

**HAGUE AGREEMENT CONCERNING
THE INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS**

– NOTIFICATION OF REFUSAL –

Rule 18(2) of the Common Regulations

INSTRUCTIONS

This form is to be used where the Office considers that protection cannot be granted in the Contracting Party concerned. If the ground for refusal is remedied subsequently, the Office shall send to the International Bureau a notification of withdrawal of refusal in accordance with Rule 18(4), or a statement of grant of protection in accordance with Rule 18*bis*(2).

It is to be noted that the main purpose of this model form is to explain mandatory elements that must be included in the present communication. **In this regard, Offices are encouraged to send communications to the International Bureau in electronic format, and their IT personnel are welcome to contact the International Bureau to agree on the form of communication.**

Item III: Where the Office has found a ground for refusal with respect to only one/some of the industrial designs contained in the international registration, the second box should be checked, followed by the numbers of the industrial designs concerned.

Item V: This item is applicable, where the ground for refusal relates to an earlier national, regional or international application or registration. The indications required under this item may also be given by annexing a printout from the register or database.

Item VI: The indication required under this item may also be given by annexing a printout of the relevant provisions.

Item VII(iii): If the request for review or the appeal has to be filed through the intermediary of a representative whose address is within the territory of the Contracting Party concerned, it should be so indicated.

Item X: This optional element is not required under Rule 18(2), but may be provided at the Office's discretion.

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Rule 18(2) of the Common Regulations

I. Office sending the notification: UKIP
II. Number of the international registration: 208940
III. <input checked="" type="checkbox"/> Refusal for all the industrial designs <input type="checkbox"/> Refusal for the following industrial designs: [followed by design numbers]
IV. Grounds for refusal (where applicable, see item V): N/A
V. Information relating to an earlier industrial design: (i) Filing date and number, and priority date (if any): N/A (ii) Registration date and number (if available): N/A (iii) Name and address of the owner: N/A (iv) Reproduction of the earlier industrial design (if that reproduction is accessible to the public): N/A
VI. Corresponding essential provisions of the applicable law: Section 1C(1) and 1C(2) of the Registered Designs Act 1949 – Technical Function.

VII. Information relating to subsequent procedures:

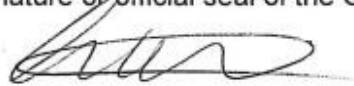
- (i) Time limit for requesting review or appeal: 16th December 2020.
- (ii) Authority to which such request for review or appeal should be made: UKIPO
- (iii) Indications concerning the appointment of a representative: EEA Address for service required.

VIII. Date on which the refusal was pronounced:

16th October 2020.

Signature or official seal of the Office making the notification:

IX.



(OPTIONAL ELEMENTS)

X. Contact details of the examiner:

- (i) Name: Lauren Johnson
- (ii) Telephone number: 01633 813838
- (iii) Email address: designsexamiantion@ipo.gov.uk



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World Intellectual Property
Organisation (WIPO)
International Bureau 34,
Chemin des Colombettes
1211 Geneva 20
Switzerland

Your Reference: N/A

International Registration No: 208940

Examiner: Lauren Johnson

Direct Telephone: 01633 8813838

Date: 16th October 2020

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NOTIFICATION OF REFUSAL

Please reply by 16th December 2020 quoting the International Registration Number

Examination Report of the UK Intellectual Property Office

Product Description: Frame for dust masks

Dear Sir or Madam,

Thank you for your design application, number 208940 filed on 5th October 2020.

Your application has failed to meet the requirements of the Registered Design Act 1949 for the following reasons:

Section 1C(1) and 1C(2) – Technical Function

Your application is not acceptable under Section 1C(1) of the Designs Act 1949 as it appears to have been designed in this way solely to perform its technical function of a facemask frame which will fit inside of a facemask in order to secure the mask around the wearers face. A frame is a rigid structure that surrounds something, in this instance a facemask, and this rigid structure will resist movement, staying in place in order to do its job of protecting the wearers face from dust. Registration is not permitted in cases where the technical function dictates the appearance of the product to the extent that it restricts design freedom and it is therefore not possible to create a new design.

There is also an objection under 1C(2) of the Act. This states the following:

"A right in a registered design shall not subsist in features of appearance of a product which must necessarily be reproduced in their exact form and dimensions so as to permit the product in which the design is incorporated or to which it is applied to be mechanically connected to, or place in, around or against, another product so that either product may perform its function".

It appears that the frame for a dust mask would have to be made to specific dimensions so that it was able to fit inside the facemask and secure it around a wearers face and resist movement in order to protect them from dust and other particles and for this reason it would fall foul of the above section of the Act.

Address for Service

You are required to provide an address for service (correspondence address) within the EEA for the purposes of any proceedings under the UK Roistered Designs Act 1949:

Rule 42(5) states:

"An address for service furnished under this rule shall be an address in the United Kingdom, another EEA state or of the Channel Islands"

You must provide an appropriate address within the EEA to which we can correspond should you choose to proceed with the application.

Next Steps

If you disagree with my findings you may request a hearing to appeal the decision by contacting me using the details provided.

If you would like to discuss your application or if there is any confusion on how to proceed, you can write to, e-mail or telephone me. My contact details are shown at the top of this letter.

Failure to Respond If you fail to respond by the date given above, your application will be refused under Section 3A(4) of the Registered Designs Act 1949.

Yours faithfully,

Lauren Johnson

Designs Registry