

Information Note on Virtual Designs and Non-Physical Products

(Updated as of 6 October 2017)

Introduction

What are virtual designs?

1. Virtual designs refers to the designs of intangible objects. Such intangible objects may be projected onto a surface, or into a medium (including air).
2. One example would be the design of a virtual keyboard that is projected onto a surface and which can be used to type characters in the same manner as a physical computer keyboard. Where the intangible object performs an intrinsic utilitarian function (other than merely to portray the appearance of the object or to convey information), and its design is new, its design may be protected under the Registered Designs Act (“RDA”).

What is a non-physical product? And what is a device for projecting a non-physical product?

3. The category of “non-physical product” is a new category that has been introduced into the RDA with effect from 30 October 2017, so as to provide for a means of registered intellectual property protection for some kinds of virtual designs (those that perform an intrinsic utilitarian function).
4. A **non-physical product** is any thing that does not have a physical form, is produced by the projection of a design on a surface or into a medium (including air), and has an intrinsic utilitarian function (other than merely to portray the appearance of the thing or to convey information).
5. A virtual keyboard that is projected onto a surface and which can be used to type characters, in the same manner as a physical computer keyboard, is an example of a non-physical product. Its intrinsic utilitarian function would be that it can be used to type characters in the same manner as a physical computer keyboard.
6. An example of what is not a non-physical product would be the appearance of a cup that is projected onto a surface or into the air and which is not able to actually hold a liquid. Such a projected cup merely portrays the appearance of a thing only.
7. Every non-physical product is **projected** onto a surface or into a medium (including air). A **device for projecting a non-physical product** is any device that when activated projects the non-physical product on a surface or into a medium (including air), and includes any product or component that is used in or with any such device. An example of such a product or component is the software required to enable the device to project a non-physical product.

What rights can I get if I register the design of a non-physical product?

8. The rights of the owner of a registered design of a non-physical product are:
- (a) to make in Singapore, or import into Singapore, for sale or hire, or for use for the purpose of trade or business —
 - (i) any device for projecting a non-physical product (being a non-physical product in respect of which the design is registered, and to which that design or a design not substantially different from it has been applied);
 - (b) to sell, hire, or offer or expose for sale or hire, in Singapore —
 - (i) any non-physical product in respect of which the design is registered, and to which the design or a design not substantially different from it has been applied; and
 - (ii) any device for projecting such a non-physical product.

How do I go about seeking designs registration for the design of a non-physical product?

9. An application for the registration of a design applied to a non-physical product will have to be made on designs Form D3. Under Part 4 of Form D3, the design applicant will have to indicate the name of the non-physical product for which the design is applied to.
10. In the earlier example of a virtual keyboard, the name of the non-physical product could be “Keyboard”.
11. The representation of the design accompanying the Form D3 should show the design applied to the non-physical product. Again, in the example of the virtual keyboard, the design should show the keyboard as projected on a surface or into the air. The design should not show the device for projecting the non-physical product. The representation of the design should follow the requirements specified in the Practice Direction No. 1 of 2017 dated 1 April 2017 issued by the Registrar.
12. For the avoidance of doubt, it is possible for the same design to be applied to an article as well as to a non-physical product. In such a situation, under Part 4 of Form D3, the design applicant will have to indicate the name of the article and the name of the non-physical product individually. In the example of the virtual keyboard, the name of the article and the name of the non-physical product could be “Keyboard”.

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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