

Changes to Industrial Design Practice in Canada

Two available filing options (as of November 5, 2018) for industrial design protection in Canada:



Direct Canadian application



International application under the Hague agreement

- a. Designate Canada among other jurisdictions
- b. Benefit from single application, single fee

Changes Applicable Only to Applications Filed on or After November 5, 2018

Term of Protection:

Minimum **10** years from registration up to maximum of **15** years from filing (minus prosecution time)

Publication:

Earlier of **registration** and **30** months from earliest priority date

Delay of registration:

Maximum of **30** months from earliest priority date

Now permitted

- ✓ file new applications electronically using PDF, DOCX, JPG or TIFF
 - responses/amendments will only be permitted in these formats around summer 2019
- ✓ both line drawings and photographs in same application
- ✓ more than one figure showing environment
- ✓ use of colouring (e.g. blue shading) or blurring to represent non-design portions
- ✓ one view may be sufficient (e.g. for electronic icon on display screen)
- ✓ electronic icon can be shown in isolation (no need to illustrate screen)
- ✓ non-white background and non-interfering shadows in photographs

Practice changes

Features:

- Features can now be **disclaimed using the description**, without indications in the drawings
- e.g. no need to show non-design portions in stippled lines when description disclaimer is used

Variants and Stippled Lines:

- **Same aspect** can now be shown in **solid lines** in one variant and in **stippled lines** in another permissible variant
- More permissive than current practice, but not going as far as the US

Divisional Applications:

- **Voluntary divisionals** can be filed up to **2 years** from filing date of original application
- Divisionals *in response to lack of unity* objection can be filed *after 2 years* from filing, while original application is still pending

New Changes Applicable to All Pending and Future Applications



Electronic submissions will now receive **actual date of submission**.

- *New applications:* Can file electronically on a date when the Office is closed for business to beat a disclosure-related deadline.



Only one extension of time for a maximum 6 months is available.



Deadlines falling on holiday or weekend are **automatically extended to following business day** when CIPO is open.

Previous Changes Applicable to All Applications



Colour can form part of the design



Animated designs (frames in a sequence) are protectable



Expedited search (no additional fee) available upon submission of priority document

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