



Designs in the Democratic Republic of Congo [DRC]

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This article discusses the Designs in the Democratic Republic of Congo [DRC]

1. Law dealing with Designs in DRC

- Industrial Property Law no 82-001 of 1982
- Industrial Property Regulations, 1989

2. Design protection in the Democratic Republic of Congo [DRC]

Protection for industrial designs is available in the DRC only by way of a national filing. As the DRC is a signatory to the Paris Convention, such a national filing can claim convention priority.

3. Registrable subject matter of Designs in DRC

According to the Law, an industrial design is understood to include any assembly of lines and/or colours intended to give any industrial or artistic article a distinctive appearance. It is further understood to include any plastic shape, whether associated with colours or not, and/or any industrial or artistic article that can serve as a model for manufacturing of other similar articles and which can be distinguished from similar articles, either by a distinct or recognisable configuration that gives it a novel character, or by one or more external effects giving it a specific and novel appearance.

It is important to note that the Law provides that, for the purpose of pursuing protection, the same creation cannot be considered as being an invention and also a design or an industrial model. If the same creation has features that could be susceptible both to industrial design and patent protection and these features are inseparable from one another, only those features relating to the invention shall be susceptible to protection.

The following subject matter is regarded as not being susceptible to design protection:

- any industrial design or model that is contrary to public order or decency
- any industrial design or model, the shape of which has been designed for technical or industrial purposes to such an extent that it is inseparable from the desired result
- any reproduction or servile imitation of a natural design or model.

4. Application for Designs in the DRC

Foreign applicants must be represented by a local agent like us.

Filing requirements are as follows:

- full particulars of the applicant

- power of attorney (notarised), in French (a copy of the signed power of attorney is required on the day of filing)
- assignment document (if applicable; notarised), in French
- drawings or representations of the design
- certified copy of the priority document (if applicable), with a sworn French translation of the first page thereof.

A single application can cover up to 50 designs.

5. Convention priority

An applicant who has filed a design application in a convention country is entitled to claim priority from such earlier application, provided the DRC application is filed within six months of the filing date of the earlier application.

6. Novelty

Novelty is determined on the same basis as for inventions, and it is regarded as being new if it does not form part of the current state of the art at the effective date of the application. The current state of the art comprises everything that is or has been made available in the public domain before the priority date of the design application, whether such availability occurred through a written or verbal description, through use or in any other way.

7. Duration and maintenance of Designs

The initial term of the design registration is five years, being extendible upon payment of renewal fees for a further five-year term. The term of the registration starts from the date of application for registration. A six-month grace period for paying the renewal fee is provided. If the renewal fee is not paid, the registration lapses.

Marking and working are not required. Falsely indicating that a design/model is a registered design subjects the offender to imprisonment and/or a fine.