

If the design has been made public with the design notice prescribed in section 1306, the statement shall also describe the exact form and position of the design notice.

(f) EFFECT OF ERRORS.—(1) Error in any statement or assertion as to the utility of the useful article named in the application under this section, the design of which is sought to be registered, shall not affect the protection secured under this chapter.

(2) Errors in omitting a joint designer or in naming an alleged joint designer shall not affect the validity of the registration, or the actual ownership or the protection of the design, unless it is shown that the error occurred with deceptive intent.

(g) DESIGN MADE IN SCOPE OF EMPLOYMENT.—In a case in which the design was made within the regular scope of the designer's employment and individual authorship of the design is difficult or impossible to ascribe and the application so states, the name and address of the employer for whom the design was made may be stated instead of that of the individual designer.

(h) PICTORIAL REPRESENTATION OF DESIGN.—The application for registration shall be accompanied by two copies of a drawing or other pictorial representation of the useful article embodying the design, having one or more views, adequate to show the design, in a form and style suitable for reproduction, which shall be deemed a part of the application.

(i) DESIGN IN MORE THAN ONE USEFUL ARTICLE.—If the distinguishing elements of a design are in substantially the same form in different useful articles, the design shall be protected as to all such useful articles when protected as to one of them, but not more than one registration shall be required for the design.

(j) APPLICATION FOR MORE THAN ONE DESIGN.—More than one design may be included in the same application under such conditions as may be prescribed by the Administrator. For each design included in an application the fee prescribed for a single design shall be paid.

(Added Pub. L. 105-304, title V, § 502, Oct. 28, 1998, 112 Stat. 2909.)

§ 1311. Benefit of earlier filing date in foreign country

An application for registration of a design filed in the United States by any person who has, or whose legal representative or predecessor or successor in title has, previously filed an application for registration of the same design in a foreign country which extends to designs of owners who are citizens of the United States, or to applications filed under this chapter, similar protection to that provided under this chapter shall have that same effect as if filed in the United States on the date on which the application was first filed in such foreign country, if the application in the United States is filed within 6 months after the earliest date on which any such foreign application was filed.

(Added Pub. L. 105-304, title V, § 502, Oct. 28, 1998, 112 Stat. 2910.)

§ 1312. Oaths and acknowledgments

(a) IN GENERAL.—Oaths and acknowledgments required by this chapter—

(1) may be made—

(A) before any person in the United States authorized by law to administer oaths; or

(B) when made in a foreign country, before any diplomatic or consular officer of the United States authorized to administer oaths, or before any official authorized to administer oaths in the foreign country concerned, whose authority shall be proved by a certificate of a diplomatic or consular officer of the United States; and

(2) shall be valid if they comply with the laws of the State or country where made.

(b) WRITTEN DECLARATION IN LIEU OF OATH.—

(1) The Administrator may by rule prescribe that any document which is to be filed under this chapter in the Office of the Administrator and which is required by any law, rule, or other regulation to be under oath, may be subscribed to by a written declaration in such form as the Administrator may prescribe, and such declaration shall be in lieu of the oath otherwise required.

(2) Whenever a written declaration under paragraph (1) is used, the document containing the declaration shall state that willful false statements are punishable by fine or imprisonment, or both, pursuant to section 1001 of title 18, and may jeopardize the validity of the application or document or a registration resulting therefrom.

(Added Pub. L. 105-304, title V, § 502, Oct. 28, 1998, 112 Stat. 2911.)

§ 1313. Examination of application and issue or refusal of registration

(a) DETERMINATION OF REGISTRABILITY OF DESIGN; REGISTRATION.—Upon the filing of an application for registration in proper form under section 1310, and upon payment of the fee prescribed under section 1316, the Administrator shall determine whether or not the application relates to a design which on its face appears to be subject to protection under this chapter, and, if so, the Register shall register the design. Registration under this subsection shall be announced by publication. The date of registration shall be the date of publication.

(b) REFUSAL TO REGISTER; RECONSIDERATION.—If, in the judgment of the Administrator, the application for registration relates to a design which on its face is not subject to protection under this chapter, the Administrator shall send to the applicant a notice of refusal to register and the grounds for the refusal. Within 3 months after the date on which the notice of refusal is sent, the applicant may, by written request, seek reconsideration of the application. After consideration of such a request, the Administrator shall either register the design or send to the applicant a notice of final refusal to register.

(c) APPLICATION TO CANCEL REGISTRATION.—Any person who believes he or she is or will be damaged by a registration under this chapter may, upon payment of the prescribed fee, apply to the Administrator at any time to cancel the registration on the ground that the design is not subject to protection under this chapter, stating the reasons for the request. Upon receipt of an

application for cancellation, the Administrator shall send to the owner of the design, as shown in the records of the Office of the Administrator, a notice of the application, and the owner shall have a period of 3 months after the date on which such notice is mailed in which to present arguments to the Administrator for support of the validity of the registration. The Administrator shall also have the authority to establish, by regulation, conditions under which the opposing parties may appear and be heard in support of their arguments. If, after the periods provided for the presentation of arguments have expired, the Administrator determines that the applicant for cancellation has established that the design is not subject to protection under this chapter, the Administrator shall order the registration stricken from the record. Cancellation under this subsection shall be announced by publication, and notice of the Administrator's final determination with respect to any application for cancellation shall be sent to the applicant and to the owner of record. Costs of the cancellation procedure under this subsection shall be borne by the nonprevailing party or parties, and the Administrator shall have the authority to assess and collect such costs.

(Added Pub. L. 105-304, title V, § 502, Oct. 28, 1998, 112 Stat. 2911; amended Pub. L. 106-113, div. B, § 1000(a)(9) [title V, § 5005(a)(4)], Nov. 29, 1999, 113 Stat. 1536, 1501A-594.)

AMENDMENTS

1999—Subsec. (c). Pub. L. 106-113 inserted at end “Costs of the cancellation procedure under this subsection shall be borne by the nonprevailing party or parties, and the Administrator shall have the authority to assess and collect such costs.”

§ 1314. Certification of registration

Certificates of registration shall be issued in the name of the United States under the seal of the Office of the Administrator and shall be recorded in the official records of the Office. The certificate shall state the name of the useful article, the date of filing of the application, the date of registration, and the date the design was 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 pic-

torial 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.