

§212.3 Registration of claims for protection of eligible designs.

(a) *Limitations.* Protection is not available for, and an application for registration will not be accepted for:

(1) An otherwise eligible design made public prior to October 28, 1998;

(2) An otherwise eligible design made public on a date more than two years prior to the filing of an application for registration under this section;

(3) A design ineligible for any of the reasons set forth in 17 U.S.C. 1302.

(b) *Required elements of application.* An application is considered filed with the Copyright Office on the date on which the following three items have been received by the Copyright Office:

(1) Completed Form D-VH;

(2) Deposit material identifying the design or designs for which registration is sought; and

(3) The appropriate fee.

(c) *Application by owner of design.* An application for registration under this section may be made only by the owner or owners of the design, or by the duly authorized agent or representative of the owner or owners of the design.

(d) *Application form.* Registration must be made on Form D-VH. Forms are available from the Copyright Office and may be reprinted from the Copyright Office's website (<http://www.loc.gov/copyright/forms/formdvh.pdf>).

(e) *Deposit material—(1) In General.* Identification of the design to be registered may be made in the form of drawings or photographs. No more than two drawings or photographs of the design may appear on a single sheet. Applicants may submit up to three 8 1/2"×11" sheets containing drawings or photographs as part of the basic application fee. An additional fee shall be assessed for each page beyond the first three pages. No combinations of drawings and photographs may be submitted on a single sheet. The drawings or photographs that accompany the application must reveal those aspects of the design for which protection is claimed. The registration extends only to those aspects of the design which are adequately shown in the drawings or photographs.

(2) *Views.* The drawings or photographs submitted should contain a suf-

ficient number of views to make an adequate disclosure of the appearance of the design, *i.e.*, front, rear, right and left sides, top and bottom. While not required, it is suggested that perspective views be submitted to show clearly the appearance and shape of the three dimensional designs.

(3) *Drawings.* (i) Drawings must be in black ink on white 8 1/2"×11" unruled paper. A drawing of a design should include appropriate surface shading which shows clearly the character and contour of all surfaces of any 3-dimensional aspects of the design. Surface shading is also necessary to distinguish between any open and solid areas of the design. Solid black surface shading is not permitted except when used to represent the black color as well as color contrast.

(ii) The use of broken lines in drawings depicting the design is understood to be for illustrative purposes only and forms no part of the claimed design. Structure that is not part of the design, but that is considered necessary to show the environment in which the design is used, may be represented in the drawing by broken lines. This includes any portion of the vessel hull in which the design is embodied or applied that is not considered part of the design. When the claimed design is only surface ornamentation to the vessel hull, the vessel hull in which it is embodied must be shown in broken lines.

(iii) When broken lines are used, they should not intrude upon or cross the depiction of the design and should not be of heavier weight than the lines used in depicting the design. Where a broken line showing of environmental structure must necessarily cross or intrude upon the representation of the design and obscure a clear understanding of the design, such an illustration should be included as a separate figure, in addition to other figures which fully disclose the subject matter of the design.

(4) *Photographs.* High quality black and white or color photographs will be accepted provided that they are mounted on plain white 8 1/2"×11" unlined paper and do not exceed two photographs per sheet. Photographs must be developed on double weight photographic paper

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and must be of sufficient quality so that all the details of the design are plainly visible and are capable of reproduction on the registration certificate, if issued.

(f) *Multiple claims*—(1) *In general.* Claims for more than one design may be filed in one of two ways. If multiple designs are contained on a single make and model of a vessel hull (and therefore, the information in Space 1 of Form D-VH—the make and model of the vessel that embodies the design—is the same for each of the designs), a single application form may be used for all designs, provided that the information in spaces 3 through 9 is the same for each of the designs. If multiple designs are contained on more than one make and model of a vessel, or the information in spaces 3 through 9 is not the same for each of the multiple designs, then separate applications must be used for each design.

(2) *Single application.* Where a single application for multiple designs is appropriate, a separate Form D-VH/CON must be used for each design beyond the first appearing on Form D-VH. Each Form D-VH/CON must be accompanied by deposit material identifying the design that is the subject of the Form D-VH/CON, and the deposit material must be attached to the Form D-VH/CON. The Form D-VH and all the Form D-VH/CONs for the single application must be submitted together.

(3) *Multiple applications.* Where multiple applications for more than one design are required, a Form D-VH must be completed for each design. Deposit material identifying the design must accompany each application. Multiple applications may be filed separately.

(4) *Fees.* The basic application fee prescribed in §201.3(c) of this chapter applies to each design submitted, regardless of whether a single application or multiple applications are used.

(g) *Written declaration.* In lieu of the oath required by 17 U.S.C. 1312(a), the application shall contain a written declaration, as permitted by 17 U.S.C. 1312(b), signed by the applicant, or the applicant's duly authorized agent or representative. If the design has been made public with the design notice prescribed in 17 U.S.C. 1306, the written declaration shall also describe the

exact form and position of the design notice. The written declaration shall read as follows:

The undersigned, as the applicant or the applicant's duly appointed agent or representative, being hereby warned that willful false statements are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of this application or any resulting registration, hereby declares to the best of his/her knowledge and belief:

- (1) That the design has been fixed in a useful article;
- (2) That the design is original and was created by the designer(s), or employer if applicable, named in the application;
- (3) That those aspects of the design for which registration is sought are not protected by a design patent;
- (4) That the design has not previously been registered on behalf of the applicant or the applicant's predecessor in title; and
- (5) That the applicant is the person entitled to protection and to registration under chapter 13 of title 17, United States Code.

(h) *Priority claims.* An applicant seeking the benefit of 17 U.S.C. 1311 because the applicant has, within the previous 6 months, filed an application for protection of the same design in a foreign country, must provide:

- (1) Identification of the filing date of the foreign application;
- (2) Identification of the foreign country in which the application was filed;
- (3) The serial number or any other identifying number of the foreign application;
- (4) A certified copy of the foreign application;
- (5) A translation of the foreign application and a statement, signed by the translator, that the translation is accurate, if the foreign application is in a language other than English; and
- (6) If requested by the Copyright Office, proof that the foreign country in which the prior application was filed extends to designs of owners who are citizens of the United States, or to applications filed under chapter 13 of title 17, United States Code, similar protection to that provided under chapter 13 of title 17, United States Code.

(i) *Effective date of registration.* The effective date of registration is the date of publication of the registration by the Copyright Office.

(j) *Publication of registration.* Publication of registrations of vessel hull designs shall be made on the Copyright Office website (<http://www.loc.gov/copyright/vessels>).

[64 FR 36578, July 7, 1999, as amended by 72 FR 33692, June 19, 2007]

§ 212.4 Affixation and placement of design notice.

(a) *General.* (1) This section specifies the methods of affixation and placement of the design notice required by 17 U.S.C. 1306. Sections 1306 and 1307 govern the circumstances under which a design notice must be used and the effect of omission of a design notice. A notice deemed acceptable under this part shall be considered to satisfy the requirements of section 1306 that it be so located and applied as to give reasonable notice of design protection while the useful article embodying the design is passing through its normal channels of commerce. As provided in that section, the examples specified in this part shall not be considered exhaustive of the methods of affixation and locations giving reasonable notice of the claim of protection in the design.

(2) The acceptability of a design notice under these regulations shall depend upon its being legible under normal conditions of use, and affixed in such a manner and position that, when affixed, it may be viewed upon reasonable examination. There is no requirement that a design notice be permanently embossed or engraved into a vessel hull or deck, but it should be affixed in such a manner that, under normal conditions of use, it is not likely to become unattached or illegible.

(b) *Elements of a design notice.* If the design has been registered, the registration number may be included in the design notice in place of the year of the date on which protection for the design commenced and the name of the owner, an abbreviation by which the name can be recognized, or a generally accepted alternative designation of the owner. The elements of a design notice shall consist of:

(1) The words "Protected Design", the abbreviation "Prot'd Des.", or the letter "D" within a circle, or the symbol *D*;

(2) The year of the date on which protection for the design commenced; and

(3) The name of the owner, an abbreviation by which the name can be recognized, or a generally accepted alternative designation of the owner.

(c) *Distinctive identification.* Any distinctive identification of an owner may be used for purposes of paragraph (b)(3) of this section if it has been recorded by the Register of Copyrights pursuant to § 212.5 before the design marked with such identification is registered.

(d) *Acceptable locations of notice.* The following are acceptable means of affixing and placement of a design notice:

(1) In close proximity to the hull identification number required by 33 CFR 181.23;

(2) In close proximity to the driver's console such that it is in plain view from the console;

(3) If the vessel is twenty feet in length or less and is governed by 33 CFR 183.21, in close proximity to the capacity marking; and

(4) In close proximity to the make and/or model designation of the vessel.

§ 212.5 Recordation of distinctive identification of vessel hull designer.

(a) *General.* Any owner of a vessel hull may record a distinctive identification with the Register of Copyrights for purposes of using such distinctive identification in a design protection notice required by 17 U.S.C. 1306. A distinctive identification of an owner may not be used in a design notice before it has first been recorded with the Register.

(b) *Forms.* The Copyright Office does not provide forms for the use of persons recording distinctive identifications of ownership of a vessel hull. However, persons recording distinctive identifications are encouraged to use the suggested format available on the Copyright Office website (<http://www.loc.gov/copyright/vessels>).

(c) *Recording distinctive identifications.* Any distinctive identification of an owner of a vessel hull may be recorded with the Register of Copyrights provided that a document containing the following is submitted:

(1) The name and address of the owner;