



## **Designs (Formal Requirements for Designs Documents) Instrument 2022**

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I, Kelly Sims, Registrar of Designs, make the following determination.

Dated *18 January 2022*

A handwritten signature in black ink that reads 'Kelly Sims'. The signature is written in a cursive style.

Kelly Sims  
Registrar of Designs

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## **Part 1 – Preliminary**

### **1 Name**

This determination is the *Designs (Formal Requirements for Designs Documents) Instrument 2022*.

### **2 Commencement**

This determination commences at the same time as Schedule 6 to the *Designs Amendment (Advisory Council on Intellectual Property Response) Act 2021*.

### **3 Authority**

This determination is made under section 149A of the *Designs Act 2003*.

### **4 Definitions**

In this determination:

*Act* means the *Designs Act 2003*.

*Design* has the same meaning as in section 5 of the Act.

*Design application* or *application* means an application filed under section 21 of the Act.

*Designs Office* has the same meaning as in section 5 of the Act.

*Full name* means at least the given name and surname of a natural person or, where applicable, the full name of a person other than a natural person.

*Product* has the same meaning as in section 6 of the Act.

*Regulations* means the *Designs Regulations 2004*.

*Representation* has the same meaning as in section 5 of the Act. A reference in this instrument to a Representation is taken to include any Schedule filed with the Representation.

*Sheet* means either a piece of paper or an electronic image, including a representation of a piece of paper.

*Visual feature* has the same meaning as in section 7 of the Act.

### **5 Compliance**

Where this determination prescribes a formal requirement, strict compliance with the formal requirement is not required and substantial compliance is sufficient.

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## **Part 2 – Formal requirements for documents**

### **6 Information that must be included in a design application**

- (1) An application filed with the Designs Office must include the following information:
  - (a) full name of all the applicants;
  - (b) the Address for Service in accordance with sub-regulation 11.19(1);
  - (c) a contact telephone number for either the Address for Service or applicant;
  - (d) representation(s) of the design;
  - (e) an indication of the number of designs in the application;
  - (f) full name of all designers; and
  - (g) where there is a convention claim for priority, the basic information that confirms the number, country and filing date of the basic application, in accordance with sub-regulation 3.06(2).
- (2) An application for a common design must include an indication that the application is for a common design and a list of products to which the common design relates.

### **7 Standards for representations**

- (1) Representations must clearly show the visual features of a design.
- (2) Where a statement of newness and distinctiveness refers to a particular part of a design, at least one of the representations must display that part of the design.
- (3) At least one of the representations in a design application must include a view of the design showing the product fully assembled.
- (4) Representations must be without material extraneous to the product.
- (5) Representations being drawn with lines, including drawings, must be executed in durable, dense, uniformly thick and well-defined lines and strokes.
- (6) Subject to subsection 7(7) representations should consist of one common image format, namely:
  - (a) drawings;
  - (b) photographs; or
  - (c) images derived from computer-aided-design.
- (7) Where representations have multiple image formats they must not cause uncertainty about the design for which the applicant has applied.

Note: The Registrar will require deletion of one or more of the representations where they cause uncertainty about the design for which the applicant has applied.

- (8) Representations in one application must be consistent in their use of colour across different representations so that the representations do not cause uncertainty about the design for which the applicant has applied.

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- (9) Where an application is for a common design, unless the representations showing the design applied to each product are identical, the representations must show the design in relation to each product identified in the application on a separate sheet.
  - (10) If the application is for more than 1 design:
    - (a) each design must be separately and clearly indicated; and
    - (b) a single sheet cannot be used to show more than 1 design.
  - (11) A representation containing a view of a cross-section must itself be clear and must not impede the clear reading of the representations.
  - (12) Each representation must be shown in proportion to each other representation, except when the use of a different proportion is necessary for clarity of the representation.
  - (13) Environmental or reference views should not cause uncertainty about the design for which the applicant has applied.

Note: A single reference or environmental view is usually sufficient and more than one reference or environmental view may cause uncertainty.
  - (14) A single representation must not exceed a single sheet.
  - (15) A representation that includes indefinite dimensions must represent the indefinite dimensions in a clear and readily understandable manner.

## **8 Photographs in representations**

- (1) Representations being photographs must be clear and in focus.
- (2) All representations being photographs, including photographs of specimens, must be photographs taken against a background that is neutral, plain and contrasting with the product.
- (3) All photographs in a physical printed format must be printed on material:
  - (a) that allows and facilitates any number of copies of the photograph to be reproduced directly by photocopying, digital scanning and photography; and
  - (b) that has a surface that is not folded, creased or cracked or otherwise impaired.

## **9 Text**

- (1) All text, other than that which forms part of the design, appearing in any document, must be:
  - (a) in English;
  - (b) presented clearly;
  - (c) legible; and
  - (d) indelible.

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- (2) A representation must not include text, other than any word or words necessary for the understanding of the representation.

Note: One example of labelling text which may be necessary for the understanding of a representation is the following text:

“The relatively lighter shade lines indicate surface contour and not ornamentation”.

- (3) A representation must not contain a statement of newness and distinctiveness, or wording to the effect of a statement of newness and distinctiveness.
- (4) Where representations showing the design cannot be readily and obviously understood on a fair reading without labelling, the representations must include appropriate labelling, such as, but not limited to, the following labels:
- (a) ‘perspective view’;
  - (b) ‘top view’;
  - (c) ‘left-side view’;
  - (d) ‘right-side view’;
  - (e) ‘exploded view’;
  - (f) ‘close-up view’;
  - (g) ‘environmental view’ or ‘reference view’; and
  - (h) ‘sectional view’ or ‘cross-sectional view’.

## 10 Requirements for documents

- (1) Where a document is filed on paper, each sheet comprising a document or part of a document:
- (a) must be presented on an international sheet A4 in a manner that is clear and legible;
  - (b) must be on a separate sheet, or separate sheets, to any other documents filed in relation to the application where showing representations;
  - (c) must not be folded, creased or cracked; and
  - (d) must be free from any erasures, alterations, overwriting and interlineations that, in the reasonable opinion of the Registrar, would:
    - i. compromise the authenticity of the document; or
    - ii. reduce the likelihood of clear reproduction of the document.
- (2) All sheets in a filed document must be presented in a way that allows copies of the sheet to be reproduced directly by photocopying and digital scanning, and convertible to an electronic form that is legible when the sheets are viewed as the same size as an A4 sheet.
- (3) All sheets in documents must be:
- (a) legible;
  - (b) presented clearly; and
  - (c) indelible.

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## **11 Amendments**

- (1) If an amendment is requested, it should include a clear indication of the nature and location of the proposed amendment to any representations.
- (2) Where new representations are provided, an amendment request should clearly indicate:
  - (a) the prior representations which are to be replaced and the new representations that replace them; or
  - (b) if the new representations are to replace all of the prior representations, a statement or words expressing that intention.