

Notes on the application form for entry on the Special List of Professional Representatives in Design Matters before the European Union Intellectual Property Office (EUIPO) according to Article 78 of Council Regulation on Community Designs (CDR)

1 Who may enter the special list of professional representatives

In order to enter the special list of professional representatives, provided in Article 78 CDR, the following conditions must be fulfilled:

- the applicant must be a national of one of the EEA Member States;
- they must have their place of business or employment in the EEA;
- they must not be entered on the list referred to in Article 93(1)(b) EUTMR. If they are on that list, they are already entitled to represent in trade mark and design matters;
- they must be entitled to represent natural or legal persons in design matters before the central industrial property office of an EEA Member State.

Where, in certain EEA Member States, the entitlement to represent natural or legal persons in design matters depends on special professional qualifications, the applicant must have acquired that same special professional qualification. Where, in other EEA Member States, such a requirement does not exist, the applicant must have had experience working as a professional representative in design matters before that country's central industrial property office for at least five years.

The requirement of having exercised the profession for at least five years does not apply to persons whose professional qualifications to represent in design matters before the national office has been officially recognised in accordance with the national regulations laid down by such Member State.

Furthermore, the Executive Director of EUIPO may grant an exemption from the requirement of having exercised the profession for at least five years if the applicant submits proof that they have acquired the requisite qualification in another way. The Executive Director may also grant an exemption for the requirement of nationality in special circumstances.

The persons entered on the special list will only be entitled to represent third persons in proceedings before EUIPO, concerning Community Designs pursuant to Article 78(2) CDR.

2 Which countries have special requirements for design agents

Some countries have special exams or the requirement of having regularly worked in design matters for at least five years before their respective national offices. National law should be referred to in order to verify whether such requirements exist in respective countries.

The following countries have special requirements for design agents. These are the titles used for such design agents:

COUNTRY	Design Attorney
Belgium	Modellengemachtigde, Conseil en modèles
Czech Republic	Patentový zástupce (the same denomination as trade mark agent)
Denmark	Varemaerkefuldmaegtig
Estonia	Patendivolinik (the same denomination as trade mark agent)
Finland	Tavaramerkkiasiamies, Varumaerkesombud
France	Conseil en Propriété Industrielle
Ireland	Registered Patent Agent
Italy	Consulente in brevetti
Latvia	Patentpilnvarotais dizainparaugu lietās
Luxembourg	Conseil en Propriété Industrielle
Romania	Consilier in proprietate industrială (modele)
Sweden	Varumaerkesombud
The Netherlands	Modellengemachtigde
United Kingdom	Registered Patent Agent

3 Who may not be entered on the special list of representatives for design matters

Legal practitioners will not be entered on the special list of professional representatives in design matters referred to in Article 78(4) CDR (see Communication No 10/02 of the President of OHIM of 28 June 2002).

The special list of representatives in design matters is of a subsidiary nature. EUIPO will refuse all applications for entry on the special list coming from persons who are

already entered on the list pursuant to Article 93 EUTMR, or who have the right to be entered on that list.

The special list of professional representatives in design matters does not apply, from the outset, to those Member States where there is a professional qualification required which comprises trade marks, designs and patents. This is the case for Austria (Patentanwälte), Germany (Patentanwälte), Portugal (Agentes Oficiais da Propriedade Industrial), Spain (Agentes de la Propiedad Industrial), Netherlands (Octrooigemachtigden), Luxembourg (conseils en propriété industrielle), France (conseils en propriété industrielle), Estonia (Patentdivolinik, who passed the exam for trade mark and design matters), Hungary (szabadalmi ügyvivo), Lithuania (Patentinis patikėtinis), Poland (Rzecznik Patenowy), Slovakia (Patentový Zástupca), Slovenia (Patentni zastopnik, Zastopnik za modele in znamke), Romania (Consilieri in proprietate industrială) and Bulgaria (Представител По Индустириална Собственост).

Persons from these Member States, who have acquired these titles, must apply for entry on the professional representatives' list, pursuant to Article 93 EUTMR.

As far as Malta is concerned, where a special professional qualification does not exist, entry on the special list of professional representatives in design matters is not possible. Consequently, persons from Malta must apply for entry on the list of Article 89 EUTMR, provided that the conditions mentioned in that provision are fulfilled.

In Cyprus, where the Design Law was enacted in 2002, no special professional qualification is required to represent in design matters. There is no list of persons who have worked exclusively in design matters for at least five years before that office. Entry on the Article 78 CDR list is therefore impossible.

As far as Greece and Cyprus are concerned, where only legal practitioners may represent in design matters, entry on the special list is not possible.

4 Application and certification

Entry on the special list of professional representatives is made pursuant to a request, which must be submitted, in each individual case, by using the application form, made available by EUIPO, which must be filled in to submit a request for. The language of the request lodged by the applicant, where it is one of the languages of EUIPO, will determine the language of correspondence between EUIPO and the applicant for entry on the list.

The request must be accompanied by a certificate issued by a central industrial property office of an EEA Member State. The certificate must indicate that the conditions listed above (nationality, place of business or employment, entitlement) are fulfilled.

Applicants must complete the application form and send it to the respective national office. That office will have to complete the certificate (p 2 of the application form). The completed application form together with the completed individual certificate will

— depending on the practice of the respective national offices — either be returned to the applicant who will then have to forward the application to EUIPO or sent by that office directly to EUIPO. Some national offices may allow the applicant to choose between these two options.

National offices do not issue block certification for entry on the list of Article 78 CDR.

5 Application form

The application form, together with the certificate, is available in all the EU's official languages. The application form can be obtained from the central industrial property offices of the Member States, including the Benelux Trade Mark Office. It may be downloaded from EUIPO's website at <http://euipo.europa.eu/en/design/form.htm> or obtained at the following address:

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