

For more information contact the:

**World Intellectual Property Organisation (WIPO)**

34, Chemin des Colombettes

P.O Box 18

CH-1211 Geneva 20 Switzerland.

Fax: +41 22 338 87 60

Email: [sme@wipo.int](mailto:sme@wipo.int)

Web page: <http://www.wipo.int/sme>

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**The Department of Trade and Industry (DTI)**

Postal Address:

Private Bag x400

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0001

Physical Address:

The dti Campus

77 Meintjies Street

Sunnyside, Pretoria

Web page: [www.thedti.gov.za](http://www.thedti.gov.za)

Call Centre: 0861 843 384

Email: [contactus@thedti.gov.za](mailto:contactus@thedti.gov.za)

## An Introduction to Aesthetic Designs for Small and Medium-sized Enterprises



**the dti**

Department:  
Trade and Industry  
REPUBLIC OF SOUTH AFRICA

# LOOKING GOOD

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Designs for Small and Medium-  
sized Enterprises



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Intellectual Property  
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2 | 4

## **PUBLICATIONS IN THE “INTELLECTUAL PROPERTY FOR BUSINESS” SERIES:**

- 1.** Making a Mark: An Introduction to Trade marks for Small and Medium-sized Enterprises.
- 2.** Looking Good: An Introduction to Aesthetic Designs for Small and Medium-sized Enterprises.
- 3.** Inventing the Future: An Introduction to Patents and Functional Designs for Small and Medium-sized Enterprises.
- 4.** Creative Expressions: An Introduction to Copyright for Small and Medium-sized Enterprises.

All publications in the series are available from the Department of Trade and Industry at:  
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## PREFACE

This is the second in a series of guides developed under a World Intellectual Property Organisation (WIPO) development agenda project to assist small and medium sized enterprises (SMEs) to navigate and optimally utilise the intellectual property right system. It focuses on aesthetic designs as a key factor in determining the success of products in the market.

In intellectual property law, an aesthetic design relates to the outward appearance of a product. It is what makes a product attractive or appealing to customers and visual appeal is one of the key considerations that influence the decision of consumers to prefer one product over another. Aesthetic designs help companies to differentiate their products from those of competitors and enhance the brand image of their products. This is why ensuring the proper protection of aesthetic designs is so important.

This guide is meant as an introduction to the protection of aesthetic designs for small and medium-sized enterprises (SMEs) in South Africa. It includes questions and answers, examples and illustrations of aesthetic designs.

This guide has been adapted to the national context by the Department of Trade and Industry (DTI). Readers are invited to contact the DTI or the WIPO SME Section for further information on the use of intellectual property rights:

Department of Trade and Industry (DTI)

Postal Address:

Private Bag x400

Pretoria

0001

Physical Address:

The dti Campus

77 Meintjies Street

Sunnyside, Pretoria

Web page: [www.thedti.gov.za](http://www.thedti.gov.za)

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CH-1211 Geneva 20 Switzerland.

Fax: +41 22 338 87 60

Email: [sme@wipo.int](mailto:sme@wipo.int)

Web page: <http://www.wipo.int/sme>

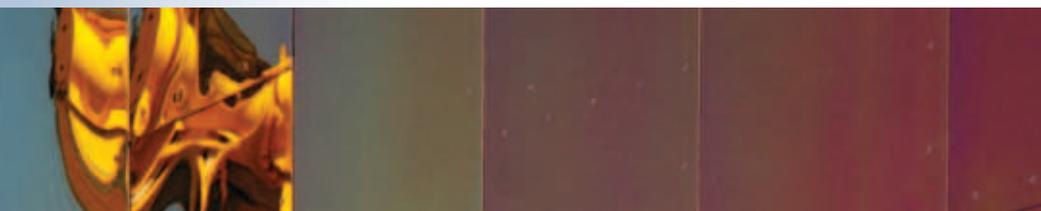
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## REGISTERED DESIGNS

### What is a registered design?

For businesses, designing a product generally implies developing the product's functional and aesthetic features taking into consideration issues such as the product's marketability, the costs of manufacturing or the ease of transport, storage, repair and disposal. A registered design is a form of IP which allows its proprietor to protect the IP which vests in a product's form and/or function. Design law provides a mechanism through which to obtain exclusive rights to a product's functional and/or aesthetic features.

Under South African law, a distinction is made between an **aesthetic design** and a **functional design**.

### WHAT IS A DESIGN IN TERMS OF THE SOUTH AFRICAN DESIGNS ACT?

The South African Designs Act 195 of 1993 governs the registration of designs in South Africa.

In terms of the Act an **aesthetic design** is defined as “*any design applied to any article, whether for the pattern or the shape or the configuration or the ornamentation thereof, or for any two or more of those purposes, and by whatever means it is applied, having features which appeal to and are judged solely by the eye, irrespective of the aesthetic quality thereof*”.

In terms of the Act a **functional design** is defined as “*any design applied to any article, whether for the pattern or the shape or the configuration thereof, or for any two or more of those purposes, and by whatever means it is applied, having features which are necessitated by the function which the article to which the design is applied, is to perform, and includes integrated circuit topography, a mask work and a series of mask works*”

An aesthetic design will focus only on the aesthetic nature of the finished product regardless of whether there is a technical or functional aspect. As a general rule, an aesthetic design consists of: three dimensional features, such as the shape of a product, two dimensional features, such as ornamentation, patterns, lines or colour of a product; or a combination of one or more such features.

A functional design on the other hand focuses only on the features of the design which are necessitated by the function that the article is to perform. If it is not clear whether a design has purely aesthetic characteristics or whether it is merely functional, or if it has both aesthetic and functional features, it may be advantageous to register the design both as an aesthetic design as well as a functional

design. This guide deals mainly with aesthetic designs. For more information on functional designs, the reader is referred to Guide 3 in this series.

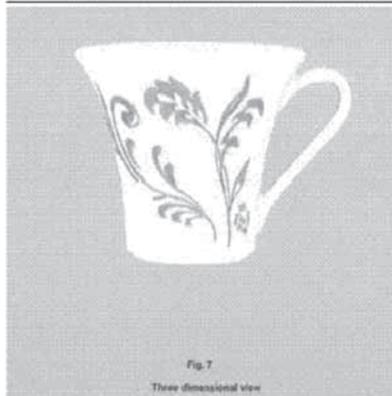
***Example of an  
aesthetic design***

which protects not only the shape of the cup but also the floral ornamental design depicted  
(Published in the *Designs Journal*, May 2012)

71: Société des Produits Nestlé S.A.

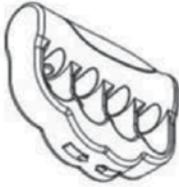
**54: CUPS**

57: The design is for a cup having a body, an ear-shaped handle and a slim, circular base. The body is concave and diverges upwardly and radially outwardly. The handle projects outwardly. The handle projects outwardly from a side of the body. The base, provided at a bottom of the cup, is slightly narrower than the body. An ornamental floral arrangement of distinguishable colours is depicted on an outer surface of the body.



Three-dimensional view

21: F2010/01406. 22: 19/10/2010. 23:  
43:  
52: Class 22. 24: Part B  
71: YU KAI  
33: -. 31:-. 32:-.  
54: **A HANDS-HELD ELECTRIC SHOCK DEVICE**  
57: The novelty of the design as applied to a hand  
held electric shock device resides in the features of  
shape and/or configuration and/or pattern as applied  
to the article as shown in the representations



PERSPECTIVE VIEW OF A HAND-HELD ELECTRIC SHOCK DEVICE

**Example of a functional design:** In South Africa personal security devices are frequently protected by patents and registered designs. Below is an example of a hand-held safety device for which a registered design has been filed. This design has been registered as a functional design. *(Published in the Designs Journal, Nov 2011)*

## Why protect designs?

A design adds value to a product. It makes a product **attractive** and **appealing** to customers, and may even be its unique selling point. So protecting valuable designs should be a crucial part of the business strategy of any designer or manufacturer.

By protecting a design through its registration at the national or regional intellectual property office, the owner obtains the **exclusive right to prevent its unauthorized copying or imitation by others**. This makes business sense as it improves the competitiveness of a business and often brings in additional revenue in one or more of the following ways:

By registering a design you are able to prevent it from being copied and imitated by competitors, and thereby strengthen your competitive position.

Registering a valuable design contributes to obtaining a fair return on investment made in creating and marketing the relevant product, and thereby improves your profits.

Registered designs are business assets that can increase the commercial value of a company and its products. The more successful a design, the higher is its value to the company.

A protected design may also be licensed (or sold) to others for a fee. By licensing it, you may be able to enter markets that you are otherwise unable to serve.

Registration of designs encourages fair competition and honest trade practices, which, in turn, promote the production of a diverse range of aesthetically attractive and/or functional products.

## **EXCLUSIVE RIGHTS**

Let us assume that your company has designed an umbrella with an innovative design, registered it at the South African Designs Office, and has therefore obtained exclusive rights over umbrellas bearing that design. What this means is that if you discovered that a competitor is making, selling or importing umbrellas bearing the same or substantially the same design you will be able to prevent him from using your design in South Africa and, possibly, obtain compensation for damages which your business has suffered from the unauthorized use of that design.

So, while you cannot stop competitors from making competitive products you may prevent them from making products that look just like yours and having a free ride on your creativity. For details on how to enforce your rights you are advised to consult an attorney specialising in intellectual property law.



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## PROTECTING DESIGNS

### How do you obtain protection for designs in South Africa?

In South Africa, like in most countries, **a design must be registered in order to be protected.**

To register both an aesthetic and functional design in South Africa, you must file an application at the **South African Designs Office** in Pretoria. For protection abroad, see Section 3. (A list of websites of IP offices is provided in Annex II).

A note needs to be made for some countries or common economic areas such as the European Union, where recent legislation has made it possible to obtain limited protection for **unregistered aesthetic designs** for three years from the date on which the design is first made available to the public in any of the 27 countries of the European Union.

The unregistered aesthetic design provides companies with the opportunity to test market their products before going through the effort and expense of registering all designs, many of which may not succeed in the marketplace. In addition, some designs may remain on the market for a very short time, especially in the fashion industry. For such products, the unregistered aesthetic design provides a good alternative.

However, once the product is manufactured, designers have up to 12 months in which to register it. The protection provided to an unregistered aesthetic design is limited, in that it is more difficult to enforce than for a registered design, and shorter, as it lasts for three years as opposed to the 25 years provided to registered aesthetic designs in the European Union.

While this guide focuses mainly on registered aesthetic designs, it is important to point out that, in some countries, there may be alternative ways of protecting designs (see also section 5):

- Depending on the particular national law and the kind of design, one such alternative for protecting designs is **copyright law**. Copyright generally provides exclusive rights for literary and artistic works. As some designs may, in some countries, be considered works of art or applied art, copyright protection may apply and may represent an attractive option for SMEs. The South African Copyright Act specifically lists what is included in the definition of “artistic work” and it is therefore quite limiting and does not provide a suitable alternative to design protection. It is therefore not advisable to rely on copyright law to protect either an aesthetic or functional design in South Africa.
- In some countries (including South Africa) if an aesthetic design functions as a trade mark in the marketplace, then it may be protected as a **three-dimensional mark**. This may be the case when the shape of the product or its packaging is considered to be distinctive, such as a bottle shape. For more information relating to trade mark law in South Africa, consult the first publication in this series “Making a Mark”.

## CREATIVE DESIGNS IN BUSINESS

Enterprises often devote a significant amount of time and resources to enhancing the design appeal of their products. New and original designs are often created to:

1. **Customize products to appeal to specific market segments:** small modifications to the design of some products (e.g. a watch) may make them suitable for different age groups, cultures or social groups. While the main function of a watch remains the same, children and adults generally have very different tastes in design.
2. **Create a new niche market:** in a competitive marketplace, many companies seek to create a niche market by introducing creative designs for their new products to differentiate them from those of their competitors. This could be the case for ordinary items such as locks, shoes, cups and saucers to potentially expensive items such as jewelry, computers or cars.
3. **Strengthen brands:** creative designs are often also combined with distinctive trade marks to enhance the distinctiveness of a company's brand(s). Many companies have successfully created or redefined their brand image through a strong focus on product design.

## What rights are provided by registered designs?

When a design is protected by registration, the owner or proprietor of the design is granted the right, for the duration of the registration of the right, to exclude other persons from the **making, importing, using** or **disposing** of any article included in the class in which the design is registered and embodying their registered design or a design not substantially different from the registered design, so that he shall have and enjoy the whole profit and advantage accruing by reason of the registration.

## What can be registered as an aesthetic design?

To register an aesthetic design in South Africa it must meet the following basic requirements:

- The design must be **“new”**. A design will be considered new if it does not form part of the state of the art immediately before the application for registration or the release date (whichever is earlier); and
- The design must be **“original”**. A design will be considered original if it has been independently created by the designer and is not a copy or an imitation of existing designs.

Traditionally, protectable designs relate to manufactured products such as the shape of a shoe, the design of an earring or the ornamentation on a teapot. In the **digital world**, however, protection is gradually extending in some countries to a number of other products and types of design. These include electronic desktop icons generated by computer codes, typefaces, the graphic display on computer monitors and mobile telephones, etc.

## **WHY IS THE RELEASE DATE RELEVANT?**

In South Africa, a distinction is made between a release date and a date of application. The release date refers to the date on which the design was first made available to the public, whether in South Africa or elsewhere, with the consent of the proprietor. If a design is released prior to filing an application for registration, it will only be deemed new if an application is filed in South Africa within six months of the release date. See also reference to the grace period on page 20.

## What cannot be protected as an aesthetic design?

The following cannot be registered as aesthetic designs in South Africa:

- Designs that do not meet the requirements of novelty and originality.
- Any feature in an article in so far as it is necessitated solely by the function that the article is intended to perform.
- A method or principle of construction.
- Designs that are not intended to be multiplied by an industrial process. This could possibly include handicrafts.

It is advisable to consult an Intellectual Property attorney specializing in design law to discuss any limitations to a design.

## How do you register a design?

All the documentation required for the registration of a design in South Africa is obtainable, free of charge, from the Design Office in Pretoria, or can be downloaded from the Companies and Intellectual Property Commission (CIPC) website at [www.cipc.co.za](http://www.cipc.co.za). The documents required are:

- **Form D1 Application and Acknowledgement Form.** This form is lodged in duplicate at the South African designs office and includes the classification details. If you require assistance in classifying the design, it is possible to apply to the Registrar of Designs for assistance at a fee of R220.00, alternatively you can obtain the services of a

specialised IP attorney. A copy of this form is annexed to this document as Annex V.

- **Form D2 Register of Designs.** This form forms part of the official records and includes details such as the release date, date of application, whether the design is registered in Part A aesthetic designs or Part F functional designs, the articles to which the design is applied, who the address for service is and whether there is a priority date claimed. It is lodged in duplicate.
- **Form D3 Declaration and Power of Attorney.** The declaration states that the applicant is the proprietor of the design and must be signed by the applicant. A power of attorney may be incorporated into the Form D3 and it will be required if the application form is filed by a third party representing the applicant. It is advisable to consult with the specialised IP attorney, and in such cases a power of attorney will be required. The originally signed form must be filed at the designs office, and copies are not accepted.
- **Form D6 Definitive Statement and Explanatory Statement.** The definitive statement is required for all applications whilst the explanatory statement is not required unless the design is for an integrated circuit topography, mask work or series of mask works (see guide 3 on functional designs). The form is lodged in duplicate. The definitive statement should be a description of the features of the design for which protection is sought such as pattern, shape, configuration, ornamentation, as applicable. In general an explanatory statement can be used to assist in the interpretation of the design and provides details of the actual design.

- **Form D8 Publication particulars.** This is lodged in duplicate and includes the definitive statement, the classification as well as the figure, which will be used in the publication. It can also include a brief statement of features (of no more than 100 words) which can be used to provide further details of the design which may not be clear from the publication figure. Essentially this is a combination of the definitive and explanatory statement.

Together with the documentation listed above, “Representations” in the form of drawings, or photographs need to be included. These could:

- Consist of 7 identical representations, be these drawings or photographs. Each drawing should be on an A4 paper, or each photograph mounted on A4 paper.
- Enclose different perspectives (as applicable) e.g. top view, side view, front view, 7 of each are required.

A single view must be selected as the publication figure, and 2 copies clearly indicating “for publication” must be included.

All drawings and/or photographs except those designated for publication should be signed.

## How long does it take to register a design?

In South Africa, once the application has been lodged at the South African designs office, a filing receipt, which is one of the originally lodged Form D3's, is issued. This provides the official filing date and number. Following this, the application is formally examined. In South Africa design applications are not published and are kept secret until granted.

This generally takes about six months, and if satisfied, the Registrar of designs issues a notice of registration that includes notification that the design must be published in the Patent Journal. Once the design is published, the application documents become open to public inspection and a registration certificate is issued.

## How important is it to keep the design confidential before registration?

If you wish to protect your design under a registration system, keeping the design secret is absolutely crucial. The reason for this is that the central requirement for design protection is generally, that the design must be “new”. If you show your design to others it is advisable to have confidentiality clauses in written agreements, clarifying that the design is confidential.

A design that has already been disclosed to the public by, for example, advertising it in your company’s catalogue or brochure may no longer be considered “new”. It becomes part of the public domain and cannot be protected, unless the applicable law of the country provides for a “grace period” or unless the priority of an earlier application can be claimed (see also the section on “How do you protect your designs abroad?”).

Note that South African design law **makes provision for the prior disclosure of a design**, but since not all countries make this allowance, you should nevertheless protect your design by registration prior to disclosure especially if you are interested in protection in several countries.

## What is the “grace period”?

South African design law makes provision for a grace period if a design is made public or disclosed prior to the filing of an application. This is the case when articles bearing the design are sold, displayed at a trade show, exhibition or fair, or are published in a catalogue, brochure or advertisement prior to filing an application. The novelty of the design will not be lost provided that an application is filed at the South African designs office within six months from the date of first disclosure.

## DESIGN PROTECTION AND BUSINESS STRATEGY

Decisions on how, when and where to protect a company’s industrial designs, may have an important impact on other areas of design management. It is crucial therefore to integrate issues of design protection into the broader business strategy of an enterprise. For example, the type of protection, the costs, the effectiveness of protection and issues of ownership of designs, may be important considerations when deciding:

- whether to undertake design development in-house or to commission an outside agency;
- the timing of the initial use of a new design in advertising, marketing or public display in an exhibition;
- which export markets to target.

## How long does protection for aesthetic designs last?

The term of protection for a registered design varies from country to country. In South Africa, an aesthetic design is granted for a period of 15 years from the date of application or the release date (whichever is the earlier).

In many countries, right holders are required to renew their design protection. In South Africa renewal fees become payable on the third anniversary of the release date or the application date (whichever is earlier) and are due annually thereafter.

## How much does it cost to protect a registered design?

The actual costs vary significantly from country to country. However, it is important to bear in mind the different types of costs that may be involved in the process:

- There may be **search fees** to conduct a feasibility search through the official records of the designs office, or to instruct a specialised IP attorney to conduct the search and/or prepare an opinion.
- There will be **registration fees** to be paid to the national or regional IP office.
- The fees will generally vary depending on the number of designs to be registered and the number of countries in which registration is being sought.
- There will also be **costs associated with the hiring of the services of an IP agent** to assist you in the registration

process, if you choose to rely on expert advice to file your application.

- Most countries require the payment of **renewal fees**, usually on a five-year basis, to maintain exclusive rights over a design.
- There may be costs associated with the **translation** of the industrial design if it is to be protected abroad.

In South Africa, an updated list of all official fees which are payable can be found on the CIPC website. At the time of going to print, the official fee for filing a single design application was R240.00. It is important to be aware that this fee is only the official filing fee, and if the services of a specialised IP attorney are employed it can cost upwards of R3000 for an application.

## What should you do if your design combines functional improvements with aesthetic design?

In South Africa, since it is possible to file a design application for functional design, it may be advisable to file the application in both Part A (for aesthetic designs) and Part F (for functional designs) of the designs register.

However, if the functional improvements meet the necessary requirements for patentability, it may be preferable to apply for a **patent**, or where the function is not obvious from the product, to keep it as a **trade secret**.

It is often the case that a new product combines functional improvements with innovative aesthetic features. Let us say you have designed a new mobile phone. While the mobile phone may be the result of a series of improvements to the electronic components and could be protected by patent(s), the original design of your mobile phone could be registered as a design. Can you apply for both? The answer is yes.

Many designers protect different aspects of their products with different intellectual property rights. It is important, however to keep in mind the basic difference between patents and designs. **Patents** are for inventions that bring about **functional improvements to a product** and **design** protection is for the **appearance** of the product (aesthetic designs) or for new features, which are **necessitated by the function of the article (functional designs)**.

## Who may apply for design protection?

In general, the person who created the design or anyone acquiring the right to the design from such person may apply for the registration of a design. The applicant can be either an individual (e.g. a designer) or a legal entity (e.g. a company). In either case, the application may be made directly or through an agent. If you are a foreign applicant you may be required to be represented by an agent duly authorized by the IP office of that country.

## Who owns the rights over a design?

The creator of a design, i.e the proprietor of the design, is usually the first owner of the design, unless otherwise provided. Such circumstances may be that the designer created the design as part of his/her employment or that the designer was commissioned to create the design for another person. In such cases the employer or the commissioner are usually the proprietor of the design. The rights to the design could also be transferred to another party in terms of a contract or assignment.

## Can you apply for the registration of many designs through a single application?

The answer varies significantly from country to country. In many countries, you may apply for the registration of many designs (10, 20 or even 50 designs) through a single application as long as they all relate to the same product or class of products (see box on The International Classification System).

In South Africa, a single design application can be filed in a single class only. If protection is required in more than one class, separate design applications have to be filed in each of those classes at the applicable tariffs. The exact details of the requirements and possibilities for seeking protection in a cost-effective manner should be established either with an IP attorney or with the CIPC.

## Can you license your registered designs?

Registered designs are licensed when the proprietor of the design (licensor) grants permission to another person (the licensee) to use the design for whatever mutually agreed purposes. In such cases, a **licensing contract** is generally signed between the two parties specifying the terms and scope of the agreement.

### THE INTERNATIONAL CLASSIFICATION SYSTEM

Designs are generally classified or grouped into classes for ease of retrieval. You may be asked to refer to the class of products for which you intend to use the design in question in your application form. Many countries, including South Africa, use the classification of the Locarno Agreement Establishing an International Classification for Industrial Designs (see List of Classes in Annex II).

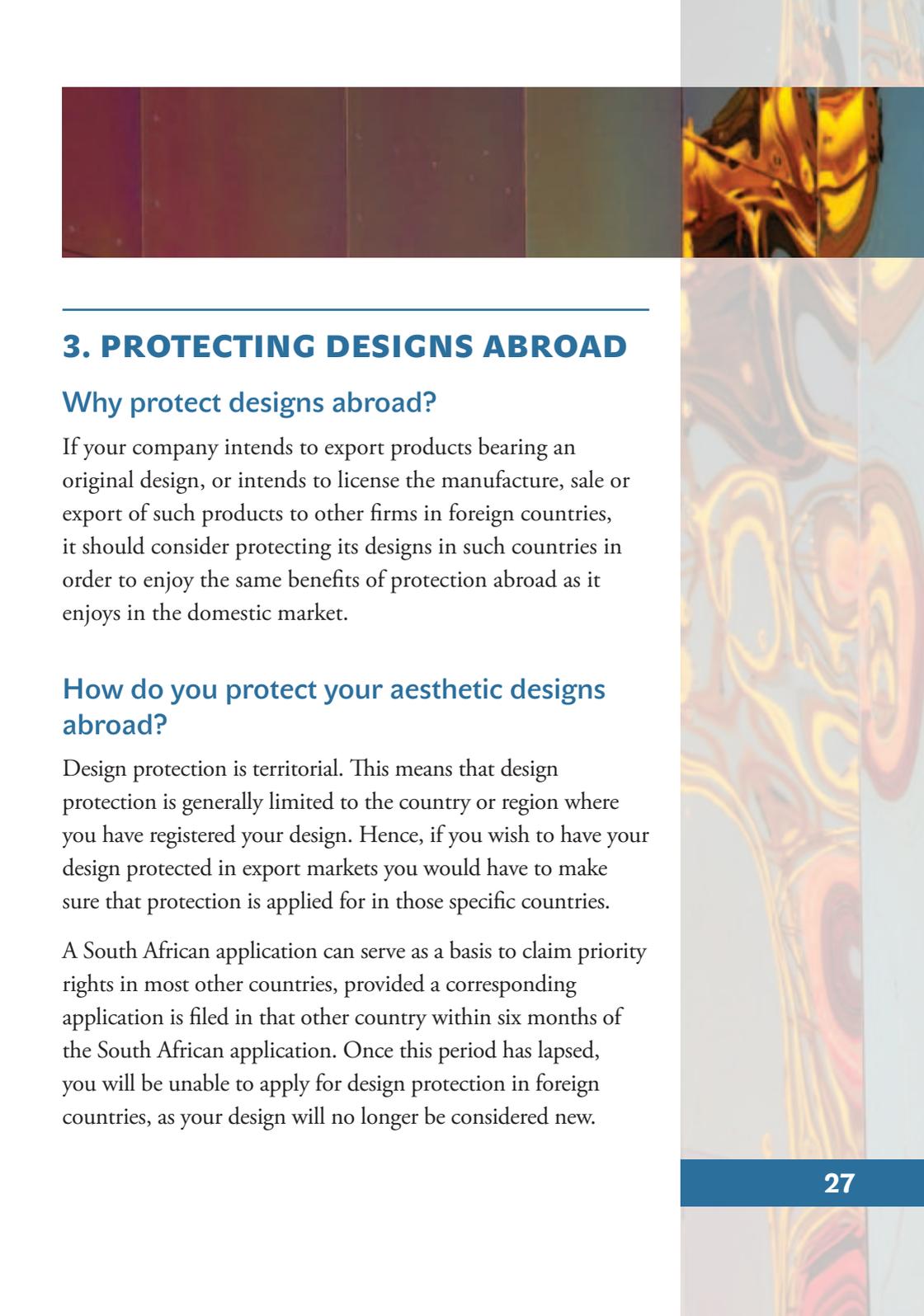
When applying for registration of a design it is necessary to indicate in which of these classes protection is applied for. Should protection be required in a different class, a separate application must be made in that class. This has important effect, as the protection afforded to a design is limited to the class in which the design has been registered. It is thus possible that, where a registered design is applied to an article not in a class in which the design is registered, it would not constitute an infringement of that registered design. Therefore, where an article can be applied in more than one class, separate design applications must be filed in the relevant classes.

*See also:* <http://www.wipo.int/classifications/locarno/en/>

Licensing contracts often include limitations as to the countries where the licensee may use the design, the time for which the license is granted and the type of products for which it can be used. In order to license the use of the design in foreign countries you would need to have previously obtained, or at least applied for, design protection in the countries concerned.

Authorising others to use your designs through a licensing contract will enable your business to receive an **additional source of revenue** and is a common means of exploiting a company's exclusivity over its registered designs.

Agreements to license designs are often included in broader licensing agreements, which cover all aspects (i.e. not just the visual elements) of a product.



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### 3. PROTECTING DESIGNS ABROAD

#### Why protect designs abroad?

If your company intends to export products bearing an original design, or intends to license the manufacture, sale or export of such products to other firms in foreign countries, it should consider protecting its designs in such countries in order to enjoy the same benefits of protection abroad as it enjoys in the domestic market.

#### How do you protect your aesthetic designs abroad?

Design protection is territorial. This means that design protection is generally limited to the country or region where you have registered your design. Hence, if you wish to have your design protected in export markets you would have to make sure that protection is applied for in those specific countries.

A South African application can serve as a basis to claim priority rights in most other countries, provided a corresponding application is filed in that other country within six months of the South African application. Once this period has lapsed, you will be unable to apply for design protection in foreign countries, as your design will no longer be considered new.

There are three ways of protecting your aesthetic designs abroad.

**1. The National Route:** Companies may seek protection by applying separately to the national IP offices (see Annex II) of each country in which they intend to obtain protection. The process can be rather cumbersome and expensive as translation into the national languages is generally required as well as payment of administrative (and sometimes legal) fees.

**2. The Regional Route:** If you are interested in a group of countries that are members of regional agreements which enable the registration of designs in more than one country, then you can consider filing a single application at the regional IP office concerned. Regional IP offices include:

- The African Regional Industrial Property Office (ARIPO) for industrial design protection in English-speaking African countries;
- The Benelux Office for Intellectual Property (BOIP) for protection in Belgium, the Netherlands and Luxembourg;
- The Office for Harmonization in the Internal Market (OHIM) for Community designs in the countries of the European Union;
- The *Organisation Africaine de la Propriété Intellectuelle* (OAPI) for protection in French-speaking African countries.

See **Annex II** for website addresses of regional IP offices.

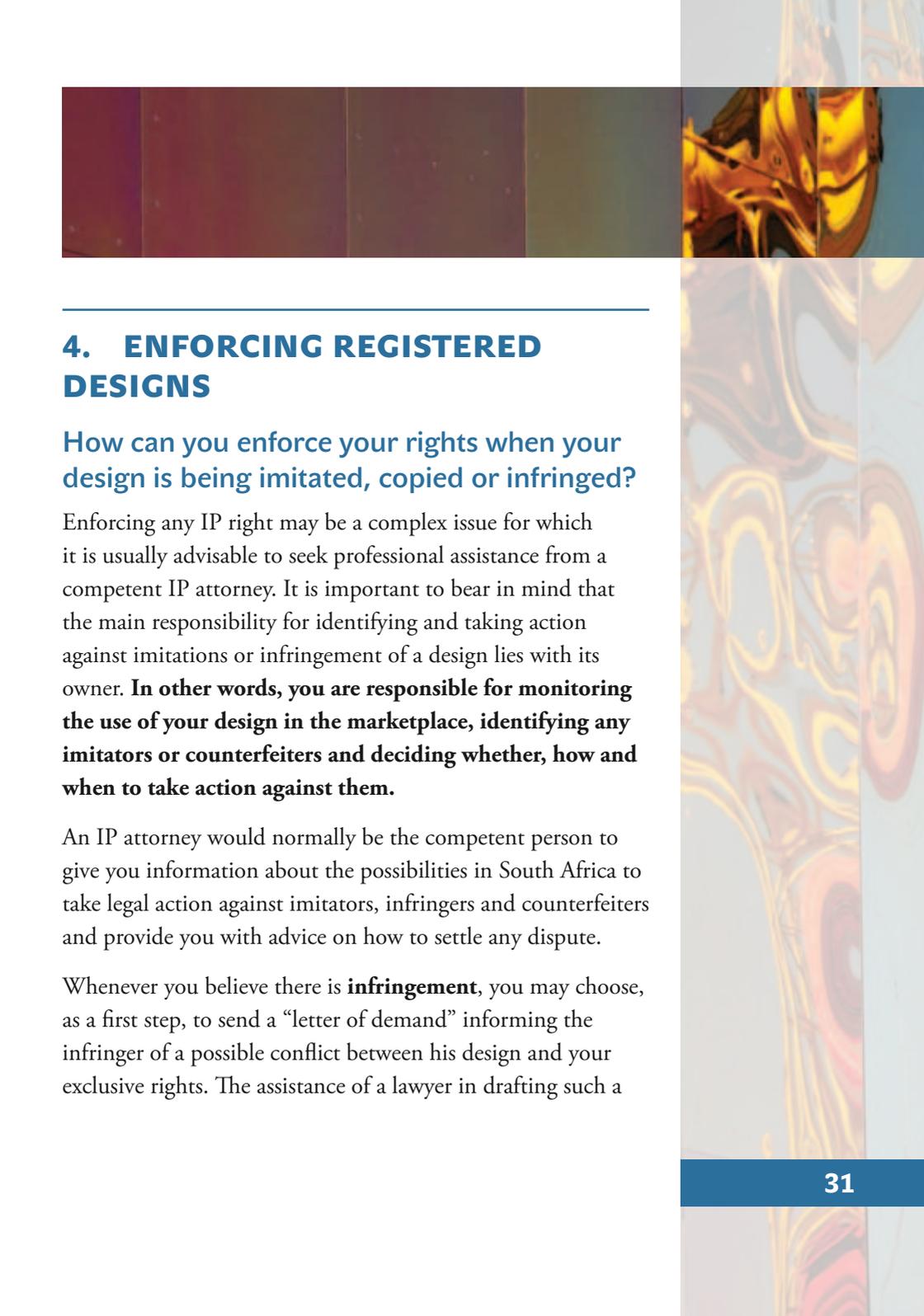
**3. The International Route:** Companies that wish to register their aesthetic designs internationally in several countries may also use the procedures offered by the **Hague Agreement Concerning the International Deposit of**

**Industrial Designs**, a WIPO-administered treaty. An applicant from a Member country to the Hague Agreement can file a single international application with WIPO; the design will then be protected in as many Member countries of the treaty as the applicant wishes. The agreement provides applicants with a simpler and cheaper mechanism for applying for aesthetic design registration in various countries. The costs of an aesthetic design registration under the Hague Agreement vary depending on the number of designs to be protected and the number of countries where protection is sought.

## **INTERNATIONAL DESIGN PROTECTION**

In 2001, the ten largest users of The Hague System for the international deposit of aesthetic designs in terms of the number of applications were the Swatch Group, Interior, Sony Overseas, Hermès, Daimler Chrysler, Nokia, Villeroy + Boch A.G., Moulinex, Philips Electronics and Salomon. In that year, the Swatch Group, the largest user of the system, deposited 103 applications for design registration using The Hague System. The distinctive “look” of its watches is considered a crucial feature that influences the choice of its customers in favor of its products. In view of this, companies like the Swatch Group invest large sums of money and expertise in the development of winning designs and make sure they have exclusive rights to the exploitation of their designs through registration in many countries.

However, the entitlement to file an international application under the Hague Agreement is limited to natural persons or legal entities having a real and effective industrial or commercial establishment, or a domicile, in at least one of the Contracting Parties to the Hague Agreement, or being a national of one of these Contracting Parties, or of a member State of an intergovernmental organization that is a Contracting Party. South Africa is not currently a member of the Hague Agreement. For full information about the Hague Agreement including a list of Member States and the application form, visit the WIPO website at: [www.wipo.int/hague/](http://www.wipo.int/hague/).



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## 4. ENFORCING REGISTERED DESIGNS

### How can you enforce your rights when your design is being imitated, copied or infringed?

Enforcing any IP right may be a complex issue for which it is usually advisable to seek professional assistance from a competent IP attorney. It is important to bear in mind that the main responsibility for identifying and taking action against imitations or infringement of a design lies with its owner. **In other words, you are responsible for monitoring the use of your design in the marketplace, identifying any imitators or counterfeiters and deciding whether, how and when to take action against them.**

An IP attorney would normally be the competent person to give you information about the possibilities in South Africa to take legal action against imitators, infringers and counterfeiters and provide you with advice on how to settle any dispute.

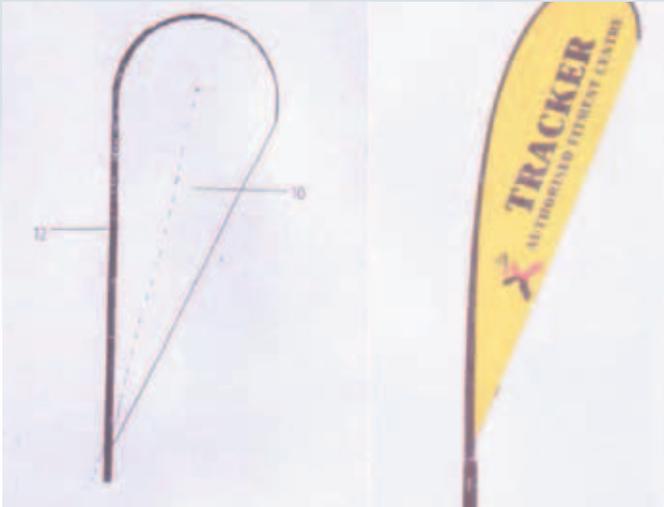
Whenever you believe there is **infringement**, you may choose, as a first step, to send a “letter of demand” informing the infringer of a possible conflict between his design and your exclusive rights. The assistance of a lawyer in drafting such a

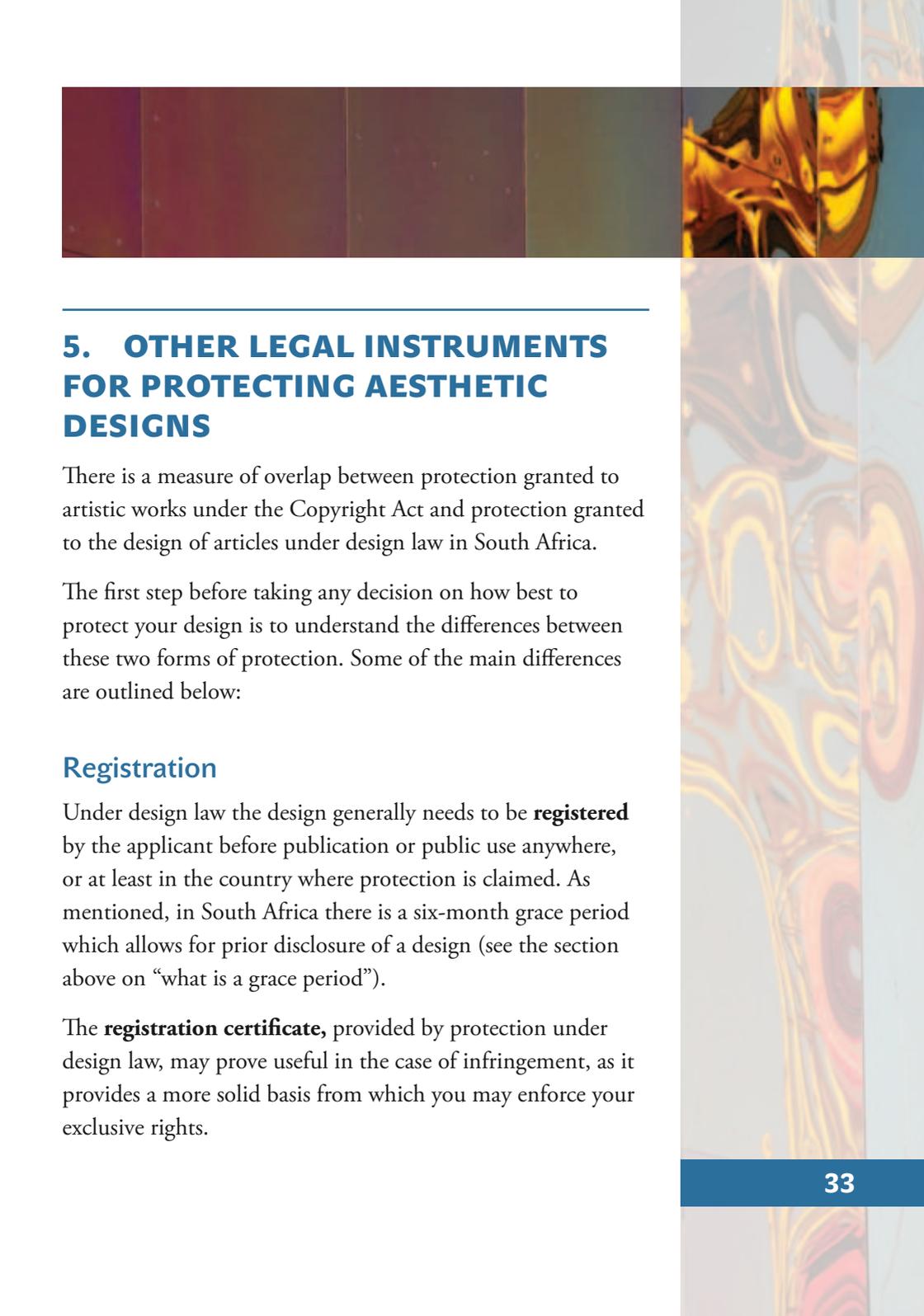
letter is recommended. If the infringement persists, it may be necessary to institute legal proceedings against the infringer.

If you know the location of the infringing activity, it may be possible to take surprise action by obtaining a search and seize order (usually from a competent court or the police) to conduct a raid, without prior notice to the allegedly offending company/individual.

In order to prevent the **importation of infringing goods**, measures at the international border are available to the design owner in many countries through the national customs authorities. This is also the case for South Africa. As a general rule, if infringement is identified, it is highly advisable to seek professional legal advice.

**Example:** The registered design A97/1155 (left) which was filed in class 20, of the Designs Register, being the class 'sales and advertising equipment' and the product (right) which was found to infringe the design in the case of SUNSMART PRODUCTS (PTY) LTD and FLAG & FLAGPOLE INDUSTRIES (PTY) LTD t/a NATIONAL FLAGS.





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## 5. OTHER LEGAL INSTRUMENTS FOR PROTECTING AESTHETIC DESIGNS

There is a measure of overlap between protection granted to artistic works under the Copyright Act and protection granted to the design of articles under design law in South Africa.

The first step before taking any decision on how best to protect your design is to understand the differences between these two forms of protection. Some of the main differences are outlined below:

### Registration

Under design law the design generally needs to be **registered** by the applicant before publication or public use anywhere, or at least in the country where protection is claimed. As mentioned, in South Africa there is a six-month grace period which allows for prior disclosure of a design (see the section above on “what is a grace period”).

The **registration certificate**, provided by protection under design law, may prove useful in the case of infringement, as it provides a more solid basis from which you may enforce your exclusive rights.

Copyright subsists automatically in an artistic work provided certain conditions are met. The main conditions are that the work must be original, i.e. the product of independent effort on the part of the author or maker of the article, and the author of the work must be a South African subject or the subject of a country which is a member of the Berne Copyright Convention; alternatively, if the work is a published work, first publication must have taken place in South Africa or in a Berne Convention country. No copyright register exists in South Africa, although it is possible to register copyright in cinematograph film.

## Duration

Aesthetic Design protection lasts for a period of 15 years in South Africa. It must also be borne in mind that the process of registration of designs may take some time, and may not always be adequate for products that are linked to passing trends (e.g. fashion products).

Copyright is immediate and for artistic works (except for photographs), copyright endures for the entire lifetime of the author and for a period of 50 years after his death. In the case of photographs (also cine films and computer programs), the period of copyright is 50 years after the work is first lawfully made available to the public.

## Scope of protection

The right conferred by registration of a design is an **absolute right** in the sense that there is infringement whether or not there has been deliberate copying.

To enforce rights under copyright law, the copyright owner must prove that the allegedly infringing work is a direct or indirect reproduction of the work protected by copyright.

## Types of products

In most countries copyright will not protect all designs but primarily those that may be considered as works of art. The South African Copyright Act defines what is classified as an artistic work. The Act defines “artistic work” as meaning:

“irrespective of the artistic quality thereof -

- a. paintings, sculptures, drawings, engravings and photographs;
- b. works of architecture, being either buildings or models of buildings; or
- c. works of craftsmanship not falling within either para (a) or (b).”

Artistic works as defined essentially refers to visual representations of ideas or the results of intellectual effort, in a material form. An article having an aesthetic design will not be protected under design law from being copied insofar as the features which are copied are necessitated solely by the function which the article is intended to perform or the subject of the copying is a method or principle of construction. Irrespective of the functional nature or otherwise of the features of that article it will be protected by copyright if what is copied is the original work itself or a two-dimensional reproduction of it. It will, however, not be protected against reverse engineering if the article being copied primarily has a utilitarian purpose.

## Costs

Registering your design in the countries you are interested in means that you will have to pay the applicable fees. In addition, it may be useful or necessary to use the services of an IP agent to assist you in drafting the application, which will incur additional costs. The reader is referred to the section *How much does it cost to protect a registered design?*

Due to the fact that registration is not required for copyright protection by most national copyright laws, there are generally no direct costs relating to copyright protection. However, there may be costs related to demonstrating proof of ownership in case of disputes.

**In summary**, while the protection granted by registered designs is stronger in that it covers even unintentional infringement and provides a registration certificate which may be important proof in case of infringement, it involves more effort (financial and administrative) because it requires registration, and is shorter in duration.

In any case, and particularly if the design is not registered, it is generally advisable to **keep good records of every step in the development of the design**. Signing and dating each sketch, and properly archiving them, may help in case of infringement.

**Example:** In a recent survey of fabric designers in the United Kingdom, 80% of respondents said they always kept a record of their original design documents and were aware of their importance for proving copyright ownership.

## When can trade mark law protect a design?

An original and innovative design may also be protected under trade mark law in South Africa.

A trade mark is a distinctive sign (generally a word, a logo or a combination of the two) used to differentiate the products of one company from those of others. There are circumstances in which the form, design or packaging of a given product may be considered to be a distinctive feature of the product in question and may be protectable as a three-dimensional trade mark. The bottle of Coca-Cola or the triangular shape of the Toblerone chocolate bar is some such examples.

It is advisable to consult an IP attorney, particularly one who specializes in trade mark law, to determine whether a particular design may be considered a three-dimensional trade mark.

Trade mark protection has the advantage of being renewable indefinitely, while aesthetic designs are only protectable for 15 years. Trade mark protection is more expensive however as the fees for a single application is R590 at time of going to print while a single design application costs R240.

## Do laws on unfair competition protect your design?

South African common law enables the proprietor of a design to prevent others from exploiting a confusingly similar design on the basis of passing off or unfair competition. The law of unfair competition provides, in general, that anyone who intentionally or negligently causes loss or damage to the owner of a design, through his wrongful conduct, will be liable for damages, and his conduct can be stopped or prevented by way of an interdict.

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## ANNEX I – USEFUL WEBSITES

For more information on:

- other intellectual property issues from a business perspective:  
[www.wipo.int/sme/](http://www.wipo.int/sme/)
- industrial designs generally:  
[www.wipo.int/about-ip/en/](http://www.wipo.int/about-ip/en/)
- practical aspects relating to the registration of industrial designs, see list of websites of national and regional intellectual property offices available in Annex I or:  
[www.wipo.int/directory/en/urls.jsp](http://www.wipo.int/directory/en/urls.jsp)
- the Hague Agreement for the International Deposit of Industrial Designs:  
[www.wipo.int/hague/en/](http://www.wipo.int/hague/en/)
- the Locarno Agreement Establishing an International Classification for Industrial Designs: [www.wipo.int/classifications](http://www.wipo.int/classifications) (under Locarno Agreement)
- arbitration and mediation:  
[www.wipo.int/amc/en/](http://www.wipo.int/amc/en/)

## ANNEX II – NATIONAL OFFICES

|                          |   |
|--------------------------|---|
| Afghanistan              | <a href="http://moic.gov.af/en">http://moic.gov.af/en</a>   |
| Albania                  | <a href="http://www.alpto.gov.al/home.asp?!=en">http://www.alpto.gov.al/home.asp?!=en</a>   |
| Algeria                  | <a href="http://www.inapi.org/">http://www.inapi.org/</a>   |
| Andorra                  | <a href="http://www.omp.ad/">http://www.omp.ad/</a>   |
| Angola                   | <a href="http://www.mingmi.gov.ao/">http://www.mingmi.gov.ao/</a>   |
| Antigua and Barbuda      | <a href="http://www.antigua.gov.ag/">http://www.antigua.gov.ag/</a>   |
| Argentina                | <a href="http://www.inpi.gov.ar/templates/index.asp">http://www.inpi.gov.ar/templates/index.asp</a>   |
| Armenia                  | <a href="http://www.aipa.am/hy/">http://www.aipa.am/hy/</a>   |
| Australia                | <a href="http://www.ipaustralia.gov.au/">http://www.ipaustralia.gov.au/</a>   |
| Austria                  | <a href="http://www.patentamt.at/">http://www.patentamt.at/</a>   |
| Azerbaijan               | <a href="http://www.azstand.gov.az/">http://www.azstand.gov.az/</a>   |
| Bahamas                  | <a href="http://www.bahamas.gov.bs/rgd/">http://www.bahamas.gov.bs/rgd/</a>   |
| Bahrain                  | <a href="http://www.moic.gov.bh/moic/en/">http://www.moic.gov.bh/moic/en/</a>   |
| Bangladesh               | <a href="http://www.dpkt.gov.bd/">http://www.dpkt.gov.bd/</a>   |
| Barbados                 | <a href="http://www.caipo.gov.bb/site/index.php">http://www.caipo.gov.bb/site/index.php</a>   |
| Belarus                  | <a href="http://www.belgopatent.org.by/">http://www.belgopatent.org.by/</a>   |
| Belgium                  | <a href="http://economie.fgov.be/en/enterprises/Intellectual%20property">http://economie.fgov.be/en/enterprises/Intellectual property</a>                       |
| Belize                   | <a href="http://www.belipo.bz/">http://www.belipo.bz/</a>   |
| Benin                    | See OAPI regional office below  |
| Bhutan                   | <a href="http://www.ipbhutan.gov.bt/aboutus.aspx">http://www.ipbhutan.gov.bt/aboutus.aspx</a>   |
| Bolivia                  | <a href="http://www.senapi.gob.bo/">http://www.senapi.gob.bo/</a>   |
| Bosnia and Herzegovina   | <a href="http://www.ipr.gov.ba/en/">http://www.ipr.gov.ba/en/</a>   |
| Botswana                 | <a href="http://www.mti.gov.bw">http://www.mti.gov.bw</a>   |
| Brazil                   | <a href="http://www.inpi.gov.br/">http://www.inpi.gov.br/</a>   |
| Brunei Darussalam        | <a href="http://www.agc.gov.bn/">http://www.agc.gov.bn/</a>   |
| Bulgaria                 | <a href="http://www.bpo.bg/">http://www.bpo.bg/</a>   |
| Burkina Faso             | <a href="http://www.commerce.gov.bf/">http://www.commerce.gov.bf/</a>   |
| Burundi                  | <a href="http://www.commerceetindustrie.gov.bi/">http://www.commerceetindustrie.gov.bi/</a>   |
| Cambodia                 | <a href="http://www.moc.gov.kh/">http://www.moc.gov.kh/</a>   |
| Cameroon                 | See OAPI regional office below  |
| Canada                   | <a href="http://www.cipo.ic.gc.ca/eic/site/cipointernet-internetopic.nsf/eng/Home">http://www.cipo.ic.gc.ca/eic/site/cipointernet-internetopic.nsf/eng/Home</a> |
| Cape Verde               | URL not available   |
| Central African Republic | See OAPI regional office below  |

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|---------------------------------------|---|
| Chad                                  | See OAPI regional office below  |
| Chile                                 | <a href="http://www.inapi.cl/portal/institucional/600/w3-channel.html">http://www.inapi.cl/portal/institucional/600/w3-channel.html</a> |
| China                                 | <a href="http://sbj.saic.gov.cn/">http://sbj.saic.gov.cn/</a>   |
| Columbia                              | <a href="http://www.sic.gov.co/">http://www.sic.gov.co/</a>   |
| Comoros                               | URL not available   |
| Congo                                 | See OAPI regional office below  |
| Costa Rica                            | <a href="http://www.mjp.go.cr/">http://www.mjp.go.cr/</a>   |
| Cote d'Ivoire                         | See OAPI regional office below  |
| Croatia                               | <a href="http://www.dziv.hr/">http://www.dziv.hr/</a>   |
| Cuba                                  | <a href="http://www.ocpi.cu/">http://www.ocpi.cu/</a>   |
| Cyprus                                | <a href="http://www.mcit.gov.cy">http://www.mcit.gov.cy</a>   |
| Czech Republic                        | <a href="http://www.upv.cz/cs.html">http://www.upv.cz/cs.html</a>   |
| Democratic People's Republic of Korea | <a href="http://www.dprkorea-trade.com/patents/rspatent.htm">http://www.dprkorea-trade.com/patents/rspatent.htm</a>                     |
| Democratic Republic of the Congo      | See OAPI regional office  |
| Denmark                               | <a href="http://www.dkpto.org/">http://www.dkpto.org/</a>   |
| Djibouti                              | <a href="http://www.mci.dj/">http://www.mci.dj/</a>   |
| Dominica                              | URL not available   |
| Dominican Republic                    | <a href="http://onapi.gob.do/">http://onapi.gob.do/</a>   |
| Ecuador                               | <a href="http://www.iepi.gob.ec/">http://www.iepi.gob.ec/</a>   |
| Egypt                                 | <a href="http://www.mfti.gov.eg/">http://www.mfti.gov.eg/</a>   |
| El Salvador                           | <a href="http://www.cnr.gob.sv/">http://www.cnr.gob.sv/</a>   |
| Equatorial Guinea                     | See OAPI regional office below  |
| Eritrea                               | URL not available   |
| Estonia                               | <a href="http://www.patentinfo.ee/">http://www.patentinfo.ee/</a>   |
| Ethiopia                              | <a href="http://www.eipo.gov.et/">http://www.eipo.gov.et/</a>   |
| Fiji                                  | <a href="http://www.ag.gov.fj/">http://www.ag.gov.fj/</a>   |
| Finland                               | <a href="http://www.prh.fi/">http://www.prh.fi/</a>   |
| France                                | <a href="http://www.inpi.fr/">http://www.inpi.fr/</a>   |
| Gabon                                 | <a href="http://cepig.net/">http://cepig.net/</a>   |
| Gambia                                | See OAPI regional office below  |
| Georgia                               | <a href="http://www.sakpatenti.org.ge/">http://www.sakpatenti.org.ge/</a>   |
| Germany                               | <a href="http://www.dpma.de/">http://www.dpma.de/</a>   |
| Ghana                                 | See OAPI regional office below  |
| Greece                                | URL not available. See OHIM regional office below   |
| Grenada                               | URL not available   |

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|---------------------------------|---|
| Guatemala                       | <a href="https://www.rpi.gob.gt/">https://www.rpi.gob.gt/</a>                                       |
| Guinea                          | See OAPI regional office below  |
| Guinea Bissau                   | See OAPI regional office below  |
| Guyana                          | URL not available   |
| Haiti                           | URL not available   |
| Holy See                        | <a href="http://www.vaticanstate.va/FR/homepage.htm">http://www.vaticanstate.va/FR/homepage.htm</a> |
| Honduras                        | <a href="http://www.digepih.webs.com/">http://www.digepih.webs.com/</a>                             |
| Hungary                         | <a href="http://www.hipo.gov.hu/English/">http://www.hipo.gov.hu/English/</a>                       |
| Iceland                         | <a href="http://www.els.is/">http://www.els.is/</a>   |
| India                           | <a href="http://www.ipindia.nic.in/">http://www.ipindia.nic.in/</a>                                 |
| Indonesia                       | <a href="http://merek-indonesia.dgip.go.id/">http://merek-indonesia.dgip.go.id/</a>                 |
| Iran (Islamic Republic of)      | <a href="http://iripo.ssaa.ir/">http://iripo.ssaa.ir/</a>   |
| Iraq                            | URL not available   |
| Ireland                         | <a href="http://www.patentsoffice.ie/">http://www.patentsoffice.ie/</a>                             |
| Israel                          | <a href="http://index.justice.gov.il/">http://index.justice.gov.il/</a>                             |
| Italy                           | <a href="http://www.uibm.gov.it/">http://www.uibm.gov.it/</a>                                       |
| Jamaica                         | <a href="http://www.jipo.gov.jm/">http://www.jipo.gov.jm/</a>                                       |
| Japan                           | <a href="http://www.jpo.go.jp/">http://www.jpo.go.jp/</a>   |
| Jordan                          | <a href="http://www.mit.gov.jo/">http://www.mit.gov.jo/</a>   |
| Kazakhstan                      | <a href="http://www.kazpatent.kz/">http://www.kazpatent.kz/</a>                                     |
| Kenya                           | <a href="http://www.kipi.go.ke/">http://www.kipi.go.ke/</a>   |
| Kiribati                        | URL not available   |
| Kuwait                          | URL not available   |
| Kyrgyzstan                      | <a href="http://patent.kg/en">http://patent.kg/en</a>   |
| Lao Peoples Democratic Republic | <a href="http://www.stea.la.wipo.net/index.html">http://www.stea.la.wipo.net/index.html</a>         |
| Latvia                          | <a href="http://www.lrvp.lv/">http://www.lrvp.lv/</a>   |
| Lebanon                         | <a href="http://www.economy.gov.lb/">http://www.economy.gov.lb/</a>                                 |
| Lesotho                         | URL not available   |
| Liberia                         | URL not available   |
| Libya                           | URL not available   |
| Liechtenstein                   | <a href="http://www.avw.llv.li/">http://www.avw.llv.li/</a>   |
| Lithuania                       | <a href="http://www.vpb.lt/">http://www.vpb.lt/</a>   |
| Luxembourg                      | <a href="http://www.eco.public.lu/">http://www.eco.public.lu/</a>                                   |
| Madagascar                      | <a href="http://www.omapi.mg/">http://www.omapi.mg/</a>   |
| Malawi                          | See ARIPO regional office below   |
| Malaysia                        | <a href="http://www.myipo.gov.my/">http://www.myipo.gov.my/</a>                                     |

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|-------------------|---|
| Maldives          | <a href="http://www.trade.gov.mv/">http://www.trade.gov.mv/</a>   |
| Mali              | See OAPI regional office below  |
| Malta             | <a href="https://secure2.gov.mt/IPO/default.aspx?ct=2&amp;date=22022013111244">https://secure2.gov.mt/IPO/default.aspx?ct=2&amp;date=22022013111244</a>   |
| Mauritania        | See OAPI regional office  |
| Mauritius         | <a href="http://www.gov.mu/portal/site/mfasite/menutem.d26b8c9d73facdfda4522e10a0208a0c/">http://www.gov.mu/portal/site/mfasite/menutem.d26b8c9d73facdfda4522e10a0208a0c/</a>   |
| Mexico            | <a href="http://www.impi.gob.mx/">http://www.impi.gob.mx/</a>   |
| Monaco            | <a href="http://en.gouv.mc/Government-Institutions/The-Government/Ministry-of-Finance-and-Economy/Business-Development-Agency">http://en.gouv.mc/Government-Institutions/The-Government/Ministry-of-Finance-and-Economy/Business-Development-Agency</a> |
| Mongolia          | <a href="http://www.ipom.mn/">http://www.ipom.mn/</a>   |
| Montenegro        | <a href="http://www.ziscg.me/">http://www.ziscg.me/</a>   |
| Morocco           | <a href="http://www.ompic.org.ma/">http://www.ompic.org.ma/</a>   |
| Mozambique        | <a href="http://www.ipi.gov.mz/">http://www.ipi.gov.mz/</a>   |
| Myanmar           | URL not available   |
| Namibia           | URL not available   |
| Nauru             | URL not available   |
| Nepal             | <a href="http://doind.gov.np/index.php">http://doind.gov.np/index.php</a>   |
| Netherlands       | <a href="http://www.agentschapnl.nl/en">http://www.agentschapnl.nl/en</a>   |
| New Zealand       | <a href="http://www.iponz.govt.nz/cms">http://www.iponz.govt.nz/cms</a>   |
| Nicaragua         | <a href="http://rpi.mific.gob.ni/">http://rpi.mific.gob.ni/</a>   |
| Niger             | See OAPI regional office below  |
| Nigeria           | See OAPI regional office below  |
| Norway            | <a href="http://www.patentstyret.no/">http://www.patentstyret.no/</a>   |
| Oman              | <a href="http://www.mocioman.gov.om/">http://www.mocioman.gov.om/</a>   |
| Pakistan          | <a href="http://www.ipo.gov.pk/">http://www.ipo.gov.pk/</a>   |
| Palau             | URL not available   |
| Panama            | <a href="http://www.digerpi.gob.pa/">http://www.digerpi.gob.pa/</a>   |
| Papua New Guinea  | <a href="http://www.ipopng.gov.pg/">http://www.ipopng.gov.pg/</a>   |
| Paraguay          | <a href="http://www.mic.gov.py/v1/index.php">http://www.mic.gov.py/v1/index.php</a>   |
| Peru              | <a href="http://www.indecopi.gob.pe/0/home.aspx?PFL=0&amp;ARE=0">http://www.indecopi.gob.pe/0/home.aspx?PFL=0&amp;ARE=0</a>   |
| Philippines       | <a href="http://www.ipophil.gov.ph/index.php">http://www.ipophil.gov.ph/index.php</a>   |
| Poland            | <a href="http://www.uprp.pl/strona-glowna/Menu01,9,0,index,pl/">http://www.uprp.pl/strona-glowna/Menu01,9,0,index,pl/</a>   |
| Portugal          | <a href="http://www.marcaspatentes.pt/index.php?section=1">http://www.marcaspatentes.pt/index.php?section=1</a>   |
| Qatar             | URL not available   |
| Republic of Korea | <a href="http://www.kipo.go.kr/">http://www.kipo.go.kr/</a>   |

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|---|---|
| Republic of Moldova                       | <a href="http://www.agepi.md/">http://www.agepi.md/</a>   |
| Romania                                   | <a href="http://www.osim.ro/">http://www.osim.ro/</a>   |
| Russian Federation                        | <a href="http://www.rupto.ru/en_site/index_en.htm">http://www.rupto.ru/en_site/index_en.htm</a>   |
| Rwanda                                    | <a href="http://org.rdb.rw/">http://org.rdb.rw/</a>   |
| Saint Kitts and Nevis                     | URL not available   |
| Saint Lucia                               | URL not available   |
| Saint Vincent and Grenadines              | <a href="http://www.cipo.gov.vc/">http://www.cipo.gov.vc/</a>   |
| Samoa                                     | <a href="http://www.mcil.gov.ws/">http://www.mcil.gov.ws/</a>   |
| San Marino                                | URL not available   |
| Sao Tome and Principe                     | <a href="http://senapi-stp.net/spip.php?rubrique1">http://senapi-stp.net/spip.php?rubrique1</a>   |
| Saudi Arabia                              | URL not available   |
| Senegal                                   | See OAPI regional office below  |
| Serbia                                    | <a href="http://www.zis.gov.rs/pocetna.1.html">http://www.zis.gov.rs/pocetna.1.html</a>   |
| Seychelles                                | URL not available   |
| Sierra Leone                              | URL not available   |
| Singapore                                 | <a href="http://www.ipos.gov.sg/">http://www.ipos.gov.sg/</a>   |
| Slovakia                                  | <a href="http://www.upv.sk/">http://www.upv.sk/</a>   |
| Slovenia                                  | <a href="http://www.uil-sipo.si/">http://www.uil-sipo.si/</a>   |
| Solomon Islands                           | URL not available   |
| Somalia                                   | URL not available   |
| South Africa                              | <a href="http://www.cipc.co.za/">http://www.cipc.co.za/</a>   |
| Spain                                     | <a href="http://www.oepm.es/">http://www.oepm.es/</a>   |
| Sri Lanka                                 | <a href="http://www.nipo.gov.lk/">http://www.nipo.gov.lk/</a>   |
| Sudan                                     | URL not available   |
| Suriname                                  | URL not available   |
| Swaziland                                 | <a href="http://www.gov.sz/index.php?option=com_content&amp;view=article&amp;id=228&amp;Itemid=306">http://www.gov.sz/index.php?option=com_content&amp;view=article&amp;id=228&amp;Itemid=306</a> |
| Sweden                                    | <a href="http://www.prv.se/">http://www.prv.se/</a>   |
| Switzerland                               | <a href="https://www.ige.ch/">https://www.ige.ch/</a>   |
| Syrian Arab Republic                      | <a href="http://www.spo.gov.sy/">http://www.spo.gov.sy/</a>   |
| Tajikistan                                | <a href="http://www.ncpi.tj/index2.php">http://www.ncpi.tj/index2.php</a>   |
| Thailand                                  | <a href="http://www.ipthailand.go.th/ipthailand/index.php?lang=en">http://www.ipthailand.go.th/ipthailand/index.php?lang=en</a>   |
| The former Yugoslav Republic of Macedonia | <a href="http://www.ippo.gov.mk/">http://www.ippo.gov.mk/</a>   |
| Timor-Leste                               | <a href="http://www.mj.gov.tl/">http://www.mj.gov.tl/</a>   |
| Togo                                      | See OAPI regional office below  |

|                                    |   |
|------------------------------------|---|
| Tonga                              | <a href="http://www.mci.gov.to/?page_id=1042">http://www.mci.gov.to/?page_id=1042</a>                                 |
| Trinidad and Tobago                | <a href="http://www.legalaffairs.gov.tt/ipo/">http://www.legalaffairs.gov.tt/ipo/</a>                                 |
| Tunisia                            | <a href="http://www.innorpi.tn/Fra/accueil_46_4">http://www.innorpi.tn/Fra/accueil_46_4</a>                           |
| Turkey                             | <a href="http://www.turkpatent.gov.tr/">http://www.turkpatent.gov.tr/</a>   |
| Turkmenistan                       | URL not available   |
| Tuvalu                             | URL not available   |
| Uganda                             | See ARIPO regional office below   |
| Ukraine                            | <a href="http://sips.gov.ua/en/index.html">http://sips.gov.ua/en/index.html</a>                                       |
| United Arab Emirates               | <a href="http://www.economy.gov.ae/Arabic/Pages/default.aspx">http://www.economy.gov.ae/Arabic/Pages/default.aspx</a> |
| United Kingdom                     | <a href="http://www.ipo.gov.uk/">http://www.ipo.gov.uk/</a>   |
| United Republic of Tanzania        | See ARIPO regional office below   |
| United States of America           | <a href="http://www.uspto.gov/">http://www.uspto.gov/</a>   |
| Uruguay                            | <a href="http://www.dnpi.gub.uy/">http://www.dnpi.gub.uy/</a>   |
| Uzbekistan                         | <a href="http://www.ima.uz/ru/">http://www.ima.uz/ru/</a>   |
| Vanuatu                            | URL not available   |
| Venezuela (Bolivarian Republic of) | <a href="http://www.sapi.gob.ve/">http://www.sapi.gob.ve/</a>   |
| Vietnam                            | <a href="http://www.noip.gov.vn/">http://www.noip.gov.vn/</a>   |
| Yemen                              | <a href="http://www.yipo.gov.ye/">http://www.yipo.gov.ye/</a>   |
| Zambia                             | <a href="http://www.pacra.org.zm/">http://www.pacra.org.zm/</a>   |
| Zimbabwe                           | See ARIPO regional office below   |

## Regional Offices

|   |   |
|---|---|
| African Intellectual Property Organization (OAPI)           | <a href="http://www.oapi.int/">http://www.oapi.int/</a>   |
| African Regional Intellectual Property Organization (ARIPO) | <a href="http://www.aripo.org/">http://www.aripo.org/</a>   |
| Benelux Office for Intellectual Property (BOIP)             | <a href="http://www.boip.int">http://www.boip.int</a>   |
| Gulf Cooperation Council                                    | <a href="http://www.gcc-sg.org/eng/">http://www.gcc-sg.org/eng/</a>   |
| Office for Harmonization in the Internal Market (OHIM)      | <a href="http://oami.europa.eu/ows/rw/pages/index.en.do">http://oami.europa.eu/ows/rw/pages/index.en.do</a> |

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## **ANNEX III – LOCARNO AGREEMENT**

### **International Classification for Industrial Designs of the Locarno Agreement**

#### **LIST OF CLASSES**

- 1.** Foodstuffs
- 2.** Articles of clothing and haberdashery
- 3.** Travel goods, cases, parasols and personal belongings, not elsewhere specified
- 4.** Brushware
- 5.** Textile piece goods, artificial and natural sheet material
- 6.** Furnishing
- 7.** Household goods, not elsewhere specified
- 8.** Tools and Hardware
- 9.** Packages and containers for the transport or handling of goods
- 10.** Clocks and watches and other measuring instruments, checking and signaling instruments
- 11.** Articles of adornment
- 12.** Means of transport or hoisting
- 13.** Equipment for production, distribution or transformation of electricity
- 14.** Recording, communication or information retrieval equipment
- 15.** Machines, not elsewhere specified
- 16.** Photographic, cinematographic and optical apparatus

17. Musical instruments
18. Printing and office machinery
19. Stationery and office equipment, artists' and teaching materials
20. Sales and advertising equipment, signs
21. Games, toys, tents and sports goods
22. Arms, pyrotechnic articles, articles for hunting, fishing and pest killing
23. Fluid distribution equipment, sanitary, heating, ventilation and air-conditioning equipment, solid fuel
24. Medical and laboratory equipment
25. Building units and construction elements
26. Lighting apparatus
27. Tobacco and smokers' supplies
28. Pharmaceutical and cosmetic products, toilet articles and apparatus
29. Devices and equipment against fire hazards, for accident prevention and for rescue
30. Articles for the care and handling of animals
31. Machines and appliances for preparing food or drink not elsewhere specified
99. Miscellaneous

**Note:** For up-to-date information, visit website at the following url: <http://www.wipo.int/classifications/locarno/en/>

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## ANNEX IV – HAGUE AGREEMENT

### Members of the Hague Agreement Concerning the International Deposit of Industrial Designs (as of July 2013)

|   |   |
|---|---|
| African Intellectual Property Organization (OAPI) | Luxembourg                                |
| Albania   | Mali                                      |
| Armenia   | Monaco                                    |
| Azerbaijan  | Mongolia                                  |
| Belgium   | Montenegro                                |
| Belize  | Morocco                                   |
| Benin   | Namibia                                   |
| Bosnia and Herzegovina                            | Netherlands                               |
| Botswana  | Niger                                     |
| Bulgaria  | Norway                                    |
| Côte d'Ivoire                                     | Oman                                      |
| Croatia   | Poland                                    |
| Democratic People's Republic of Korea             | Republic of Moldova                       |
| Denmark   | Romania                                   |
| Egypt   | Rwanda                                    |
| Estonia   | Sao Tome and Principe                     |
| European Union (EU)                               | Senegal                                   |
| Finland   | Serbia                                    |
| France  | Singapore                                 |
| Gabon   | Slovenia                                  |
| Georgia   | Spain                                     |
| Germany   | Suriname                                  |
| Ghana   | Switzerland                               |
| Greece  | Syrian Arab Republic                      |
| Holy See  | Tajikistan                                |
| Hungary   | the former Yugoslav Republic of Macedonia |
| Iceland   | Tunisia                                   |
| Italy   | Turkey                                    |
| Kyrgyzstan  | Ukraine                                   |
| Latvia  |   |
| Liechtenstein                                     |   |
| Lithuania   |   |

