



CANADIAN INDUSTRIAL DESIGN NEWS

Effective November 5, 2018, substantial changes will be enacted for Industrial Design Registrations in Canada. These changes will have significant benefits to proprietors seeking design protection.

The Hague System

Effective November 5, 2018 Canada will become a contracting party to the Hague System. After this date one will be able to designate Canada in any newly filed International Industrial Design application. Any International applications designating Canada will be handled and assessed in a different manner from nationally filed Canadian Industrial Design applications.

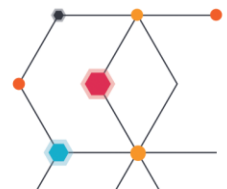
Canadian Industrial Design Act and Canadian Industrial Design Regulations

Effective November 5, 2018 any nationally filed Industrial Design applications in Canada will have an increased term and drawing requirements and prosecution aspects of applications will be changed. Below is a brief summary of some of the relevant changes.

Grace Period – There will now be a 12 month grace period for Applicant-derived disclosures that commences at the date of disclosure and extends through to the priority date.

Divisional Applications – Any voluntarily filed divisional applications (i.e., those filed not in response to a lack of unity rejection) must be filed within 2 years of the earliest filing date in Canada. This time restriction does not apply in the case of a divisional application filed as a result of a lack of unity rejection.

Publication – An Industrial Design application and its entire file history will be made publicly available 30 months from the earliest of the Canadian filing date and the priority date or on registration of the Canadian Industrial Design.



Drawings – A single application may include a mix of photographs, graphic reproductions or any other visual reproduction, provided that at least one figure shows the finished article in isolation. More than one environmental view may now be included in an application. An article that opens and closes or extends and retracts can be shown in intermediate positions as well as fully open/extended and fully closed/retracted positions, provided that the article is normally seen and used in all such positions. An electronic icon can now be shown in isolation. Dotted and broken lines, colouring, boundary lines and blurring may now be used to delimit design portions from non-design portions.

Office Actions – A 3 month response deadline may be extendable to 6 months, provided that a request for extension is made in advance of the initial deadline. Reinstatement will be available within 6 months of abandonment.

Delay of Registration – A one-time delay of registration of 30 months from the earliest filing date may now be requested.

Term – An Industrial Design Registration will have a term that expires on the later of either 10 years from registration or 15 years from the Canadian filing date.

While the above is not a comprehensive list of all changes, we will notify you of any additional changes that may impact your individual cases. Many of these changes will not have an impact on Industrial Design applications filed prior to November 5, 2018.

If you have any questions regarding Industrial Design protection in Canada, we would be pleased to discuss individual needs with you directly.

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