



NEW YORK STATE BAR ASSOCIATION
INTERNATIONAL SECTION

CROSS BORDER PROTECTION OF DESIGN

Global Conference 2019: A World of Many Voices, United in Our Diversity

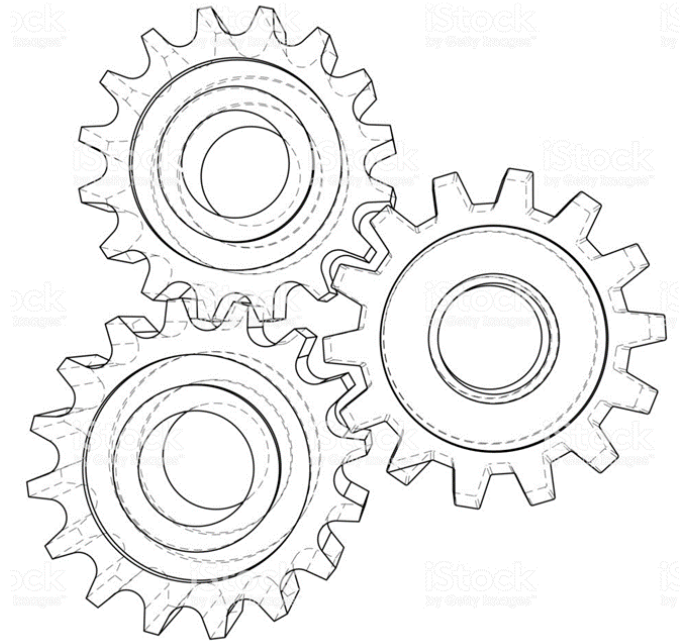
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Introduction to Industrial Designs

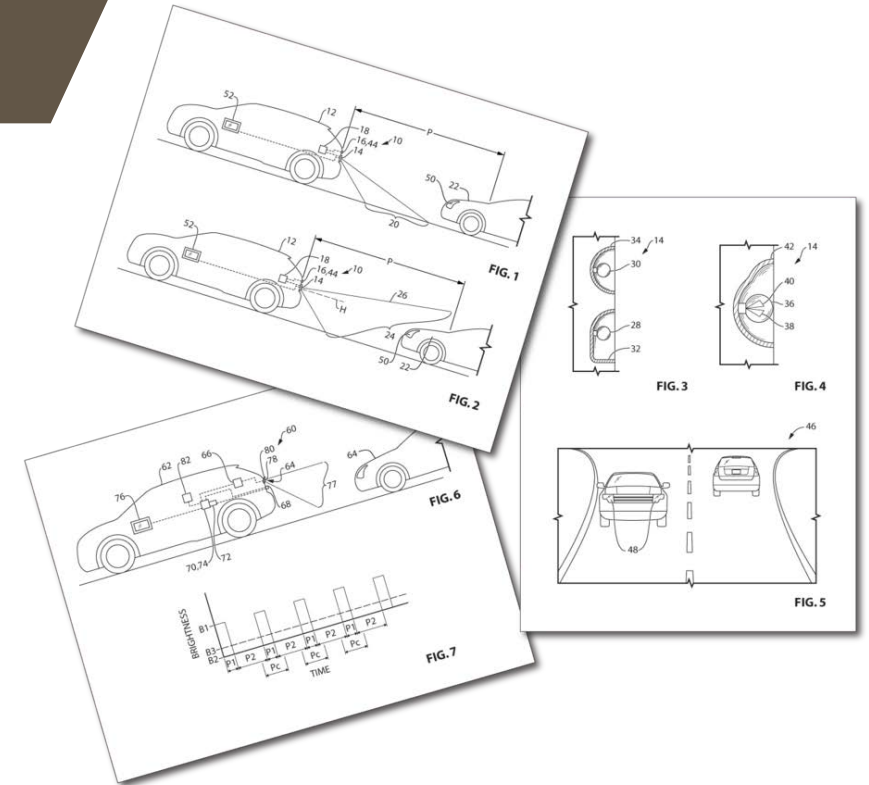
An industrial design may be anything that affects the overall appearance or aesthetic of an article.

General legal requirement is NOVELTY.

Legal protection grants the right to exclude third parties from using or commercializing the design.



DOMINICAN REPUBLIC & CENTRAL AMERICA





DOMINICAN REPUBLIC

OVERVIEW:

Applicable Law: Law No. 20-00 on Industrial Property

Requirements for protection: “new and of unique character”.

Legal protection is acquired **through registration** before the ONAPI.

Term of protection: 5 years from the filing date, with 2 additional periods of 5 years available when requested.

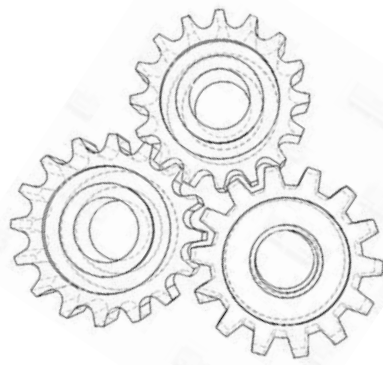
Transfer and licensing of Industrial Designs' rights are permitted.

Not a member of the Hague Agreement concerning the International Registration of Industrial Designs.

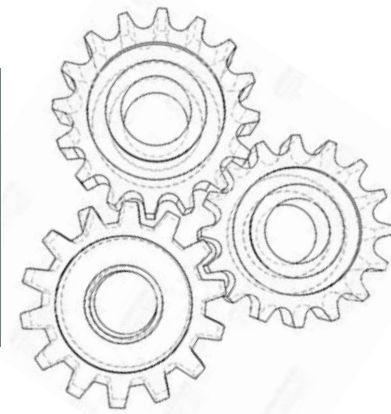
✓ “New” means not public.

Exceptions: (a) Disclosures made by the designer or her successors 12 months before the filing date of the application; (b) illegal publications of the design which resulted from a breach of trust or contract; or (c) disclosures that result from another illicit activity.

- ✓ A design is considered of “**unique character**” when the general impression produced on an informed user differs from the general impression caused by a previous article with known design.
- ✓ **Industrial designs on a complex product? YES**, but only if the design is visible when the product is being normally used and to the extent these visible characteristics of the component are in and of themselves new and unique.



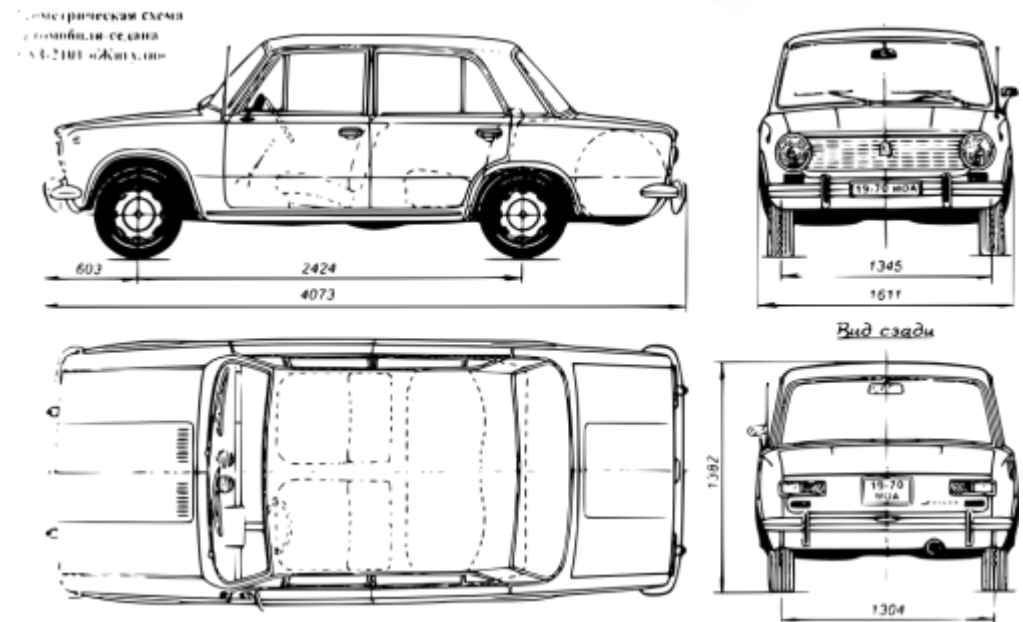
DOMINICAN REPUBLIC







REGISTRATION PROCESS

1. Filing of the application;
2. Formal examination;
3. Publication;
4. Third-parties objections;
5. Merit examination;
6. Grant of protection & issuance of registration certificate.

Estimated expenses: US\$1,200.00



INDUSTRIAL DESIGN PROTECTION IN CENTRAL AMERICA

	HONDURAS 	GUATEMALA 	EL SALVADOR 	NICARAGUA 
Legal Requirements	Original and with industrial application	Novelty	Novelty	Novelty, industrial application and inventive level.
Does legal protection requires registration?	Yes	No, it can be obtained through the holder's first disclosure	No, it can be obtained through the holder's first disclosure	No, it can be obtained through the holder's first disclosure
Term of Protection	5 years + 2 additional periods of 5 years available, when requested If protection was granted upon the disclosure of the design, its term is for 3 years.	10 years + 1 additional extension of 5 years, when requested	10 years, non-renewable	5 years + 2 additional periods of 5 years available, when requested If protection was granted upon the disclosure of the design, its term is for 3 years.

COMPARISON OF LEGAL STANDARDS

SIMILARITIES

- General requirement of **novelty** and **non-functionality**.
- **Scope of protection:** Common right to exclude third-parties from using and exploit the protected design.
- Designs may be also **protected under other legal provisions**, such as copyright, trademarks...
- **Licensing and transference** of IP right is permitted.
- Not Members of the **Hague Agreement**

DIFFERENCES

- In El Salvador, Guatemala and Nicaragua **registration is not required to receive legal protection** on the industrial design.
- In Honduras, Guatemala and Nicaragua **industrial models** are comprised in the definition of industrial designs.
- Nicaragua and Honduras require the design to have **industrial application** to receive legal protection.



THANK YOU!

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