



Designs (Formal Requirements for Designs Documents) Instrument 2022

I, Paula Adamson, Registrar of Designs, make the following determination.

Dated

Paula Adamson **DRAFT ONLY—NOT FOR SIGNATURE**
Registrar of Designs

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Part 1 – Preliminary

1 Name

This determination is the *Designs (Formal Requirements for Designs Documents) Instrument 2022*.

2 Commencement

This determination commences at the same time as Schedule 6 of the *Designs Amendment (Advisory Council on Intellectual Property Response) Act 2021*.

3 Authority

This determination is made under section 149A of the *Designs Act 2003*.

4 Definitions

In this determination:

Act means the *Designs Act 2003*.

Design has the same meaning as in section 5 of the Act.

Design application or *application* means an application filed under section 21 of the Act.

Full name means at least the given name and surname of a natural person or, where applicable, the full name of a person other than a natural person.

Product has the same meaning as in section 6 of the Act.

Regulations means the Designs Regulations 2004.

Representation has the same meaning as in section 5 of the Act. A reference in this instrument to a Representation is taken to include any Schedule filed with the Representation.

Sheet means either a piece of paper or an electronic image, including a representation of a piece of paper.

Visual feature has the same meaning as in section 7 of the Act.

Part 2 – Formal requirements for documents

5 Information that must be included in a design application

- (1) An application filed with the office must include the following information:
 - (a) full name of all the applicants;
 - (b) an Address for Service and a contact telephone number;
 - (c) product name of all products included in the application, enabling classification;
 - (d) representations of the design;
 - (e) an indication of the number of designs in the application;
 - (f) full name of all designers; and
 - (g) where there is a convention claim for priority, the basic information that confirms the applicant, number, country and filing date of the basic application, in according with sub-regulation 3.06(2).

- (2) An application for a common design must include an indication that the application is for a common design and a clear and separate product name for each of the products to which the common design relates.

6 Standards for representations

- (1) Representations must clearly show the visual features of a design.
- (2) Where a statement of newness and distinctiveness refers to a particular part of a design, at least one of the representations should display that part of the design.
- (3) At least one of the representations in a design application must include a view of the design showing the product fully assembled without material extraneous to the product.
- (4) Representations being drawn with lines, including drawings, must be executed in durable, dense, uniformly thick and well-defined lines and strokes.
- (5) Representations must consist of one common image format, namely:
 - (a) drawings;
 - (b) photographs; or
 - (c) images derived from computer-aided-design.
- (6) Representations contained in one application must be consistent in their use of colour across different representations.
- (7) Where an application is for a common design, unless the representations showing the design applied to each product would be identical, the representations must show the design in relation to each product identified in the application on a separate sheet.
- (8) If the application is for more than 1 design:
 - (a) each design must be separately and clearly indicated; and

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- (b) a single sheet cannot be used to show more than 1 design.
 - (9) A representation containing a view of a cross-section must itself be clear and must not impede the clear reading of the representations.
 - (10) Each representation must be shown in proper proportion to each other representation, except when the use of a different proportion is necessary for clarity of the representation.
 - (11) The Registrar may require that only a single reference or environmental view is included where there is uncertainty as to the design for which the applicant has applied.
 - (12) A single representation must not exceed a single sheet.
 - (13) A representation that appears to include indefinite dimensions must do so in a manner which is clear and readily understandable.

7 Photographs in representations

- (1) Representations being photographs must be clear.
- (2) All representations being photographs, including photographs of specimens must be photographs taken against a neutral and contrasting background.
- (3) Photographs in a physical printed format must be:
 - (a) printed on material that allows and facilitates any number of copies of the photograph to be reproduced directly by photocopying, digital scanning and photography; and
 - (b) not be folded, creased or cracked.

8 Text

- (1) All text, other than that which forms part of the design, appearing in any document must be:
 - (a) in English;
 - (b) legible; and
 - (c) indelible.
- (2) A representation must not include text which is descriptive, other than any word or words necessary for the labelling and understanding of the nature of the representation (e.g. 'Perspective View', 'Top View', 'Left-Side View' and 'Right-Side View' etc.).
- (3) A representation must not contain a statement of newness and distinctiveness, or wording to the effect of a statement of newness and distinctiveness.
- (4) Where not already obvious on a fair reading, the representations in a design application must include appropriate labelling for representations, such as the following labels:

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- (a) 'exploded view';
 - (b) 'partial view';
 - (c) 'close-up view';
 - (d) 'environmental view' or 'reference view'; and
 - (e) 'sectional view' or 'cross-sectional view'.

9 Requirements for documents

- (1) Where a document is filed on paper, each sheet comprising a document or part of a document:
 - (a) must be presented in a manner that is clear and legible when the sheets are viewed as the same size as an A4 sheet;
 - (b) must be international sheet size A4;
 - (c) where the document is a sheet that contains a representation, it must be on a separate sheet or separate sheets to any other documents filed in relation to the application;
 - (d) must not be folded, creased or cracked; and
 - (e) must be free from any erasures, alterations, overwriting and interlineations that, in the reasonable opinion of the Registrar, would:
 - i. compromise the authenticity of the document; or
 - ii. reduce the likelihood of clear reproduction of the document.
- (2) All sheets in a filed document must be presented in a way that allows any number of copies of the sheet to be reproduced directly by photocopying and digital scanning, and convertible to an electronic form that is legible when the sheets are viewed as the same size as an A4 sheet.
- (3) All sheets in documents must be:
 - (a) legible;
 - (b) presented simply and clearly; and
 - (c) indelible.

10 Amendments

- (1) If a proposed amendment is made in a filing by the registered owner or applicant, or their agent, the filing must include a clear indication of the nature and location of the proposed amendment to any representations.
- (2) Where new representations exist in an amendment request which amends representations, the request should clearly indicate:
 - (a) which of the prior filed representations are to be replaced by which of the new representations; or
 - (b) if the new representations are to replace all of the prior filed representations, a statement or words expressing that intention.