

made public, if earlier than the date of filing of the application, and shall contain a reproduction of the drawing or other pictorial representation of the design. If a description of the salient features of the design appears in the application, the description shall also appear in the certificate. A certificate of registration shall be admitted in any court as prima facie evidence of the facts stated in the certificate.

(Added Pub. L. 105-304, title V, § 502, Oct. 28, 1998, 112 Stat. 2912.)

§ 1315. Publication of announcements and indexes

(a) PUBLICATIONS OF THE ADMINISTRATOR.—The Administrator shall publish lists and indexes of registered designs and cancellations of designs and may also publish the drawings or other pictorial representations of registered designs for sale or other distribution.

(b) FILE OF REPRESENTATIVES OF REGISTERED DESIGNS.—The Administrator shall establish and maintain a file of the drawings or other pictorial representations of registered designs. The file shall be available for use by the public under such conditions as the Administrator may prescribe.

(Added Pub. L. 105-304, title V, § 502, Oct. 28, 1998, 112 Stat. 2912.)

§ 1316. Fees

The Administrator shall by regulation set reasonable fees for the filing of applications to register designs under this chapter and for other services relating to the administration of this chapter, taking into consideration the cost of providing these services and the benefit of a public record.

(Added Pub. L. 105-304, title V, § 502, Oct. 28, 1998, 112 Stat. 2912.)

§ 1317. Regulations

The Administrator may establish regulations for the administration of this chapter.

(Added Pub. L. 105-304, title V, § 502, Oct. 28, 1998, 112 Stat. 2912.)

§ 1318. Copies of records

Upon payment of the prescribed fee, any person may obtain a certified copy of any official record of the Office of the Administrator that relates to this chapter. That copy shall be admissible in evidence with the same effect as the original.

(Added Pub. L. 105-304, title V, § 502, Oct. 28, 1998, 112 Stat. 2913.)

§ 1319. Correction of errors in certificates

The Administrator may, by a certificate of correction under seal, correct any error in a registration incurred through the fault of the Office, or, upon payment of the required fee, any error of a clerical or typographical nature occurring in good faith but not through the fault of the Office. Such registration, together with the certificate, shall thereafter have the same effect as if it had been originally issued in such corrected form.

(Added Pub. L. 105-304, title V, § 502, Oct. 28, 1998, 112 Stat. 2913.)

§ 1320. Ownership and transfer

(a) PROPERTY RIGHT IN DESIGN.—The property right in a design subject to protection under this chapter shall vest in the designer, the legal representatives of a deceased designer or of one under legal incapacity, the employer for whom the designer created the design in the case of a design made within the regular scope of the designer's employment, or a person to whom the rights of the designer or of such employer have been transferred. The person in whom the property right is vested shall be considered the owner of the design.

(b) TRANSFER OF PROPERTY RIGHT.—The property right in a registered design, or a design for which an application for registration has been or may be filed, may be assigned, granted, conveyed, or mortgaged by an instrument in writing, signed by the owner, or may be bequeathed by will.

(c) OATH OR ACKNOWLEDGMENT OF TRANSFER.—An oath or acknowledgment under section 1312 shall be prima facie evidence of the execution of an assignment, grant, conveyance, or mortgage under subsection (b).

(d) RECORDATION OF TRANSFER.—An assignment, grant, conveyance, or mortgage under subsection (b) shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, unless it is recorded in the Office of the Administrator within 3 months after its date of execution or before the date of such subsequent purchase or mortgage.

(Added Pub. L. 105-304, title V, § 502, Oct. 28, 1998, 112 Stat. 2913; amended Pub. L. 106-44, §1(f)(2), Aug. 5, 1999, 113 Stat. 222.)

AMENDMENTS

1999—Subsec. (c). Pub. L. 106-44 substituted "Acknowledgment" for "Acknowledgement" in heading.

§ 1321. Remedy for infringement

(a) IN GENERAL.—The owner of a design is entitled, after issuance of a certificate of registration of the design under this chapter, to institute an action for any infringement of the design.

(b) REVIEW OF REFUSAL TO REGISTER.—(1) Subject to paragraph (2), the owner of a design may seek judicial review of a final refusal of the Administrator to register the design under this chapter by bringing a civil action, and may in the same action, if the court adjudges the design subject to protection under this chapter, enforce the rights in that design under this chapter.

(2) The owner of a design may seek judicial review under this section if—

(A) the owner has previously duly filed and prosecuted to final refusal an application in proper form for registration of the design;

(B) the owner causes a copy of the complaint in the action to be delivered to the Administrator within 10 days after the commencement of the action; and

(C) the defendant has committed acts in respect to the design which would constitute infringement with respect to a design protected under this chapter.