

Information Note on Colours as a Design Feature

(Updated as of 6 October 2017)

Introduction

1. Protection of designs is available under the Registered Designs Act (RDA) where the design is new.
2. With effect from 30 October 2017, “colours” can be specified as one of the features of a design for which protection can be obtained under the RDA. The other features of a design for which protection can be obtained under the RDA are features of shape, configuration, pattern and ornament.
3. However, features of colour that fall within either of the categories below shall not receive protection under the Registered Designs Act.

Category 1	features of shape, configuration or <u>colours</u> of an article or a non-physical product that — (i) are dictated solely by the function that the article or non-physical product has to perform; (ii) are dependent upon the appearance of another article or non-physical product of which the article or non-physical product is intended by the designer to form an integral part; or (iii) enable the article or non-physical product to be connected to, or placed in, around or against, another article or non-physical product, so that either article or non-physical product may perform its function.
Category 2	features consisting only of one or more <u>colours</u> that — (i) are not used with any feature of shape or configuration; and (ii) do not give rise to any feature of pattern or ornament.

4. With regard to Category 1, the colours of an article or non-physical product may be dictated by the function which the article or non-physical product has to perform. For example, the colours of a “probation plate” are specified in the Schedule to the Road Traffic (New Drivers) Rules, and the function of the “Probation plate” is to indicate to other drivers that the driver of the vehicle bearing the “probation plates” has just been issued a driving license in Singapore and has little driving experience.

5. Concerning Category 2, a feature consisting of a single colour may only obtain protection where it is used with a feature of shape, or a feature of configuration. Otherwise, no protection is accorded to single colours. There is no protection to specific colours *per se*.

How do I go about seeking designs registration which specifies colour as a design feature?

6. An application for the registration of a design applied to an article or non-physical product will have to be made on designs Form D3. Under Part 7 of Form D3, the design applicant will have to indicate a statement describing the features of the design which the design applicant considers to be new. If colour as a feature of the design is selected, the design applicant will have to also select at least one other group of features, namely 'shape and configuration' or 'pattern and ornamentation'.
7. When seeking to protect one or more colours as a design feature, the representation of the design accompanying the Form D3 should show the design applied to an article or non-physical product in the colour or colours for which protection is sought. The representation of the design should follow the requirements specified in Practice Direction No. 1 of 2017 dated 1 April 2017. For clarity, the applicant may attach a cover letter to the Form D3 specifying the pantone colour or colours used.
8. For the avoidance of doubt, if the representation of a design is filed in one or more colours, but the design applicant did not select colour as a design feature in Part 7 of the Form D3, the Registrar will treat the design application as an application for which colour is not a feature of the design for which the design applicant is seeking protection.
9. A similar approach as indicated in paragraph 8 will be taken if the representation of a design is filed in two contrasting colours, for example, one part of the article or non-physical product is represented as grey and the other part of the same article or non-physical product is represented as black.

The Registered Designs law of Singapore in force as on 30 October 2017 has been used for the preparation of this Information Note.

This Information Note does not constitute, and should not be relied upon, as legal advice. For advice that is tailored to your specific factual circumstances, we highly recommend that you approach a Singapore law firm.

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