

For more information contact the  
**World Intellectual Property Organization**

**Address:**

34, chemin des Colombettes  
P.O. Box 18  
CH-1211 Geneva 20  
Switzerland  
Telephone: 41 22 338 91 11  
Fax: 41 22 733 54 28  
e-mail: [wipo.mail@wipo.int](mailto:wipo.mail@wipo.int)

or its **New York Coordination Office at:**

**Address:**

2, United Nations Plaza  
Suite 2525  
New York, N.Y. 10017  
United States of America  
Telephone: 1 212 963 4801  
e-mail: [wipo@un.org](mailto:wipo@un.org)

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**INTELLECTUAL PROPERTY OFFICE  
OF THE PHILIPPINES**

IPO Building  
351 Sen. Gil Puyat Ave., Makati City  
Philippines 1200  
Telephone Nos. (632) 238-6300 Loc. 201 to 207  
Telefax No. (632) 897-1724  
Website: <http://www.ipophil.gov.ph>  
Email at [dittb@ipophil.gov.ph](mailto:dittb@ipophil.gov.ph) or [mail@ipophil.gov.ph](mailto:mail@ipophil.gov.ph).

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or its **SMEs Division at:**

**Address:**

34, chemin des Colombettes  
P.O. Box 18  
CH-1211 Geneva 20  
Switzerland  
Fax: +41 22 338 87 60  
e-mail: [sme@wipo.int](mailto:sme@wipo.int)  
Web page: <http://www.wipo.int/sme>



# LOOKING GOOD

**An Introduction to Industrial  
Designs for Small  
and Medium-sized Enterprises**



Intellectual Property for Business Series Number 2

## LOOKING GOOD

### An Introduction to Industrial Designs for Small and Medium-sized Enterprises

Intellectual Property Office of the Philippines

#### Publications in the Intellectual Property for Business series:

1. Making a Mark: An Introduction to Trademarks for Small and Medium-sized Enterprises. IP Philippines publication
2. Looking Good: An Introduction to Industrial Designs for Small and Medium-sized Enterprises. IP Philippines publication
3. Inventing the Future: An Introduction to Patents for Small and Medium-sized Enterprises. IP Philippines publication
4. Creative Expression: An Introduction to Copyright and Related Rights for Small and Medium-sized Enterprises. IP Philippines publication

All publications are available at the Intellectual Property Office of the Philippines or [www.ipophil.gov.ph](http://www.ipophil.gov.ph).

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## Introduction

*Looking Good: An Introduction to Industrial Designs for Small and Medium-sized Enterprises* is the second in a series of guides on Intellectual Property for Business. It discusses the aspects of industrial designs, a key factor that determines the success of products in the market.

In intellectual property law, an industrial design is the aesthetic or outward appearance of a product. It makes the product attractive or appealing to customers because visual appeal is one of the key considerations that influence a consumer's decision to prefer one product over another. Industrial designs help companies to differentiate their products from those of competitors and enhance the brand image of their products. Thus, ensuring the proper protection of industrial designs is crucial.

As an introduction to the protection of industrial designs for small and medium-sized enterprises (SMEs), this guide includes questions and answers, examples and illustrations of protected industrial designs.

This guide has been adapted to the Philippine context by the Intellectual Property Office of the Philippines from the international version developed by the World Intellectual Property Organization to enable users to understand its importance with facility and ease.

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## 1. Industrial Designs

### What is an industrial design?

In everyday language, an industrial design generally refers to a product's overall form and function. An armchair is said to have a "good industrial design" when it is comfortable to sit in and we like the way it looks. For businesses, designing a product generally implies developing the product's functional and aesthetic features taking into consideration issues such as the product's marketability, the costs of manufacturing or the ease of transport, storage, repair and disposal.

From an intellectual property law perspective, however, an **industrial design refers only to the ornamental or aesthetic aspects of a product**. In other words, it refers only to the appearance of an armchair. Although the design of a product may have technical or functional features, industrial design, as a category of intellectual property law, refers only to the aesthetic nature of a finished product, and is distinct from any technical or functional aspects.

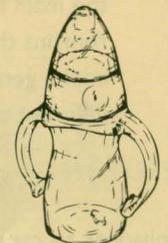
Under Sec. 112 of RA 8293, otherwise known as the Intellectual Property (IP) Code, an industrial design is any

composition of lines or colors or any three-dimensional form, whether or not associated with lines or colors; provided that such composition or form gives a special appearance to and can serve as pattern for an industrial product or handicraft.

Industrial design is relevant to a wide variety of products of industry, fashion and handicrafts from technical and medical instruments to watches, jewelry, and other luxury items; from household products, toys, furniture and electrical

### FEEDING BOTTLE WITH HANDLE

Industrial Design  
Registration no.  
3-2005-000380  
by Earth Tones  
Corporation



### FEEDING BOTTLE WITH CLIP

Industrial Design  
Registration no.  
3-2005-000378  
by Earth Tones  
Corporation

## Creative Designs in Business

Enterprises often devote a significant amount of time and resources to enhancing the design appeal of their products. New and original designs are often created to:

1. **Customize products to appeal to specific market segments:** small modifications to the design of some products (e.g. a watch) may make them suitable for different age groups, cultures or social groups. While the main function of a watch remains the same, children and adults generally have very different tastes in design.

2. **Create a new niche market:** in a competitive marketplace, many companies seek to create a niche market by introducing creative designs for their new products to differentiate them from those of their competitors. This could be the case for ordinary items such as locks, shoes, cups and saucers to potentially expensive items such as jewelry, computers or cars.
3. **Strengthen brands:** creative designs are often also combined with distinctive trademarks to enhance the distinctiveness of a company's brand(s). Many companies have successfully created or redefined their brand image through a strong focus on product design.

appliances to cars and architectural structures; from textile designs to sports equipment. Industrial design is also important in relation to packaging, containers and "get-up" of products. As a general rule, an industrial design consists of:

- three-dimensional features, such as the **shape** of a product,

- two-dimensional features, such as **ornamentation, patterns, lines** or **color** of a product; or
- a combination of one or more such features.

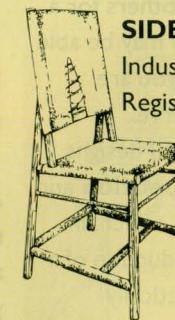
### Why protect industrial designs?

An industrial design adds value to a product. It makes a product **attractive**

and **appealing** to customers, and may even be its unique selling point. So protecting valuable designs should be a crucial part of the business strategy of any designer or manufacturer. By protecting an industrial design through its registration at the Intellectual Property Office of the Philippines (IP Philippines), the owner obtains the **exclusive right to prohibit the unauthorized use, sale and importation by others of products with substantially similar or identical design**. This makes business sense as it improves the competitiveness of a business and often brings in additional revenue in one or more of the following ways:

- By registering a design you are able to prevent it from being copied and imitated by competitors, and thereby strengthen your competitive position.
- Registering a valuable design contributes to obtaining a **fair return on investment** made in creating and marketing the relevant product, and thereby improves your profits.
- Industrial designs are **business assets** that can increase the commercial value of a company and its products. The more successful a design, the higher is its value to the company.

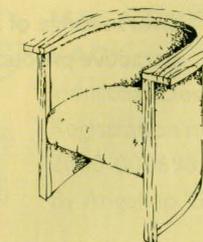
The Cobonpues, world-famous Filipino designers, have been sought after by the rich and the famous for their pieces of furniture that combines creativity, excellent craftsmanship, and use of unique and indigenous materials. From Filipino homes in Metro Manila to the ritzy mansions of Hollywood to the opulent palaces in the Middle East and Europe, the Cobonpue designs grace the buyers' living room, dining room and even the bedroom. It captures the Filipino ingenuity and sense of beauty.



**SIDE CHAIR**

Industrial Design

Registration No. 3-1996-11335



**ARM CHAIR**

Industrial Design

Registration

No. 3-1996-11325

## Exclusive Rights

Let us assume that your company has designed an umbrella with an innovative design. Once registered at IP Philippines, it has therefore obtained exclusive rights over umbrellas bearing that design. What this means is that if you discovered that a competitor is making, selling or importing umbrellas bearing the same or substantially the same design, you will be able to prevent the competitor from using the registered design and, possibly, obtain compensation for

damages which your business has suffered from the unauthorized use of that design.

So, while you cannot stop competitors from making competitive products you may prevent them from making products that look just like yours and getting a free ride on your creativity. For further details on how to protect your designs and enforce your IP rights you are advised to consult a lawyer.

## 2. Protecting Industrial Designs

### How do you obtain protection for industrial designs?

**An industrial design must be registered in order to be protected as such.** To register an industrial design you must file an application at IP Philippines (see [www.ipophil.gov.ph](http://www.ipophil.gov.ph)). Under Philippine laws, industrial designs which are dictated essentially by technical or functional considerations or those that are contrary to public

order, health or morals, cannot be registered. Further, only new or original designs may be registered.

### What rights are provided by industrial design protection?

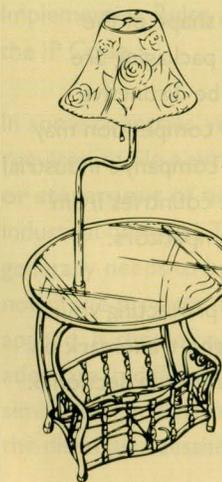
When an industrial design is protected under the Philippine registration, the owner is granted the **right to prevent unauthorized making, selling, using and importing** by third parties of your design. The law and practice of a relevant country or region determine the actual scope of protection of the registered design.

A note needs to be made for some countries or common economic areas such as the European Union, where recent legislation has made it possible to obtain limited industrial design protection for unregistered designs for three years from the date on which the design has been published in the European Union.

The unregistered design provides companies with the opportunity to test market their products before going through the effort and expense of registering all designs, many of which may not succeed in the marketplace. In addition, some designs may remain on

the market for a very short time, especially in the fashion industry. For such products, the unregistered design provides a good alternative. However, once the product is manufactured, designers have up to 12 months in which to register it. The protection provided to an unregistered design is limited, in that it is more difficult to enforce compared to a registered design, as it lasts for 15 years (original 5 year term of protection and renewable for another 2 consecutive 5 year term) as opposed to the 25 years provided to registered designs in the European Union.

While this guide focuses mainly on registered industrial designs, it is important to point out that, in some



### COMBINED OVAL SHAPE TABLE AND LAMP SHADE WITH MAGAZINE RACK

Industrial Design Registration no. 3-2000-000693  
By Angelino Gabriel

countries, there may be alternative ways of protecting industrial designs:

- Depending on the particular national law and the kind of design, one such alternative for protecting designs is copyright law. Copyright generally provides exclusive rights for literary and artistic works. As some designs may, in some countries, be considered works of art or applied art, copyright protection may apply and may represent an attractive option for SMEs
- In addition, in some countries, if an industrial design functions as a trademark in the marketplace, then it may be protected as a three-dimensional mark. This may be the case when the shape of the product or its packaging are considered to be distinctive.
- Laws on unfair competition may also protect a company's industrial design in some countries from imitation by competitors.

For more details on protecting your design under copyright, trademark or unfair competition laws, see Section 5.

## What can be registered as an industrial design?

In registering under Philippine IP Laws, a design must meet any of the following basic requirements:

- The design must be “**new**”. A design is considered to be new if no identical design has been made available to the public before the date of filing of the application for registration.
- The design must be “**original**”. A design is considered original if it has been independently created by the designer and is not a copy or an imitation of existing designs.

Traditionally, protectable designs relate to manufactured products such as the shape of a shoe, the design of an earring or the ornamentation on a teapot. In the **digital world**, however, protection is gradually extending to a number of other products and types of design. IP Philippines also registers as industrial designs the following: electronic desktop icons generated by computer codes, typefaces, the graphic display on computer monitors and mobile telephones, etc.

## What cannot be protected by industrial design rights?

In the Philippines, industrial designs dictated essentially by technical or functional considerations to obtain a technical result or those that are contrary to public order, health or morals shall not be protected.

Designs that are generally barred from registration in the Philippines and in many countries include:

- Designs that do not meet the requirements of novelty, originality and/or individual character (as explained above).
- Designs that are considered to be dictated essentially by the **technical function** of a product; such technical or functional features may be protected by other IP rights (e.g. patents, utility models or trade secrets).
- Designs incorporating protected **official symbols or emblems** (such as the national flag).
- Designs which are considered to be **contrary to public order or morality**.

## How do you register a design?

To register a design in the Philippines you must fill in the **application form** provided by IP Philippines showing your name, contact details as well as drawings, and/or photographs of the design(s) in question (standard formats are usually specified). A sample application form for industrial design is found in Annex III.

You will also be required to pay the appropriate filing fee. Visit IP Philippines website [www.ipophil.gov.ph](http://www.ipophil.gov.ph) to determine filing fee.

In the Philippines, characteristic feature description for the design is required for registration under Rule 312.3 of the Implementing Rules and Regulations of the IP Code.

In some countries, you may also be required to file a **written description or statement of novelty** of the industrial design(s). The description generally needs to be of the design and not of the product to which it has been applied. It should be accurate and adequate in differentiating it from any similar earlier designs. It should cover all the distinctive aesthetic features of the

design and should describe which feature(s) is/are the most important. There are countries that require an actual sample of the design to appreciate it better or to feel the texture of the material.

You may choose to employ an IP agent to assist you in filing the application and completing the registration process. For this purpose, you may need to execute a special power of attorney.

IP Philippines registers the design after conducting a formal examination to ensure that administrative formalities have been complied with. A substantive examination checking the novelty and/or originality of the design may also be conducted upon request of the applicant.

Once a design is registered, it is entered into the design register and published in the official design gazette. If a substantive examination is conducted, a **Registrability Report** is issued.

### How long does it take to register a design?

IP Philippines normally takes 4.89 months to complete the registration of an industrial design.

Annex IV provides a flow chart of the procedure for registration.

### How important is it to keep the design confidential before registration?

If you wish to protect your industrial design under a registration system, keeping the design confidential is absolutely crucial. The reason for this is that the central requirement for design protection is generally, that the design must be “new”. If you show your design to others it is advisable to have confidentiality clauses in written agreements stating categorically that the design is confidential.

A design that has already been disclosed to the public such as by advertising it in company catalogue or brochure is no longer considered “new”. Publicly disclosed designs become part of the public domain and cannot be protected, unless the applicable law provides for a “grace period” or when an earlier priority date of a previously filed application is claimed.

### What is the “grace period”?

Under Rule 302 of the Implementing Rules and Regulations of the IP Code, the grace period for registration of industrial designs is six months from the moment the design was made public.

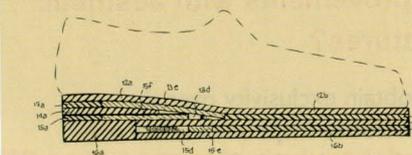
This is the case when articles bearing the design are sold, displayed at a trade show, exhibition or fair, or are published in a catalogue, brochure or advertisement prior to filing an application. During that period, you may market your design without it losing its “novelty” and you may still apply for registration in the Philippines.

### How long does industrial design protection last?

The term of protection for a registered industrial design in the Philippines is **five (5) years from the filing date of the application and may be renewed for not more than two (2) consecutive periods of five (5) years each provided renewal fees are paid.**

### Device for Expandable Shoe Application No: 2-2007-000406 by Ma. Victoria Soriano-Villadolid

A device for expandable shoes comprise of a main sole body with a top sole layer, among others.



### How much does it cost to protect an industrial design?

The costs considerably vary from country to country and within a country depending on factors such as the nature of the invention, its complexity, attorney’s fees, the length of the application and objections raised during the examination by the patent office. In the Philippines, there are different types of fees that may be incurred in the registration process:

1. There is a **registration fee** to be paid to IP Philippines (refer to [www.ipophil.gov.ph](http://www.ipophil.gov.ph) for the schedule of fees).

- IP Philippines also requires the payment of **renewal fees** on a five-year basis, to maintain the registration beyond the initial term.

### What should you do if your design combines functional improvements with aesthetic features?

To obtain exclusivity over the **functional improvements** of a product, it is advisable to apply for **patent** or **utility model protection** or where the function is not obvious from the product, to keep it as a **trade secret**.

#### Daphne Luxe at SM World (Linens)

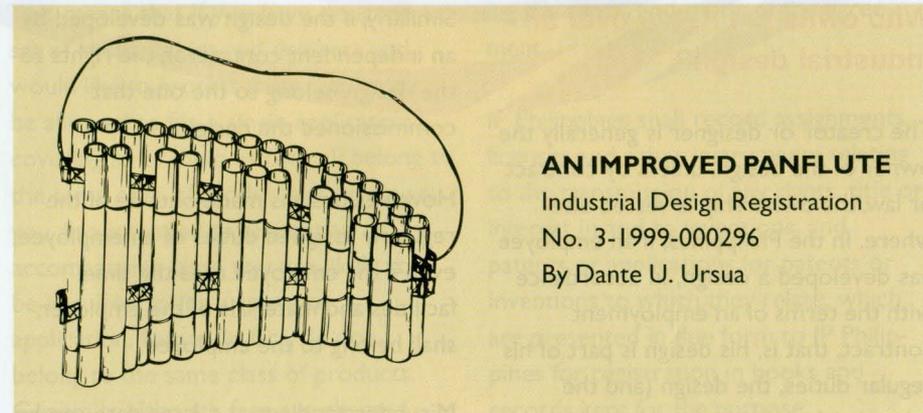
Broadcast personality Daphne Oseña-Paez has her own linen collection called Daphne Luxe at SM Homeworld and Daphne Oseña-Paez at Our Home produced in partnership with Linens Direct. Refer to [www.philstar.com/Article.aspx?articleid=483505](http://www.philstar.com/Article.aspx?articleid=483505) for her story on how she got into industrial designing and a profitable enterprise.

However, when a new product combines functional improvements with creative aesthetic features, how will you protect both innovations? Let us suppose you have a new design for children's shoes, and these shoes embodies functional improvements i.e. it could expand to accommodate the rapid growth of a child's feet, Can it be protected by patent(s) and industrial design registration? The answer is yes.

### Design Protection and Business Strategy

Decisions on how, when and where to protect a company's product in terms of its designs may have an important impact on other areas of management. It is crucial therefore to integrate issues of design protection into the broader business strategy of an enterprise. For example, the type of protection, the costs, the effectiveness of protection and issues of ownership of designs, may be important considerations when deciding:

- whether to undertake design development in-house or to commission an outside agency;



#### AN IMPROVED PANFLUTE

Industrial Design Registration

No. 3-1999-000296

By Dante U. Ursua

- the timing of the initial use of a new design in advertising, marketing or public display in an exhibition;
- which export markets to target;
- if, when and how to license or assign a design to be commercially exploited by other companies in return for economic remuneration.

Many designers protect different aspects of their products with different intellectual property rights. It is important, however, to keep in mind the basic difference between patents/utility models and industrial designs. **Patents and utility models are for inventions that bring about functional improvements to a product and industrial design protection is for the appearance of the product.**

### Who may apply for industrial design protection?

In general, the person who created the design or, if the designer works for another, his employer, can apply for registration. The applicant can be either an individual (e.g. a designer) or a legal entity (e.g. a company). It should include the name and address of the creator, or where the applicant is not the creator, a statement indicating the origin of the right to the industrial design registration. In either case, the applicant may be made directly or through an agent. For foreign applicants, representation by an agent duly authorized by IP Philippines is required.

## Who owns the rights over an industrial design?

The creator or designer is generally the owner of the design, unless by contract or law, the ownership is vested elsewhere. In the Philippines, if an employee has developed a design, in accordance with the terms of an employment contract, that is, his design is part of his regular duties, the design (and the related rights) belongs to the employer.

**The International Classification System** Industrial designs are generally classified or grouped into classes for ease of retrieval. You may be asked to refer to the class of products for which you intend to use the design in question in your application form. The Philippines adopts the classification under the **Locarno Agreement Establishing an International Classification for Industrial Designs** (see List of Classes in Annex II). See also: [www.wipo.int/classifications/en/locarno/about/](http://www.wipo.int/classifications/en/locarno/about/)

Similarly, if the design was developed by an independent contractor, the rights to the design belong to the one that commissioned the design.

However, designs made outside of the regularly assigned duties of an employee, even if the employee uses the time, facilities and materials of the employer, shall belong to the employee.

Misunderstandings at a later date can be avoided by clarifying the issue of rights ownership in the written contract with the designer. You should also bear in mind that the designer of the product may have automatic copyright protection over the drawings of the design, and this issue should also be covered by the contract.

## Can you apply for the registration of many different designs through a single application?

In the Philippines, you may apply for the registration of many designs (10, 20 or even 50 designs) through a single application as long as they all relate to the same sub-class of the International Classification or the same set or composition of articles.

This means that if you have designed a set of chairs, tables and dressers and would like to protect them, you would be allowed to file a single application covering all of them as they all belong to the same class of products. If, however, you also intended to protect an accompanying lamp you are likely to be required to file a separate application. Lamps, in fact, do not belong to the same class of products. Generally, although fees are charged for each additional design, they are significantly less than the cost of filing a separate application for each design.

The exact details of the requirements and possibilities for seeking protection in a cost effective manner should be established either with an IP agent or with the IP Philippines.

## Can you license your industrial designs?

Industrial designs are licensed when the owner of the design (licensor) grants permission to another person (the licensee) to use the design for whatever mutually agreed purposes. In such cases, a **licensing contract** is generally signed between the two parties specifying

the terms and scope of the agreement.

IP Philippines shall record assignments, licenses and other instruments relating to the transmission of any rights, title or interest in and to inventions, and patents or applications for patents or inventions to which they relate, which are presented in due form to IP Philippines for registration in books and records kept for the purpose.

Licensing contracts often include limitations as to the countries where the licensee may use the design, the time for which the license is granted and the type of products for which it can be used. In order to license the use of the design in foreign countries you would need to have previously obtained, or at least applied for, industrial design protection in the countries concerned.

Authorizing others to use your industrial designs through a licensing contract will enable your business to receive an **additional source of revenue** and is a common means of exploiting a company's exclusivity over its registered designs.



### A RESEALABLE UTILITY PACK

Industrial Design Registration no. 3-2002-000635  
By Gilvan Printing Incorporated

Agreements to license industrial designs are often included in broader licensing agreements, which cover all aspects (i.e. not just the visual elements) of a product.

## 3. Protecting Designs Abroad

### Why protect designs abroad?

If your company intends to export products bearing an original design, or intends to license the manufacture, sale or export of such products to other firms in foreign countries, it should consider protecting its designs in such countries in order to enjoy the same benefits of protection abroad as it enjoys in the domestic market.

### How do you protect your industrial designs abroad?

Industrial design protection is territorial. This means that industrial design protection is generally limited to the country or region where you have registered your design. Hence, if you wish to have your industrial design protected in export markets you would have to make sure that protection is applied for in those specific countries.

It is important to bear in mind that you usually have **six months** from the date on which you applied for protection in the first country to claim the **right of priority** when you apply for design protection in other countries. Once this period has lapsed, you will be unable to

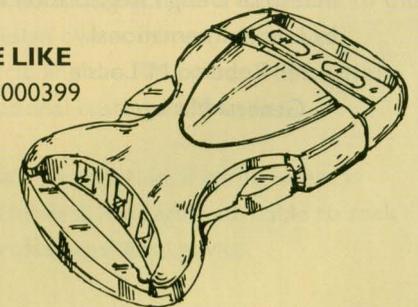
apply for design protection in foreign countries, as your design will no longer be considered new.

There are three ways of protecting your industrial designs abroad.

1. **The National Route:** Companies may seek protection by applying separately to the national IP offices of each country in which they intend to obtain protection. The process can be rather cumbersome and expensive as translation into the national languages is generally required as well as payment of administrative (and sometimes legal) fees.
  2. **The Regional Route:** If you are interested in a group of countries that are members of regional agreements which enable the registration of designs in more
- the African Regional Industrial Property Office (ARIPO) for industrial design protection in English-speaking African countries;
  - the Benelux Designs Office (BDO) for protection in Belgium, the Netherlands and Luxembourg;
  - the Office for Harmonization in the Internal Market (OHIM) for Community designs in the countries of the European Union;
  - the *Organisation Africaine de la Propriété Intellectuelle* (OAPI) for protection in French-speaking African countries.

### A SIDE RELEASE BUCKLE AND THE LIKE

Industrial Design Registration no. 3-2002-000399  
By Lily Ner Ty



See Annex I for website addresses of national and regional IP offices.

### 3. The International Route:

Although the Philippines is not a member of the Hague Agreement, companies that wish to register their designs internationally in several countries may also use the procedures offered by the **Hague Agreement Concerning the International Deposit of Industrial Designs** if they have a real and effective industrial or commercial establishment in the territory of a Contracting Party. The agreement provides applicants with a simpler and cheaper mechanism for applying for

industrial design registration in various countries. For full information about the Hague Agreement including a list of Member States and the application form, visit the WIPO website [www.wipo.int/hague/](http://www.wipo.int/hague/).

The **costs** of an industrial design registration under the Hague Agreement vary depending on the number of designs to be protected and the number of countries where protection is sought. For example, the cost of protection for five designs in 11 countries using the international route offered by The Hague system is approximately 900 Swiss francs.

#### A DAYBED

Industrial Design Registration no. 3-2007-000368

by Locsin International

Mr. Roberto M. Locsin

General Manager

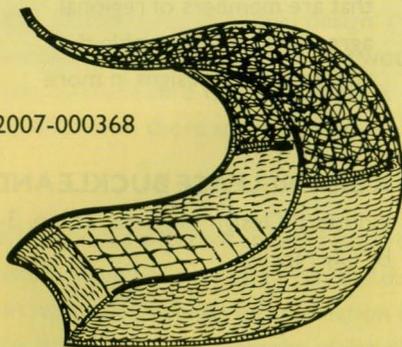


Fig. 1

## 4. Enforcing Your Industrial Designs

### How can you enforce your rights when your design is being imitated, copied or infringed?

Enforcing any IP right may be a complex issue for which it is usually advisable to seek professional assistance from a competent IP lawyer. It is important to bear in mind that the main responsibility for identifying and taking action against imitations or infringement of an industrial design lies with its owner. **In other words, you are responsible for monitoring the use of your design in the marketplace, identifying any imitators or counterfeiters and deciding whether, how and when to take action against them.**

An IP lawyer would normally be the competent person to give you information about the possibilities to take legal action against imitators, infringers and counterfeiters and provide you with advice on how to prosecute or settle any dispute.

### Ways to Enforce Design Protection

Whenever you believe there is **infringement**, you may choose, as a first step, to send a “cease or desist letter” informing the infringer of a possible conflict between his design and your exclusive rights. The assistance of a lawyer in drafting such a letter is recommended. If the infringement persists, it may be necessary to take legal action against the infringer.

If you know the location of the infringing activity, it may be possible to take surprise action by obtaining a search and seize order (usually from a competent court or the police) to conduct a raid, without prior notice to the allegedly offending company/individual.

In order to prevent the **importation of infringing goods**, measures at the international border are available to the design owner in many countries - including the Philippines - through the national customs authorities.

As a general rule, if infringement is identified, it is highly advisable to seek professional legal advice.

## 5. Other Legal Instruments for Protecting Industrial Designs

What are the differences between copyright protection and industrial design protection for designs?

Philippine IP laws recognize copyright protection for certain designs, for example, in the design of textile and fabrics.

You may obtain cumulative protection, (i.e., copyright protection and industrial design protection) which can exist concurrently for the same design. The two forms of protection are not mutually exclusive in the Philippines.

The first step before taking any decision on how best to protect your design is to understand the differences between these two forms of protection. Some of the main differences are outlined below:

### Registration

- Under Philippine IP Laws, the industrial design generally needs to be **registered** by the applicant before publication or public use anywhere. The **registration certificate**, may prove useful in cases of infringement, as it provides a more solid basis from which you may enforce your exclusive rights.
- Copyright in works considered to be original subsists without formalities. While **registration is not necessary for protection**, copyright depositaries exist in some countries, including the Philippines, where you may deposit your design and obtain a certificate.

### Duration

- Industrial design protection in the Philippines lasts a maximum of 15 years.

It must also be borne in mind that the process of registration of industrial designs may take some

time, and may not always be adequate for products that are linked to passing trends (e.g. fashion products). The registration of an industrial design may be renewed for not more than two (2) consecutive periods of five (5) years each, by paying the renewal fee.

### Scope of protection

- The right conferred by registration of an industrial design is an **absolute right** in the sense that there is infringement whether or not there has been deliberate copying.

- To enforce rights under copyright law, the copyright owner must prove that the allegedly infringing work is a direct or indirect reproduction of the work protected by copyright.

### Types of products

- **Not all designs can be protected by copyright** but primarily those that may be considered as works of art. While the distinction may not always be clear, some designs, such as the shape of manufactured products, are unlikely to be protectable under copyright law, while others, such as textile designs, are often covered by both forms of protection.

### A CHAIR

Industrial Design Registration no. 3-2007-000366  
by Locsin International  
Mr. Roberto M. Locsin  
General Manager

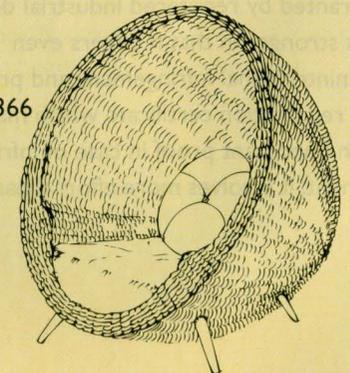


Fig. 1

## Costs

- Registering your design in the Philippines means that you will have to pay the applicable fees. In addition, it may be useful or necessary to use the services of an IP agent to assist you in drafting the application, which will incur additional costs.
- Given that no formal registration of works protected by copyright is required by Philippine copyright laws, there are generally no direct costs relating to copyright protection. However, there may be costs related to (a) the deposit of the work at the copyright depository, and (b) demonstrating proof of ownership in case of disputes.

**In summary**, while the protection granted by registered industrial designs is stronger in that it covers even unintentional infringement and provides a registration certificate which may be an important proof in case of infringement, it involves more effort (financial

and administrative) because it requires registration, and is shorter in duration.

In any case, and particularly if the design is not registered, it is generally advisable to **keep good records of every step in the development of the design**. Signing and dating each sketch, and properly archiving them, may help in case of infringement.

## When can trademark law protect a design?

A trademark is a distinctive sign (generally a word, a logo or a combination of the two) used to differentiate the products of one company from those of others. There are circumstances in which the form, design or packaging of a given product may be considered to be a distinctive feature of the product in question and may be protectable as a three-dimensional trademark.

It is advisable to consult an IP agent to determine whether a particular design

may be considered a three-dimensional trademark.

Trademark protection has the advantage of being renewable indefinitely, while industrial design protection in the Philippines lasts a maximum of 15 years.

There may also be a difference in the costs of registering trademarks as compared with industrial design protection. Depending on the legal system, the two types of protection may co-exist.

## Do laws on unfair competition protect your design?

Industrial designs are often protected under laws on unfair competition. Thus, a design may be protected against acts of unfair competition including, in particular, slavish copying and acts that may lead to confusion, acts of imitation or use of a third party's reputation. However, protection under unfair competition is generally significantly weaker and infringement is more difficult to prove.

## ANNEX I

Algeria	www.dpi.dz
Argentina	www.dpi.gov.ar
Australia	www.ipa.gov.au
Austria	www.bvci.at
Bahrain	www.dpi.gov.bh
Bangladesh	www.dpi.gov.bd
Belgium	www.dpi.gov.be
Brazil	www.dpi.gov.br
Bulgaria	www.dpi.gov.bg
Burkina Faso	www.dpi.gov.bf
Burundi	www.dpi.gov.bu
Cambodia	www.dpi.gov.kh
Cameroon	www.dpi.gov.cm
Canada	www.dpi.gc.ca
Central African Republic	www.dpi.gov.cf
Chad	www.dpi.gov.cd
Chile	www.dpi.cl
China	www.sipo.gov.cn
China (Hong Kong -SAR)	www.dpi.gov.hk
China (Macao)	www.dpi.gov.mo
China (Taipei)	www.dpi.gov.tw
Colombia	www.dpi.gov.co

## Useful websites

For more information on:

- On the intellectual property issues from a business perspective:  
[www.wipo.int/sme/](http://www.wipo.int/sme/)
- On Industrial designs generally:  
[www.wipo.int/about-ip/en/](http://www.wipo.int/about-ip/en/)
- On practical aspects relating to the registration of industrial designs, see list of websites of national and regional intellectual property offices available in Annex I or: [www.wipo.int/news/en/links/ipo\\_web.htm](http://www.wipo.int/news/en/links/ipo_web.htm)
- On the Hague Agreement for the International Deposit of Industrial Designs:  
[www.wipo.int/hague/en/](http://www.wipo.int/hague/en/)
- On the Locarno Agreement Establishing an International Classification for Industrial Designs:  
[www.wipo.int/classifications](http://www.wipo.int/classifications)  
(under Locarno Agreement)
- On arbitration and mediation:  
<http://arbiter.wipo.int/>

## ANNEX I

### Website Addresses of National and Regional Intellectual Property Offices

African Intellectual Property Organization	<a href="http://www.oapi.wipo.net">www.oapi.wipo.net</a>
Algeria	<a href="http://www.inapi.org">www.inapi.org</a>
Albania	<a href="http://www.alpto.gov.al">www.alpto.gov.al</a>
Andorra	<a href="http://www.omp.a.ad">www.omp.a.ad</a>
Argentina	<a href="http://www.inpi.gov.ar">www.inpi.gov.ar</a>
Armenia	<a href="http://www.armpatent.org">www.armpatent.org</a>
Australia	<a href="http://www.ipaustralia.gov.au">www.ipaustralia.gov.au</a>
Austria	<a href="http://www.patent.bmvit.gv.at">www.patent.bmvit.gv.at</a>
Bahrain	<a href="http://www.gulf-patent-office.org.sa/bahrainframe.htm">www.gulf-patent-office.org.sa/bahrainframe.htm</a>
Barbados	<a href="http://www.caipo.org">www.caipo.org</a>
Belarus	<a href="http://www.belgospatent.org/english/about/history.html">www.belgospatent.org/english/about/history.html</a>
Belgium	<a href="http://www.mineco.fgov.be">www.mineco.fgov.be</a>
Belize	<a href="http://www.belipo.bz">www.belipo.bz</a>
Benelux	<a href="http://www.boip.int">www.boip.int</a>
Benin	<a href="http://www.oapi.wipo.net">www.oapi.wipo.net</a>
Bolivia	<a href="http://www.senapi.gov.bo">www.senapi.gov.bo</a>
Botswana	<a href="http://www.aripo.org">www.aripo.org</a>
Brazil	<a href="http://www.inpi.gov.br">www.inpi.gov.br</a>
Bulgaria	<a href="http://www.bpo.bg">www.bpo.bg</a>
Burkina Faso	<a href="http://www.oapi.wipo.net">www.oapi.wipo.net</a>
Burundi	<a href="http://www.oapi.wipo.net">www.oapi.wipo.net</a>
Cambodia	<a href="http://www.moc.gov.kh">www.moc.gov.kh</a>
Cameroon	<a href="http://www.oapi.wipo.net">www.oapi.wipo.net</a>
Canada	<a href="http://www.opic.gc.ca">www.opic.gc.ca</a>
Central African Republic	<a href="http://www.oapi.wipo.net">www.oapi.wipo.net</a>
Chad	<a href="http://www.oapi.wipo.net">www.oapi.wipo.net</a>
Chile	<a href="http://www.dpi.cl">www.dpi.cl</a>
China	<a href="http://www.sipo.gov.cn">www.sipo.gov.cn</a>
China (Hong Kong -SAR)	<a href="http://www.ipd.gov.hk">www.ipd.gov.hk</a>
China (Macao)	<a href="http://www.economia.gov.mo">www.economia.gov.mo</a>
China (Marks)	<a href="http://www.saic.gov.cn">www.saic.gov.cn</a>
Colombia	<a href="http://www.sic.gov.co">www.sic.gov.co</a>

Congo	<a href="http://www.oapi.wipo.net">www.oapi.wipo.net</a>
Costa Rica	<a href="http://www.registracional.go.cr">www.registracional.go.cr</a>
Côte d'Ivoire	<a href="http://www.oapi.wipo.net">www.oapi.wipo.net</a>
Croatia	<a href="http://www.dziv.hr">www.dziv.hr</a>
Cuba	<a href="http://www.ocpi.cu">www.ocpi.cu</a>
Cyprus	<a href="http://www.mcit.gov.cy/mcit/drcor/drcor.nsf">www.mcit.gov.cy/mcit/drcor/drcor.nsf</a>
Czech Republic	<a href="http://www.upv.cz">www.upv.cz</a>
Democratic Republic of the Congo	<a href="http://www.oapi.wipo.net">www.oapi.wipo.net</a>
Denmark	<a href="http://www.dkpto.dk">www.dkpto.dk</a>
Dominican Republic	<a href="http://www.seic.gov.do/onapi">www.seic.gov.do/onapi</a>
Egypt	<a href="http://www.egypo.gov.eg">www.egypo.gov.eg</a>
El Salvador	<a href="http://www.cnr.gobs.sv">www.cnr.gobs.sv</a>
Estonia	<a href="http://www.epa.ee">www.epa.ee</a>
Eurasian Patent Office	<a href="http://www.eapo.org">www.eapo.org</a>
European Union (Office for Harmonization in the Internal Market – OHIM)	<a href="http://www.oami.eu.int">www.oami.eu.int</a>
Finland	<a href="http://www.prh.fi">www.prh.fi</a>
France	<a href="http://www.inpi.fr">www.inpi.fr</a>
Gabon	<a href="http://www.oapi.wipo.net">www.oapi.wipo.net</a>
Gambia	<a href="http://www.aripo.org">www.aripo.org</a>
Georgia	<a href="http://www.sakpatenti.org.ge">www.sakpatenti.org.ge</a>
Germany	<a href="http://www.dpma.de">www.dpma.de</a>
Ghana	<a href="http://www.aripo.org">www.aripo.org</a>
Greece	<a href="http://www.obi.gr">www.obi.gr</a>
Honduras	<a href="http://www.sic.gob.hn/pintelec/indice.htm">www.sic.gob.hn/pintelec/indice.htm</a>
Hungary	<a href="http://www.mszh.hu/english/index.html">www.mszh.hu/english/index.html</a>
Iceland	<a href="http://www.patent.is/focal/webguard.nsf/key2/&lt;br/&gt;indexeng.html">www.patent.is/focal/webguard.nsf/key2/ indexeng.html</a>
India	<a href="http://www.ipindia.nic.in">www.ipindia.nic.in</a>
Indonesia	<a href="http://www.dgip.go.id">www.dgip.go.id</a>
Ireland	<a href="http://www.patentsoffice.ie">www.patentsoffice.ie</a>
Israel	<a href="http://www.justice.gov.il">www.justice.gov.il</a>
Italy	<a href="http://www.uibm.gov.it">www.uibm.gov.it</a>
Jamaica	<a href="http://www.jipo.gov.jm">www.jipo.gov.jm</a>
Japan	<a href="http://www.jpo.go.jp">www.jpo.go.jp</a>
Jordan	<a href="http://www.mit.gov.jo">www.mit.gov.jo</a>
Kazakhstan	<a href="http://www.kazpatent.org/english">www.kazpatent.org/english</a>
Kenya	<a href="http://www.aripo.org">www.aripo.org</a>
Kuwait	<a href="http://www.gulf-patent-office.org.sa">www.gulf-patent-office.org.sa</a>

Lao People's Democratic Republic	<a href="http://www.stea.la.wipo.net">www.stea.la.wipo.net</a>
Latvia	<a href="http://www.lrpv.lv">www.lrpv.lv</a>
Lebanon	<a href="http://www.economy.gov.lb">www.economy.gov.lb</a>
Lesotho	<a href="http://www.aripo.org">www.aripo.org</a>
Liechtenstein	<a href="http://www.european-patent-office.org">www.european-patent-office.org</a>
Lithuania	<a href="http://www.vpb.lt">www.vpb.lt</a>
Luxembourg	<a href="http://www.etat.lu/ec">www.etat.lu/ec</a>
Malawi	<a href="http://www.aripo.org">www.aripo.org</a>
Malaysia	<a href="http://www.mipc.gov.my">www.mipc.gov.my</a>
Mali	<a href="http://www.oapi.wipo.net">www.oapi.wipo.net</a>
Mexico	<a href="http://www.impi.gob.mx">www.impi.gob.mx</a>
Monaco	<a href="http://www.european-patent-office.org/patlib/&lt;br/&gt;country/monaco">www.european-patent-office.org/patlib/ country/monaco</a>
Montenegro	<a href="http://www.yupat.sv.gov.yu">www.yupat.sv.gov.yu</a>
Morocco	<a href="http://www.ompic.org.ma">www.ompic.org.ma</a>
Mozambique	<a href="http://www.aripo.org">www.aripo.org</a>
Namibia	<a href="http://www.aripo.org">www.aripo.org</a>
Nepal	<a href="http://www.ip.np.wipo.net">www.ip.np.wipo.net</a>
Netherlands	<a href="http://www.octrooicentrum.nl">www.octrooicentrum.nl</a>
New Zealand	<a href="http://www.iponz.govt.nz">www.iponz.govt.nz</a>
Niger	<a href="http://www.oapi.wipo.net">www.oapi.wipo.net</a>
Norway	<a href="http://www.patentstyret.no">www.patentstyret.no</a>
Oman	<a href="http://www.gulf-patent-office.org.sa">www.gulf-patent-office.org.sa</a>
Panama	<a href="http://www.digerpi.gob.pa">www.digerpi.gob.pa</a>
Peru	<a href="http://www.indecopi.gob.pe">www.indecopi.gob.pe</a>
Philippines	<a href="http://www.ipophil.gov.ph">www.ipophil.gov.ph</a>
Poland	<a href="http://www.business.gov.pl/&lt;br/&gt;Intellectual,property,protection,90.html">www.business.gov.pl/ Intellectual,property,protection,90.html</a>
Portugal	<a href="http://www.inpi.pt">www.inpi.pt</a>
Qatar	<a href="http://www.gulf-patent-office.org.sa">www.gulf-patent-office.org.sa</a>
Republic of Korea	<a href="http://www.kipo.go.kr">www.kipo.go.kr</a>
Republic of Moldova	<a href="http://www.agepi.md">www.agepi.md</a>
Romania	<a href="http://www.osim.ro">www.osim.ro</a>
Russian Federation	<a href="http://www.rupto.ru">www.rupto.ru</a>
Saint Vincent and the Grenadines	<a href="http://196.1.161.62/govt/cipo/index.asp">196.1.161.62/govt/cipo/index.asp</a>
Saudi Arabia	<a href="http://www.gulf-patent-office.org.sa">www.gulf-patent-office.org.sa</a>
Senegal	<a href="http://www.oapi.wipo.net">www.oapi.wipo.net</a>
Serbia	<a href="http://www.yupat.sv.gov.yu">www.yupat.sv.gov.yu</a>
Sierra Leone	<a href="http://www.aripo.org">www.aripo.org</a>
Singapore	<a href="http://www.ipos.gov.sg">www.ipos.gov.sg</a>

Slovak Republic	<a href="http://www.indprop.gov.sk">www.indprop.gov.sk</a>
Slovenia	<a href="http://www.uil-sipo.si/Default.htm">www.uil-sipo.si/Default.htm</a>
Somalia	<a href="http://www.aripo.org">www.aripo.org</a>
South Africa	<a href="http://www.cipro.gov.za">www.cipro.gov.za</a>
Spain	<a href="http://www.oepm.es">www.oepm.es</a>
Sudan	<a href="http://www.aripo.org">www.aripo.org</a>
Swaziland	<a href="http://www.aripo.org">www.aripo.org</a>
Sweden	<a href="http://www.prv.se">www.prv.se</a>
Switzerland	<a href="http://www.ige.ch">www.ige.ch</a>
Syrian Arab Republic	<a href="http://www.himaya.net">www.himaya.net</a>
Tajikistan	<a href="http://www.tipat.org">www.tipat.org</a>
Thailand	<a href="http://www.ipthailand.org">www.ipthailand.org</a>
The Former Yugoslav Republic of Macedonia	<a href="http://www.ippo.gov.mk">www.ippo.gov.mk</a>
Togo	<a href="http://www.oapi.wipo.net">www.oapi.wipo.net</a>
Trinidad and Tobago	<a href="http://www.ipo.gov.tt/home.asp">www.ipo.gov.tt/home.asp</a>
Tunisia	<a href="http://www.inorpi.ind.tn">www.inorpi.ind.tn</a>
Turkey	<a href="http://www.turkpatent.gov.tr">www.turkpatent.gov.tr</a>
Turkmenistan	<a href="http://www.eapo.org">www.eapo.org</a>
Uganda	<a href="http://www.aripo.org">www.aripo.org</a>
Ukraine	<a href="http://www.sdip.gov.ua">www.sdip.gov.ua</a>
United Arab Emirates	<a href="http://www.gulf-patent-office.org.sa">www.gulf-patent-office.org.sa</a>
United Kingdom	<a href="http://www.patent.gov.uk">www.patent.gov.uk</a>
United Republic of Tanzania	<a href="http://www.aripo.org">www.aripo.org</a>
United States	<a href="http://www.uspto.gov">www.uspto.gov</a>
Uruguay	<a href="http://www.dnpi.gub.uy">www.dnpi.gub.uy</a>
Uzbekistan	<a href="http://www.patent.uz">www.patent.uz</a>
Venezuela	<a href="http://www.sapi.gov.ve">www.sapi.gov.ve</a>
Yemen	<a href="http://www.most.org.ye">www.most.org.ye</a>
Zambia	<a href="http://www.aripo.org">www.aripo.org</a>
Zimbabwe	<a href="http://www.aripo.org">www.aripo.org</a>

**Note:**

For up-to-date information visit website at the following urls: [www.wipo.int/members/en/](http://www.wipo.int/members/en/) and [www.wipo.int/directory/en/urls.jsp](http://www.wipo.int/directory/en/urls.jsp)

## ANNEX II

### International Classification for Industrial Designs of the Locarno Agreement

#### LIST OF CLASSES

1. Foodstuffs
2. Articles of clothing and haberdashery
3. ravel goods, cases, parasols and personal belongings, not elsewhere specified
4. Brushware
5. Textile piece goods, artificial and natural sheet material
6. Furnishing
7. Household goods, not elsewhere specified
8. Tools and hardware
9. Packages and containers for the transport or handling of goods
10. Clocks and watches and other measuring instruments, checking and signalling instruments
11. Articles of adornment
12. Means of transport or hoisting
13. Equipment for production, distribution or transformation of electricity
14. Recording, communication or information retrieval equipment
15. Machines, not elsewhere specified
16. Photographic, cinematographic and optical apparatus
17. Musical instruments
18. Printing and office machinery
19. Stationery and office equipment, artists' and teaching materials
20. Sales and advertising equipment, signs
21. Games, toys, tents and sports goods
22. Arms, pyrotechnic articles for hunting, fishing and pest killing
23. Fluid distribution equipment, sanitary, heating, ventilation and air-conditioning equipment, solid fuel
24. Medical and laboratory equipment
25. Building units and construction elements



**Box No. IV AGENT (IF ANY) OR COMMON REPRESENTATIVE (IF ANY); ADDRESS FOR NOTIFICATIONS (IN CERTAIN CASES)** A common representative may be appointed only if there are several applicants and if no agent is or has been appointed: The common representative must be one of the applicants. The following person (include, where applicable, a legal entity) is hereby/has been appointed as agent or common representative to act on behalf of the applicant(s) before the Intellectual Property Office.  
Name and address, including postal code:

Telephone number: \_\_\_\_\_ Fax No.: \_\_\_\_\_ E-Mail address: \_\_\_\_\_  
(including area code)

**Box No. V PRIORITY CLAIM (IF ANY)** The priority of the following earlier application(s) is hereby claimed:  
Country in which it was filed: \_\_\_\_\_ Filing Date: \_\_\_\_\_ Application No.: \_\_\_\_\_  
(month, day, year)

- (1) \_\_\_\_\_  
(2) \_\_\_\_\_  
(3) \_\_\_\_\_

**Box No. VI SIGNATURE OF APPLICANT(S) OR AGENT OVER PRINTED NAME(S)**

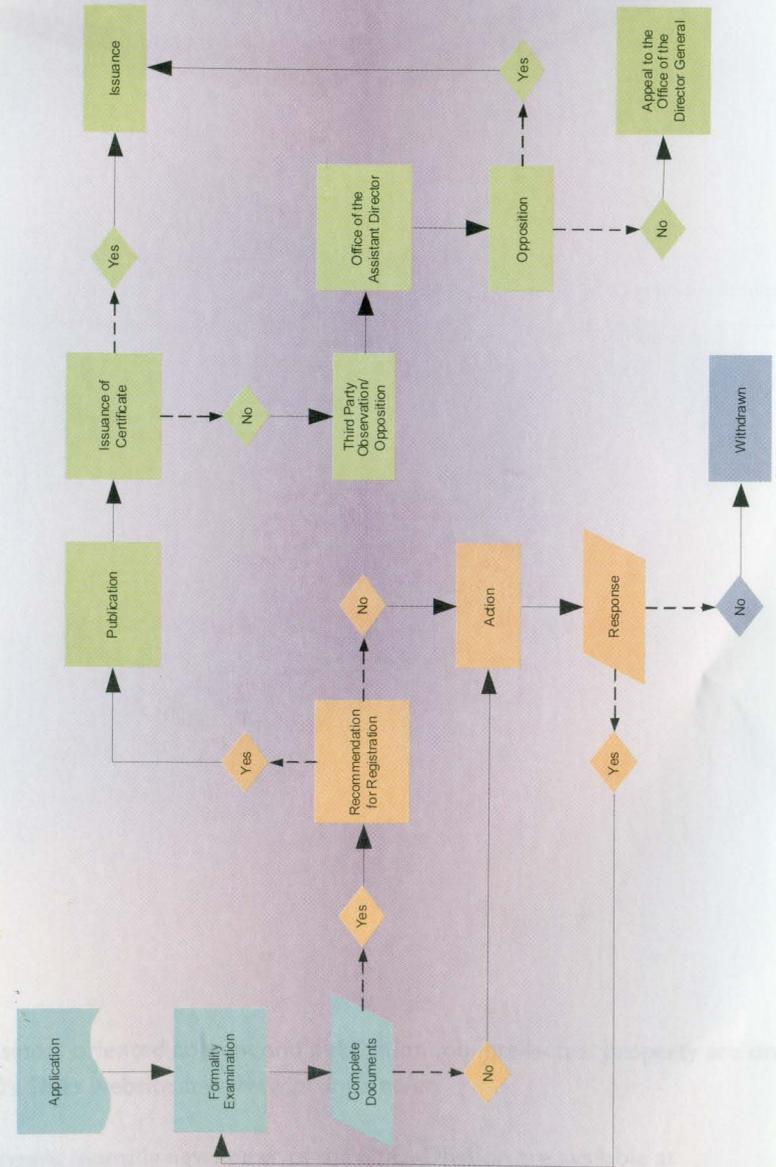
If the present Request form is signed on behalf of any applicant by an agent, a separate notarized power of attorney appointing the agent and signed by the applicant is required. If in such case it is desired to make use of a general power of attorney (deposited with the Intellectual Property Office), a copy thereof must be attached to this form.

**Box No. VII CHECK LIST (To be filled in by the Applicant)**

This application contains the following number of sheets: 1. Request: 2. Description : 3. Claim(s): 4. Drawing(s): _____ <b>Total Sheets:</b> _____ Figure number(s) _____ of the drawings (if any) is suggested to accompany the abstract for publication.	This application as filed is accompanied by the items checked below. <input type="checkbox"/> Separate notarized power of attorney <input type="checkbox"/> Copy of general power of attorney <input type="checkbox"/> Priority document(s) (see Box No. V) <input type="checkbox"/> Cheques for the payment of fees <input type="checkbox"/> Other documents (specify) _____
---	--

\*This application form can be downloaded from <http://www.ipophil.gov.ph/>

## ANNEX IV



UJ and ID Filing and Registration Process

