

Decision on Industrial Designs

SECTION	<u>44</u>
General Provisions	<u>44</u>
Article 1. Objective.	<u>44</u>
Article 2. Competent Authority.	<u>44</u>
Article 3. Definitions.	<u>55</u>
Article 4. Protection Available; International Agreements	<u>88</u>
Article 5. Industrial Designs Eligible for Protection	<u>88</u>
Article 6. Persons Eligible for Protection.	<u>88</u>
Article 7. Language.	<u>88</u>
SECTION	<u>99</u> f
Article 16. Application Requirements.	<u>1212</u>
Article 17. Drawing and Description.	<u>1414</u>
Article 18. Description of Objects to Which Industrial Design Applies	<u>1515</u>
Article 19. Other Disclosure Requirements.	<u>1515</u>
SECTION	<u>1616</u> 1818
Article 23. Single Design or Related Designs.	<u>1818</u>
Article 24. Division.	<u>1919</u>
Article 25. ReFiling; New Material; Amendment and ReFiling to Claim Correct Form of Protection.	<u>1919</u>
SECTION	<u>2020</u>
Substantive Examination	<u>2020</u>
Article 26. Search and Substantive Examination.	<u>2020</u>
Article 27. Subject Matter to be Protected as Industrial Design	<u>2121</u>
Article 28. Technical Characteristics.	<u>2121</u>
Article 29. Amendment During Examination.	<u>2121</u>

Article 30. Refusal Based on False or Misleading Statements.	<u>2121</u>
Article 31. Persons Entitled to File; Effect of Filing.	<u>2222</u>
Article 32. Designership; How Determined.	<u>2222</u>
Article 33. Evaluating Novelty.	<u>2323</u>
Article 34. Evaluating Ornamentality and Features Dictated by Technical Functions.	<u>2424</u>
Article 35. Right to Require Additional Information.	<u>2424</u>
Article 36. Refusal of Designs Contrary to Social Order and Fine Traditions of the Nation.	<u>2424</u>
Article 37. Abandonment of Application.	<u>2525</u>
Article 38. Publication.	<u>2525</u>
Article 39. (Reserved)	<u>Error! Bookmark not defined.26</u>
SECTION II	<u>2626</u>
Rights and Obligations	<u>2626</u>
Article 40. General Rights.	<u>2626</u>
Article 41. Enjoyment of Benefits from Exploitation.	<u>2626</u>
Article 42. Scope of Rights of Exploitation.	<u>2626</u>
SECTION III	<u>2626</u>
Term, Invalidity, and Post Grant Procedures	<u>2626</u>
Article 43. Term of Protection; Fees to Ensure Full Term.	<u>2626</u>
Article 44. Provisional Protection.	<u>2727</u>

Article 71. Continued Requirements for Practitioners and Patent Practitioners.	<u>4242</u>
SECTION II	<u>4242</u>
Administrative Provisions	<u>4242</u>
Article 72. Secrecy and Access to Files.	<u>4242</u>
Article 73. Communication with the Department.	<u>4242</u>
Article 74. Identification of Documents.	<u>4343</u>
Article 75. Form of Correspondence.	<u>4343</u>
Article 76. Documents to be Signed Effect of Signature.	<u>4444</u>
Article 77. Times for Taking Action; Expiration on Saturday, Sunday or National Holiday.	<u>4545</u>
Section XIII	<u>4646</u>
Registration and Service Fees	<u>4646</u>
Article 78. Fees.	<u>4646</u>
Article 79.	<u>4646</u>
SECTION IV	<u>4646</u>
Final Provisions	<u>4646</u>
Article 80. Implementation.	<u>4646</u>
Article 81. Effective Date.	<u>4646</u>

LAO PEOPLE'S DEMOCRATIC REPUBLIC
Peace Independence Democracy Unity Prosperity

Ministry of Science and Technology

No. /MOST
Vientiane,

Decision on Industrial Designs

- Based on Law No. 01/NA dated December 20, 2011 on Intellectual Property;
- Based on requirements for implementation of this Law; and .
- Based on the proposal of the Intellectual Property Department;

The Minister of Science and Technology issues the following Decision:

SECTION I General Provisions

Article 1. Objective.

This Decision is set forth for implementing the Law on Intellectual Property and provides procedures on protection relating to industrial designs and uniformly sets up the rules relating to the filing applications for industrial designs throughout the Lao People's Democratic Republic.

Article 2. Competent Authority.

1. The Department of Intellectual Property in the Ministry of Science and Technology shall be the competent authority for determining whether an application for protection of an industrial design meets the legal requirements set forth in the Intellectual Property Law and this Decision. The Department shall have other duties as may be provided by Law or Decision.

2. The Department shall maintain the record book on industrial designs. Records defined in this Decision shall be recorded in those record books.

3. The Department shall publish in the official industrial property gazette information as defined in this Decision. An official industrial property gazette may be established separately for each type of intellectual property if necessary.

4. In carrying out its responsibilities, the Department shall have the authority to take such actions as may be required to prevent or correct mistakes on matters within its responsibility, and to ensure the orderly operations of the Department, and to grant extensions of time in appropriate cases, provided such actions are consistent with the Intellectual Property Law and this Decision and with any international agreement or convention to which the Lao PDR is a party.

5. The Department shall appoint a Board of Appeals and such other administrative boards or committees as may be needed to implement the Intellectual Property Law and this Decision.

6. All situations not specifically provided for in this Decision will be decided in accordance with the merits of each situation by or under the authority of the Director-General, subject to such other requirements as may be imposed, such decision will be communicated to the interested parties in writing. In an extraordinary situation, when justice requires, any requirement of the this Decision which is not a requirement of the Intellectual Property Law or other applicable Law may be suspended or waived by the Director-General or the Director-General's designee, on such person's own initiative or on request of the interested party, subject to such other requirements as may be imposed.

Article 3. Definitions.

In addition to definitions defined in Article 3 of the Law on Intellectual Property No. 01/NA dated December 20, 2011, for purposes of the Intellectual Property Law and this Decision, the following terms shall have the meanings given below, unless the context otherwise requires:

Applicant means one or more persons, legal entity or organization that has applied to obtain an industrial design, or such person's successor interest, or in the context of an objection or application for cancellation, the person, group of persons, or legal entity that has filed the objection or applied for the cancellation, consists of a Successor interest

agreement.

Licensee means the person or persons to whom an intellectual property owner grants a license.

Licensor means a person who grants a license.

Minister refers to the Minister of Science and Technology

Paris Convention means the Paris Convention for the Protection of Industrial Property.

Power of attorney means a written document by which a principal authorizes one or more persons to act on his or her behalf.

Practitioner means an attorney or agent who regularly engages in practice before the Department.

Principal means a person who executes a power of attorney designating one or more persons to act on his or her behalf in connection with an application or other proceedings before the Department.

Prosecution refers to all acts intended to lead to the allowance of an application.

Regular national filing means any filing that is adequate to establish the date on which an application was filed in the country concerned, whatever may be the subsequent fate of the application.

Representation Address means the correspondence address of all practitioners authorized in a single power of attorney.

Representative means an attorney or agent who is authorized to represent an applicant or intellectual property owner or other person with regard to one or more proceedings before the Department.

Restrict or restriction in the context of an application refers to an action limiting the subject matter of the application.

Revoke means, in connection with a Power of Attorney, the cancellation by the principal of the authority previously given to a practitioner or other person to act on behalf of the principal.

The terms **holder or owner, or rights holder or rights owner**, as appropriate, are used interchangeably to refer to the person who has been granted an industrial design, or who is legally entitled to rights in an industrial design without regard to whether an industrial design has been granted thereon, or to such person's agent or successor in interest or other person who has received such rights by law.

Specification refers to the portion of an industrial design or application therefor that describes the invention or utility application in words, together with other information useful in understanding the industrial design.

Article 4. Protection Available; International Agreements.

1. Protection for any industrial design shall be available in accordance with the Intellectual Property Law and procedures set forth in this Decision.
2. In case of any conflict between the provisions of this Decision and those of any treaty or international agreement to which the Lao PDR is a party or has mutually signed, the provisions of the international treaties or agreements shall be implemented.
3. Requirements in connection with international applications shall be as provided in this Decision except as otherwise provided in accordance with the provisions of any international agreement of which the Lao PDR is a member.

Article 5. Industrial Designs Eligible for Protection

Every industrial design is eligible for protection by an industrial design registration if it is consistent with Article 15 of the Law on Intellectual Property and is not ineligible for protection under Article 22 of the Law on Intellectual Property.

For the purpose of this Decision, an industrial design refers to the appearance of a product dictated by its form, shape, pattern, or colors and not dictated by its function or by technical considerations.

Article 6. Persons Eligible for Protection.

1. The persons described in Article 26 of the Intellectual Property Law are eligible to obtain protection for their industrial designs, and file an application for an industrial design registration, to enforce their rights administratively or through the courts, and to undertake

3. Any other correspondence with the Department and accompanying material shall be in the Lao language or the English language, provided that where correspondence is submitted in the English language, a translation into the Lao language shall be submitted within 90 days of the submission, or not less than 30 days from notification by the Department to supply a Lao translation, whichever period is longer. For correspondence and documents submitted under this paragraph, the Department shall have the authority to grant extensions of time in appropriate circumstances and on such conditions as may be determined by the Department.

4. Each translation shall be certified by the translator, or by another person who has personally reviewed the translation, to be a true and correct translation of the translated document.

5. Where a translation is unclear or otherwise inadequate for the purposes for which the document is submitted, or where the Department reasonably believes that the translation does not correctly represent the original, the Department may require a second translation, at applicant's expense.

SECTION II Application Procedures

Article 8. Initial Procedures; Filing Date.

1. Any person who is eligible for protection as described in Article 6 of this Decision, and who is entitled to file an application as described in Article 31 of this Decision, and who wishes to obtain an industrial design registration may file an application with the Department on the prescribed forms following the procedures described below.

2. An application is filed by presenting to the Department a copy of the application, together with any required documents. The Department will conduct an initial review of the papers submitted to determine the nature of the appl

1. An application that has been received and accorded a filing date as described in Article 15 of this Decision shall be examined to determine whether it is complete and complies with all formal requirements.
2. If the application is not complete or does not satisfy the formal requirements as described herein, the Department will notify the applicant of any requirements not satisfied and the period of time in which the applicant must meet the requirements.
3. If formal requirements are supplied to the Department within the time provided, the application will be accepted for substantive examination. If formal requirements are not satisfied within 60 days, the applicant will be advised that the application is considered to be abandoned.

Article 11. Substantive Examination Requirement.

1. An application for an industrial design registration that has satisfied formal requirements shall be subject to substantive examination without request by the applicant and without the necessity to furnish copies of examination form to another office, to determine whether the application meets the requirements for protection set forth in the Intellectual Property Law.
2. The Department shall conduct a substantive examination of the application in accordance with the relevant provisions of the Intellectual Property Law and this Decision and shall notify the applicant of any conditions, objections, grounds for refusal of part or all of the rights for which the applicant has applied, or any conditions or restrictions thereon. The applicant will be given an opportunity to respond and, subject to any limitations provided in this Decision, to amend the application or provide supplementary information to respond to the communications from the Department. The Department may require additional information as needed. If the applicant fails to comply with this provision within 60 days from such notification, the application will be deemed to be abandoned, provided however that the Department may extend the time for complying with this provision for good cause shown by the applicant.

Article 12. Amendment During Examination.

At any time an application is pending before the Department but before the Department has granted an industrial design, or before the abandonment, final rejection, or other termination of proceedings on the application, the applicant may amend the application, provided such amendment does not introduce technical information not included in the disclosure, including drawings, of the application as filed.

Article 13. Grant of Industrial Design; Publication.

1. Where the application complies with the requirements for protection as provided in the Intellectual Property Law and this Decision, the Department shall notify the applicant that the application is in condition for allowance and, unless additional fees are due, shall grant the industrial design registration. The Department will issue an industrial design certificate, record the grant, and publish information relating to the industrial design in the official industrial property gazette.

2. Additional fees shall be required where applicant has requested publication of the assignee's name and address, an early publication or any republication other than that addressed by paragraph 4 of Article 38 of this Decision. If such additional fees are required, the Department shall notify the applicant to pay the prescribed fees and, when the applicant provides a receipt from the Finance Division showing payment of such fees, shall complete the procedures described in paragraph 1 of this article.

Article 14. Invalidity and Cancellation.

Any interested party that believes an industrial design is invalid may file an objection or cancellation proceeding against an industrial design as provided in Article 44 of the Intellectual Property Law or may file a cancellation action in the Courts pursuant to Article 136 of the Intellectual Property Law and consistent with Section VIII of this Decision. An objection or cancellation brought before the Department must be filed within five years of publication. A cancellation proceeding filed in the Court may be brought at any time during the term of the industrial design registration or may be raised thereafter during any proceeding relating to the enforcement of rights under the industrial design.

**SECTION III
Application Requirements**

Article 15. Minimum Requirements for Filing Date; Provisional Acceptance of Application.

1. An application to register an industrial design shall include the items enumerated in Article 32 of the Intellectual Property Law and such other information as may be required by the Department. The application shall be presented on the form provided. It shall include the

Such statement may be provided to the Department by the applicant at the time of filing or at any time before the expiration of the period for responding to a request by the Department to provide such a statement.

3. The Department may require the applicant to submit additional information and in particular may require the applicant to provide a specimen or sample of the goods embodying the design or to which the design is applied, photographs of such goods. The Department shall return to the applicant, at the applicant's expense, a bulky or oversized specimen or sample that cannot be readily stored in the Department's files, at applicant's option, shall

inquire of the applicant as to whether it is intended that the label be part of the design.

- 2) In an application to register the ornamental appearance of a box, the design applied to the box includes a copyright notice. This notice would ordinarily be considered to be extraneous material and the Department would issue a requirement to supply a corrected drawing or photograph removing the copyright notice.

Such items as the name of goods, patent, trademark or copyright notice, weights or volumes, or other descriptive items are ordinarily considered to be extraneous material and will normally be the subject of a requirement to supply corrected drawings or photographs.

Where it is clear that a drawing or photograph includes extraneous material, and the appearance of the design can nevertheless be understood, the Department may proceed with examination and require the applicant to provide corrected drawings before the application is accepted for registration.

Where drawings are presented, surface shading should be used to show the character or contour of surfaces. Photographs must not disclose environmental structure but must be limited to the design claimed for the article.

Article 18. Description of Objects to Which Industrial Design Applies

The industrial design application shall briefly state the nature of the object or objects to which the industrial design applies, for example, shoe, book, automobile, together with an indication of the international class in which such goods are found. An industrial design cannot be registered without reference to a specific object or objects to which the design applies or in which it is embodied. A statement that the design applies to everything will not be considered to comply with this requirement.

Article 19. Other Disclosure Requirements.

1. The Department may require the applicant to submit additional information as needed to carry out its examination or to respond to other matters that may be raised in connection with the application.
2. The Department may require the applicant to provide a specimen or sample of the industrial design or other such items if needed for purposes of examination. The Department shall return to the applicant, at the applicant's expense and subject to applicant's arrangements, a bulky or oversized specimen or sample that cannot be readily stored in the Department's files or, at applicant's option and expense, shall dispose of such item. The Department may dispose of perishable material without notice unless the applicant makes prior arrangement to have such items returned to applicant or otherwise disposed of at applicant's expense.
3. Since the industrial design will be subject to publication, a drawing that includes material subject to copyright or other rights of another person who is not the applicant or inventor shall include a statement authorizing the reproduction of such material. Such authorization shall be substantially as follows:

A portion of the disclosure of this industrial design document contains material which is subject to copyright (or integrated circuit layout-design) protection. The (copyright or integrated circuit layout-design) owner has no objection to the reproduction by anyone of the patent or the patent disclosure as it appears in the file or records of the Lao Intellectual Property Department but otherwise reserves all (copyright or integrated circuit layout-design) rights whatsoever.

SECTION IV Priority and Temporary Protection

Article 20. Priority

1. An application may claim priority on the basis of an earlier-filed application pursuant to Article 29 of the Intellectual Property Law. A claim for priority is made by submitting a written statement that requests such priority and identifies the industrial design application that can serve as a basis for a priority claim under the Paris Convention. The Department will determine whether the requirements are met for a priority claim. If the requirements are met, the priority date shall be the effective filing date in the Lao PDR for purposes of evaluating whether the requirements for publication have been met and for purposes of determining any third party claims or rights to the industrial design. The effect of a declaration of priority shall be as provided in the Paris Convention and in the Intellectual Property Law.
2. A priority claim can only be based on a regular national filing of an application in the intellectual property office of a country, customs union, or other territory that is a member of the Paris Convention or of a bilateral, regional, or other international agreement of which the Lao PDR is a member and which provides a right of priority. The Department shall from time to time publish a notice identifying the countries and offices where such filing may serve as the basis for a priority claim.
3. Any person claiming the priority of a previous application shall indicate the filing date of such application, the country in which it was made, and the number of that application, and the type of intellectual property to which the application pertains, for example, industrial design, and shall provide a copy of the relevant priority document, certified as correct by the authority which received such application. A copy of the previous application may be filed with the Lao application or at any time within three months of the filing of the Lao application.
4. Where a claim for priority is made, but the required information or documents are not submitted with the claim, the Department shall inform the applicant to submit such information or documents, stating the time within which such documents must be received. Such documents shall be submitted in any event within three months from the filing date of the application in the Lao PDR.
5. Where the copy of an application, duly certified by the issuing office, is submitted within the time provided in paragraph 2 of this article together with a translation of such document into the Lao language, it shall be considered as timely filed and, if the Department finds the priority claim to be otherwise in order, a priority date awarded.

6. Where such documents are not in the Lao la

5) sponsored or granted official recognition to such exhibition;

determination, minor differences will not be ta

3. Where an application is re-filed as provided in paragraph 1 of this article but is accompanied by amendments that introduce material that goes beyond the scope of the original application as filed, such re-filed application shall be entitled to the benefit of the filing date of the earlier-filed application (including any priority or temporary protection claim) with regard to any disclosures in such earlier-filed application, provided that it contains or is amended to contain a specific reference to the earlier-filed application, and with regard to such information that goes beyond the scope of the original application as filed, the re-filed application shall be entitled to the filing date on which it was actually re-filed in the Lao PDR.

4. The procedure of this article may be used to convert an industrial design application to an application for a patent or petty patent, or to convert a patent or petty patent application to an application to register an industrial design. The converted application is eligible to receive the filing date and, if applicable, the priority or other effective filing date of the earlier-filed application, provided that such conversion shall not serve to extend the priority period for an industrial design.

SECTION VI Substantive Examination

Article 26. Search and Substantive Examination.

1. When an application has been found to satisfy formal requirements set forth in this Decision, the Department shall conduct a substantive examination in accordance with this Section to determine whether the application meets the requirements of Article 15 of the Intellectual Property Law and whether the grant of an industrial design is barred by Article 22 of the Intellectual Property Law.

2. Substantive examination shall include a search to identify any earlier industrial designs or

or other communication unless the applicant file an appeal within this period.

Article 27. Subject Matter to be Pr

representative is making false or misleading statements to the Department. In such case, the Department shall first notify the applicant of the Department's intended action and the grounds therefor and permit the applicant to withdraw or correct such information or statements, subject, however, to any limitations on new information set forth elsewhere in this Decision.

Article 31. Persons Entitled to File; Effect of Filing.

1. Subject to the Intellectual Property Law and Article 6 of this Decision, an application may be filed by the designer or other person who made the industrial design in accordance with the Intellectual Property Law. If filed by a person who is not the designer, the application must name the natural person or persons who made the design.

2. By filing an application, or by having such application filed on his or her behalf, the applicant consents to be bound by this Decision and certifies that applicant is legally entitled to file the application, and that all information provided in the application is true to the best of applicant's knowledge and belief, after reasonable inquiry to determine the facts.

Article 32. Designership; How Determined.

1. A designer is a person who makes an industrial design, regardless of whether such industrial design is entitled to the protection of an industrial design.

2. There is no fixed process by which an industrial design is made. An industrial design may be, for example, the result of careful research and experimentation, a sudden flash of inspiration, or the realization of a discovery, provided in all cases that to obtain an industrial design thereon, such industrial design satisfies all requirements for protection.

3. A person makes an industrial design when a person has a completed conception of all of the elements of the invention sufficient to prepare an enabling disclosure or, if the invention is the result of a discovery, when

5. For purposes of Article 15 of the Intellectual Property Law, communication of a picture, drawing, or other image of the design shall not be considered to be a disclosure to the public where such communication is made under an obligation of confidentiality or in circumstances that would not be expected to lead to a release of the design or of an item bearing or embodying such design to the public unless such communication leads to such release to the public. Communication in circumstances described in this article include, for example, communication made:

- 1) Under a written confidentiality agreement;
- 2) Within the organization or enterprise that is the right holder;
- 3) Within family circles or to selected acquaintances;
- 4) To an attorney or agent;
- 5) To a third party for purposes of a transfer of ownership of a design that has not yet been placed in commercial use.

6. For purposes of Article 15 of the Intellectual Property Law, the filing of an application shall not be deemed to render a design no longer new until the application is published or laid open for inspection or results in a patent, petty patent, registration, as the case may be.

7. Determination as to whether a communication is subject to paragraph 5 of this article shall be the responsibility of the applicant. In case of doubt, an applicant may provide a statement that describes any disclosure or communication of the design prior to the earlier of the filing date or effective filing date of the application, including a disclosure that the applicant believes is subject to paragraph 5 of this article, together with such information and documents as will allow the Department to determine whether a communication is subject to paragraph 5 of this article.

Article 34. Evaluating Ornamentality and Features Dictated by Technical Functions.

1. As provided in Article 15 of the Intellectual Property Law, to be registrable, an industrial design must be ornamental, meaning that it gives a special appearance to the object to which the design is applied or in which it is embodied. The requirement of ornamentality shall be evaluated on the basis of the overall appearance of the industrial design, taking into account its shape, lines, colors, or other elements that contribute to its overall appearance.

2. Even where an object has a distinctive appearance, it may fail to be ornamental if such appearance is dictated by technical features of the invention. Where a design is dictated by such features, it must be refused registration pursuant to paragraph 1 of Article 22 of the Intellectual Property Law.

Article 35. Right to Require Additional Information. Where serious doubts exist as to the correctness of any information or documents included in or annexed to an application, the Department may notify the applicant or agent to furnish, within a period not exceeding three months or 90 days from the date of notification, evidence proving the correctness of such data or documentation.

Article 36. Refusal of Designs Contrary to Social Order and Fine Traditions of the Nation.

In accordance with paragraph 2 of Article 22 of the Intellectual Property Law, an industrial

design may be refused registration where it is contrary to social order and the fine traditions of the nation. A design will be considered to be contrary to social order and the fine traditions of the nation where it consists of, comprises, or includes material that is scandalous or obscene or otherwise offensive, where it includes disparaging material, or where publication of the design would constitute a violation of national Law.

Article 37. Abandonment of Application.

Pursuant to Article 43 of the Intellectual Property Law, the Department shall determine that an application is abandoned as of the times given below:

- 1) Where the application is incomplete,
 - a) If the application deposited with the Department is incomplete so that it does not meet minimum requirements for obtaining a filing date, after the expiration of 90 days;
 - b) If the application has been assigned a filing date and the applicant has been notified that the application is incomplete and given a time in which to make corrections or supply missing parts, at the expiration of the period for such action.
- 2) Where the industrial design does not meet the requirements for protection, at the conclusion of the substantive examination and the expiration of any period for response by the applicant where the applicant has not filed a response that will place the application in condition for allowance.
- 3) Where it appears that the applicant is not entitled to apply for registration, after notice to the applicant and the expiration of any period for response that will show that the applicant is in fact entitled to apply.
- 4) Where the applicant fails to pay the required fees for the application or to maintain the protection in force,
 - a) If the application deposited with the Department has not been assigned a filing date because the filing fee was not paid, after the expiration of 90 days;
 - b) If the fee relates to an extension of time or other fee that is due in connection with the prosecution of the application before the Department, and remains unpaid sixty days after the Department notifies the applicant to pay such fee, at the expiration of such period.
 - c) If the application is in condition for allowance and the filing fee is not paid, sixty days after notification to pay such fee, at the end of such period.
 - d) Where a fee is required to maintain an application in effect and remains unpaid after the period set forth in Article 35 of this Decision, six months after the anniversary of the filing date at the end of the period for which the application is in effect.

Article 38. Publication.

1. Except as provided in paragraph 2 of this article, where the relevant requirements for protection are satisfied, the Department will record the relevant information in the official industrial property gazette and publish such information and issue a certificate to the

2. An applicant may, subject to paying the applicable fees, request early publication of the application.
3. Where an application has been assigned, applicant may, subject to paying the applicable fees and providing the relevant information, request that the publication include the assignee's name and address.
4. Where a publication contains a mistake, applicant may request republication with corrected information, without additional fee, provided that such request must be filed within two months from the date of the earlier publication.

industrial design shall be fifteen years beginning from the filing date of the application for registration in the Lao PDR. To maintain the industrial design registration in effect, the owner of industrial design shall pay in advance to the Department a fee to maintain the registration or application in effect. The period for paying the fee shall begin five years from the filing date of the application for industrial design registration and shall be payable every five years thereafter.

2. In measuring the term, the day of filing shall be counted and the anniversary of such date shall be excluded.

3. Enjoyment of the full term of protection shall require the payment of the relevant fees to maintain the application or industrial design in effect as provided in Article 50 of the Intellectual Property Law. Such fees shall be due even if the application is still pending before the Department. Such fees shall be paid in advance of the expiration of the period stated and the fees required to maintain the application or industrial design in force for the remaining term may be paid in advance at any time after filing. The period for paying such fees expires on the anniversary of the filing date at the end of the latest period for which fees have been paid.

4. Deferment of publication shall not affect the obligation to pay fees as provided in this article.

5. An industrial design, or an application therefor, shall lapse if fees are not paid during the

- 1) That the industrial design failed to ~~meet~~ ^{meet} or more requirements for protection under Articles 15, 22, or 26 of the ~~Intellectual Property Law~~ ^{Intellectual Property Law} as further implemented by this Decision.
- 2) That the registration is ~~invalid~~ ^{invalid} because the application ~~was~~ ^{was} granted on the basis of

Article 45. Procedures for Objection or Cancellation.

1. Except as otherwise provided, applications to the Department to object to or cancel a registration shall be subject to the procedures provided in Articles 8, 9, 10, and 37 of this Decision, *mutatis mutandis*.

2. Promptly upon receiving notice that the application has been accepted for filing, the applicant shall serve a copy of the application and any accompanying information on the registrant. Such notice may be served at the correspondence address on file with the Department. If the applicant is unable to serve a copy on the applicant at such address, service shall be attempted at one or more of the following addresses:

- 1) The correspondence address of applicant representative in the Lao PDR.
- 2) If the registrant is a governmental entity, an official address associated with such governmental entity.
- 3) At any other address at which the registrant may reasonably be expected to be reached, if such address is known to the applicant.

3. The applicant shall thereafter file with the Department a statement that the application was served on the registrant, as applicable, together with evidence supporting such statement. If service has been attempted but is unsuccessful, that applicant shall file a declaration that it has attempted to serve a copy of the application and its accompanying material on the registrant, detailing the means it has employed to effect service, but that after diligent efforts, the applicant has been unable to accomplish service. Such declaration shall be filed together with supporting evidence.

4. Where the applicant files a declaration that it has unsuccessfully attempted service as provided in paragraph 3 of this article, the Department shall examine the evidence to determine whether it appears that a reasonable effort has been made to serve the registrant. If it finds such efforts to be insufficient, it shall notify the applicant to correct the deficiency within 60 days. If it finds such efforts to have been sufficient, the Department shall notify the registrant at the last correspondence address provided by the registrant that an application has been filed and the nature thereof and require the registrant

7. If the Department finds that an application establishes a *prima facie* basis for granting the application, it shall notify the applicant and the registrant that the application has established a *prima facie* basis for further review and has been accepted for further consideration in accordance with Article 44 of this Decision. An application that, after substantive examination, fails to establish a *prima facie* basis shall be refused, and both parties shall be so notified.

8. The Department will not issue advisory opinions regarding the likelihood that a particular application will be canceled or other action taken and will not provide legal advice to applicants regarding the grounds or types of evidence needed to support applications therefor.

Article 46. Inter Partes Procedures for Cancellation.

1. Where an application establishes a *prima facie* basis for granting the relief requested in the application, the Department shall refer the application to a Board established to hear *inter partes* matters.

2. Within 60 days of notification that the application has been found to establish a *prima facie* basis for granting the application, the registrant shall file a response to the application, specifically admitting or denying each element of the application or, if the registrant is without sufficient information on which to evaluate an element, so stating, and submitting such evidence as the registrant believes will rebut the elements of the application. The registrant may, in this filing, present any defenses to the allegations in the application or the requested relief or submit any new information or evidence it believes is relevant to the application.

3. The applicant shall have a single opportunity to rebut any statements or evidence presented by the registrant pursuant to paragraph 2 of this article. Thereafter, the registrant shall have a single opportunity to respond to the rebuttal, provided however, that no new issues of fact or law shall be raised by either party in the course of the rebuttal proceedings.

4. The registrant and applicant shall each file such statements with the Department. Each party shall serve or attempt to serve a copy of all documents on the other party and shall submit evidence of such service or attempted service to the Department.

5. Each submission shall be made within 60 days of service of the previous document, provided, however, that the Department may upon request and for good cause shown, extend such time by an additional 30 days.

6. When the documents referred to above have been received by the Department, or the time for their submission has expired, the Board will examine the application, response, and rebuttal statements, together with evidence submitted by each party, and render a decision as to whether to grant the application and the relief sought. The Board shall make its determination by preponderance of the evidence and shall be based solely on the information contained in the file.

8. The parties may compromise and settle any such proceeding at any point during the pendency of the application, provided however that such compromise and settlement must be reduced to writing and provided to the Department for review and approval. A compromise and settlement will be approved unless it is found to be contrary to the Intellectual Property

Law as it relates to industrial designs, for example, by granting a license that would result in a monopolistic practice.

SECTION IX Administrative and Judicial Review

Article 47. Preventing and Correcting Mistakes.

The Department shall have the authority to provide for a review of any action taken by the Department and to take such administrative actions as may be needed to prevent or correct a mistake. Such actions may be taken on the authority of the Director General or such person's designee or as a result of quality review that may be instituted by the Department.

Appeals and other actions provided in this section are necessary and appropriate to the orderly administration of the Intellectual Property Law. Appeals, requests for reconsideration, and other actions provided in this Section shall be governed by the procedures set forth in this Decision. A request made under these procedures is part of the administrative procedure of the Department and is without prejudice to any rights that may arise under the Petitions Law.

Article 48. Administrative Review: How Initiated.

1. Any applicant or other person who is a party proceeding with the Department and who believes the Department has made an improvement or decision in such proceeding may, within 90 days of notification of such requirement or decision, take one of the following actions:

- 1) File a written request for reconsideration of the decision or requirement, without payment of a fee, or
- 2) File a written appeal to the Department and pay the relevant fee therefor.

2. Such request must identify the

- 1) Requirement or decision to be reviewed,
- 2) Legal and factual basis on which the request is based, and
- 3) Action requested by the applicant.

3. The request may also include any arguments or explanations that the applicant or other party believes supports the request for reconsideration or appeal.

Article 49. Request to Stay.

A request for administrative review initiated pursuant to Article 48 of this Decision may include a request to stay implementation of the decision or requirement that is the subject of the request for reconsideration or of the appeal. Otherwise, such decision or requirement remains in effect until such time as it may be withdrawn by the Department. *in parte*

the interests of other parties to the matter and to stay where the interests of justice shall best be served.

Article 50. Reconsideration.

1. Where an applicant, registrant, or other party to an *ex parte* proceeding makes a reasonable showing that there is a reasonable basis on which to view the requirement or decision that is the subject of a request for reconsideration, the Department shall grant the request and reconsider the issue leading to the requirement or decision in view of the information and arguments or explanations offered by the applicant, registrant, or other party to the proceeding. Granting a request for reconsideration does not bind the Department to withdraw a requirement or render a different decision but rather to ensure that it gives the matter a new hearing. Since the Department's only interest in the outcome of its decisions is to ensure that they are correct, a request for reconsideration should not be viewed as an affront to the Department nor to any of its employees. A request for reconsideration is intended to create an informal mechanism allowing the Department to make corrections quickly.

2. The same principles shall apply *inter partes*

by title and number; the name of the applicant or registrant, and the name of the party filing

design, any interested person may petition the Department to correct the identification of designers mentioned in the application. The Department shall notify the owner of record of such petition and, if no objections are made by the applicant or owner of record, the Department shall enter such correction. If an objection is made, the Department shall refuse to enter the requested information, and the inte

4. Any transfer of ownership shall be recorded with the Department, using the form provided.
5. The Department may require the person presenting a transfer for recordation to submit additional information or documents where needed for clarification or where the Department may reasonably doubt the veracity of any information contained in any communication.
6. A transfer of ownership shall not be enforceable against a person who is not party to the transfer until so recorded unless such person has actual notice of the transfer.
7. Where a single transfer relates to multiple filings, a single transfer document may be filed using the procedures of paragraph 4 of Article 72 of this Decision.
8. If the transfer is submitted for recordation by a person other than the owner of record, the Department shall send a written notification of the proposed transfer, and of the owner's right to object, to the owner of record at the latest address of record. An objection to the recordation of a transfer may be filed without fee at any time within 60 days of notification.
9. If the transfer appears to meet requirements for recordation, the Department shall publish a notice referring to the transfer.

Article 57. Licenses.

1. A license agreement may be recorded using the procedures of Article 56 of this Decision, in which case it shall be subject to the same requirements. Where rights to intellectual property are jointly held by multiple persons, a license shall be mutually agreed by all rights owners.
2. The sale of an item that is the subject of an industrial design, or that incorporates subject matter that bears or embodies an industrial design, shall be assumed to grant a license to the purchaser and others acting on behalf of the purchaser to use the object bearing or embodying the industrial design for the object's intended use, and if the purchaser is a legal entity, in connection with such entity's ordinary business, where such sale is by the owner of the industrial design, or by a person acting with the authority and permission of such owner, unless the parties to the transaction agree otherwise in writing.
3. The provisions of paragraph 2 of this article shall apply *mutatis mutandis* to the rental, lease, gift, or other transaction with regard to the item that bears or embodies the industrial design, provided however that where such transaction is limited in time or scope, such implied license shall likewise be limited to the same time and scope, and provided that where such transfer is a gift or, if a sale, is less than the market value of the transaction, the purchaser shall have the burden of demonstrating that the owner agreed to such transaction.
4. Where there is a transfer of ownership of a legal entity that is a licensee of one or more industrial designs, it shall be presumed that licenses are transferred with the ownership of the legal entity unless specifically provided otherwise either in the license agreement or in the document providing for the transfer of ownership of the legal entity. Transfer of ownership of a legal entity shall not affect the validity of any license arrangement for which such entity is the licensor, unless otherwise specifically provided in the license agreement.

Article 58. Recordation Procedures.

1. A party wishing to record a transfer or license of an industrial design registration or application shall submit an application to record such transfer, together with the recordation fee and a copy of the transfer document, certified to be true and correct. Procedures regarding the application to record a transfer or license shall be as provided in Article 8 of this Decision, *mutatis mutandis*. The recordation may be filed by the party making the transfer, the party receiving the transfer, or by a third party with knowledge of the transfer.
2. The Department may require the person presenting a transfer for recordation to submit additional information or documents, or to supply authenticated documents, where needed for clarification or where the Department may reasonably doubt the veracity of any indication contained in any communication.
3. Where a single transfer relates to multiple file applications, a single transfer document may be filed using the procedures of paragraph 4 of Article 72 of this Decision.
4. If the transfer is submitted for recordation by a person other than the owner of record, the Department shall send a written notification of the proposed transfer or recordation, and of the owner's right to object, to the owner of record at the latest address of record. An objection to the recordation of a transfer may be filed without fee at any time within 60 days of notification.
5. If the transfer appears to meet requirements

- 5) Where the applicant is an organization, ~~the~~ or an officer of such organization, or an attorney or agent employed by such organization;
- 6) An attorney or agent who is an employee ~~of~~ applicant or assignee of the entire interest in the subject matter of the application.

2. Subject to the provisio

3. The Department will give effect to the terms of the Power of Attorney except where it would be contrary to law or public policy to do so, for example, where a Power of Attorney purports to limit the ability of the principal to revoke the Power of Attorney or to provide terms of representation that are contrary to this Decision.

4. Where a Power of Attorney does not state the scope or duration of the representation, the Department will treat the Power of Attorney as applying solely to the single application or other proceeding in connection with which the Power of Attorney is originally submitted, and its duration will be treated as terminating when the matters related to such application or other proceeding are concluded and the time for further action thereon has expired.

5. In the absence of evidence to the contrary, a representative will be presumed to act in accordance with instructions of

action to which it pertains.

2. Where an application or other paper is presented by a representative but the power of attorney, or where applicable, a copy thereof,

4. The termination of representation or appointment of a new representative shall have no effect on an application or ot

Consistent with Article 147 of the Intellectual Property Law, the Department shall issue instructions and notices and take such other actions as may be necessary to carry out the provisions of this Section.

Article 70. Continued Requirements for Practitioners and Patent Practitioners.

1. The Department may from time to time issue other requirements for Practitioners and Patent Practitioners, including attendance at continuing education provided by the Department.

2. Practitioners and Patent Practitioners who are registered as provided in this Section are under a continuing obligation to act in accordance with the Intellectual Property Law, this Decision, and any other applicable law or regulations. Any person found to act contrary to this paragraph may be advised to correct such acts and if not promptly corrected, or if repeated, may be subject to sanctions by the Department. Such sanctions may include suspension or removal from the list of registered Practitioners or Patent Practitioners.

SECTION XII Administrative Provisions

Article 71. Secrecy and Access to Files.

1. Files and documents relating to applications that are pending before the Department and that have not yet been published shall be maintained in secrecy. No person other than the applicant or a named inventor or designer shall have access to such files or the information contained therein without written permission from the applicant. A power of attorney is considered to grant such permission.

2. Files and documents relating to applications that have been published, and to industrial designs shall be available for public inspection and copying during normal business hours, subject to payment of applicable fees. When requests for inspection or copying involve a large number of documents or multiple files, the Department may make reasonable provisions, such as requiring an appointment or limiting the number of documents or files available on a single day, as needed to ensure its orderly conduct of business.

3. No files or documents therein shall be altered, destroyed, or removed from the premises of the Department. The Department may bar any person found to be violating this paragraph, or attempting to do so, from future access to documents and files of the Department.

Article 72. Communication with the Department.

1. All business with the Department relating to an industrial design, an application there for, or any proceeding before the Department, should be transacted in writing. The action of the Department will be based exclusively on the written record in the Department, and no attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

2. All persons are required to conduct their business with the Department with decorum and courtesy. Papers presented in violation of this requirement may be refused entry.

is A4 in size and recorded in dark ink or its equivalent. Correspondence must be legible and subject to photocopying as needed. Bulky items should not be submitted except with the express permission of the Department.

2. Documents and drawings or photographs submitted to the Department should be clear and of suitable quality for publication. Where such items are not of suitable quality for publication, the Department may accept them for purposes of examination but may require the submission of publication-quality documents, drawings, or photographs prior to final approval of the application.

3. Where needed to illustrate the subject matter of an application, the applicant should provide high-quality drawings in black and white. Photographs or color images will be accepted for examination purposes but the applicant must submit corrected drawings prior to publication. Where photographs or color images are required for an understanding of the subject matter, the application should so state and the use of such photographs or color images is subject to the payment of a charge on the publication fee. Where photographs are used, the applicant must provide copies that are of sufficient quality so that all details in the photographs are reproducible in the publication and in the printed industrial design registration.

4. If items submitted are not legible or are not of sufficient clarity to enable the Department to conduct an examination, the Department will also notify the applicant and provide an opportunity for the applicant to submit corrected documents. Where such new documents relate to the subject matter of the application, their acceptance will be subject to requirements related to changes in the content of an application.

Article 75. Documents to be Signed; Effect of Signature.

1. Every application, amendment, request for extension of time, submission of documents, or other paper submitted to the Department in connection with an industrial design, or

- jeopardize the probative value of the paper; and
- 2) To the best of such person's knowledge and belief, formed after an inquiry reasonable under the circumstances,
 - (i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of any proceeding before the Department;
 - (ii) Legal contentions therein are warranted by existing law or by a non-frivolous argument for the extension or modification of existing law or the establishment of new law;
 - (iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and
 - (iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

3. Violations of any of paragraphs (2)(i) through (iv) of this article are, after notice and reasonable opportunity to respond, subject to such sanctions or actions as deemed appropriate by the Director, which may include, but are not limited to, any combination of

- 1) Striking the offending paper;
- 2) Referring a practitioner's conduct to the Director disciplinary action;
- 3) Precluding a practitioner or other person from submitting a paper, or presenting or contesting an issue;
- 4) Affecting the weight given to the offending paper; or
- 5) Terminating the proceedings in the Department.

4. Any practitioner violating the provisions of this article may be subject to disciplinary action.

5. Where the Department has reasonable doubt as to the authenticity of a signature, for example where there are variations in the appearance of a signature or where the signature and typed or printed name do not clearly identify the person signing, the Department may require the submission of a document ratifying or confirming the document in question or evidence of the authenticity of the signature.

Article 76. Times for Taking Action; Expiration on Saturday, Sunday or National Holiday.

1. Wherever the Law, this Decision, or communication by the Department specifies a time for taking action or paying a fee, such period shall be calculated as follows:

If the period is stated in days, calendar days are intended, and the period shall be calculated by excluding the first day and including the final day. If the period is stated in months or years, the period shall expire on the same date of the relevant month or year.

2. If the last day of the period is an official holiday, or a day when the Department is not open for business, the period shall be extended until the first following working day.

3. The Director General may provide for an extension of time based on a delay or loss of mail service caused by war, revolution, civil disorder, strike, natural calamity or other like reasons.

4. Except as provided in this Article, the period