

Council Regulation (EC) No 1891/2006 of 18 December 2006 amending Regulations (EC) No 6/2002 and (EC) No 40/94 to give effect to the accession of the European Community to the Geneva Act of the Hague Agreement concerning the international registration of industrial designs

*Article 2*

Regulation (EC) No 6/2002 is amended as follows:

1. Article 25(1)(d) is replaced by the following:
  - (d) if the Community design is in conflict with a prior design which has been made available to the public after the date of filing of the application or, if priority is claimed, the date of priority of the Community design, and which is protected from a date prior to the said date
    - (i) by a registered Community design or an application for such a design,  
or
    - (ii) by a registered design right of a Member State, or by an application for such a right,  
or
    - (iii) by a design right registered under the Geneva Act of the Hague Agreement concerning the international registration of industrial designs, adopted in Geneva on 2 July 1999, hereinafter referred to as “the Geneva Act”, which was approved by Council Decision 954/2006 and which has effect in the Community, or by an application for such a right;
2. The following title is inserted after title XI:

TITLE XIa:

**INTERNATIONAL REGISTRATION OF DESIGNS**

Section 1

**General provisions**

*Article 106a*

**Application of provisions**

- 1 Unless otherwise specified in this title, this Regulation and any Regulations implementing this Regulation adopted pursuant to Article 109 shall apply, *mutatis mutandis*, to registrations of industrial designs in the international register maintained by the International Bureau of the World Intellectual Property Organisation

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(hereinafter referred to as “international registration” and “the International Bureau”) designating the Community, under the Geneva Act.

- 2 Any recording of an international registration designating the Community in the International Register shall have the same effect as if it had been made in the register of Community designs of the Office, and any publication of an international registration designating the Community in the Bulletin of the International Bureau shall have the same effect as if it had been published in the Community Designs Bulletin.

## Section 2

### **International registrations designating the community**

#### *Article 106b*

#### **Procedure for filing the international application**

International applications pursuant to Article 4(1) of the Geneva Act shall be filed directly at the International Bureau.

#### *Article 106c*

#### **Designation fees**

The prescribed designation fees referred to in Article 7(1) of the Geneva Act are replaced by an individual designation fee.

#### *Article 106d*

#### **Effects of international registration designating the European Community**

- 1 An international registration designating the Community shall, from the date of its registration referred to in Article 10(2) of the Geneva Act, have the same effect as an application for a registered Community design.

- 2 If no refusal has been notified or if any such refusal has been withdrawn, the international registration of a design designating the Community shall, from the date referred to in paragraph 1, have the same effect as the registration of a design as a registered Community design.

- 3 The Office shall provide information on international registrations referred to in paragraph 2, in accordance with the conditions laid down in the Implementing Regulation.

#### *Article 106e*

#### **Refusal**

- 1 The Office shall communicate to the International Bureau a notification of refusal not later than six months from the date of publication of the international

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registration, if in carrying out an examination of an international registration, the Office notices that the design for which protection is sought does not correspond to the definition under Article 3(a), or is contrary to public policy or to accepted principles of morality.

The notification shall state the grounds on which the refusal is based.

2           The effects of an international registration in the Community shall not be refused before the holder has been allowed the opportunity of renouncing the international registration in respect of the Community or of submitting observations.

3           The conditions for the examination as to the grounds for refusal shall be laid down in the Implementing Regulation.

#### *Article 106f*

#### **Invalidation of the effects of an international registration**

1           The effects of an international registration in the Community may be declared invalid partly or in whole in accordance with the procedure in Titles VI and VII or by a Community design court on the basis of a counterclaim in infringement proceedings.

2           Where the Office is aware of the invalidation, it shall notify it to the International Bureau..