



## *Trinidad and Tobago Intellectual Property Office*

# Industrial Design Application Manual

## OVERVIEW OF INDUSTRIAL DESIGNS

### What are Industrial Design rights?

An Industrial Design is the ornamental aspect of a useful article (the way the object looks). This ornamental aspect may be constituted by elements, which are three-dimensional (the shape of the article) or two-dimensional (lines, designs, patterns and colours) but must not be dictated solely or essentially by technical or functional considerations. It is the right to protect the ornamental, non-functional features of an Industrial Article or Product that arise from Design Activity.

### Conditions for obtaining Industrial Design rights

A design must be **Original or Novel** meaning, it must be new, with nothing like it in existence in the world or in literature in order for it to be eligible industrial design protection.

### What cannot be granted Industrial Design rights?

Patents are open to most areas of science and technology but some areas are excluded from patentability. These are: -

- An idea
- The function of something
- Methods of constructing something
- The materials used in construction of something

## **Relevant Industrial Design Laws and Treaties**

Industrial Design legislation is in force in Trinidad and Tobago. Listed below are all treaties and laws being currently implemented, they are:

1. The Paris Convention for the Protection of Industrial Property (1883). Trinidad and Tobago joined on 1st August 1964.
2. Locarno Agreement Establishing an International Classification for Industrial Designs (March 20, 1996)
3. The Industrial Designs Act, Cap. 82:77 (2007)
4. Industrial Designs Rules 1996 (1996)
5. World Trade Organization (WTO) - Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) (1994) (March 1, 1995)

## **When to file an Industrial Design application**

Filing should be done as soon as possible, most importantly, before public disclosure of the industrial design. In Trinidad and Tobago, disclosure of the industrial design will not be taken into consideration if such disclosure occurred not more than twelve (12) months before the filing date and the disclosure was due to acts committed by the applicant or predecessor or by an abuse committed by third parties.

## **What Rights are obtained from the Registration of an Industrial Design**

The registered owner of an Industrial Design or anyone under the registered owner's consent has the sole right to exploit it. Exploitation according to the Industrial Designs Act Chapter 82:77 Section 9(3) is defined as "the making, selling, importing or otherwise distributing, for commercial purposes, articles bearing or embodying a design which is a copy, or substantially a copy, of the industrial design."

## **Who can file for Industrial Design rights at the IPO**

An applicant is any party or parties entitled to file a patent application. This includes:

- Inventor(s) – a person or persons who made the invention;
- Employer of the invention (depends on the legislation and contractual arrangement with the employee);
- A person who owns the rights to the invention (assignee).

## **How long does registration offer protection?**

Industrial Design rights last for 5 years upon grant from the date of filing the application. The registration may be renewed for two further consecutive periods of five years through the payment of the prescribed fee.

## **APPLICATION PROCEDURE FOR AN INDUSTRIAL DESIGN**

### **Where do I apply?**

Applications may be filed at the Intellectual Property Office; 3rd Floor, Capital Plaza, 11-13 Frederick Street, Port Of Spain, Trinidad & Tobago.

### **Industrial Design Application Processing Steps:**

1. Reception of the application
2. Payment of fees
3. Examination
4. Publication
5. Certificate issued
6. Renewal fees

### **1. Overview of the Industrial Design Application**

When a national or resident of Trinidad and Tobago files an Industrial Design application, the formal requirements under the Industrial Design Rules and Regulations are:

- 1) The Industrial Design Request Form No. 1.
- 2) Four graphic representations or four drawings or tracings for two-dimensional designs or four graphic representations or four drawings or tracings of each of the different sides of the industrial design for three dimensional designs.

The application must be submitted in duplicate on A4 size paper as stated in Rule 10 of the Industrial Design Rules and Regulations. All graphic representations, drawing or tracing of the industrial design should not exceed 10 centimetres x 20 centimetres and such representations, drawings or tracings should be affixed on four sheets of A4 sized cardboard, submitted in duplicate and in black ink. Any specimen shall be of a size not exceeding 20 centimetres x 20 centimetres x 20 centimetres.

## **2. How are payments made to the Intellectual Property Office?**

Once an application is made, the prescribed application fee (\$500) must be paid.

All payments are due in advance, payable by certified cheque with the Payee as the Controller, Intellectual Property Office or by Linx or through the District Revenue Office, upon presentation of the prescribed voucher issued by the Intellectual Property Office.

## **3. Examination**

The application will undergo an Examination as set out by the Industrial Design Act Chapter 82.77 and Industrial Design Rules. This examination begins at the time that a filing date is issued to the Industrial Design. The application is examined to ensure that:

- The industrial design is new and in accordance with the definition stated in Section 3(1) of the Industrial Design Act Chapter 82.77
- The industrial design has not been disclosed to the public anywhere in the world by publication in tangible form or by use or in any other way, prior to the filing date or where applicable, the priority date of the application. Any disclosure that occurred within twelve months preceding the filing date or where applicable, the priority date of the application shall not be taken into consideration.
- The industrial design is not contrary to public order or morality.
- There is a statement justifying the applicant's right to registration of the industrial design, where the applicant is not the creator.

## **4. Registration**

Once the application is in compliance with the examination requirements, the applicant would be invited to pay a Registration and Publication fee. Upon payment, the Intellectual Property Office would prepare a publication page containing the applicant and creator's bibliographic information and also, information of the Industrial Design which includes a graphic representation of it.

## **5. Issuance of Certificate**

A certificate of registration is created and awarded to the applicant after the publication page has appeared in the local newspaper. The certificate and register is prepared by the office and contains the registration number of the industrial design, the applicant and creator's bibliographic information and also, information of the Industrial Design which includes all graphic representations of it.

## **6. Renewal**

Protection of an industrial design is granted for a period of fifteen (15) years. The registration of an industrial design is valid for a period of five years from the filing date of the application after which it can be renewed for two further consecutive periods of five years through the payment of the prescribed renewal fee. The first five years is covered by the filing fee and the second and

third segments have to be maintained. The first renewal fee (after the first 5 years) would be \$200 and the second renewal fee (after the second 5 years) would be \$400.

### Routes for international application:

#### **Paris Convention**

- Trinidad and Tobago is a member of the international treaty called the Paris Convention for the Protection of Industrial Property.
- One of the articles of the Paris Convention allows nationals and residents of member states to file an industrial design application in any member country within **six** months of the initial application. This is known as the right of priority.
- Similar to the local application, the requirements for application are the Request Form 1 submitted on A4 size paper, accompanied by all graphic representations, drawing or tracing of the industrial design, submitted on A4 size cardboard in duplicate together with the application fee. Once the basic formal requirements have been met, the person at the Receiving Office will receive the application, issue a filing date and processing of the application will begin.
- Local applicants are allowed to file an application themselves or through a local attorney. All applicants outside of Trinidad and Tobago must have a local address for service and must therefore appoint a representative.
- Where applicable, a certified copy of the priority application must be submitted to the office together with an authorization of agent and a statement justifying the applicant's right.

**Fees:**

Application fee [Section 6(10)]	<b>\$500.00</b>
Correction of application to comply with requirements for according filing date [Section 7(2); Rule 14(2)]	<b>\$20.00</b>
Correction of application to comply with formal requirements [Section 7(3); Rule 14(4)]	<b>\$20.00</b>
Registration and publication fee [Section 8(1); Rules 14(6) and 15(1)]	<b>\$150.00</b> plus amount payable to publisher (determined by Newsday Newspaper)
Renewal fee [Section 10(2); Rule 16(2)]	
First renewal ... ..	<b>\$200.00</b>
Second renewal ... ..	<b>\$400.00</b>

**ISSUED BY**  
**THE INTELLECTUAL PROPERTY OFFICE**  
Ministry of the Attorney General and Legal Affairs  
3rd Floor, Capital Plaza,  
11-13 Frederick Street, Port of Spain  
Trinidad, West Indies  
Tel (868) 625-9972, 625-1907, 627-0706  
Fax (868) 624-1221  
Email [info@ipo.gov.tt](mailto:info@ipo.gov.tt)  
Website: [www.ipo.gov.tt](http://www.ipo.gov.tt)