

**BOIP**



Benelux Office for  
**Intellectual  
Property**



## **Implementing Regulations<sup>1</sup> under the Benelux Convention on Intellectual Property (trademarks and designs)**

[www.boip.int](http://www.boip.int)

<sup>1</sup> Entry into force: 01-03-2019.

The official text of these regulations is in French and Dutch. This English translation is provided by BOIP for information purposes. BOIP is not responsible for typing or translation errors.

## PART I: TRADEMARKS

### Chapter 1. The Benelux trademark

#### Rule 1.1 Filing requirements

1. An application for registration of a Benelux trademark should be filed in the Dutch, French or English language by submitting a document containing the following:
  - a. the applicant's name and address; if the applicant is a legal entity, the legal form thereof should be stated;
  - b. in relevant cases, the representative's name and address, or the correspondence address referred to in Rule 3.6.
  - c. the representation of the trademark in accordance with Article 2.1 (b) BCIP;
  - d. a list of the goods and services for which the trademark is intended, in accordance with Article 2.5bis BCIP;
  - e. a specification of the trademark describing whether it is a word mark, a figurative mark, a combined word / figurative mark, a three-dimensional mark or another type of mark. In the latter case, the type of mark should also be specified;
  - f. in relevant cases the colour code or codes of the trademark;
  - g. the applicant's signature or that of the applicant's representative.
2. A description not exceeding fifty words may be provided of the distinctive elements of the trademark.
3. The representation of the trademark referred to in paragraph 1 (c) shall comply with the further rules of the Director General for the filing of documents laid down in accordance with Rule 3.4.

#### Rule 1.2 Collective or certification mark

1. In relevant cases the application should state whether the trademark is a collective or a certification mark.
2. The application should in that case be accompanied by regulations governing the use of the mark in accordance with Article 2.34ter or 2.35ter BCIP.

#### Rule 1.3 Determination of the filing date; Regularisation

1. The requirements for determining a filing date referred to in Article 2.5 (1) BCIP are set out in Rule 1.1 (1) (a), (c), (d) and (e) and in Rule 1.2, subject to payment of the basic fees due for filing the trademark within a period of one month after the above requirements have been met.
2. A period of at least one month will be granted for meeting the other requirements as referred to in Article 2.5 (2) BCIP. The above period may be extended ex officio and will be extended on request, but may not exceed a period of six months after the date on which the first notification was sent.

#### Rule 1.4 Priority

1. If the right to priority, as referred to in Article 2.6 BCIP, is claimed at the time of filing the application, the country, the date, the number and the holder of the application that serves as the basis for the right of priority should be stated. If the applicant in the country of origin is not the person submitting the Benelux application, the latter must add a document to the application establishing its rights.
2. The special declaration concerning the right of priority as referred to in Article 2.6 (3) BCIP should contain the following: the name and address of the applicant, the applicant's signature or that of the applicant's representative, in relevant cases the name and address of the representative or the correspondence address as referred to in Rule 3.6, a specification of the trademark, as well as the information stated in paragraph 1.

3. An applicant who claims the right of priority shall, if the Office so requests, submit a copy of the documents corroborating the right of priority.
4. If the provisions set out in paragraphs 1, 2 and 3, and in Rules 3.3 and 3.6 have not been complied with, the Office will inform the relevant party thereof without delay and will provide said party a period of at least one month to subsequently comply with the provisions. The above period may be extended ex officio and will be extended on request, but may not exceed a period of six months after the date on which the first notification was sent. The right of priority will lapse should a timely response not be received.

#### **Rule 1.5      Publication of trademark applications**

1. The Office publishes trademark applications in conformity with the provisions of Article 2.5 (5) BCIP, indicating the following:
  - a. the date and number of the trademark application;
  - b. the applicant's name and address;
  - c. in relevant cases, the representative's name and address;
  - d. the representation of the trademark;
  - e. the goods and services, in accordance with Article 2.5bis BCIP;
  - f. the type of trademark;
  - g. in relevant cases that the application concerns a collective mark or a certification mark;
  - h. in relevant cases, the information concerning classification of the figurative mark, as referred to in the 12 June 1973 Vienna Agreement Establishing an International Classification of the Figurative Elements of Marks;
  - i. in relevant cases, the description of the distinctive elements provided by the applicant;
  - j. in relevant cases, the colour code or colour codes of the trademark;
  - k. in relevant cases, that a right of priority has been invoked in accordance with Article 2.6 BCIP, and the date, number and country to which the right of priority applies. In relevant cases, it will also be stated that the requirements set out in Rule 1.4 (3) have not yet been fulfilled;
  - l. the date on which the period for filing an opposition against the trademark expires.
2. If an error has been made in publishing the information in a trademark application as referred to in paragraph 1, as a result of which incorrect information could have been provided to interested parties which would affect their decision whether or not to file an opposition against the relevant trademark, the Office will correct the published information. This means that the period for filing an opposition against the trademark application will recommence.
3. In relevant cases, an opposition already filed based on the information that was published earlier and subsequently corrected pursuant to paragraph 2 will not be examined further at the opponent's request. Such a request should be made before the end of the opposition period that will recommence pursuant to the provisions set out in paragraph 2. The fees already paid will in that case be refunded. If the opponent has not submitted a request to abandon examination of the opposition, it will be deemed to have been filed within the specified period.

#### **Rule 1.6      Registration**

1. The Office will register the application in the register stating:
  - a. the registration number;
  - b. the indications referred to in Rule 1.5 (1);
  - c. the date on which the period of validity of the registration expires;
  - d. the registration number.
2. The Office will implement without delay the decisions of the Benelux Court of Justice referred to in Article 1.15bis BCIP as soon as they are no longer open to any further appeal.
3. The applicable registration date is the day on which the Office establishes that the application meets all the requirements set out in the BCIP and in the present Regulations.

#### **Rule 1.7 Accelerated registration**

1. A request for immediate registration of the trademark as referred to in Article 2.8 (2) BCIP may be made on filing the trademark application or during the registration procedure.
2. The Office will publish accelerated registrations, stating the information set out in Rule 1.6.
3. In relevant cases, the publication as referred to in paragraph 2 will indicate the date on which the period for filing an opposition against a trademark expires. Paragraphs 2 and 3 of Rule 1.5 apply mutatis mutandis.
4. The Office will publish its decisions concerning cancellation of a registration pursuant to the provisions set out in Article 2.8 (2) BCIP. Publication will first take place after the decision concerning cancellation of the registration is no longer open to any further appeal.
5. If applicable, the Office shall publish the date of commencement of the use obligation, referred to in Article 2.23bis (2) and (4) BCIP.

#### **Rule 1.8 International trademark application designating the Benelux**

1. The registration date applicable to international trademark applications designating the Benelux is the date on which the International Bureau publishes the statement of grant of protection sent by the Office.
2. If the Office has sent a notification to the International Bureau pursuant to Article 2.5bis (4), 2.13 (2), 2.18 (2) 2.34ter (2) or 2.35ter (2) BCIP, the applicable registration date is the date on which the International Bureau publishes the declaration sent by the Office that the objections to the registration referred to in the said Articles have been lifted. If various objections applied, and if they were lifted at various points in time, the date of the latest publication by the International Bureau of the declaration sent by the Office that its objections to the registration have been lifted applies as the registration date.
3. As an exception to the provisions set out in paragraphs 1 and 2, if the holder of the trademark for which an international trademark application has been filed requests the Office for immediate registration of the trademark pursuant to Article 2.10 (3) of the Convention, the day on which the Office was requested to register the trademark applies as the registration date. The Office will publish the registration date. The date of commencement of the use obligation, referred to in Article 2.23bis BCIP, will however be determined in accordance with paragraphs 1 and 2.

#### **Rule 1.9 Renewal**

1. Partial renewal in accordance with Article 2.9 (4) BCIP is only possible per class. In that case, the applicant must state the numbers of the class or classes for which he wishes the renewal.
2. The Office will register renewal of the registration by changing the expiry date of the registration.
3. The Office will send a confirmation of renewal to the party that has paid the fee due.

### **Chapter 2. International application based on a Benelux trademark**

#### **Rule 1.10 Application, renewal and modification**

1. An application for international registration based on a Benelux application may only be filed at the Office. A request for renewal of the international registration, for territorial extension or for modification of the international registration may be submitted to the Office only if the Common Implementing Regulations under the Madrid Agreement and the Madrid Protocol do not allow such a request to be made directly to the International Bureau.
2. The application should be made by submitting a document containing the information required by the Common Implementing Regulations under the Madrid Agreement and the Madrid Protocol, accompanied by the documents specified in the Common Implementing Regulations, where appropriate.
3. Rules 3.1, 3.3, 3.6 and 3.7 apply mutatis mutandis to such applications as well as requests concerning modification of the international registration.

4. The fees payable pursuant to the Madrid Agreement and the Madrid Protocol should be paid upon making the applications or requests, to the extent the fees are not to be paid directly to the International Bureau; if applicable, the fees due for the intermediary services of the Office should be paid.
5. The Office will send the applications and requests that meet the requirements set out in this Rule to the International Bureau without delay.

#### **Rule 1.11 Transformation**

The application for registration of a trademark as referred to in Article 9quinquies Madrid Protocol must be accompanied by a proof of the cancellation of the international registration.

### **Chapter 3. Refusal and Opposition**

#### **Rule 1.12 Time limit for filing objections against a refusal**

1. The time limit specified for responding to a provisional refusal as referred to in Articles 2.11 (3) and 2.13 (2) BCIP is at least one month; the time limit may be extended ex officio and will be extended on request, but may not exceed a period of six months after the date on which the first notification was sent.
2. In relevant cases, an applicant objecting the provisional refusal must within the time limit stated in paragraph 1 similarly comply with the requirements set out in Rules 3.6 and 3.7.

#### **Rule 1.13 Information in the opposition**

1. The opposition should be submitted in a document containing the following information:
  - a. the opponent's name;
  - b. information for the purpose of identifying the trademark against which the opposition has been lodged;
  - c. the goods or services against which the opposition has been lodged. If this information is not stated, it will be assumed that the opposition has been lodged against all goods and services;
  - d. an indication whether the opposition is based on Article 2.14 (2) (a), (b) or (c) BCIP;
  - e. if the opposition is based on an earlier trademark or on an earlier right within the meaning of Article 2.14 (2) (c) BCIP, information for the purpose of identifying the earlier trademark or earlier right;
  - f. if the opposition is based on an earlier trademark, the goods or services pertaining to the invoked earlier trademark on which the opposition is based. If this information is not stated, it will be assumed that the opposition is based on all goods and services;
  - g. in relevant cases, it should be stated that the opponent is acting in the capacity of licensee of the earlier trademark;
  - h. language preferences.
2. In relevant cases, documents evidencing the licensee's authorization should be submitted.
3. In relevant cases, the representative's name and address, or the correspondence address referred to in Rule 3.6 should be provided.
4. The information referred to in paragraph 1 (c) and (f) can be provided by stating only the numbers corresponding to the relevant classes of goods or services. The goods or services on which the opposition is based or against which the opposition has been lodged can be limited by the opponent until the time at which the decision referred to in Rule 1.14 (1) (i) is taken.

#### **Rule 1.14 Conduct of the proceedings**

1. The opposition will be examined in accordance with the following procedure:
  - a. the Office will decide whether the opposition is admissible in accordance with Rule 1.15 and will inform the parties or, in the case referred to in Article 2.18 BCIP, the opponent and the International Bureau thereof;
  - b. the procedure will commence two months after the notification of admissibility, on condition that the due opposition fees have been paid in full. The Office will send the parties notification of the commencement of the procedure;
  - c. the opponent has a period of two months from the notification of commencement of the procedure referred to in b. to provide arguments and supporting documents substantiating the opposition. In the absence thereof, examination of the opposition will be abandoned. Arguments submitted before the start of the procedure are deemed to have been submitted upon commencement of the procedure;
  - d. the Office will send the opponent's arguments to the defendant, and will grant the defendant two months to respond in writing and to request proof of use of the earlier trademark as referred to in Article 2.16bis BCIP, where applicable;
  - e. in relevant cases, the opponent will be given a period of two months to submit the requested proof of use or to substantiate that there are proper reasons for not using the trademark;
  - f. if proof of use has been submitted, the Office will transmit it to the defendant and will grant the defendant two months to respond in writing to the proof of use, and to the opponent's arguments, if it had not yet done so when offered the opportunity described under d;
  - g. if the Office deems that there are relevant grounds, it may request one or more parties to submit additional arguments or documents within a term to be set for this purpose;
  - h. an oral hearing may take place pursuant to Rule 1.23;
  - i. a decision will be taken by the Office. Where an opposition based on several grounds is upheld on one of those grounds, the Office shall not decide on the other grounds relied on if they have the same legal effect. Where an opposition based on Article 2.14 (1) (a) BCIP and based on several earlier trademarks is allowed on the basis of one of those trademarks, the Office shall not decide on the other trademarks invoked either.
2. If the defendant does not have a place of residence or registered office within the European Economic Area, the provisions of Rule 3.6 must be complied with within the time limit stated in paragraph 1(d).

#### **Rule 1.15 Admissibility requirements**

1. The opposition is admissible if it is filed within the period specified in Article 2.14 (1) or 2.18 (1) BCIP and it meets the requirements set out in Rule 1.13 (1) (a)-(g) of these Regulations and Article 2.14 (4) BCIP.
2. To establish whether the opposition is admissible, the requirements set out in Article 2.14 (4) BCIP are deemed to have been met if 40% of the fees due have been paid.
3. Without prejudice to the provisions set out in the previous paragraph, the total fees due for filing an opposition may be paid upon filing the opposition. The previous paragraph does not alter the fact that the total fees payable must be paid by the end of the period specified in Rule 1.14 (1) (b).
4. If the opposition is based on more trademarks or grounds than the number of trademarks or grounds for which fees have been paid, the opposition will be examined, but only those trademarks or grounds for which the fees have been paid will be examined in the order stated upon filing the opposition.
5. If the information provided pursuant to Rule 1.13 (1) (a) and (g) does not correspond to the registered information relating to an earlier Benelux trademark invoked, the Office will interpret the opposition filed also as a request to record a modification in the register. The provisions set out in Rule 3.1 apply *mutatis mutandis* on the understanding that the period specified in Rule 3.1 (5) shall be no more than two weeks. If the earlier trademark invoked concerns an EU trademark or an international trademark, the Office will grant the opponent a time limit of two weeks to demonstrate that it has taken the necessary action to bring the information in the relevant register into line with the information the opponent provided when submitting the opposition.

6. If the validity of an invoked earlier trademark expires before the end of the opposition period and this trademark can still be renewed under the applicable statutory provisions, the Office will grant the opponent a time limit of two weeks in which to renew this trademark. If the relevant earlier trademark is an EU trademark or an international trademark, the Office will set a time limit of two weeks to demonstrate that the necessary action has been taken to renew the trademark.

#### **Rule 1.16 Regularisation of an opposition**

1. If the Office establishes that the notice of opposition does not meet requirements other than those referred to in Rule 1.15, it will inform the opponent thereof, granting the opponent a period of two months to remedy the deficiencies established. If the deficiencies are not remedied within the specified time limit, examination of the opposition will be abandoned.
2. If the Office establishes that documents filed by the parties other than those referred to in paragraph 1 do not meet the requirements referred to in these Regulations, it will inform the relevant party thereof, granting said party a period of two months to remedy the deficiencies established. If the deficiencies are not remedied within the specified time limit, the document concerned will be deemed not to have been filed.
3. If, upon commencement of the procedure, as set out in Rule 1.14 (1) (b), the opposition fees due have not been paid in full, the Office shall grant the opponent a period of one month in which to pay it. Failing this, the examination of the opposition will be abandoned.

#### **Rule 1.17 Language of the procedure**

1. The language of the procedure is one of the Office's working languages. In respect of an opposition against a Benelux trademark application, the language will be determined in the following manner:
  - a. the language of the procedure will be the language in which the defendant's trademark application has been filed;
  - b. contrary to the provisions set out under (a) above, the language of the procedure will be chosen by the opponent if the defendant's trademark application has been filed in the English language.
2. In the event of an opposition against an international trademark application, the opponent will choose one of the Office's working languages as the language of the procedure. If the opponent chooses one of the Office's official languages, the defendant may state within a period of one month after the date of the notification of admissibility that it does not agree with the choice of language and may choose the Office's other official language. If the opponent chooses the English language, the defendant may state within a period of one month after the date of the notification of admissibility that it does not agree with the choice of language and may choose one of the Office's official languages. Should the defendant not respond to the opponent's choice of language, the language of the procedure will be the language chosen by the opponent.
3. Contrary to the provisions of paragraphs 1 and 2 above, the parties may jointly choose another language of the procedure.
4. The language of the procedure will be chosen as follows:
  - a. the opponent will state in the notice of opposition which of the Office's working languages the opponent prefers to use as language of the procedure;
  - b. if the defendant agrees with the language chosen by the opponent, the defendant will communicate this within a period of one month after the date of the notification of admissibility of the opposition.
5. The Office will inform the parties of the language of the procedure.
6. The opposition decision will be drawn up in the language of the procedure.

#### **Rule 1.18 Translation**

1. Determination of the language of the procedure will not affect the parties' option to use one of the Office's other working languages in the opposition procedure instead of the language of the procedure.
2. If one of the parties submits arguments in one of the Office's working languages, not being the language of the procedure, the Office will translate the arguments into the language of the procedure, unless the other party has stated that it does require a translation.
3. At a party's request, the Office will translate into one of the Office's other working languages the arguments submitted by the other party in the language of the procedure.
4. At a party's request, the Office will translate the opposition decision into the other working language of the Office.
5. A translation may be requested at the time of submission of the notice of opposition or at the time of the defendant's communication as referred to in Rule 1.20 (4)(b).
6. Arguments that have not been submitted in one of the Office's working languages will be deemed not to have been submitted.
7. If arguments are translated by the Office pursuant to this rule, the document drawn up in the language in which it was submitted applies as the authentic version.

#### **Rule 1.19 Change of language chosen**

1. The choice of language pursuant to Rule 1.17 can be changed at the parties' mutual request until such time as the procedure commences.
2. During the opposition procedure each party may advise in writing that it no longer requires a translation by the Office as referred to in Rule 1.18.

#### **Rule 1.20 Language of documents substantiating arguments or use of a trademark**

The provisions set out in Rules 1.17 to 1.19 do not preclude that documents serving to substantiate arguments or prove the use of a trademark may be submitted in their original language. The documents will only be considered if the Office judges that they are sufficiently comprehensible, in the light of the reason for their submission.

#### **Rule 1.21 The principle of hearing both sides of the argument**

The observance of the principle of hearing both sides of the argument as referred to in Article 2.16 (1) BCIP mainly entails the following:

- a. a copy of each relevant document submitted to the Office by a party will be sent to the other party, even if the opposition is inadmissible. If the arguments submitted pursuant to the provisions set out in Rule 1.18 are translated by the Office, they will be forwarded together with the translation;
- b. a copy of each relevant document sent to a party by the Office will also be sent to the other party;
- c. the opposition decision may only be taken on the grounds against which the parties have been able to put forward a defence;
- d. facts to which the other party did not respond will be deemed as undisputed;
- e. examination of the opposition will be limited to the arguments, facts and evidence put forward by the parties;
- f. the opposition decision will be drawn up in writing, stating reasons and will be sent to the parties.



#### **Rule 1.22 Suspension**

1. If the procedure is suspended pursuant to Article 2.16 (2) BCIP, the Office will inform the parties thereof, stating the ground for suspension.
2. If the ground for suspension is withdrawn, the procedure will be resumed. The Office will inform the parties thereof, stating which activities should be performed at the relevant time during the procedure, and will, in relevant cases, establish an additional time limit.
3. Suspension at the joint request of the parties will apply for a period of four months, and may be extended by the same period each time. During a suspension period requested jointly by the parties, each party may at any time request that suspension be discontinued.
4. If the procedure has commenced, it will be suspended as soon as the Office receives the joint request. The Office will notify the parties thereof, stating the new time limit. If the procedure has not yet commenced, the joint request for suspension will be interpreted as an extension of the time limit referred to in Rule 1.14 (1) (b).
5. If suspension is jointly requested by the parties before the procedure commences, it will be free of charge for the first 12 months. A fee is payable for further extension of suspension before the procedure commences, for suspension during the procedure and extension thereof. If the fee is not paid upon requesting suspension, the Office will set a due date of one month. If payment is either not made or is overdue, the procedure will be resumed in accordance with paragraph 2.
6. Suspension of the opposition procedure does not discharge the parties from their obligations under Rule 1.16.

#### **Rule 1.23 Oral hearing**

1. An oral hearing may be held ex officio or at the parties' request if the Office deems there are grounds for a hearing.
2. The oral hearing will proceed in accordance with regulations drawn up by the Director General of the Office.

#### **Rule 1.24 Multiple oppositions**

1. If various oppositions have been filed against a trademark, the Office may decide, before the procedure commences, to examine one or more oppositions that are most likely to be allowed following an initial examination. The Office may in that case decide to defer examination of the other oppositions. The Office will inform the remaining parties of each relevant decision taken in the continued procedures.
2. If the opposition that has been examined is deemed well founded and the decision has become final, the deferred oppositions will be deemed to have become without cause.

#### **Rule 1.25 Proof of use**

1. The documents evidencing proof of use of the trademark referred to in Article 2.16bis BCIP shall be requested and submitted in accordance with the specific rules set out in Rule 1.14 (1) (d), (e) and (f).
2. The proof of use should contain evidence of the place, duration, extent and manner of use of the earlier trademark for the goods and services on which the opposition is based.
3. The evidence should comply with the Director General's further rules for the submission of documents referred to in Rule 3.4.
4. The defendant may withdraw his request to provide proof of use or deem the evidence provided as adequate.

#### **Rule 1.26 Public access to the opposition**

The notice of opposition and the opposition decision are public. The arguments and other documents submitted by the parties, irrespective of whether they have been put forward orally or in writing, may only be accessed by third parties with the consent of the parties.

#### **Rule 1.27 Content of opposition decision**

An opposition decision contains the following information:

- a. the opposition number;
- b. the decision date;
- c. the parties' names and, in relevant cases, the names of their representatives;
- d. information relating to the trademarks or other rights relevant to the opposition procedure;
- e. a summary of the facts and the course of the procedure;
- f. in relevant cases, an analysis of the proof of use;
- g. in relevant cases, a comparison of the trademarks and the goods and services to which the trademarks relate;
- h. the Office's decision;
- i. the decision concerning the costs;
- j. the name of the rapporteur and the other two persons that have taken part in the decision-making process;
- k. the name of the administrative officer handling the file.

#### **Rule 1.28 Determination of the costs of an opposition**

1. The refund referred to in Article 2.16 (3) BCIP will be determined at an amount equalling 60% of the fee payable for the opposition if it takes place before the procedure commences, and at an amount equalling 40% of the fee payable for the opposition if it takes place after that time.
2. No refund will be paid if, in conformity with the provisions set out in Rule 1.15 (2), only 40% of the fees payable for the opposition have been paid.
3. The costs referred to in Article 2.16 (5) BCIP will be determined at an amount equalling the basic opposition fee.
4. For translation in accordance with Rule 1.18, a fee determined by the Director General is payable by the party who has filed arguments in a language of the Office not being the language of the procedure or by the party who requires a translation in the other language of the Office, not being the language of the procedure. The Director General will also determine a fee for the translation of the opposition decision and for interpreter's services during an oral hearing.

#### **Rule 1.29 Request not to execute a decision**

After the decision referred to in Article 2.16 (4) BCIP and at the latest until it has become final, the parties may jointly request the Office not to execute the decision.

**Rule 1.30 Filing of the application for invalidation or revocation**

1. The application for invalidation or revocation referred to in Article 2.30bis BCIP should be submitted in a document containing the following information:
  - a. the name of the applicant;
  - b. information for the purpose of identifying the trademark against which the application is directed;
  - c. the goods or services against which the application is directed. If this information is not stated, it will be assumed that the application is directed against all goods and services;
  - d. an indication of the ground or grounds on which the application is based. The applicant may amend or extend that ground or those grounds in the course of the procedure, at the latest when he submits his arguments or reaction. If this results in an additional fee being payable, the Office shall grant the applicant a period of one month in which to pay it;
  - e. the preferences regarding the use of languages.
2. If the application is based on the grounds referred to in Article 2.30bis (1) (b) BCIP, the document must also contain the following information:
  - a. information for the purpose of identifying the earlier trademark or earlier right;
  - b. if the application is based on an earlier trademark, the goods and services pertaining to the invoked earlier trademark on which the application is based. If this information is not stated, it will be assumed that the application is based on all goods and services;
  - c. in relevant cases, it should be stated that the applicant is acting in the capacity of licensee of the earlier trademark.
3. In the case referred to in paragraph 2 (c), documents evidencing the licensee's authorization should be submitted.
4. In relevant cases, the representative's name and address, or the correspondence address referred to in Rule 3.6 should be provided.
5. The information referred to in paragraph 1 (c) and 2 (b) can be provided by stating only the numbers corresponding to the relevant classes of goods or services. The goods or services on which the application is based or against which it has been lodged can be limited by the applicant until the time at which the decision referred to in Rule 1.31 (1) (i) or (2) (h) is taken.

**Rule 1.31 Conduct of the proceedings**

1. The application for invalidation or revocation will be examined in accordance with the following procedure:
  - a. the Office will decide whether the application is admissible in accordance with Rule 1.32 and will inform the parties or, in the case referred to in Article 2.30quater BCIP, the applicant and the International Bureau thereof;
  - b. the defendant has one month to express his preferences as to the use of languages, after which the Office determines the language of the procedure in accordance with Rule 1.34 and notifies it to the parties;
  - c. the applicant has a period of two months from the notification referred to under (b) to provide arguments and supporting documents substantiating the application. In the absence thereof, examination of the application will be abandoned;
  - d. the Office will send the applicant's arguments to the defendant, and will grant the defendant two months to respond in writing and, if the application is based on Article 2.30bis (1) (b) (i) BCIP, to request proof of use of the earlier trademark as referred to in Article 2.30quinquies BCIP, where applicable;
  - e. in relevant cases, the applicant will be given a period of two months to submit the requested proof of use or to substantiate that there are proper reasons for not using the trademark;
  - f. if proof of use has been submitted, the Office will transmit it to the defendant and will grant the defendant two months to respond in writing to the proof of use, and to the applicant's arguments, if it had not yet done so when offered the opportunity described under d;
  - g. if the Office deems that there are relevant grounds, it may request one or more parties to submit additional arguments or documents within a term to be set for this purpose;
  - h. an oral hearing may take place pursuant to Rule 1.39;

- i. a decision will be taken by the Office. Where an application based on several grounds is upheld on the basis of one of these grounds, the Office will not give a decision on the other grounds if they produce the same effect. If an application based on Article 2.30bis (1) (b) (i) BCIP and based on several earlier trademarks is upheld on the basis of one of those trademarks, the Office shall also not take a decision on the other trademarks relied upon.
2. Contrary to the provisions of paragraph 1, if the application is exclusively based on Article 2.30bis (1) (a) in conjunction with Article 2.27 (2) BCIP, it will be examined in accordance with the following procedure:
  - a. the Office will decide whether the application is admissible in accordance with Rule 1.32 and will inform the parties or, in the case referred to in Article 2.30quater BCIP, the applicant and the International Bureau thereof;
  - b. the defendant has one month to express his preferences as to the use of languages, after which the Office determines the language of the procedure in accordance with Rule 1.34 and notifies it to the parties;
  - c. the defendant has a period of two months from the notification referred to under (b) to react in writing by submitting proof of use or substantiating that there are proper reasons for not using the trademark;
  - d. if the defendant reacts, the Office will send this reaction to the applicant, and will grant the applicant two months to respond in writing. In the absence of a response of the applicant, examination of the application will be abandoned;
  - e. the Office will send the applicant's arguments to the defendant, and will grant the defendant two months to respond in writing;
  - f. if the Office deems that there are relevant grounds, it may request one or more parties to submit additional arguments or documents within a term to be set for this purpose;
  - g. an oral hearing may take place pursuant to Rule 1.39;
  - h. a decision will be taken by the Office.
3. If the defendant does not have a place of residence or registered office within the European Economic Area, the provisions of Rule 3.6 must be complied with within the time limit stated in paragraph 1 (d) of 2 (c).

#### **Rule 1.32 Admissibility requirements**

1. The application for invalidation or revocation is admissible if it meets the requirements set out in Rule 1.30 (1) (a) to (d) and (2), of these Regulations and Article 2.30bis (2) BCIP.
2. If the application is based on Article 2.30bis (1) (a) in conjunction with Article 2.27 (2) BCIP, it is admissible only if the contested trademark has been registered for more than five years at the time when the application is made.

#### **Rule 1.33 Regularisation of the application for invalidation or revocation**

1. If the Office establishes that the application for invalidation or revocation does not meet requirements other than those referred to in Rule 1.32, it will inform the applicant thereof, granting the applicant a period of two months to remedy the deficiencies established. If the deficiencies are not remedied within the specified time limit, examination of the application will be abandoned.
2. If the Office establishes that documents filed by the parties other than those referred to in paragraph 1 do not meet the requirements referred to in these Regulations, it will inform the relevant party thereof, granting said party a period of two months to remedy the deficiencies established. If the deficiencies are not remedied within the specified time limit, the document concerned will be deemed not to have been filed.

#### **Rule 1.34 Language of the procedure**

1. The language of the procedure is one of the Office's working languages. In respect of an application for invalidation or revocation against a Benelux trademark registration, the language of the procedure will be determined in the following manner:
  - a. the language of the procedure will be the language in which the defendant's trademark has been registered;
  - b. contrary to the provisions set out under (a) above, the language of the procedure will be chosen by the applicant if the defendant's trademark has been registered in the English language.
2. In the event of an application for invalidation or revocation against an international trademark registration, the applicant will choose one of the Office's working languages as the language of the procedure. If the applicant chooses one of the Office's official languages, the defendant may state within a period of one month after the date of the notification of admissibility that it does not agree with the choice of language and may choose the Office's other official language. If the applicant chooses the English language, the defendant may state within a period of one month after the date of the notification of admissibility that it does not agree with the choice of language and may choose one of the Office's official languages. Should the defendant not respond to the applicant's choice of language, the language of the procedure will be the language chosen by the applicant.
3. Contrary to the provisions of paragraphs 1 and 2 above, the parties may jointly choose another language of the procedure.
4. The language of the procedure will be chosen as follows:
  - a. the applicant will state in the application for invalidation or revocation which of the Office's working languages he prefers to use as language of the procedure;
  - b. if the defendant agrees with the language chosen by the applicant, the defendant will communicate this within the time period referred to in Rule 1.31 (1) (b) or (2) (b).
5. The Office will inform the parties of the language of the procedure.
6. The decision of the Office will be drawn up in the language of the procedure.

#### **Rule 1.35 Translation**

1. Determination of the language of the procedure will not affect the parties' option to use one of the Office's other working languages in the procedure for invalidation or revocation instead of the language of the procedure.
2. If one of the parties submits arguments in one of the Office's working languages, not being the language of the procedure, the Office will translate the arguments into the language of the procedure, unless the other party has stated that it does require a translation.
3. At a party's request, the Office will translate into one of the Office's other working languages the arguments submitted by the other party in the language of the procedure.
4. At a party's request, the Office will translate its decision into the other working language of the Office.
5. A translation may be requested at the time of submission of the application for invalidation or revocation or at the time of the defendant's communication as referred to in Rule 1.34 (4) (b).
6. Arguments that have not been submitted in one of the Office's working languages will be deemed not to have been submitted.
7. If arguments are translated by the Office pursuant to this rule, the document drawn up in the language in which it was submitted applies as the authentic version.

#### **Rule 1.36 Language of documents substantiating arguments or use of a trademark**

Rule 1.20 applies mutatis mutandis to the procedure for invalidation or revocation.

**Rule 1.37 The principle of hearing both sides of the argument**

Rule 1.21 applies mutatis mutandis to the principle of hearing both sides of the argument as referred to in Article 2.30bis (1) BCIP.

**Rule 1.38 Suspension**

1. If the procedure is suspended pursuant to Article 2.30ter (2) BCIP, the Office will inform the parties thereof, stating the ground for suspension.
2. If the ground for suspension is withdrawn, the procedure will be resumed. The Office will inform the parties thereof, stating which activities should be performed at the relevant time during the procedure, and will, in relevant cases, establish an additional time limit.
3. Suspension at the joint request of the parties will apply for a period of four months, and may be extended by the same period each time. During a suspension period requested jointly by the parties, each party may at any time request that suspension be discontinued.
4. Suspension at the joint request of the parties will be free of charge for the first three consecutive periods. A fee is payable for further suspension or extension thereof. If the fee is not paid upon requesting suspension, the Office will set a due date of one month. If payment is either not made or is overdue, the procedure will be resumed in accordance with paragraph 2.
5. Suspension of the procedure does not discharge the parties from their obligations under Rule 1.33.

**Rule 1.39 Oral hearing**

Rule 1.23 applies mutatis mutandis to an oral hearing as referred to in Rule 2.31 (1) (h) or (2) (g).

**Rule 1.40 Multiple applications for invalidation or revocation**

In the event of multiple applications for invalidation or revocation of a trade mark, Rule 1.24 applies mutatis mutandis.

**Rule 1.41 Proof of use**

Rule 1.25 applies mutatis mutandis to documents to be submitted by the applicant pursuant to Rule 1.31(1) or by the defendant pursuant to Rule 1.31(2) in order to prove the use of the trademark.

**Rule 1.42 Public access to the procedure**

Rule 1.26 applies mutatis mutandis to the procedure for invalidation or revocation.

**Rule 1.43 Content of the decision**

Rule 1.27 applies mutatis mutandis to the decision for invalidation or revocation.

**Rule 1.44 Determination of the costs application for invalidation or revocation**

1. The refund referred to in Article 2.30ter (3) BCIP will be determined at an amount equalling 50% of the fee payable for the submission of the application for invalidation or revocation.
2. The costs referred to in Article 2.30ter (5) BCIP will be determined at an amount equalling the basic fee for the submission of the application for invalidation or revocation.
3. For translation in accordance with Rule 1.35, a fee determined by the Director General is payable by the party who has filed arguments in a language of the Office not being the language of the procedure or by the party who requires a translation in the other language of the Office, not being the language of the procedure. The Director General will also determine a fee for the translation of the decision and for interpreter's services during an oral hearing.

**Rule 1.45 Request not to execute a decision**

After the decision referred to in Article 2.30ter (4) BCIP and at the latest until it has become final, the parties may jointly request the Office not to execute the decision.

**Chapter 5. Conversions of EU trademarks**

**Rule 1.46 Conversions**

1. In the event of a request as referred to in Article 139 of the EU Trade Mark Regulation (2017/1001), the applicant is required to:
  - a. pay the fee for filing a trademark application in the Benelux;
  - b. submit a translation of the request and the accompanying documents in one of the Office's working languages;
  - c. choose a domicile in the European Economic Area in accordance with Rule 3.6.
2. A period of at least one month applies to the above. This period may be extended ex officio and will be extended on request, but may not exceed a period of six months after the date on which the first notification was sent. If these provisions have not been fulfilled within the specified period, examination of the documents received will be abandoned.

## PART II: DESIGNS

### Rule 2.1 Filing requirements

1. A Benelux design application will be filed in the Dutch, French or English language by submitting a document containing the following:
  - a. the applicant's name and address; if the applicant is a legal entity, the legal form thereof should be stated;
  - b. an image or images showing the appearance of the product;
  - c. the indication of the product embodying the design;
  - d. in relevant cases the colour code or colour codes of the design;
  - e. the applicant's signature or that of the applicant's representative.
2. The document may furthermore contain the following:
  - a. a description not exceeding one hundred and fifty words of the characteristic features of the new appearance of the product;
  - b. the name of the actual designer responsible for the design;
  - c. a request asking that publication of the registration be deferred, as referred to in Rule 2.5.
3. In relevant cases, the representative's name and address should be stated, or the correspondence address referred to in Rule 3.6.
4. A detailed description should be given of the product embodying the design, preferably using the wording in the Alphabetical List of International Classification referred to in the Locarno Agreement Establishing an International Classification for Industrial Designs adopted on 8 October 1968 (hereinafter "Locarno Classification").

### Rule 2.2 Multiple filing

A Benelux application may contain different designs, with a maximum of fifty. In such case, the provisions set out in Rule 2.1 (1) (b), (c) and (d), (2) and (4) apply to each design. A different number should be given to each design for identification purposes.

### Rule 2.3 Determination of the filing date and regularisation period

1. The requirements referred to in Article 3.9 (1) BCIP for determining a filing date are those specified in Rule 2.1 (1) (a), (b) and (c), subject to payment of the fees due for filing the application within a period of one month after the above requirements have been fulfilled.
2. The term referred to in Article 3.9 (2) BCIP for fulfilling the other requirements will amount to at least one month. The period may be extended ex officio and will be extended on request, but may not exceed a period of six months after the date on which the first notification has been sent.
3. In the event of a multiple filing, Article 3.9 (3) BCIP only applies to the non-regularised designs.

### Rule 2.4 Priority

1. If the right to priority, as referred to in Article 3.10 BCIP, is claimed at the time of filing, the country, the date, the number and the holder of the application that serves as the basis for the right of priority should be stated. If the applicant in the country of origin is not the person submitting the Benelux filing, the latter must add a document to the application establishing its rights.
2. The special declaration concerning the right of priority as referred to in Article 3.10 BCIP should contain the following: the name and address of the applicant, the applicant's signature or that of the applicant's representative, in relevant cases the name and address of the representative or the correspondence address as referred to in Rule 3.6, a specification of the design, as well as the information stated in paragraph 1.
3. An applicant who claims the right of priority shall, if the Office so requests, submit a copy of the documents corroborating the right of priority.



4. If the provisions set out in paragraphs 1, 2 and 3, and in Rules 3.3 and 3.6 have not been complied with, the Office will inform the relevant party thereof without delay and will provide said party a period of at least one month to subsequently comply with the requirements. The above period may be extended ex officio and will be extended on request, but may not exceed a period of six months after the date on which the first notification was sent. The right of priority will lapse should a timely response not be received.

#### **Rule 2.5      Deferred publication**

1. The applicant desiring that publication be deferred should submit a request together with the application stating the requested period for deferring publication.
2. Deferred publication of the registration of a multiple filing can only be requested for all designs collectively, and for one and the same period.
3. If the applicant seeking deferred publication of the registration of a multiple filing informs the Office at the end of the deferral period that he only wishes to publish part of the designs, he should do so by stating the numbers of the designs he wishes to have published.
4. The applicant may at all times request that the deferral period be terminated.

#### **Rule 2.6      Request for second publication**

The period referred to in Article 3.11 (3) BCIP, during which the applicant may request the Office to publish the design a second time, is three months, calculated from the first publication date.

#### **Rule 2.7      Registration**

1. The Office will register the application in the register stating:
  - a. the registration number;
  - b. the filing date and number;
  - c. the information referred to in Rule 2.1;
  - d. in relevant cases, the invoked right of priority stating the country, date, number and holder of the application on which the invoked right of priority is based in accordance with Rule 2.4 (1);
  - e. in the event publication of the registration is deferred, the information stated in Rule 2.5 (1);
  - f. the date on which the period of validity of the registration expires;
  - g. the number of the class and the sub-class of the International Classification referred to in the Locarno Agreement, in which the product embodying the design is grouped;
  - h. the registration date.
2. The applicable registration date is the day on which the Office establishes that the filing meets all the requirements set out in the BCIP and in the present Regulations.

#### **Rule 2.8      Registration date of International applications**

The registration date of international design applications designating the Benelux shall be the publication date referred to in Article 3.11 (1) BCIP.

**Rule 2.9 Registration concerning maintaining the changed form**

A request seeking registration of the declaration of the holder or court order referred to in Article 3.24 (3) BCIP should be submitted to the Office and should contain the holder's name and address, the holder's signature or the signature of its representative, and in relevant cases the representative's name and address or the correspondence address as referred to in Rule 3.6, as well as the registration number.

**Rule 2.10 Registration of a claim concerning the right to an application and cancellation of the registration**

1. The request seeking registration of the claim concerning the right to an application referred to in Article 3.7 (1) BCIP should contain the name and address of the party who has lodged the claim, its signature or the signature its representative, and in relevant cases, the representative's name and address or the correspondence address as referred to in Rule 3.6, as well as the name and address of the holder and registration number of the Benelux or international filing of the relevant design.
2. The registration of the claim concerning the right to the application referred to in Article 3.7 (1) BCIP will be cancelled at the request of any of the most interested party. The relevant party must submit either a court decision to which an appeal or an appeal in cassation can no longer be lodged, or a document evidencing that the claim has been withdrawn.

**Rule 2.11 Renewal**

1. If the applicant wishes to limit the renewal to a part of the rights contained in a multiple filing in accordance with article 3.14 (4) BCIP, he must indicate the numbers of the designs for which he wishes to renew the registration.
2. The Office will register renewal of the registration by changing the expiry date of the registration
3. The Office will send a confirmation of renewal to the party that has paid the fee due.

## PART III: PROVISIONS APPLICABLE TO BOTH TRADEMARKS AND DESIGNS

### Chapter 1. Modifications to registrations

#### Rule 3.1 Modifications in the Register

1. A request asking for modification of entries in the register concerning a Benelux filing or registration be changed should be addressed to the Office containing the registration number, the name and address of the holder of the right, the holder's signature the signature of its representative, and in relevant cases, the representative's name and address or the correspondence address as referred to in Rule 3.6. In relevant cases, the request should be accompanied by documentary evidence.
2. If said request concerns the registration of a multiple design application but does not relate to all the designs in the application, the numbers of the designs that are to be modified should be provided. If the assignment or transfer concerns the exclusive right to one or more designs forming part of a multiple application, this part of the application will henceforth be deemed to be an independent application.
3. Cancellation of the registration of a right in rem or a levy of execution will be performed on the basis of documentary evidence.
4. Submission of a copy of the deed evidencing assignment, other transfer, a licence or a right in rem, as referred to in Articles 2.32bis and 3.27 BCIP, will suffice. If the Office has any reason to question the accuracy of the requested modification, the Office may request further information, including the submission of original documents or certified copies thereof.
5. If, upon making the request referred to in this rule, the provisions set out in these Regulations have not been complied with, or if the due fees or charges have either not been paid or have not been paid in full, the Office will inform the relevant party thereof without delay. Without prejudice to the provisions set out in Rule 1.15 (5), the Office will grant said party one month to subsequently remedy the deficiencies. The above period may be extended ex officio and will be extended on request, but may not exceed a period of six months after the date on which the first notification was sent. If the requirements have not been fulfilled within the specified period, examination of the documents received will be abandoned.

### Chapter 2. International applications

#### Rule 3.2 International applications valid in the Benelux

1. In respect of international applications, in which the applicants have requested protection for the Benelux region, without prejudice to the provisions set out in Rules 1.8 and 2.8, the Office will register forthcoming notifications from the International Bureau as referred to in Articles 2.10 and 4.4 BCIP in the register.
2. If an international application for a collective trade or a certification mark is not accompanied by regulations governing use, the Office will draw to the applicant's attention without delay to the obligation to submit said regulations within the period specified in Article 2.34ter (2) or 2.35ter (2) BCIP. Where collective marks or certification marks are concerned, it will be recorded in the register whether or not the regulations have been submitted, as well as any amendments to the regulations governing use.
3. In addition, the information concerning invalidation, revocation and licences, right of pledge and attachment on designs, to the extent applicable to the Benelux region, will be recorded in the register.
4. Rule 3.1. applies mutatis mutandis to the registration of the information referred to in paragraph 3.

**Rule 3.3 Languages of the Office**

1. The official languages of the Office are Dutch and French. The working languages of the Office are Dutch, French and English.
2. All documents submitted to the Office should be drawn up in one of the Office's working languages. The provisions set out in Rule 1.20 form an exception to the above.
3. Documents evidencing a right of priority, a name change, extracts from deeds evidencing assignment, another transfer, a licence or a right in rem, the declarations relating thereto, the regulations governing use and control, and amendments thereof, will also be accepted if they have been drawn up in German.
4. The documents referred to in paragraph 3 that have been drawn up in another language will also be accepted if a translation thereof in one of the working languages of the Office or a German translation is submitted together with the documents.
5. On request, the Office will provide a translation into one of the Office's official languages of any published Benelux application or registration drawn up in English, such a translations being subject to a fee.

**Rule 3.4 Submission of documents**

1. The documents, documentary evidence and enclosures that are to be submitted to the Office or the national administrations, may be submitted using means, electronic or otherwise, stipulated by the Director General. The Director General may stipulate different means for submitting the information per activity.
2. The documents, documentary evidence and enclosures referred to in paragraph 1 that do not comply with the Director General's requirements in this regard will be deemed not to have been received by the Office.

**Rule 3.5 Signature of documents**

If any document that has been submitted for registration in the Benelux Register or in the International Register held by the International Bureau has been signed on behalf of a legal entity, the signatory's name and capacity should be stated.

**Rule 3.6 Appointment of a representative**

1. All activities at the Office or a national administration may be performed through the intermediary of a representative acting as the agent.
2. The representative's place of residence or registered office should be located in the European Economic Area.
3. All communications concerning these activities will be addressed to the representative.
4. Any party that does not have a place of residence or registered office, or has not appointed a representative within the European Economic Area, is required to provide a correspondence address in the European Economic Area.

**Rule 3.7 Power of attorney**

1. Any party claiming to act as the representative of an interested party for the purpose of performing an activity at the Office is presumed to have been authorized by the interested party.
2. If a representative requests the Office to surrender a registration, the representative must submit a power of attorney to that effect.

3. If the Office has any reason to doubt the representative's authorization concerning any activity whatsoever, it may request the submission of a power of attorney. The period for submitting a power of attorney is at least one month and will be extended by one month on request. Should a timely response not be received, the request will not be considered.

#### **Rule 3.8 Confirmation of receipt of documents**

1. The Office will confirm receipt of each document that is intended to be registered in the Benelux Register or in the International Register maintained by the International Bureau.
2. Each document will be dated by the competent authority upon receipt, stating the hour, day, month and year of receipt.
3. The Office will register the fact that documents have been sent as well as received. Registration serves as evidence of documents having been sent and received, and the time at which this took place, barring evidence to the contrary.

#### **Rule 3.9 Time limits and closing dates**

1. The time limits expressed in months in these Regulations commence from the day on which the relevant activity takes place and end, in the relevant month, on the day corresponding to the day on which the time limits commence. If the relevant month does not have a corresponding day, the time limit expires on the last day of that month.
2. The time limits expressed in weeks in these Regulations commence from the day on which the relevant activity takes place and end, in the relevant week, on the day corresponding to the day on which the time limits commence.
3. If the office of the competent authority is closed on the last day of a time limit that is to be adhered to pursuant to the BCIP or these Regulations, the time limit will be extended until the end of the next day on which this office is open.
4. If the event of disruption of the regular postal delivery services in one of the Benelux countries for at least one of the five working days before the end of the time limit referred to in Rules 1.3, 1.4 (4), 2.3 (1) and (2), 2.4 (4) and 3.1 (5), and the time limits referred to in Chapters 3 and 4 of Part I, the documents that have been delivered to the relevant competent authority after the time limits stipulated in the above rules will be examined as if they had been submitted to the competent authority within the specified time limit, provided it can be reasonably assumed that the disruption of the regular postal delivery services caused the relevant documents to be delivered after the time limits referred to.

#### **Rule 3.10 Information and copies**

1. The Office provides copies and information on the basis of the Benelux Register.
2. The register may be consulted in a manner specified by the Director General or in the form of a subscription, the modalities of which will be determined by the Director General.
3. The documentary evidence concerning the right of priority, referred to in Article 4 (D) (3) of the Paris Convention will be provided by the Office. Such a document may only be issued after the filing date has been established in conformity with the provisions set out in Rules 1.3 (1) and 2.3 (1).

#### **Rule 3.11 Making forms available**

The Office shall make available forms for the purpose of performing the activities that can be performed by non-electronic means. The Director General is responsible for determining the model of the forms, which are published on the Office's website.

**Rule 3.12 Benelux Register**

1. The Benelux Register is composed of two parts:
  - a. a register of Benelux applications;
  - b. a register of international applications.
2. The Benelux Register and the documents serving as evidence of the records entered in the Register can be consulted free of charge at the Office.

**Rule 3.13 Publication**

In conformity with the provisions set out in Article 4.4 (b) BCIP, the Office publishes the following in the language in which the registration was filed:

- a. all registered information concerning Benelux applications, referred to in Rules 1.5, 1.6, 1.7, 1.9, 2.7, 2.11 and 3.1;
- b. all registered information concerning international trademark applications referred to in Rule 1.8 (2);
- c. all registered information concerning international design applications referred to in Rule 3.2 (3);
- d. registration of the declaration or court decision referred to in Rule 2.9;
- e. registration of the fact that a claim has been made as referred to in Rule 2.10.

**Rule 3.14 Additional rules**

The additional rules for the submission of documents referred to in Rule 3.4 stipulated by the Director General will be published on the Office's website.

## **PART IV: I-DEPOT**

### **Rule 4.1 Types of i-DEPOT**

There are two types of i-DEPOT as referred to in Article 4.4 bis BCIP, a physical version, which is the i-DEPOT envelope, and the electronic version, which is the online i-DEPOT.

### **Rule 4.2 Submission of the i-DEPOT envelope**

1. An i-DEPOT envelope comprises two identical, linked compartments and may be obtained from the Office upon payment of a fee.
2. An i-DEPOT envelope can be submitted by returning to the Office the two linked compartments which must both contain the same documents; the envelope must show the name and address of the submitting party.
3. In accordance with Rule 3.8 the Office determines the time of receipt of the i-DEPOT envelope without checking its contents, adds a confirmation of receipt to both compartments of the envelope and returns one of these compartments to the submitting party.

### **Rule 4.3 Retention of the i-DEPOT envelope**

1. The Office will retain one of the compartments of the i-DEPOT envelope for a period of five or ten years, depending on the period chosen by the submitting party.
2. The retention period may be extended by further five-year periods.
3. Two months prior to the expiry of the retention period the Office will send the submitting party a reminder to inform the party of the possibility of extending the retention period.
4. The retention period will be extended upon payment of the relevant fee. The fee must be paid no later two months after the expiry of the retention period.
5. The Office will destroy any i-DEPOT envelopes, the retention period of which has not been extended on a timely basis.
6. During the retention period the submitting party may request the Office to send him the compartment of the i-DEPOT envelope retained on file by the Office. Retention of the i-DEPOT by the Office will terminate as a result of sending this compartment.

### **Rule 4.4 i-DEPOT envelope as means of evidence**

Both the compartment of the i-DEPOT envelope returned by the Office and the compartment retained on file by the Office represent evidence within the meaning of Article 4.4bis BCIP.

### **Rule 4.5 Submission of an online i-DEPOT**

1. An online i-Depot comprises a file containing an electronic security and verification mechanism affixed by the Office, which guarantees that its contents have not changed from the time of receipt by the Office.
2. When submitting an online i-DEPOT the name and address of the submitting party must be provided.
3. In addition when submitting an online i-DEPOT:
  - a. a description thereof should be provided, or
  - b. one or more could be files added, or
  - c. a combination of the elements referred to under a and b.

4. The Office will assign a number to the online i-DEPOT, determine a time of receipt for the online i-Depot in accordance with Rule 3.8 and will make the electronic file referred to in paragraph 1 available to the submitting party electronically. This file contains the components referred to in paragraphs 2 and 3, the number of the online i-DEPOT as well as the date and time of receipt by the Office.

**Rule 4.6 Online i-DEPOT as means of evidence**

The electronic file referred to in Rule 4.5 represents evidence within the meaning of Article 4.4bis BCIP.

**Rule 4.7 Retention of an online i-DEPOT**

1. The Office will retain an online i-DEPOT for a five-year or ten-year period, depending on which option is chosen by the submitting party.
2. Two months prior to the expiry of the retention period the Office will send the submitting party a reminder to inform the party of the possibility of extending the retention period.
3. The retention period will be extended upon payment of the relevant fee. The fee must be paid no later than two months after the expiry of the retention period.
4. The Office will destroy any online i-DEPOTs, the retention period of which has not been extended on a timely basis.
5. The submitting party may at any time request the Office to terminate retention of the online i-DEPOT and to destroy the latter.

**Rule 4.8 Activities relating to the online i-DEPOT**

Activities relating to an online i-DEPOT may only be carried out by using the means specified by the Director General and made available on the Office's website.

**Rule 4.9 Time Limits**

Rule 3.9 applies mutatis mutandis to the time limits referred to in Rules 4.3 and 4.7.

**Rule 4.10 Published i-DEPOT**

1. At the time of filing or at any time during the retention period, the party submitting an online i-DEPOT may publish this i-DEPOT, or part of the content thereof specified by the submitting party, on the Office's website or in any other way stipulated by the Director General. The submitting party may decide at any time to terminate such publication.
2. At the time of publication, the submitting party will declare expressly that publication is at his expense and under his responsibility. The Office exercises no control over the content of the publication and is in no circumstances liable for it.
3. When the retention of an i-DEPOT is terminated, publication thereof is also terminated.
4. The publication details, including the start and end dates and the i-DEPOT number are stated on the Office's website or in another way to be determined by the Director General.
5. Publication and termination of publication will solely be carried out using means stipulated by the Director General and made available by the Office.



**Rule 4.11**      **Objection against a published i-DEPOT**

1. Subject to the provisions set out in paragraph 3, anyone may ask the Office to terminate the publication of an i-DEPOT by instituting a published i-DEPOT notice-and-take down procedure (NTD procedure) based on the rules drawn up by the Director General for this purpose, on the following grounds:
  - a. where the publication constitutes a criminal offence, or
  - b. where the publication infringes his rights. In this case, the NTD procedure will not be deemed to have been instituted until the fee due has been paid.
2. When instituting an NTD procedure the party lodging the complaint will declare expressly that such, and the suspension or termination of publication resulting therefrom, will be at his expense and under his responsibility. The Office is in no circumstances liable for this.
3. Anyone who has previously instituted an NTD procedure against the publication of a specific i-DEPOT may not do so again.
4. An i-DEPOT the publication of which is terminated after an NTD procedure has been instituted cannot be republished except in the event of:
  - a. a decision which allows publication and can no longer be subject to any legal review, or
  - b. consent from the party lodging the complaint, if the NTD procedure was based on paragraph 1(b).

## PART V: FEES AND CHARGES

### Rule 5.1 Determination of fees

1. For the implementation of the provisions set out in Article 1.13 (1) BCIP, the Office pays the national administrations 20% of the amount of the fees collected as a result of the activities performed via their mediation.
2. The Executive Board determines the fees for the actions mentioned in the BCIP and these Regulations. The amounts are mentioned on a list annexed to these Regulations. The Board may only adjust the fees determined once a year.
3. Article 6.5 BCIP applies mutatis mutandis to the announcement of the new fees.

### Rule 5.2 Payment

1. The due fees and charges are required to be paid in advance of the activities performed by the Office. All fees and charges due that have been paid will not be refunded under any circumstances.
2. The Office will send a statement of the fees due upon receipt of a request for which fees are charged. No rights may be derived in the event the statement has not been sent or received.
3. If it is possible to submit documents by electronic as well as non-electronic means concerning an activity pursuant to Rule 3.4 and the party submitting the documents opts to use a means other than the electronic means stipulated by the Director General for that particular activity, administration costs will be charged amounting to 15%, rounded downward in whole euros, of the fee or fees due for the relevant activity. The charge will not be due until such time as an announcement of the charge by the Director General has been published pursuant to Rule 3.14.

### Rule 5.3 Charges for ad hoc activities

1. The charges for activities carried out at and by the Office that have not been included on the list mentioned in Rule 5.1 (2), referred to as ad hoc activities, will be determined by the Director General.
2. The Director General will inform the Executive Board of the charges determined for activities that are carried out on a regular basis. The Executive Board may decide to incorporate these charges on the list mentioned in Rule 5.1 (2).

