



INDUSTRIAL MODELS AND DESIGNS LAW

Statutory Decree No. 6673 - August 9, 1963, modified by Law No. 27.444 - June 18, 2018

ARTICLE 1 – The authors of an industrial model or design and their legitimate successors shall have a right of ownership thereof and the exclusive right to exploit, transfer and register it for the period of time and under the conditions established by this Decree.

Industrial models and designs created by employees shall belong to their authors, who shall have the exclusive right of exploitation, except where the author was specially contracted to create them or if the author was merely carrying out instructions received from the person for whom he or she works. Should the model or design be a joint work of the employer and the employee, it shall belong to both, unless otherwise agreed.

Where two or more persons have jointly created an industrial model or design, the right of exclusive exploitation shall apply to all of them, all shall have the right to register such model or design in their name; in such cases, the relationships between co-authors shall be governed in accordance with the concept of co-ownership.

The author of an industrial model or design, as well as his/her legitimate successors may file a claim to regain ownership of a registration effected fraudulently by a person other than the author.

ARTICLE 2 – The right recognized under the previous Article shall be applicable to the authors of industrial models or designs created abroad and their legitimate successors, as long as their respective countries of origin grant reciprocal the rights to Argentine authors or authors residing in Argentina.

ARTICLE 3 – Shapes incorporated into, or an appearance applied to, an industrial or artisanal product for ornamental purposes shall be considered an industrial model or design.

ARTICLE 4 – In order to enjoy the rights recognized by this Decree, the author shall register the model or design of his/her creation with the Industrial Models and Designs Directorate of the National Institute of Industrial Property, a decentralized agency operating under the authority of the Ministry of Production.

ARTICLE 5 – In the absence of evidence to the contrary, it shall be presumed that the person who first registers an industrial model or design is its author.

ARTICLE 6 – The following may not enjoy the benefits granted by this Decree:



- Page 2 -

a) Industrial models or designs that have been published or publicly exploited, in Argentina or abroad, prior to the date of deposit. However, industrial models or designs disclosed within six (6) months prior to the filing date of the application or of the priority shall not be considered known where they meet the following conditions:

1. That said disclosure was a direct or indirect result of acts carried out by the author or his/her legitimate successors.

2. The disclosure was made by a third party acting in bad faith or in breach of trust; or when arising from a breach of contract or other illegal act against the author or his/her legitimate successor.

3. Applications incorrectly or improperly published by the Industrial Models and Designs Directorate.

b) Industrial models or designs that lack a distinctive configuration and their own and novel appearance with respect to prior industrial models or designs;

c) Industrial models or designs whose elements are necessitated by the technical function to be performed by the product;

d) Industrial models or designs that consist solely of changing the color of already known models or designs;

e) Industrial models or designs that are contrary to morality and decency.

ARTICLE 7 – The duration of protection granted by this Decree shall be five (5) years from the date of deposit and may be extended for two consecutive periods of the same duration at the request of the owner.

ARTICLE 8 – The application for registration of an industrial model or design, the inclusion in the application of up to twenty (20) industrial models or designs, the application for divisional registrations, the deferment of publication, as well as renewals mentioned in the preceding Article, shall be subject to fees and charges determined in the respective regulations, which shall be established proportionally to the fees corresponding to the registration of the original industrial model or design.

The National Institute of Industrial Property is empowered to establish, modify and eliminate fees, even those concerning the maintenance of the right of the owner.



- Page 3 -

ARTICLE 9 – A single registration may include up to twenty (20) industrial models or designs, as long as they are all applied or incorporated into products belonging to the same class of the Locarno International Classification for Industrial Drawings and Models.

If an application including more than one (1) industrial model or design does not meet the conditions established in the applicable regulations, the Industrial Models and Designs Directorate of the National Institute of Industrial Property shall be entitled to request the applicant to either modify the original application for registration to comply with the said conditions or divide the original application for registration in two (2) or more divisional applications, distributing among them the industrial models or designs for which protection was sought in the original application for registration.

Divisional applications shall maintain the filing date of the original application and the benefit of the right of priority, if appropriate. Rights deriving from models or designs contained in a multiple application or registration shall be independent from each other and, subject to the provisions of Article 15 of this Decree, shall be exploited, transferred and registered, renewed, or cancelled separately.

ARTICLE 10 – Applications for registration shall be filed with the Industrial Models and Designs Directorate, and shall contain:

- a) The application for registration;
- b) Drawings and/or photographs and/or digital reproductions of the model or design sufficiently identifying the subject matter of the protection;
- c) A description of the industrial model or design if the applicant deems it necessary;

ARTICLE 11 – Applications for renewal shall be filed within the last six (6) months of the protection period of the registration. Renewals may also be filed within the six (6) months following said period, together with payment of the fees to be established.

ARTICLE 12 – Applications for registration may only be rejected for non-compliance with the formal requirements established in Article 10 and concordant articles of this Decree. Decisions rejecting applications for registration may be appealed to the National Institute of Industrial Property.

Once the administrative instance is exhausted, the resolution issued by the National Institute of Industrial Property shall be appealable before the Federal Courts of Appeals in Civil and Commercial Matters.



- Page 4 -

ARTICLE 13 – The corresponding deed shall be issued by the Industrial Models and Designs Directorate.

ARTICLE 14 – Repealed by Article 101 of Law No. 27.444 - June 18, 2018

ARTICLE 15 – The holder of a model or design registration may assign it in whole or in part. The assignee or universal or particular successor may not invoke rights arising from the registration until the transfer is recorded with the National Institute of Industrial Property.

ARTICLE 16 – Registrations of industrial models and designs, their renewals, transfers, and cancellations shall be made public in the form and at the time determined in the applicable regulations.

Upon the applicant's request, at the moment of filing the application for registration, the publication of the grant may be deferred for a maximum period of six (6) months, counted from the date of grant.

ARTICLE 17 – Registrations of industrial models or designs shall be cancelled where they have been effected by a person other than their author or in breach of the provisions of this Decree. However, such cancellation may only be ordered by final judgment of the Federal Courts at the request of any interested party, whether or not that party has previously registered models or designs.

ARTICLE 18 – Actions for the cancellation of a registration, as established in Article 17, and actions claiming ownership, as referred to in the last paragraph of Article 1, shall be subject to a period of limitation of five (5) years from the date of the deposit in the Register of Industrial Models and Designs.

ARTICLE 19 – The holder of an industrial model or design registration may bring legal action against anyone who, without authorization, industrially or commercially exploits a deposited design or imitations thereof in respect to the same or different products. Such action may be brought before the Federal Courts, as a civil action to obtain compensation for damages and cessation of use, or as a criminal action if imposition of the penalties established by this Law is also sought.

ARTICLE 20 – Anyone who infringes, in good or bad faith, the rights granted to a deposited model or design, shall be under the obligation to compensate for the damages caused to the holder of the registration and also, in the case of bad faith, to surrender the profits.



- Page 5 -

ARTICLE 21 – The following shall be punishable with a minimum fine equal to the fee corresponding to fifty (50) original industrial models and designs registration, and a maximum fine of three hundred and thirty (330) times said fee.

1. Anyone who manufactures or arranges the manufacture of industrial products with the characteristics protected by the registration of a model or design or copies thereof;
2. Anyone who, knowing the illegal nature of such actions, sells, offers for sale, exhibits, imports, exports or in any other form trades in the products referred to in the preceding subparagraph.
3. Anyone who maliciously holds said products or harbors their manufacturers;
4. Anyone who maliciously claims a model or design without holding the registration thereof;
5. Anyone who sells, as if they were their own, design plans protected by another person's registration.

In the case of repeat infringements, the penalties established in this Article shall be doubled.

ARTICLE 22 – Articles or parts of articles involving industrial models or designs that are declared in infringement shall be destroyed, even if the destruction of the model or design entails the destruction of the products, unless the holder of the model or design agrees to take them, at cost value, as part of the compensation and restitution of profits owed to him/her.

Goods already delivered by the infringer to good-faith purchasers shall not be confiscated or destroyed.

ARTICLE 23 – Proceedings for the imposition of the penalties established by this Decree shall be private.

Neither civil nor criminal claims shall be heard unless accompanied by the registration deed claimed.

ARTICLE 24 –As the only measure prior to the institution of civil or criminal proceedings authorized by this Decree, and to prove an illegal act, the holder of a model or design registration who becomes aware that, in a trading company or factory or elsewhere, design objects are being industrially or commercially exploited in infringement of his/her registration, may request the judge, supplying sufficient surety and submitting the



- Page 6 -

registration deed, to appoint a court official to go to the place in question and seize an example of the infringing products, making a detailed inventory of stock. The judicial warrant shall be issued within 24 hours of the request.

Where the holder of the goods is not the manufacturer, he/she shall provide the owner of the model or design with an explanation about their origin, so that the owner may prosecute the manufacturer. Should such explanations be denied or prove to be false or inaccurate, the holder of the goods may not plead good faith.

ARTICLE 25 – In both civil and criminal proceeding for cessation of use, the plaintiff may, in separate proceedings, seek a security from the defendant in return for not suspending the defendant's exploitation of the contested model or design if he/she wishes to continue exploitation; in the absence of such security, the plaintiff may request that exploitation be suspended and that all the contested objects in the defendant's possession be seized, and provide appropriate security, if requested. Securities shall be real and shall be set by the judge, taking into account the compromised interests.

ARTICLE 26 – Money from fines imposed pursuant to this Law shall be deposited in the "*Dirección Nacional de la Propiedad Industrial - Servicios Requeridos*" (National Directorate of Industrial Property – Required Services) special account to be used for the Directorate's operation.

ARTICLE 27 – Proceedings for the imposition of the penalties provided for in Articles 21 and 22 shall be subject to a period of limitation of two (2) years from the time of commission of the infringement.

ARTICLE 28 – Where an industrial model or design registered in accordance with the present Decree is also subject for an application for deposit as established in Law 11.723, the author may not claim both simultaneously in the legal defense of his/her rights.

Where an invention patent is applied for mistakenly to protect an industrial model or design and the National Directorate of Intellectual Property opposes the application, the interested party may change such application into an application for registration of a model or design.

ARTICLE 29 – The present Decree shall enter into force thirty (30) days after its regulations have been issued, but at least six months after it is signed.

ARTICLE 30 – The present Decree shall be endorsed by the Ministers Secretaries in the Departments of Economy, Education and Justice, National Defense and the Interior and signed by the Secretaries of Finance and of Industry and Mining.

ARTICLE 31 – This decree shall be disseminated, published, transmitted to the General Directorate of the Official Gazette and Printing and placed in the archives.