obligations of the Union under the framework of the World Trade Organization (WTO), in particular Article V of the General Agreement on Tariffs and Trade (GATT) on freedom of transit, and, as regards generic medicines, the Doha Declaration on the TRIPS Agreement and Public Health, adopted by the WTO Ministerial Conference on 14 November 2001, the holder of a registered EU design should be entitled to prevent third parties from bringing products, in the course of trade, from third countries into the Union, without being released for free circulation there, where, without the right holder's authorisation, such products incorporate a design which is identical or essentially identical to the registered EU design or where a design is applied to those products which is identical or essentially identical to the registered EU design.
- (23) To that end, it should be permissible for holders of registered EU designs to prevent the entry of infringing products and the placement of such products in all customs situations, also when such products are not intended to be placed on the market of the Union. In performing customs controls, the customs authorities should make use of the powers and procedures laid down in Regulation (EU) No 608/2013 of the European Parliament and of the Council⁶, including at the request of the right holders. In particular, the customs authorities should carry out the relevant controls on the basis of risk analysis criteria.

⁶ 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, ELI: <http://data.europa.eu/eli/reg/2013/608/oj>).

- (24) In order to reconcile the need to ensure the effective enforcement of design rights with the necessity to avoid hampering the free flow of trade in legitimate products, the entitlement of the holder of the registered EU design should lapse where, during proceedings initiated before the European Union design court ('EU design court') that is competent to take a substantive decision on whether the EU design has been infringed, the declarant or the holder of the products is able to prove 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.
- (25) The exclusive nature of the right conferred by the registered EU design is consistent with its greater legal certainty. However, it is appropriate that the unregistered EU design should constitute a right only to prevent copying. Protection could not therefore extend to design products which are the result of a design arrived at independently by a second designer. That right should also extend to trade in products embodying infringing designs.
- (26) The enforcement of those rights is to be left to national laws. It is necessary therefore to provide for some basic uniform sanctions in all Member States. Those sanctions should make it possible, irrespective of the jurisdiction under which enforcement is sought, to stop the infringing acts.

- (27) The exclusive rights conferred by a registered EU design should be subject to an appropriate set of limitations. Apart from acts carried out privately and for non-commercial purposes and those carried out for experimental purposes, permissible use should include acts of reproduction for the purpose of making citations or acts of teaching, referential use in the context of comparative advertising, and use for the purposes of comment, critique or parody, provided that those acts are compatible with fair trade practices and do not unduly prejudice the normal exploitation of the design. Use of a registered EU design by third parties for the purposes of artistic expression should be considered to be fair as long as it is in accordance with honest practices in industrial and commercial matters. Furthermore, the rules on EU designs should be applied in a way that ensures full respect of fundamental rights and freedoms, in particular the freedom of expression.

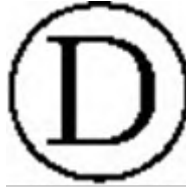
(28) Directive (EU) 2024/2823 of the European Parliament and of the Council⁷ harmonised the laws of Member States as regards the use of protected designs for the purpose of permitting the repair of a complex product so as to restore its original appearance, where the design is applied to or incorporated into a product which constitutes a component part of a complex product upon whose appearance the protected design of the component part is dependent. Accordingly, it was considered that the transitional repair clause that was previously laid down in Regulation (EC) No 6/2002 should become a permanent provision. As the intended effect of that repair clause is to make registered and unregistered EU design rights unenforceable where the design of the component part of a complex product is used for the purpose of repairing a complex product so as to restore its original appearance, the repair clause should be one of the defences to EU design right infringement under this Regulation. Furthermore, for the sake of coherence with the repair clause laid down in Directive (EU) 2024/2823, and in order to ensure that the scope of design protection is only restricted to prevent design right holders from actually being granted product monopolies, it is necessary to explicitly limit the application of the repair clause laid down in this Regulation to component parts of a complex product upon whose appearance the protected design is dependent. In addition, in order to ensure that consumers are not misled and are able to make an informed decision between competing products that can be used for the repair, it should be explicitly provided for that the repair clause cannot be invoked by a manufacturer or seller of a component part who has failed to duly inform consumers about the commercial origin, and the identity of the manufacturer, of the product to be used for the purpose of repairing the complex product. That detailed information should be provided through a clear and visible indication on the product or, where that is not possible, on its packaging or in a document accompanying the product, and should include at least the trade mark under which the product is marketed and the name of the manufacturer.

⁷ Directive (EU) 2024/2823 of the European Parliament and of the Council of 23 October 2024 on the legal protection of designs (OJ L, 2024/2823, 18.11.2024, ELI: <http://data.europa.eu/eli/dir/2024/2823/oj>).

- (29) With a view to preserving the effectiveness of the liberalisation of the spare parts aftermarket sought by this Regulation and in line with the case law⁸ of the Court of Justice of the European Union, in order to be able to benefit from the repair clause exemption from design protection, the manufacturer or seller of a component part of a complex product is under a duty of diligence to ensure, through appropriate means, in particular contractual means, that downstream users do not intend to use the component parts at issue for purposes other than that of repair so as to restore the original appearance of the complex product. That, however, should not require the manufacturer or seller of a component part of a complex product to guarantee, objectively and in all circumstances, that the parts they make or sell are, ultimately, actually used by end users for the sole purpose of repair so as to restore the original appearance of that complex product.
- (30) Any third persons who can establish that they have in good faith commenced use even for commercial purposes within the Union, or have made serious and effective preparations to that end, of a design included within the scope of protection of a registered EU design which has not been copied from the latter may be entitled to a limited exploitation of that design.

⁸ Judgment of the Court of Justice of 20 December 2017, *Acacia Srl v Pneusgarda Srl and Audi AG and Acacia Srl and Rolando D'Amato v Dr Ing. h.c.F. Porsche AG*, joined Cases C-397/16 and C-435/16, ECLI:EU:C:2017:992.

(31) In order to facilitate the marketing of design-protected products, in particular by small and medium-sized enterprises ('SMEs') and individual designers, and to increase awareness of the design registration regimes existing both at Union and national level, a commonly



accepted notice consisting of the symbol should be available for use by design right holders and others with their consent.

(32) It is a fundamental objective of this Regulation that the procedure for obtaining a registered EU design should entail the minimum cost and difficulty to applicants, so as to make it readily available to SMEs as well as to individual designers.(33) It should only be possible to file an application for a registered EU design at the Office. In order to facilitate the provision of information and administrative guidance to applicants on the procedure for the registration of EU designs, it is appropriate that the Office and the central industrial property offices of the Member States and the Benelux Office for Intellectual Property cooperate with each other to that end under the cooperation framework laid down in Regulation (EU) 2017/1001.

- (34) It is of key importance to provide the appropriate means to allow a clear and precise representation for all designs which is adaptable to technical advances in relation to the visualisation of designs and the needs of the Union industry. In order to ensure that the same graphic representation can be used for design applications in one or more Member States and for applications for registered EU designs, the Office, the central industrial property offices of the Member States and the Benelux Office for Intellectual Property should be required to cooperate with each other to establish common standards for the formal requirements that the representation has to fulfil.
- (35) Those sectors of industry producing large numbers of possibly short-lived designs over short periods of time of which only some may be eventually commercialised will find advantage in using the unregistered EU design. Furthermore, there is also a need for those sectors to have easier recourse to the registered EU design. Therefore, the option of combining a number of designs in one multiple application would satisfy that need. However, the designs contained in a multiple application may be dealt with independently of each other for the purposes of enforcement of rights, licensing, rights *in rem*, levy of execution, insolvency proceedings, surrender, renewal, assignment, deferred publication or declaration of invalidity.

- (36) For greater efficiency it is also appropriate to facilitate the filing of multiple applications for registered EU designs by allowing applicants to combine designs in one application without being subject to the condition that the products into which the designs are intended to be incorporated or to which they are intended to be applied all belong to the same class of the Locarno Classification established by the Locarno Agreement Establishing an International Classification for Industrial Designs, signed at Locarno on 8 October 1968. However, a maximum limit should be provided for to avoid the potential abuse of multiple filings.
- (37) The normal publication following registration of an EU design could in some cases destroy or jeopardise the success of a commercial operation involving the design. The possibility of a deferment of publication for a reasonable period affords a solution in such cases.
- (38) A procedure for hearing applications concerning the validity of a registered EU design in a single place would bring savings in costs and time compared with procedures involving different national courts.
- (39) It is therefore necessary to provide safeguards including a right of appeal to a Board of Appeal, and ultimately to the Court of Justice. Such a procedure would assist the development of uniform interpretation of the requirements governing the validity of EU designs.
- (40) For reasons of efficiency and to streamline proceedings, the means of notification and communication should be electronic only. Nevertheless, it is important that the Office provide appropriate technical guidance and assistance, both online and offline, in order to facilitate the use of electronic means and prevent digital divide.

- (41) It is essential that the rights conferred by an EU design can be enforced in an efficient manner throughout the territory of the Union.
- (42) The litigation system should avoid as far as possible ‘forum shopping’. It is therefore necessary to establish clear rules of international jurisdiction.
- (43) This Regulation does not preclude the application to designs protected by EU designs of the industrial property laws or other relevant laws of the Member States, such as those relating to design protection acquired by registration or those relating to unregistered designs, trade marks, patents and utility models, unfair competition or civil liability.
- (44) Given the advanced harmonisation of copyright law in the Union, it is appropriate to lay down in this Regulation the principle of cumulation of protection under this Regulation and under copyright law by allowing designs protected by EU design rights to be protected as copyright works, provided that the requirements of copyright law are met.
- (45) Given the essential importance of the amounts of fees payable to the Office for the functioning of the EU design protection system and its complementary relationship as regards national design systems, it is appropriate to set those fee amounts directly in this Regulation in an annex. The amounts of the fees should be fixed at a level which ensures both that the revenue they produce is in principle sufficient for the budget of the Office to be balanced and that EU design and the national design systems coexist and complement each other, taking into account, inter alia, the size of the market covered by the EU design and the needs of SMEs.

- (46) In order to ensure an effective, efficient and expeditious examination and registration of EU design applications by the Office using procedures which are transparent, thorough, fair and equitable, the power to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) should be delegated to the Commission to supplement this Regulation by specifying the details of the procedure for amending an application.
- (47) In order to ensure that a registered EU design can be declared invalid in an effective and efficient way by means of a transparent, thorough, fair and equitable procedure, the power to adopt delegated acts in accordance with Article 290 TFEU should be delegated to the Commission to supplement this Regulation by specifying the proceedings for declaring a registered EU design invalid.
- (48) In order to allow for an effective, efficient and complete review of decisions of the Office by the Boards of Appeal by means of a transparent, thorough, fair and equitable procedure, the power to adopt delegated acts in accordance with Article 290 TFEU should be delegated to the Commission to supplement this Regulation by specifying the details of appeal proceedings where proceedings relating to EU designs require derogations from the provisions laid down in delegated acts adopted pursuant to Article 73 of Regulation (EU)2017/1001.

- (49) In order to ensure the smooth, effective and efficient operation of the EU design system, the power to adopt delegated acts in accordance with Article 290 TFEU should be delegated to the Commission to supplement this Regulation by specifying the requirements as to the details of oral proceedings and the detailed arrangements for the taking of evidence, the detailed arrangements for notification, the means of communication and the forms to be used by the parties to proceedings, the rules governing the calculation and duration of time limits, the procedures for the revocation of a decision or for cancellation of an entry in the Register of EU designs, the detailed arrangements for the resumption of proceedings, and the details of representation before the Office.
- (50) In order to ensure the effective and efficient organisation of the Boards of Appeal, the power to adopt delegated acts in accordance with Article 290 TFEU should be delegated to the Commission to supplement this Regulation by specifying the details of the organisation of the Boards of Appeal where proceedings relating to EU designs require a derogation from the delegated acts adopted pursuant to Article 168 of Regulation (EU) 2017/1001.
- (51) It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making⁹. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

⁹ OJ L 123, 12.5.2016, p. 1, ELI: http://data.europa.eu/eli/agree_interinstit/2016/512/oj.

- (52) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission to specify the details concerning applications, requests, certificates, claims, regulations, notifications and any other document under the relevant procedural requirements established by this Regulation, as well as to establish the maximum rates for costs essential to the proceedings and actually incurred, the details concerning publications in the European Union Designs Bulletin and the Official Journal of the Office, the detailed arrangements for the exchange of information between the Office and national authorities, the detailed arrangements concerning translations of supporting documents in written proceedings, and the exact types of decisions to be taken by a single member of the Invalidity Divisions. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹⁰.
- (53) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States but can rather, by reason of the autonomous nature of the EU design system being independent from national systems, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives,

HAVE ADOPTED THIS REGULATION:

¹⁰ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13, ELI: <http://data.europa.eu/eli/reg/2011/182/oj>).

TITLE I

GENERAL PROVISIONS

Article 1

EU design

1. A design which complies with the conditions laid down in this Regulation is hereinafter referred to as a ‘European Union design’ (‘EU design’).
2. A design shall be protected:
 - (a) by an ‘unregistered EU design’, if made available to the public in the manner provided for in this Regulation;
 - (b) by a ‘registered EU design’, if registered in the manner provided for in this Regulation.
3. An EU design shall have a unitary character. It shall have equal effect throughout the 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 of the Union. That principle and its implications shall apply unless otherwise provided for in this Regulation.

Article 2
European Union Intellectual Property Office

The European Union Intellectual Property Office ('the Office'), established by Regulation (EU) 2017/1001, shall carry out the tasks entrusted to it by this Regulation.

Article 3
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.

TITLE II

THE LAW RELATING TO DESIGNS

SECTION 1

REQUIREMENTS FOR PROTECTION

Article 4

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.

Article 5

Requirements for protection

1. A design shall be protected by an EU design, if it is new and has individual character.
2. A design applied to or incorporated into 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.
3. ‘Normal use’ within the meaning of paragraph 2, point (a), shall mean use by the end user, excluding maintenance, servicing or repair work.

Article 6

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 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 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 7

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 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 EU design, before the date of filing of 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 8

Disclosure

1. For the purpose of applying Articles 6 and 7, 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 Article 6(1), point (a), and Article 7(1), point (a), or in Article 6(1), point (b), and Article 7(1), point (b), as the case may be, except where those events could not reasonably have become known in the normal course of business to the circles specialised in the sector concerned, operating within the 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.
2. A disclosure shall not be taken into consideration for the purpose of applying Articles 6 and 7 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:
 - (a) by the designer, the designer's successor in title, or a third person as a result of information provided or action taken by the designer or the designer's 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 the designer's successor in title.

Article 9

Designs dictated by their technical function and designs of interconnections

1. An EU design shall not subsist in the features of the appearance of a product which are solely dictated by its technical function.
2. An EU design shall not subsist in the features of the appearance of a product which must necessarily be reproduced in their exact form and dimensions in order to permit the product into 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 of this Article, an EU design shall, under the conditions laid down in Articles 6 and 7, subsist in a design serving the purpose of allowing the multiple assembly or connection of mutually interchangeable products within a modular system.

Article 10

Designs contrary to public policy or morality

An 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 11

Scope of protection

1. The scope of the protection conferred by an EU design shall include any design which does not produce on the informed user a different overall impression.
2. In assessing the scope of protection, the degree of freedom of the designer in developing his design shall be taken into consideration.

Article 12

Commencement and term of protection of an unregistered EU design

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

2. For the purposes of paragraph 1, a design shall be deemed to have been made available to the public within the Union if it has been published, exhibited, used in trade or otherwise disclosed in such a way that, in the normal course of business, those events could reasonably have become known to the circles specialised in the sector concerned, operating within the 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.

Article 13

Commencement and term of protection of a registered EU design

1. The protection of a registered EU design shall commence with its 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 66, 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.

SECTION 3

RIGHT TO THE EU DESIGN

Article 14

Right to the EU design

1. The right to the EU design shall vest in the designer or the designer's successor in title.
2. If two or more persons have jointly developed a design, the right to the EU design shall vest in them jointly.
3. However, where a design is developed by an employee in the execution of the employee's duties or following the instructions given by the employee's employer, the right to the EU design shall vest in the employer, unless otherwise agreed or specified under national law.

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 paragraph 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 elements shall be entered in the Register of EU designs referred to in Article 104 ('the Register'):
 - (a) an indication that proceedings under paragraph 1 of this Article 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.

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.

Article 17

Presumption in favour of the registered holder of the design

The person in whose name the registered 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.

Article 18

Right of the designer to be cited

The designer shall have the right, in the same way as the applicant for or 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.

SECTION 4

EFFECTS OF AN EU DESIGN

Article 19

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 20

Rights conferred by an 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 into which the design is incorporated or to which the design is applied;
 - (b) importing or exporting a product as referred to in point (a);
 - (c) stocking a product as 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 as 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 into 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, 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.

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 62(4).

Article 21

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 purposes 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 into which the design is incorporated or to which the design is applied.

Article 22

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 20(1) for the sole purpose of repairing that complex product so as to restore its original appearance.
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 repairing 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 23

Exhaustion of rights

The rights conferred by an EU design shall not extend to acts relating to a product into 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.

Article 24

Rights of prior use in respect of a registered 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, that third person has in good faith commenced use within the Union, or has made serious and effective preparations to that end, of a design included within the scope of protection of a registered 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 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.

Article 25

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 EU designs, but only to the extent that the use is necessary for essential defence or security needs.

SECTION 5

INVALIDITY

Article 26

Declaration of invalidity

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

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

Article 27

Grounds for invalidity

1. An EU design may be declared invalid only in the following situations:
 - (a) the EU design does not correspond to the definition laid down in Article 4, point (1);
 - (b) the EU design does not fulfil the requirements laid down in Articles 5 to 10;
 - (c) by virtue of a decision of the competent court or authority, the right holder is not entitled to the EU design under Article 14;
 - (d) the EU design is in conflict with a prior design which has been made available to the public prior to or after the date of filing of the application, or, if priority is claimed, the date of priority of the EU design, and which is protected from a date prior to the date of filing of the application, or, if priority is claimed, the date of priority of the EU design:
 - (i) by a registered EU design, or an application for such a design subject to its registration;

- (ii) by a registered design right of a Member State, or by an application for such a right subject to its registration; or
- (iii) by a design right registered under the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs, adopted at Geneva on 2 July 1999 ('the Geneva Act')¹¹, which has effect in the Union, or by an application for such a right subject to its registration;
- (e) a distinctive sign is used in a subsequent design, and Union 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) the design constitutes an unauthorised use of a work protected under the copyright law of a Member State;
- (g) 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 ('the Paris Convention'), or of badges, emblems and escutcheons other than those covered by that Article and which are of particular public interest in a Member State, and the consent of the competent authorities to the registration has not been given.

¹¹ Council Decision 2006/954/EC of 18 December 2006 approving the accession of the European Community to the Geneva Act of the Hague Agreement concerning the international registration of industrial designs, adopted in Geneva on 2 July 1999 (OJ L 386, 29.12.2006, p. 28, ELI: <http://data.europa.eu/eli/dec/2006/954/oj>).

2. The grounds for invalidity provided for in paragraph 1, points (a) and (b), may be invoked by the following:
 - (a) any natural or legal person; or
 - (b) any group or body set up for the purpose of representing the interests of manufacturers, producers, suppliers of services, traders or consumers, if that group or body has the capacity to sue and be sued in its own name under the law governing it.
3. The ground for invalidity provided for in paragraph 1, point (c), of this Article may be invoked solely by the person who is entitled to the EU design under Article 14.
4. The grounds for invalidity provided for in paragraph 1, points (d), (e) and (f), may be invoked solely by the following:
 - (a) the applicant for or holder of the earlier right;
 - (b) the persons who are entitled under Union law or the law of the Member State concerned to exercise the right; or
 - (c) a licensee authorised by a proprietor of the earlier right.
5. The ground for invalidity provided for in paragraph 1, point (g), may be invoked solely by the person or entity concerned by the improper use.

6. By way of derogation from paragraphs 4 and 5, Member States may provide that the grounds provided for in paragraph 1, points (d) and (g), can also be invoked by the appropriate authority of the Member State in question on its own initiative.
7. A registered EU design shall not be declared invalid where the applicant for or holder of one of the rights referred to in paragraph 1, points (d), (e) and (f), consented expressly to the registration of the EU design before submitting the application for a declaration of invalidity or the counterclaim.
8. Where the applicant for or a holder of one of the rights referred to in paragraph 1, points (d), (e) and (f), has previously applied for a declaration that an EU design is invalid or made a counterclaim in infringement proceedings, they shall not submit a new application for a declaration of invalidity or lodge a new counterclaim on the basis of any of the other rights referred to in those points which could have been invoked in support of the first application or counterclaim.

Article 28

Consequences of invalidity

1. An EU design which is declared invalid shall be deemed not to have had the effects provided for in this Regulation as from the outset.

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 EU design, or to unjust enrichment, the retroactive effect of invalidity of the 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.

SECTION 6

NOTICE OF REGISTRATION

Article 29

Registration symbol

The holder of a registered EU design may inform the public that the design is registered by displaying on the product into 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.

TITLE III

EU DESIGNS AS OBJECTS OF PROPERTY

Article 30

Dealing with EU designs as national design rights

1. Unless otherwise provided for in Articles 31, 33, 34, 35 and 36, an EU design as an object of property shall be dealt with in its entirety, and for the whole area of the Union, as a national design right of the Member State in which:
 - (a) the holder has their seat or 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 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 laid down in paragraph 1, the Member State referred to in that paragraph shall be determined:
 - (a) in the case of an unregistered EU design, by reference to the relevant joint holder designated by them by common agreement;

- (b) in the case of a registered 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 31

Transfer of a registered EU design

1. An assignment of a registered EU design shall be made in writing and shall be signed by the parties to the contract, except when it is the result of a judgment.

An assignment of a registered EU design that does not comply with the requirements laid down in the first subparagraph shall be void.

2. At the request of one of the parties, a transfer of a registered EU design shall be entered in the Register and published.
3. An application for registration of a transfer in the Register shall contain information identifying the registered EU design, the new holder and, where applicable, the representative of the new holder. It shall also contain documents duly establishing the transfer in accordance with paragraph 1.

4. Where the conditions for the registration of a transfer, as laid down in paragraph 1 of this Article or in the implementing acts referred to in Article 32, are not fulfilled, the Office shall notify the applicant of the deficiencies. If the deficiencies are not remedied within the time limit specified by the Office, it shall reject the application for registration of the transfer.
5. A single application for registration of a transfer may be submitted for two or more registered EU designs, provided that the registered holder and the successor in title are the same for all those registered EU designs.
6. As long as the transfer has not been entered in the Register, the successor in title may not invoke the rights arising from the registration of the registered EU design.
7. 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 application for registration of the transfer has been received by the Office.
8. All documents which require notification to the holder of the registered EU design in accordance with Article 85 shall be addressed to the person registered as holder in the Register.

Article 32

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 31(3);
- (b) the kind of documentation required to establish a transfer as referred to in Article 31(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 159(2).

Article 33

Rights in rem on a registered EU design

1. A registered EU design may be given as security or be the subject of rights *in rem*.
2. Upon request by one of the parties, the rights referred to in paragraph 1 shall be entered in the Register and published.

Article 34

Levy of execution

1. A registered EU design may be levied in execution.

2. As regards the procedure for levy of execution in respect of a registered EU design, the courts and the authorities of the Member State determined in accordance with Article 30 shall have exclusive jurisdiction.
3. Upon request by one of the parties, the levy of execution shall be entered in the Register and published.

Article 35

Insolvency proceedings

1. The only insolvency proceedings in which an EU design may be involved are those opened in the Member State within the territory of which the debtor has their centre of main interests.
2. For insurance undertakings as defined in Article 13, point (1), of Directive 2009/138/EC of the European Parliament and of the Council¹² and credit institutions as defined in Article 4(1), point (1), of Regulation (EU) No 575/2013 of the European Parliament and of the Council¹³, the centre of main interests referred to in paragraph 1 of this Article shall be the Member State where the undertaking or institution has been authorised.
3. In the case of joint holdership of an EU design, paragraph 1 shall apply to the share of the joint holder.

¹² Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 335, 17.12.2009, p. 1, ELI: <http://data.europa.eu/eli/dir/2009/138/oj>).

¹³ Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1, ELI: <http://data.europa.eu/eli/reg/2013/575/oj>).

4. Where an EU design is involved in insolvency proceedings, an entry to that effect shall, at the request of the competent national authority, be made in the Register and published.

Article 36

Licensing

1. An EU design may be licensed for the whole or part of the Union. A licence may be exclusive or non-exclusive.
2. The holder may invoke the rights conferred by the EU design against a licensee who contravenes any provision in the licensing contract with regard to:
 - (a) the duration of the licence;
 - (b) the form in which the design may be used;
 - (c) the range of products for which the licence is granted;
 - (d) the quality of the products manufactured by the licensee under the licence.
3. If not stated otherwise in the licensing contract, the licensee may bring proceedings for infringement of an EU design only if its holder consents thereto. However, the holder of an exclusive licence may bring such proceedings if the holder of the EU design, after formal notice, does not bring infringement proceedings within an appropriate period.
4. A licensee shall, for the purpose of obtaining compensation for damage suffered, be entitled to intervene in infringement proceedings brought by the holder of the EU design.

Article 37

Procedure for entering licences and other rights in the Register

1. Article 31(3), the rules adopted pursuant to Article 32, and Article 31(5) shall apply *mutatis mutandis* to the registration of a right *in rem* or transfer of a right *in rem* referred to in Article 33, the levy of execution referred to in Article 34, the involvement in insolvency proceedings referred to in Article 35, as well as to the registration of a licence or transfer of a licence as referred to in Article 36. However, the requirement concerning documents duly establishing the transfer laid down in Article 31(3) shall not apply where the request is made by the holder of the EU design.
2. The application for registration of the rights referred to in paragraph 1 shall not be deemed to have been filed until the required fee has been paid.
3. The application for registration of a licence may contain a request to record such licence in the Register as one or more of the following:
 - (a) an exclusive licence;
 - (b) a sub-licence in the event that such sub-licence is granted by a licensee whose licence is recorded in the Register;
 - (c) a licence limited to a specific range of products;

- (d) a licence limited to part of the Union;
- (e) a temporary licence.

Where a request is made to record the licence as a licence as referred to in the first subparagraph, point (c), (d), or (e), the application for registration shall indicate the specific product range, the part of the Union or the period for which the licence is granted.

4. Where the conditions for registration of licences and other rights laid down in this Regulation are not fulfilled, the Office shall notify the applicant of the deficiency. If the deficiency is not remedied within the time limit specified by the Office, it shall reject the application for registration.

Article 38

Effects vis-à-vis third parties

1. Legal acts as referred to in Articles 31, 33 and 36 concerning an EU design shall only have effect vis-à-vis third parties in all the Member States after entry in the Register. However, such an act, before it is so entered, shall have effect vis-à-vis third parties who have acquired rights in the registered EU design after the date of that act but who knew of the act at the date on which the rights were acquired.

2. Paragraph 1 shall not apply to a person who acquires the registered EU design or a right concerning the registered EU design by way of transfer of the whole of the undertaking or by any other universal succession.
3. The effects vis-à-vis third parties of the legal acts referred to in Article 34 shall be governed by the law of the Member State determined in accordance with Article 30.
4. The effects of bankruptcy or similar proceedings vis-à-vis third parties shall be governed by the law of the Member State in which such proceedings are first brought within the meaning of national law or of conventions applicable in this field.

Article 39

Procedure for cancelling or modifying registrations of licences and other rights

1. A registration effected under Article 37(1) shall be cancelled or modified upon application by one of the parties concerned.
2. The application for cancellation or modification of the registration shall contain the registration number of the registered EU design, or, in the case of a multiple registration, the number of each design, and the particulars of the right for which registration is requested to be cancelled or modified.

3. The application for cancellation or modification of the registration shall be accompanied by documents showing that the registered right no longer exists or that the licensee or the holder of another right consents to the cancellation or modification of the registration.
4. Where the requirements for cancellation or modification of the registration are not satisfied, the Office shall notify the applicant of the deficiencies. If the deficiencies are not remedied within the time limit specified by the Office, it shall reject the application for cancellation or modification of the registration.

Article 40

Application for a registered EU design as an object of property

Articles 30 to 39 shall apply to applications for registered EU designs. Where the effect of one of those provisions is conditional upon an entry in the Register, that formality shall be performed upon entry of the registered EU design in the Register.

TITLE IV

APPLICATION FOR A REGISTERED EU DESIGN

SECTION 1

FILING OF APPLICATIONS AND THE CONDITIONS WHICH GOVERN THEM

Article 41

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.

Article 42

Conditions with which applications must comply

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.
2. The application shall further contain an indication of the products into 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 62;
 - (c) information identifying the representative if the applicant has appointed one;
 - (d) the classification of the products into 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 established by the Locarno Agreement Establishing an International Classification for Industrial Designs, signed at Locarno on 8 October 1968, 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 as referred to in paragraph 3, point (b), is filed, it shall be subject to an additional fee for deferment of publication.
5. In addition to the requirements referred to in paragraphs 1 to 4, an application for a registered EU design shall comply with the formal requirements laid down in this Regulation and in the implementing acts adopted pursuant to it. To the extent that those requirements relate to the design representation referred to in paragraph 1, point (c), and the means of representation, the Executive Director shall determine the manner of numbering different views in the event of representation by static views, the formats and size of an electronic file as well as any other relevant technical specification. If those requirements provide for the identification of a subject matter for which no protection is sought by way of certain types of visual disclaimers or for the filing of certain specific types of views, the Executive Director may determine that additional types of visual disclaimers and specific types of views are permitted.
6. The information contained in the elements referred to in paragraph 2 and in paragraph 3, points (a) and (d), shall not affect the scope of protection of the design as such.

Article 43

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 159(2).

Article 44

Multiple applications

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.
2. In addition to the fees referred to in Article 42(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.
3. The multiple application shall comply with the formal requirements laid down in the implementing acts adopted pursuant to Article 45.

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 45

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 159(2).

Article 46

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 referred to in Article 42(1) are filed with the Office by the applicant, subject to the payment of the application fees referred to in Article 42(4) and Article 44(2) within one month of filing those documents.

Article 47

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.

Article 48

Classification and product indications

1. Products into which an EU design is intended to be incorporated or to which it is intended to be applied shall be classified in accordance with the Locarno Classification, as amended and in force at the date of filing of the application.
2. The product indication, referred to in Article 42(2), shall identify clearly and precisely the nature of the products and shall enable each product to be classified in only one class and subclass of the Locarno Classification, if possible using the harmonised database of product indications made available by the Office. The product indication shall accord with the representation of the design.
3. The products shall be grouped according to the classes of the Locarno Classification, each group being preceded by the number of the class to which that group of products belongs and presented in the order of the classes and subclasses under that classification.

4. When the applicant uses product indications which are not contained in the database referred to in paragraph 2, or which do not accord with the representation of the design, the Office may propose product indications from that database. Where the applicant does not reply within the time limit specified by the Office, it may proceed with the examination based on the proposed product indications.

SECTION 2

PRIORITY

Article 49

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, or to the Agreement establishing the World Trade Organization, or the person's successors in title, shall enjoy, for the purpose of filing an application for a registered EU design in respect of the same design or utility model, a right of priority for a period of six months from the date of filing of the first application.
2. Every filing that, under the national law of the State where it was made or under bilateral or multilateral agreements, is sufficient to establish the date on which the application was filed, whatever the outcome of the application may be, shall be recognised as giving rise to a right of priority.

3. 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 to be the first application for the purpose of determining priority, provided that, at the date of 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 a right of priority. The previous application shall not thereafter serve as a basis for claiming a right of priority.

4. 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 Organization, paragraphs 1 to 3 shall apply only in so far as that State, according to published findings, grants, on the basis of the first filing made at the Office and subject to conditions equivalent to those laid down in this Regulation, a right of priority having equivalent effect. The Executive Director shall, where necessary, request the Commission to consider enquiring as to whether that State accords such reciprocal treatment. If the Commission determines that reciprocal treatment is accorded, it shall publish a communication to that effect in the *Official Journal of the European Union*.

5. The right of priority referred to in paragraph 4 shall apply from the date of publication in the *Official Journal of the European Union* of the communication determining that reciprocal treatment is accorded, unless the communication states an earlier date from which it is applicable. It shall cease to apply from the date of publication in the *Official Journal of the European Union* of a communication of the Commission to the effect that reciprocal treatment is no longer accorded, unless the communication states an earlier date from which it is applicable.
6. Communications as referred to in paragraphs 4 and 5 shall also be published in the Official Journal of the Office.

Article 50

Claiming priority

1. An applicant for a registered EU design desiring to take advantage of the priority of a previous application shall file a declaration of priority either together with the application or within two months of the date of filing. Such declaration of priority shall include the date and country of the previous application. The file number of the previous application and the documentation in support of the priority claim shall be filed within three months of the date of filing of the declaration of priority.

2. The Executive Director may determine that the documentation to be provided by the applicant in support of the priority claim may consist of less than what is required under the implementing acts adopted pursuant to Article 51, subject to compliance with the principle of equal treatment of applicants and provided that the information required is available to the Office from other sources.

Article 51

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 50(1). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 159(2).

Article 52

Effect of priority right

The right of priority shall have the effect that the date of priority shall count as the date of filing of the application for a registered EU design for the purposes of Articles 6, 7, 8 and 24, Article 27(1), points (d), (e) and (f), and Article 62(1).

Article 53

Exhibition priority

1. If an applicant for a registered EU design has disclosed products into which the design is incorporated, or to which it is applied, at an official or officially recognised international exhibition falling within the scope of the Convention relating to international exhibitions, signed at Paris on 22 November 1928 and last revised on 30 November 1972, the applicant may, if the application is filed within a period of six months from the date of the first disclosure of such products, claim a right of priority from that date.
2. An applicant who wishes to claim priority pursuant to paragraph 1 shall file a declaration of priority either together with the application or within two months of the date of filing. The applicant shall, within three months of the declaration of priority, file evidence that the products into which the design is incorporated, or to which it is applied, have been disclosed within the meaning of paragraph 1.
3. An exhibition priority granted in a Member State or in a third country shall not extend the period of priority laid down in Article 49.

Article 54

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 53(2). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 159(2).

TITLE V
REGISTRATION PROCEDURE,
RENEWAL AND ALTERATION

Article 55

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 46.
2. The Office shall examine whether:
 - (a) the application for a registered EU design complies with the requirements referred to in Article 42(2), (3) and (5) and, in the case of a multiple application, in Article 44(1) and (3);
 - (b) where relevant, the additional fee for deferment of publication pursuant to Article 42(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 44(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.

Article 56

Grounds for non-registrability

1. If the Office, in carrying out the examination pursuant to Article 55 of this Regulation, finds that the design for which protection is sought does not correspond to the definition laid down in Article 4, point (1), of this Regulation, that it is contrary to public policy or to accepted principles of morality or, without the consent of the competent authorities to the registration having been given, that it constitutes an improper use of any of the items listed in Article 6ter of the Paris Convention, or of badges, emblems and escutcheons other than those covered by Article 6ter of that Convention and which are of particular public interest in a Member State, it shall notify the applicant that the design is non-registrable, specifying the ground for non-registrability.
2. In the notification referred to in paragraph 1, the Office shall specify a period within which the applicant may submit observations, withdraw the application or the objected views or submit an amended representation of the design that differs only in immaterial details from the representation as originally filed.
3. Where the applicant fails to overcome the grounds for non-registrability, the Office shall refuse the application. If those grounds concern only some of the designs contained in a multiple application, the Office shall refuse the application only in so far as those designs are concerned.

Article 57

Withdrawal and amendment of the application

1. The applicant may at any time withdraw an EU design application or, in the case of a multiple application, withdraw some of the designs contained in the application.
2. The applicant may at any time amend the representation of the EU design applied for in immaterial details.

Article 58

Delegation of power regarding the amendment of the application

The Commission is empowered to adopt delegated acts in accordance with Article 160 to supplement this Regulation by specifying the details of the procedure for the amendment of the application as referred to in Article 57(2).

Article 59

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 56, the Office shall enter the design contained in the application and the particulars referred to in Article 104(2) in the Register.

2. If the application contains a request for deferment of publication pursuant to Article 62, 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 46.
4. The fees payable pursuant to Article 42(4) and Article 44(2) shall not be refunded even if the design applied for is not registered.

Article 60

Publication

Upon registration, the Office shall publish the registered EU design in the European Union Designs Bulletin referred to in Article 107(1), point (a).

Article 61

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 60. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 159(2).

Article 62

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 59 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 109(2), be open to public inspection.
3. The Office shall publish in the European Union Designs Bulletin an indication of a request as 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 European Union 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 71 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 laid down in Article 71 and the implementing acts adopted pursuant to Article 72, 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 44, the holder shall, together with the request for earlier publication referred to in paragraph 4 of this Article or the request for surrender referred to in paragraph 5 of this Article, 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 laid down 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.
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 63

Publication after the period of deferment

The Office shall, at the expiry of the period of deferment referred to in Article 62 or, in the case of a request for earlier publication, as soon as technically possible:

- (a) publish the registered EU design in the European Union Designs Bulletin, with the details required under the rules adopted pursuant to Article 61, together with an indication of the fact that the application contained a request for deferment of publication pursuant to Article 62;
- (b) make available for public inspection any file relating to the design;
- (c) open to public inspection all the entries in the Register, including any entries withheld from inspection pursuant to Article 109(5).

Article 64

Certificates of registration

After publication of the registered EU design, the Office shall issue to the holder a certificate of registration. The Office shall provide certified or uncertified copies of the certificate, upon request. The certificates and copies shall be issued by electronic means.

Article 65

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 64. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 159(2).

Article 66

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-month 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 the case of a registration on the basis of a multiple application, an indication of the designs for which renewal is requested.

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 44, 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 67

Alteration

1. The representation of the registered EU design shall not be altered in the Register during the period of registration or on renewal thereof except in immaterial details.
2. A request by the holder for alteration shall include the representation of the registered EU design in its altered version.
3. A request for alteration shall be deemed not to have been filed until the required fee has been paid. If the fee has not been paid or has not been paid in full, the Office shall inform the holder accordingly. A single request may be made for the alteration of the same element in two or more registrations, provided that the holder is the same for all designs. The required alteration fee shall be paid in respect of each registration to be altered. If the requirements for the alteration of the registration laid down in this Article and the implementing acts adopted pursuant to Article 68 are not fulfilled, the Office shall communicate the deficiency to the holder. If the deficiency is not remedied within the time limit specified by the Office, the Office shall reject the request for alteration.
4. The publication of the registration of the alteration shall contain a representation of the registered EU design as altered.

Article 68

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 67(2). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 159(2).

Article 69

Change of name or address

1. The holder of a registered EU design shall inform the Office about a change of the holder's name or address which is not the consequence of a transfer or a change of ownership of the registered EU design.
2. A single request may be made for a change of the name or address in respect of two or more registrations of the same holder.
3. If the requirements for a change of name or address laid down in this Article and in the implementing acts adopted pursuant to Article 70 are not fulfilled, the Office shall communicate the deficiency to the holder of the registered EU design. If the deficiency is not remedied within the time limit specified by the Office, the Office shall reject the request.

4. Paragraphs 1, 2 and 3 shall also apply to a change of the name or address of the registered representative.
5. The Office shall enter the particulars referred to in Article 104(3), points (a) and (b), in the Register.
6. Paragraphs 1 to 4 shall apply to applications for registered EU designs. The change shall be entered in the files kept by the Office concerning the EU design application.

Article 70

*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 69(1). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 159(2).

TITLE VI
SURRENDER AND INVALIDITY
OF THE REGISTERED EU DESIGN

Article 71

Surrender

1. The surrender of a registered 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 an EU design which is subject to deferment of publication is surrendered it shall be deemed from the outset not to have had the effects referred to in this Regulation.
3. A surrender shall be registered only with the agreement of the proprietor of a right entered in the Register. If a licence has been registered, a surrender shall be entered in the Register only if the holder of the registered EU design proves that the licensee has been informed about the holder's intention to surrender. The entry of the surrender shall be made on expiry of the three-month period after the date on which the holder satisfies the Office that the licensee has been informed of the intention to surrender, or before the expiry of that period, as soon as the holder proves that the licensee has given consent.

4. If proceedings pursuant to Article 15 relating to the entitlement to a registered EU design have been instituted before the competent court or authority, the Office shall not enter the surrender in the Register without the agreement of the claimant.
5. If the requirements governing surrender laid down in this Article and in the implementing acts adopted pursuant to Article 72 are not fulfilled, the Office shall communicate the deficiencies to the right holder declaring the surrender. If the deficiencies are not remedied within the time limit specified by the Office, the Office shall not enter the surrender in the Register.

Article 72

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 71(1);
- (b) the kind of documentation required to establish the agreement of a third party pursuant to Article 71(3) and the agreement of a claimant pursuant to Article 71(4).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 159(2).

Article 73

Application for a declaration of invalidity

1. Subject to Article 27(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.
2. The application shall be filed by means of 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.
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 119, and the decision of the Office or the EU design court on such application has become final.

Article 74

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 27 prejudice the maintenance of the registered EU design.

2. When examining the application for a declaration of invalidity, 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 the Office itself.
3. If the holder of the registered EU design so requests, an applicant for a declaration of invalidity invoking an earlier EU or national trade mark as a distinctive sign within the meaning of Article 27(1), point (e), of this Regulation shall furnish proof of genuine use of such mark in accordance with Article 64(2) and (3) of Regulation (EU) 2017/1001 and the rules adopted pursuant to Article 75 of this Regulation.
4. A record of the Office's decision on the application for a declaration of invalidity shall be entered in the Register once that decision has become final.
5. The Office may invite the parties to make a friendly settlement.

Article 75

Delegation of power regarding the declaration of invalidity

The Commission is empowered to adopt delegated acts in accordance with Article 160 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 73 and 74, 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.

Article 76

Participation in the proceedings of the alleged infringer

1. In the event of an application for a declaration of invalidity of a registered 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 them may be joined as a party in the invalidity proceedings upon a request submitted within three months of the date on which the infringement proceedings were instituted.

The same shall apply in respect of third parties who prove both that the right holder of the EU design has requested that they cease an alleged infringement of the design and that they have instituted proceedings for a court ruling that they are not infringing the EU design.

2. The request to be joined as a party shall be filed by means of a written reasoned statement. It shall not be deemed to have been filed until the invalidity fee, referred to in Article 73(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 77

Decisions subject to appeal

1. An appeal shall lie from the decisions of the Office referred to in Article 141, points (a), (b) and (c).
2. Articles 66 to 72 of Regulation (EU) 2017/1001 shall apply to appeals dealt with by the Boards of Appeal under this Regulation, unless otherwise provided for in this Regulation.

Article 78

Delegation of power regarding appeal proceedings

The Commission is empowered to adopt delegated acts in accordance with Article 160 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 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.

TITLE VIII
PROCEDURE BEFORE THE OFFICE

SECTION 1
GENERAL PROVISIONS

Article 79

Decisions and communications of the Office

1. 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. Where oral proceedings are held before the Office, the decision may be given orally. Subsequently, the decision shall be notified in writing to the parties.

2. Any decision, communication or notice from the Office shall indicate the department or division of the Office as well as the name or the names of the official or officials responsible. They shall be signed by that official or those officials, or, instead of a signature, carry a printed or stamped seal of the Office. The Executive Director may determine that other means of identifying the department or division of the Office and the name of the official or officials responsible or an identification other than a seal may be used where decisions, communications or notices are transmitted by any technical means of communication.

3. Decisions of the Office which are subject to appeal shall be accompanied by a written communication indicating that any notice of appeal is to be filed in writing at the Office within two months of the date of notification of the decision in question. Any such communication shall also draw the attention of the parties to the provisions laid down in Articles 66, 67, 68, 71 and 72 of Regulation (EU) 2017/1001, which also apply to appeals under this Regulation pursuant to Article 77(2) of this Regulation. The parties shall not plead any failure on the part of the Office to communicate the availability of appeal proceedings.

Article 80

Examination of the facts by the Office of its own motion

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 that examination to the grounds, facts, evidence and arguments provided by the parties and the relief sought.
2. The Office may disregard facts or evidence which are not submitted in due time by the parties concerned.

Article 81

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.
3. Oral proceedings, including the 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 the admission of the public could have serious and unjustified disadvantages, in particular for a party to the proceedings.

Article 82

Delegation of power regarding oral proceedings

The Commission is empowered to adopt delegated acts in accordance with Article 160 to supplement this Regulation by setting out the detailed arrangements for oral proceedings as referred to in Article 81, including the detailed arrangements for the use of languages in accordance with Article 137.

Article 83

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. The period of notice provided in such summons shall be at least one month, unless the party, witness or expert agrees to a shorter period.
 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.
 5. The Executive Director shall determine the amounts of expenses to be paid, including advances, as regards the costs of the taking of evidence.

Article 84

Delegation of power regarding the taking of evidence

The Commission is empowered to adopt delegated acts in accordance with Article 160 to supplement this Regulation by setting out the detailed arrangements for the taking of evidence referred to in Article 83.

Article 85

Notification

1. The Office shall, of its own motion, notify those concerned of decisions and summonses and of any notice or other communication from which a time limit is calculated, or of which those concerned are to be notified in accordance with other provisions of this Regulation or of acts adopted pursuant to it, or of which notification has been ordered by the Executive Director.
2. Notification shall be effected by electronic means. The details regarding electronic means shall be determined by the Executive Director.
3. Where notification has proved to be impossible for the Office, notification shall be effected by public notice. The Executive Director shall determine how the public notice is to be given and shall fix the beginning of the one-month period on the expiry of which the document shall be deemed to have been notified.

Article 86

Delegation of power regarding notification

The Commission is empowered to adopt delegated acts in accordance with Article 160 to supplement this Regulation by setting out the detailed arrangements for notification as referred to in Article 85.

Article 87

Notification of loss of rights

Where the Office finds that the loss of any rights results from this Regulation or acts adopted pursuant to it, without any decision having been taken, it shall communicate that finding to the persons concerned in accordance with Article 85. The persons concerned may apply for a decision on the matter within two months of notification of the communication, if they consider that the finding of the Office is incorrect. The Office shall adopt such a decision only where it disagrees with the persons requesting it. If that is not the case, the Office shall amend its finding and inform the persons requesting the decision thereof.

Article 88

Communications to the Office

Communications addressed to the Office shall be effected by electronic means. The Executive Director shall determine the electronic means to be used and the manner and technical conditions under which such electronic means are to be used.

Article 89

Delegation of power regarding communications to the Office

The Commission is empowered to adopt delegated acts in accordance with Article 160 to supplement this Regulation by specifying the rules on communications addressed to the Office as referred to in Article 88 and the forms for such communication that are to be made available by the Office.

Article 90

Time limits

1. Time limits shall be laid down in terms of full years, months, weeks or days. Calculation shall start on the day following the day on which the relevant event occurred. The duration of time limits shall be no less than one month and no more than six months, unless otherwise provided for in this Regulation or in any acts adopted pursuant it.
2. The Executive Director shall determine, before the commencement of each calendar year, the days on which the Office is not open for receipt of documents.
3. The Executive Director shall determine the duration of the period of interruption in the case of an actual interruption of the Office's connection to authorised electronic means of communication.

4. If an exceptional occurrence, such as a natural disaster or strike, interrupts or interferes with proper communication from the parties to the proceedings to the Office or vice versa, the Executive Director may determine that, for parties to the proceedings that have their residence or registered office in the geographical area affected by the exceptional occurrence, or who have appointed a representative with a place of business in that area, all time limits that otherwise would expire on or after the date of commencement of such occurrence shall be extended until a certain date. When determining that date, the Executive Director shall assess when the exceptional occurrence comes to an end. If the occurrence affects the seat of the Office, such determination of the Executive Director shall specify that it applies in respect of all parties to the proceedings.

Article 91

Delegation of power regarding calculation and duration of time limits

The Commission is empowered to adopt delegated acts in accordance with Article 160 to supplement this Regulation by specifying the details regarding the calculation and duration of time limits referred to in Article 90.

Article 92

Correction of errors and manifest oversights

1. The Office shall correct any linguistic errors or errors of transcription and manifest oversights in its decisions, errors in registering an EU design or errors in publishing the registration, of its own motion or at the request of a party.

2. Where the correction of errors in the registration of an EU design or in the publication of the registration is requested by the holder, Article 69 shall apply *mutatis mutandis*.
3. Corrections of errors in the registration of an EU design and in the publication of the registration shall be published by the Office.

Article 93

Cancellation of entries in the Register and revocation of decisions

1. Where the Office has made an entry in the Register or taken a decision which contains an obvious error attributable to the Office, it shall ensure that the entry is cancelled or the decision is revoked. Where there is only one party to the proceedings and the entry or the act affects that party's rights, cancellation or revocation shall be determined even if the error was not evident to the party.
2. Cancellation or revocation as referred to in paragraph 1 shall be determined, of its own motion or at the request of one of the parties to the proceedings, by the department which made the entry or took the decision. The cancellation of the entry in the Register or the revocation of the decision shall be effected within one year of the date on which the entry was made or the decision was taken, after consultation with the parties to the proceedings and any proprietor of rights to the EU design in question that are entered in the Register. The Office shall keep records of any such cancellation or revocation.

3. This Article shall be without prejudice to the right of the parties to submit an appeal in accordance with Articles 77 and 78 or to the possibility of correcting errors and manifest oversights in accordance with Article 92. Where an appeal has been filed against a decision of the Office containing an error, the appeal proceedings shall become devoid of purpose upon revocation by the Office of its decision pursuant to paragraph 1 of this Article. In the latter case, the appeal fee shall be reimbursed to the appellant.

Article 94

Delegation of power regarding cancellation of entries and revocation of decisions

The Commission is empowered to adopt delegated acts in accordance with Article 160 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 93.

Article 95

Restitutio in integrum

1. The applicant for or holder of a registered 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 their 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.

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 66(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.
4. The department competent to decide on the omitted act shall decide upon the application.
5. Non-observance of the time limits laid down in paragraph 2 of this Article and in Article 96 shall not give rise to re-establishment of the rights referred to in paragraph 1 of this Article.
6. Where the applicant for or holder of a registered EU design has their rights re-established, they may not invoke their 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 EU design and publication of the mention of re-establishment of those rights, has put on the market products into which a design included within the scope of protection of the registered EU design is incorporated or to which it is applied.

7. Third parties who may avail themselves 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 EU design within a period of two months 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 the time limits provided for in this Regulation and to be complied with vis-à-vis the authorities of such State.

Article 96

Continuation of proceedings

1. An applicant for or holder of a registered EU design or any other party to proceedings before the Office who has not observed a time limit vis-à-vis the Office may, upon request, obtain the continuation of proceedings, provided that at the time the request is made the omitted act has been carried out. The request for continuation of proceedings shall be admissible only if it is submitted within two months of the expiry of the unobserved time limit. The request shall not be deemed to have been filed until the fee for continuation of the proceedings has been paid.

2. Continuation of proceedings shall not be granted in the event of non-observance of the time limits laid down in:
 - (a) Article 46, Article 49(1), Article 53(1), Article 55(3), Article 66(3) and Article 95(2) of this Regulation;
 - (b) Article 68 and Article 72(5) of Regulation (EU) 2017/1001 in conjunction with Article 77(2) of this Regulation;
 - (c) paragraph 1 of this Article.
3. The department competent to decide on the omitted act shall decide upon the request for continuation.
4. If the Office accepts the request for continuation, the consequences of having failed to observe the time limit shall be deemed not to have occurred. If a decision has been taken between the expiry of that time limit and the request for the continuation of proceedings, the department competent to decide on the omitted act shall review the decision and, where completion of the omitted act itself is sufficient, take a different decision. If, following the review, the Office concludes that the original decision does not need to be altered, it shall confirm that decision in writing.
5. If the Office rejects the request for continuation, the fee shall be refunded.

Article 97
Interruption of proceedings

1. Proceedings before the Office shall be interrupted:
 - (a) in the event of the death or legal incapacity of the applicant for or holder of a registered EU design or of the person authorised by national law to act on behalf of the applicant or holder;
 - (b) in the event of the applicant for or holder of a registered EU design being prevented, for legal reasons resulting from action taken against the applicant's or holder's property, from continuing the proceedings before the Office;
 - (c) in the event of the death or legal incapacity of the representative of an applicant for or holder of a registered EU design, or of that representative being prevented, for legal reasons resulting from action taken against the representative's property, from continuing the proceedings before the Office.

To the extent that the death or incapacity referred to in the first subparagraph, point (a), of this paragraph does not affect the authorisation of a representative appointed in accordance with Article 116, proceedings shall be interrupted only upon request by such representative.

2. Proceedings before the Office may be resumed as soon as the identity of the person authorised to continue them has been established or the Office has exhausted all reasonable attempts to establish the identity of such person.

Article 98

Delegation of power regarding the resumption of proceedings

The Commission is empowered to adopt delegated acts in accordance with Article 160 to supplement this Regulation by setting out the detailed arrangements for the resumption of proceedings before the Office referred to in Article 97(2).

Article 99

Reference to general principles

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

Article 100

Termination of financial obligations

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.
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 that 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 101

Apportionment of costs

1. The losing party in proceedings for a declaration of invalidity of a registered EU design or appeal proceedings shall bear the fees paid by the other party for the application for a declaration of invalidity and for appeal. The losing party shall also bear the costs incurred by the other party that are essential to the proceedings, including travel and subsistence and the remuneration of a representative as referred to in Article 116(1), within the maximum rates set for each category of costs in the implementing act adopted pursuant to Article 102.
2. Where each party succeeds on some and fails on other heads, or where reasons of equity so dictate, the Invalidity Division or Board of Appeal shall decide on an apportionment of costs different from that laid down in paragraph 1.
3. A party who terminates the proceedings by withdrawing the EU design application, the application for a declaration of invalidity or the appeal, by not renewing the registration of the EU design or by surrendering the registered EU design shall bear the fees and the costs incurred by the other party as laid down in paragraphs 1 and 2.

4. Where a case does not proceed to judgment, the costs shall be at the discretion of the Invalidation Division or Board of Appeal.
5. Where the parties conclude before the Invalidation Division or Board of Appeal a settlement of costs differing from that provided for in paragraphs 1 to 4, the body concerned shall take note of that agreement.
6. The Invalidation Division or Board of Appeal shall fix of its own motion the amount of the costs to be paid pursuant to paragraphs 1 to 5 of this Article when the costs to be paid are limited to the fees paid to the Office and the representation costs. In all other cases, the registry of the Board of Appeal or Invalidation Division shall fix, upon request, the amount of the costs to be paid. The request shall be admissible only for a period of two months following the date on which the decision for which a request was made for the costs to be fixed becomes final and shall be accompanied by a bill and supporting evidence. For the costs of representation within the meaning of Article 116(1), an assurance by the representative that the costs have been incurred shall be sufficient. For other costs, it shall be sufficient if their plausibility is established.

Where the amount of the costs is fixed pursuant to the first subparagraph of this paragraph, representation costs shall be awarded at the level laid down in the implementing act adopted pursuant to Article 102 and irrespective of whether they have been actually incurred.

7. Decisions on the fixing of costs adopted in accordance with paragraph 6 shall state the reasons on which they are based and may be reviewed by the Invalidity Division or Board of Appeal following a request filed within one month of the date of notification of the decision. It shall not be deemed to be filed until the fee for reviewing the amount of the costs has been paid. The Invalidity Division or the Board of Appeal, as the case may be, shall take a decision on the request for a review of the decision on the fixing of costs without oral proceedings.

Article 102

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 101(1). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 159(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 Article 116(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 259/68¹⁴. The losing party shall bear the costs for one party in the proceedings only and, where applicable, one representative only.

Article 103

Enforcement of decisions fixing the amount of costs

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

¹⁴ Regulation (EEC, Euratom, ECSC) No 259/68 of the Council of 29 February 1968 laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities and instituting special measures temporarily applicable to officials of the Commission (OJ L 56, 4.3.1968, p. 1, ELI: [http://data.europa.eu/eli/reg/1968/259\(1\)/oj](http://data.europa.eu/eli/reg/1968/259(1)/oj)).

3. When the formalities referred to in paragraph 2 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

Article 104
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 59(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 as referred to in Article 115(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 50;
- (i) particulars of claims of exhibition priority pursuant to Article 53;
- (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 137(3);
- (l) the date of registration of the design in the Register and the registration number pursuant to Article 59(1);
- (m) an indication of any request for deferment of publication pursuant to Article 62(3), specifying the date of expiry of the period of deferment;
- (n) an indication that a description was filed pursuant to Article 42(3), point (a).

3. The Register shall also contain the following entries, each accompanied by the date of their recording:
- (a) changes in the name or the city and country of the holder pursuant to Article 69;
 - (b) changes in the name or business address of the representative, other than a representative as referred to in Article 115(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 of the team of designers pursuant to Article 18;
 - (e) corrections of errors and manifest oversights pursuant to Article 92;
 - (f) alterations of the design pursuant to Article 67;
 - (g) an indication that entitlement proceedings have been instituted before the competent court or authority pursuant to 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 31;

- (k) the creation or transfer of a right *in rem* pursuant to Article 33 and the nature of the right *in rem*;
- (l) a levy of execution pursuant to Article 34 and insolvency proceedings pursuant to Article 35;
- (m) the grant or transfer of a licence pursuant to Article 16(2) or Article 36 and, where applicable, the type of licence referred to in Article 37(3);
- (n) the renewal of the registration pursuant to Article 66 and the date from which that renewal takes effect;
- (o) the determination of the expiry of the registration pursuant to Article 66(8);
- (p) a declaration of surrender by the holder pursuant to Article 71(1);
- (q) the date of submission and the particulars of an application for a declaration of invalidity pursuant to Article 73, of a counterclaim for a declaration of invalidity pursuant to Article 123(5) or of an appeal brought pursuant to Article 77;
- (r) the date and particulars of the final decision on the application for a declaration of invalidity pursuant to Article 74, of the final decision on a counterclaim for a declaration of invalidity pursuant to Article 125(3), of the final decision on an appeal pursuant to Article 77, or of any other termination of proceedings pursuant to those Articles;

- (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 93, 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 109(5), provide, by electronic means, certified or uncertified extracts from the Register upon request.

8. The processing of the data concerning the entries referred to 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 referred to 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 62(2) provides otherwise. The entries in the Register shall be kept for an indefinite period.

Article 105

Database

1. In addition to the obligation to keep a Register laid down in Article 104, 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.

2. The electronic database may include personal data, beyond those included in the Register pursuant to Article 104, 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;
 - (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 104, 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 106

Online access to decisions

1. The decisions of the Office regarding registered EU designs shall be made available online for the information of and consultation by 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.

Article 107

Periodical publications

1. The Office shall periodically publish:
 - (a) a European Union Designs Bulletin containing publications of entries made in the Register, as well as other particulars relating to registrations of EU designs the publication of which is required by this Regulation or by acts adopted pursuant to it;

- (b) an Official Journal of the Office containing notices and information of a general character issued by the Executive Director, as well as any other information relevant to this Regulation or its implementation.

The publications referred to in the first subparagraph, points (a) and (b), may be effected by electronic means.

- 2. The European Union Designs Bulletin shall be published in a manner and at a frequency to be determined by the Executive Director.
- 3. The Official Journal of the Office shall be published in the languages of the Office. However, the Executive Director may determine that certain items are to be published in the Official Journal of the Office in the official languages of the Union.

Article 108

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 159(2).

Article 109

Inspection of files

1. The files relating to applications for registered EU designs which have not yet been published or the files relating to registered EU designs which are subject to deferment of publication in accordance with Article 62 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 of the registered 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 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 holder of the registered EU design has taken steps with a view to invoking against the interested person the right under the registered EU design.

3. Subsequent to the publication of the registered EU design, the file may be inspected upon request.
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 an 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 the inspection of such parts of the file is justified by overriding legitimate interests of the party seeking the inspection.
5. Where the registration is subject to a deferment of publication pursuant to Article 62(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 110

Procedures for the inspection of files

1. Inspection of the files of registered EU designs requested pursuant to Article 109(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 is subject to deferment of publication in accordance with Article 62 or which, being subject to such deferment, has 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.
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 111

Communication of information contained in the files

Subject to the restrictions provided for in Article 109, 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 112

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 71;
- (d) the registered EU design is definitively removed from the Register.

Article 113

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 for inspection by courts, public prosecutors' offices or central industrial property offices, the inspection shall not be subject to the restrictions laid down in Article 109.
2. The Office shall not charge fees for the communication of information or the opening of files for inspection.

Article 114

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 113, taking into account the restrictions to which the inspection of files relating to EU design applications or registrations is subject, pursuant to Article 109, when they are opened to third parties. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 159(2).

SECTION 4

REPRESENTATION

Article 115

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 nor a real and effective industrial or commercial establishment in the EEA shall be represented before the Office in accordance with Article 116(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.

Article 116

Professional representation

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 whose place of business is 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 in 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 their 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.

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 laid down in paragraph 4, first subparagraph, point (a), in the case of highly qualified professionals, provided that the requirements laid down in paragraph 4, first subparagraph, points (b) and (c), are fulfilled;
 - (b) the requirement laid down in paragraph 4, second subparagraph, if the person applying to be entered on the list furnishes proof that they have acquired the required qualification in another way.
7. A person may be removed from the list of professional representatives in design matters at that person's request or when that person no longer has the capacity to act as a professional representative. The amendments of the list of professional representatives in design matters shall be published in the Official Journal of the Office.
8. Representatives acting before the Office shall be entered in the database referred to in Article 105 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 117

Delegation of power regarding professional representation

The Commission is empowered to adopt delegated acts in accordance with Article 160 to supplement this Regulation by specifying:

- (a) the conditions and the procedure for the appointment of a common representative as referred to in Article 115(4);
- (b) the conditions under which employees as referred to in Article 115(3) and professional representatives as referred to in Article 116(1) are to file with the Office a signed authorisation in order to undertake representation, and the content of that authorisation;
- (c) the circumstances in which a person can be removed from the list of professional representatives in design matters as referred to in Article 116(7).

TITLE IX
JURISDICTION AND PROCEDURE
IN LEGAL ACTIONS RELATING TO EU DESIGNS

SECTION 1
JURISDICTION AND ENFORCEMENT

Article 118

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

1. Unless otherwise provided for 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 120 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 Council¹⁵ shall not apply;
 - (b) Articles 25 and 26 of Regulation (EU) No 1215/2012 shall apply subject to the limitations provided for in Article 121(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 matters¹⁶ done on 19 October 2005.

¹⁵ 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, ELI: <http://data.europa.eu/eli/reg/2012/1215/oj>).

¹⁶ OJ L 299, 16.11.2005, p. 62.

SECTION 2
DISPUTES CONCERNING THE INFRINGEMENT
AND VALIDITY OF EU DESIGNS

Article 119
EU design courts

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 ('EU design courts'), which shall perform the functions assigned to them by this Regulation.
2. Any change made in the number, names or territorial jurisdiction of the EU design courts included in the list of EU design courts communicated by a Member State to the Commission in accordance with Article 80(2) of Regulation (EC) No 6/2002 shall be notified without delay by the Member State concerned to the Commission.
3. The information referred to in paragraph 2 shall be notified by the Commission to the Member States and published in the *Official Journal of the European Union*.

Article 120

Jurisdiction over infringement and validity

The EU design courts shall have exclusive jurisdiction for:

- (a) infringement actions and, if they are permitted under national law, actions in respect of threatened infringement of EU designs;
- (b) actions for a declaration of non-infringement of EU designs, if they are permitted under national law;
- (c) actions for a declaration of invalidity of an unregistered EU design;
- (d) counterclaims for a declaration of invalidity of an EU design raised in connection with actions under point (a).

Article 121

International jurisdiction

1. Subject to the provisions of this Regulation and to any provisions of Regulation (EU) No 1215/2012 applicable by virtue of Article 118 of this Regulation, proceedings in respect of the actions and claims referred to in Article 120 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.

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 the plaintiff is not domiciled in any of the Member States, in any Member State in which the plaintiff 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.
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.
5. Proceedings in respect of the actions and claims referred to in Article 120, points (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 122

Extent of jurisdiction on infringement

1. An EU design court whose jurisdiction is based on Article 121(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. An EU design court whose jurisdiction is based on Article 121(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.

Article 123

Action or counterclaim for a declaration of invalidity of an EU design

1. An action or a counterclaim for a declaration of invalidity of an EU design may only be based on the grounds for invalidity referred to in Article 27.
2. In the cases referred to in Article 27(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 EU design is not already a party, the right holder shall be informed thereof and may be joined as a party to the action in accordance with the conditions laid down in the law of the Member State where the court is situated.

4. The validity of an EU design may not be put in issue in an action for a declaration of non-infringement.
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 104(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 130(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 130(3) shall apply.

Article 124

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 EU design, the EU design court shall treat the 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 an EU design, submitted otherwise than by way of counterclaim, shall be admissible in so far as the defendant claims that the EU design could be declared invalid on account of an earlier national design right, within the meaning of Article 27(1), point (d), belonging to the defendant.
2. In proceedings in respect of an infringement action or an action for threatened infringement of an unregistered EU design, the EU design court shall treat the EU design as valid if the right holder produces proof that the conditions laid down in Article 12 have been met and indicates what constitutes the individual character of their EU design. However, the defendant may contest its validity by way of a plea or with a counterclaim for a declaration of invalidity.

Article 125

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 referred to in Article 27 are found to prejudice the maintenance of the EU design, the court shall declare the EU design invalid;

- (b) if none of the grounds referred to in Article 27 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 104(3), point (r).

Article 126

Effects of a judgment on invalidity

When it has become final, a judgment of an EU design court declaring an EU design invalid shall have in all the Member States the effects provided for in Article 28.

Article 127

Applicable law

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

2. On all design matters not covered by this Regulation, an EU design court shall apply the applicable national law.
3. Unless otherwise provided for in this Regulation, an 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.

Article 128

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, except where 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.

Article 129

Provisional measures, including protective measures

1. An application may be made to the courts of a Member State, including EU design courts, for such provisional measures, including protective measures, in respect of an EU design as may be available under the law of that State in respect of national design rights even if, under this Regulation, an 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 an EU design submitted by the defendant shall be admissible. Article 124(2) shall, however, apply *mutatis mutandis*.
3. An EU design court whose jurisdiction is based on Article 121(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.

Article 130

Specific rules on related actions

1. An EU design court hearing an action as referred to in Article 120, 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 EU design is already in issue before another EU design court on account of a counterclaim or, in the case of a registered 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 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 EU design is already in issue on account of a counterclaim before an EU design court. However, if one of the parties to the proceedings before the EU design court so requests, the court may, after hearing the other parties to those proceedings, stay the proceedings. The Office shall in this instance continue the proceedings pending before it.
3. Where the EU design court stays the proceedings it may order provisional measures, including protective measures, for the duration of the stay.

Article 131

Jurisdiction of EU design courts of second instance – further appeal

1. An appeal to the EU design courts of second instance shall lie from judgments of the EU design courts of first instance in respect of proceedings arising from the actions and claims referred to in Article 120.
2. The conditions under which an appeal may be lodged with an 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 EU design courts of second instance.

SECTION 3

OTHER DISPUTES CONCERNING EU DESIGNS

Article 132

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

1. Within the Member State whose courts have jurisdiction pursuant to Article 118(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 120.

2. Actions relating to an EU design, other than the actions referred to in Article 120, for which no court has jurisdiction pursuant to Article 118(1) and paragraph 1 of this Article may be heard before the courts of the Member State in which the Office has its seat.

Article 133

Obligation of the national court

A national court which is dealing with an action relating to an EU design other than the actions referred to in Article 120 shall treat the design as valid. Articles 124(2) and 129(2) shall, however, apply *mutatis mutandis*.

TITLE X

EFFECTS ON THE LAWS OF THE MEMBER STATES

Article 134

Parallel actions on the basis of 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 an 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 EU design court hearing an action for infringement or threatened infringement on the basis of an 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.
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 an EU design providing simultaneous protection.
4. Paragraphs 1, 2 and 3 shall not apply in respect of provisional measures, including protective measures.

Article 135

Relationship to other forms of protection under national law

1. The provisions of this Regulation shall be without prejudice to any provisions of 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.
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.

TITLE XI
SUPPLEMENTARY PROVISIONS
CONCERNING THE OFFICE

SECTION 1
GENERAL PROVISIONS

Article 136

Application of Regulation (EU) 2017/1001

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

Article 137

Language of proceedings

1. The application for a registered EU design shall be filed in one of the official languages of the Union.
2. The applicant shall indicate a second language, which shall be a language of the Office, the use of which the applicant 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.

3. Where the applicant for a registered 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 than the languages of the Office, the Office may send written communications to the applicant in the second language indicated by the applicant in the application.
4. In the case of invalidity proceedings, the language of proceedings shall be the language used for filing the application for a registered 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 EU design, the right holder of the 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 that amount may be allocated to the losing party in accordance with Article 101.

5. Without prejudice to paragraph 4:

- (a) any application or declaration relating to an application for a registered EU design may be filed in the language used for filing the application for a registered EU design or in the second language indicated by the applicant in that application;
- (b) any application or declaration relating to an application for a registered EU design other than an application for a declaration of invalidity pursuant to Article 73 or a declaration of surrender pursuant to Article 71 may be filed in one of the languages of the Office.

However, when any of the forms provided by the Office as referred to in Article 89 is used, such forms may be used in any of the official languages of the Union, provided that the form is completed in one of the languages of the Office, as far as textual elements are concerned.

6. Parties to invalidity proceedings may agree that a different official language of the Union is to be the language of the proceedings.

7. Without prejudice to paragraphs 3 and 6 and unless provided for otherwise, in written proceedings before the Office, a party may use any language of the Office. If the language chosen is not the language of the proceedings, the party shall supply a translation into that language within one month of the date of the submission of the original document. Where the applicant for a registered EU design is the sole party to proceedings before the Office and the language used for the filing of the application for the registered EU design is not one of the languages of the Office, the translation may also be filed in the second language indicated by the applicant in the application.
8. The Executive Director shall determine the manner in which translations are to be certified.

Article 138

Conferral of implementing powers regarding need and standards of translation

The Commission shall adopt implementing acts specifying:

- (a) the extent to which the supporting documents to be used in written proceedings before the Office can 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 159(2).

Article 139

Publication and entries in the Register

1. All information the publication of which is prescribed by this Regulation or an act adopted pursuant to it shall be published in all the official languages of the Union.
2. All entries in the Register shall be made in all the official languages of the Union.
3. In case of doubt, the text in the language of the Office in which the application for the registered EU design was filed shall be authentic. If the application was filed in an official language of the Union other than one of the languages of the Office, the text in the second language indicated by the applicant shall be authentic.

Article 140

Supplementary powers of the Executive Director

In addition to the powers conferred on the Executive Director by Article 157(4), point (o), of Regulation (EU) 2017/1001, the Executive Director shall exercise the powers conferred under Article 42(5), Article 44(1), Article 49(5), Article 50(2), Article 79(2), Article 83(5), Articles 85, 88 and 90, Article 104(4), Article 105(3), Article 107, Article 110(1), Articles 112 and 116, Article 137(8), Article 148, Article 149(1) and Articles 150 and 151 of this Regulation in accordance with the criteria laid down in this Regulation and in the acts adopted pursuant to it.

SECTION 2 PROCEDURES

Article 141 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 142 Examiners

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

Article 143

The department in charge of the Register

1. In addition to the powers conferred on 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.

Article 144

Invalidity Divisions

1. An Invalidity Division shall be responsible for taking decisions in relation to applications for declarations of invalidity of registered EU designs.
2. An Invalidity Division shall consist of three members. At least one of the members shall be legally qualified.
3. Decisions relating to costs or to procedures shall be taken by a single member of the Invalidity Division.

Article 145

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 144(3). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 159(2).

Article 146

Boards of Appeal

In addition to the powers conferred on 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 141, points (a), (b) and (c), of this Regulation, in connection with the procedures laid down in this Regulation.

Article 147

Delegation of power regarding the Boards of Appeal

The Commission is empowered to adopt delegated acts in accordance with Article 160 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 148

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 Annex I, 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 laid down 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 referred to in the first subparagraph is not to be dependent upon the advance payment of the corresponding fees or charges.

Article 149

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.
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 150

Deemed date of payment

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

Article 151

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 outstanding amount.
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.

TITLE XII

INTERNATIONAL REGISTRATION OF DESIGNS

SECTION 1

GENERAL PROVISIONS

Article 152

Application of provisions

1. Unless otherwise provided for in this Title, this Regulation and any regulations implementing this Regulation adopted pursuant to Article 159 shall apply, *mutatis mutandis*, to registrations of industrial designs in the International Register maintained by the International Bureau of the World Intellectual Property Organisation (‘international registration’ and ‘International Bureau’, respectively) designating the Union, under the Geneva Act.
2. Any recording of an international registration designating the Union in the International Register shall have the same effect as if it had been made in the Register, and any publication of an international registration designating the Union in the Bulletin of the International Bureau shall have the same effect as if it had been published in the European Union Designs Bulletin.

SECTION 2

INTERNATIONAL REGISTRATIONS DESIGNATING THE UNION

Article 153

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 154

Designation fees

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

Article 155

Effects of international registrations designating the Union

1. An international registration designating the 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 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 Union shall, from the date referred to in paragraph 1, have the same effect as the registration of a design as a registered EU design.
3. The Office shall provide information on international registrations as 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.

Article 156

Examination of grounds for refusal

1. Where the Office finds, in the course of carrying out an examination of an international registration, that the design for which protection is sought does not correspond to the definition laid down in Article 4, point (1), of this Regulation, that the design is contrary to public policy or to accepted principles of morality, or that the design constitutes an improper use of any of the items listed in Article 6ter of the Paris Convention, or of badges, emblems and escutcheons other than those covered by Article 6ter of that Convention and which are of particular public interest in a Member State, it shall send to the International Bureau a notification of refusal not later than six months from the date of publication of the international registration, specifying the grounds for refusal pursuant to Article 12(2) of the Geneva Act.

2. Where the holder of the international registration is obliged to be represented before the Office pursuant to Article 115(2), the notification referred to in paragraph 1 of this Article shall contain a reference to the obligation of the holder to appoint a representative as referred to in Article 116(1).
3. The Office shall specify a time limit by which the holder of the international registration may renounce the international registration in respect of the Union, limit the international registration in respect of the Union to one or some of the industrial designs or submit observations, and by which the holder, where appropriate, shall appoint a representative. The period shall start on the day on which the Office issues the notification of refusal.
4. If the holder fails to appoint a representative within the period referred to in paragraph 3, the Office shall refuse the effects of the international registration.
5. Where the holder submits observations that satisfy the Office within the specified period, the Office shall withdraw the refusal and notify the International Bureau in accordance with Article 12(4) of the Geneva Act. Where, pursuant to Article 12(2) of the Geneva Act, the holder does not submit observations that satisfy the Office within the specified period, the Office shall confirm the decision refusing protection for the international registration. That decision shall be subject to appeal in accordance with Articles 66 to 72 of Regulation (EU) 2017/1001 in conjunction with Article 77(2) of this Regulation.

6. Where the holder renounces the international registration or limits the international registration to one or some of the industrial designs in respect of the Union, the holder shall inform the International Bureau by way of the recording procedure in accordance with Article 16(1), points (iv) and (v), of the Geneva Act.

Article 157

Invalidation of the effects of an international registration

1. The effects of an international registration in the Union may be declared invalid partly or in whole in accordance with the procedure laid down in Titles VI and VII or by an EU design 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.

Article 158

Renewals

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

TITLE XIII

FINAL PROVISIONS

Article 159

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 160

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 58, 75, 78, 82, 84, 86, 89, 91, 94, 98, 117 and 147 shall be conferred on the Commission for an indeterminate period of time from 8 December 2024.

3. The delegation of power referred to in Articles 58, 75, 78, 82, 84, 86, 89, 91, 94, 98, 117 and 147 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 Interinstitutional 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 58, 75, 78, 82, 84, 86, 89, 91, 94, 98, 117 or 147 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.

Article 161

Provisions relating to the enlargement of the Union

1. As of the date of accession of Bulgaria, the Czech Republic, Estonia, Croatia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Romania, Slovenia and Slovakia ('new Member State(s)'), an 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 Union.
2. The application for a registered EU design may not be refused on the basis of any of the grounds for non-registrability listed in Article 56(1), if those grounds became applicable merely because of the accession of a new Member State.
3. An EU design as referred to in paragraph 1 of this Article may not be declared invalid pursuant to Article 27(1) if the grounds for invalidity became applicable merely because of the accession of a new Member State.
4. The applicant or holder of an earlier right in a new Member State may oppose the use of an EU design falling under Article 27(1), points (d), (e) or (f), within the territory where the earlier right is protected. For the purposes of this provision, 'earlier right' means a right acquired or applied for in good faith before accession.
5. Paragraphs 1, 3 and 4 shall also apply to unregistered EU designs.

Article 162

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.

Article 163

Repeal

Regulation (EC) No 6/2002 is repealed.

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex III to this Regulation.

Article 164
Entry into force

This Regulation shall enter into force on 1 July 2026.

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

Done at ...,

For the European Parliament
The President

For the Council
The President

ANNEX I

Amounts of fees as referred to in Article 148(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 42(4):
EUR 350.
2. Individual designation fee for an international registration referred to in Article 154:
EUR 62 per design.
3. Fee for deferment of publication referred to in Article 42(4):
EUR 40.
4. Additional application fee in respect of each additional design included in a multiple application referred to in Article 44(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 44(2):
EUR 20.

6. Renewal fee referred to in Article 66(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 154:
 - (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 66(3):
25 % of the renewal fee.

9. Fee for the application for a declaration of invalidity referred to in Article 73 (2):
EUR 320.

10. Fee for continuation of proceedings referred to in Article 96(1):
EUR 400.

11. Fee for *restitutio in integrum* referred to in Article 95(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 37(1) and (2), or for the registration of a licence or another right in respect of an application for an EU design referred to in Article 37(1) and (2) and Article 40:
- (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.

The fee shall be 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 67(3):
EUR 200.

14. Fee for review of the determination of the procedural costs to be refunded referred to in Article 101(7):

EUR 100.

15. Appeal fee referred to in Article 68(1) of Regulation (EU) 2017/1001, which shall also apply to appeals under this Regulation pursuant to Article 77(2):

EUR 720.

ANNEX II

Repealed Regulation with list of the successive amendments thereto

Council Regulation (EC) No 6/2002 (OJ L 3, 5.1.2002, p. 1, ELI: http://data.europa.eu/eli/reg/2002/6/oj)	
Act of Accession of 2003, Annex II, point 4(C)(III)	
Act of Accession of 2005, Annex III, point 1(III)	
Council Regulation (EC) No 1891/2006 (OJ L 386, 29.12.2006, p. 14, ELI: http://data.europa.eu/eli/reg/2006/1891/oj)	only Article 2
Act of Accession of 2012, Annex III, point 2(III)	
Regulation (EU) 2024/2822 of the European Parliament and of the Council (OJ L, 2024/2822, 18.11.2024, ELI: http://data.europa.eu/eli/reg/2024/2822/oj)	

ANNEX III

Correlation Table

Regulation (EC) No 6/2002	This Regulation
Article 1	Article 1
Article 2	Article 2
Article 2a	Article 3
Article 3	Article 4
Article 4	Article 5
Article 5	Article 6
Article 6	Article 7
Article 7	Article 8
Article 8	Article 9
Article 9	Article 10
Article 10	Article 11
Article 11	Article 12
Article 12	Article 13
Articles 14 to 18	Articles 14 to 18
Article 18a	Article 19
Article 19	Article 20
Article 20	Article 21
Article 20a	Article 22
Article 21	Article 23
Article 22	Article 24
Article 23	Article 25
Article 24	Article 26
Article 25	Article 27
Article 26	Article 28
Article 26a	Article 29
Article 27	Article 30

Regulation (EC) No 6/2002	This Regulation
Article 28	Article 31
Article 28a	Article 32
Article 29	Article 33
Article 30	Article 34
Article 31	Article 35
Article 32	Article 36
Article 32a	Article 37
Article 33	Article 38
Article 33a	Article 39
Article 34	Article 40
Article 35	Article 41
Article 36	Article 42
Article 36a	Article 43
Article 37	Article 44
Article 37a	Article 45
Article 38	Article 46
Article 39	Article 47
Article 40	Article 48
Article 41	Article 49
Article 42	Article 50
Article 42a	Article 51
Article 43	Article 52
Article 44	Article 53
Article 44a	Article 54
Article 45	Article 55
Article 47	Article 56
Article 47a	Article 57
Article 47b	Article 58
Article 48	Article 59

Regulation (EC) No 6/2002	This Regulation
Article 49	Article 60
Article 49a	Article 61
Article 50	Article 62
Article 50a	Article 63
Article 50b	Article 64
Article 50c	Article 65
Article 50d	Article 66
Article 50e	Article 67
Article 50f	Article 68
Article 50g	Article 69
Article 50h	Article 70
Article 51	Article 71
Article 51a	Article 72
Article 52	Article 73
Article 53	Article 74
Article 53a	Article 75
Article 54	Article 76
Article 55	Article 77
Article 55a	Article 78
Article 62	Article 79
Article 63	Article 80
Article 64	Article 81
Article 64a	Article 82
Article 65	Article 83
Article 65a	Article 84
Article 66	Article 85
Article 66a	Article 86
Article 66b	Article 87
Article 66c	Article 88

Regulation (EC) No 6/2002	This Regulation
Article 66d	Article 89
Article 66e	Article 90
Article 66f	Article 91
Article 66g	Article 92
Article 66h	Article 93
Article 66i	Article 94
Article 67	Article 95
Article 67a	Article 96
Article 67b	Article 97
Article 67c	Article 98
Article 68	Article 99
Article 69	Article 100
Article 70	Article 101
Article 70a	Article 102
Article 71	Article 103
Article 72	Article 104
Article 72a	Article 105
Article 72b	Article 106
Article 73	Article 107
Article 73a	Article 108
Article 74	Article 109
Article 74a	Article 110
Article 74b	Article 111
Article 74c	Article 112
Article 75	Article 113
Article 75a	Article 114
Article 77	Article 115
Article 78	Article 116
Article 78a	Article 117
Article 79	Article 118

Regulation (EC) No 6/2002	This Regulation
Article 80(1)	Article 119(1)
Article 80(2)	–
Article 80(3)	Article 119(2)
Article 80(4)	Article 119(3)
Article 81	Article 120
Article 82	Article 121
Article 83	Article 122
Article 84	Article 123
Article 85	Article 124
Article 86	Article 125
Article 87	Article 126
Article 88	Article 127
Article 89	Article 128
Article 90	Article 129
Article 91	Article 130
Article 92	Article 131
Article 93	Article 132
Article 94	Article 133
Article 95	Article 134
Article 96	Article 135
Article 97	Article 136
Article 98(1) to (4)	Article 137(1) to (4)
Article 98(4a)	Article 137(5)
Article 98(5)	Article 137(6)
Article 98(6)	Article 137(7)
Article 98(7)	Article 137(8)
Article 98a	Article 138
Article 99	Article 139
Article 100	Article 140

Regulation (EC) No 6/2002	This Regulation
Article 102	Article 141
Article 103	Article 142
Article 104	Article 143
Article 105	Article 144
Article 105a	Article 145
Article 106	Article 146
Article -106a	Article 147
Article -106aa	Article 148
Article -106ab	Article 149
Article -106ac	Article 150
Article -106ad	Article 151
Article 106a	Article 152
Article 106b	Article 153
Article 106c	Article 154
Article 106d	Article 155
Article 106e	Article 156
Article 106f	Article 157
Article 106g	Article 158
Article 109	Article 159
Article 109a	Article 160
Article 110a	Article 161
Article 110b	Article 162
–	Article 163
Article 111(1)	Article 164
Article 111(2) and (3)	–
Annex	Annex I
–	Annex II
–	Annex III