

Designs-Related Legislative Amendments To Enter Into Force on 30 October 2017 (Circular No. 6/2017, dated 6 October 2017)

As part of IPOS' effort to provide a conducive legal and policy framework to support the growth of the local design industry as well as to take into account latest trends in design and technology, the Registered Designs (Amendment) Act 2017 ("RDAA 2017") and its corresponding subsidiary legislation amendments, will enter into force on 30 October 2017.

The corresponding subsidiary legislation amendments to the RDAA 2017 can be found in the Registered Designs (Amendment No. 2) Rules 2017, the Registered Designs (International Registration) (Amendment) Rules 2017 and the Copyright (Amendment) Regulations 2017.

Key features of the amendments include:

- a. broadening the scope of designs that can be registered;
- b. changing default ownership position of a commissioned design;
- c. broadening and lengthening of grace period; and
- d. allowing multiple designs to be filed in a single application.

Broadening the Scope of Designs that can be registered

The scope of designs that can be registered has been broadened to include:

- The features of design that are applied to a non-physical product; and
- The feature of colours as one of the features of a design.

"Non-physical products" is a new category introduced into the Registered Designs Act to provide for protection for virtual or projected designs.

A "non-physical product" is anything which (i) does not have a physical form; (ii) is produced by the projection of a design on a surface or into a medium (including air); and (iii) has an intrinsic utilitarian function that is not merely to portray the appearance of the thing or to convey information.

So for example, a virtual keyboard that does not have a physical form and which is projected by light onto a surface or into the air, and which can be used to type characters in the same manner as a physical computer keyboard (and as such has an intrinsic utilitarian function), is a non-physical product.

The amendments will also clarify that the designs of articles made by hand can also be registered.

Ownership of a Commissioned Design

Section 4 of the Registered Designs Act has been amended so that ownership of the design vests in the designer by default, in the situation where the design is created under a commission. Such rights can still be assigned to the commissioner by written agreement.

Broadening and Lengthening of the Grace Period

The Registered Designs Act has been amended to include a new Section 8A to broaden the circumstances covered to any disclosure of the design originating from the designer, and to lengthen the grace period to 12 months immediately before the date of filing of the design application. This new Section 8A applies where the disclosure was made on or after the date of commencement of the legislative changes (i.e. 30 October 2017).

Filing of Multiple Designs within a Single Application and Division of Design Applications

Applicants who wish to file multiple designs within a single application will have to do so at the time of filing the application for registration of design on Form D3, and may file up to 50 designs within a single application.

The Registered Designs Act has also been amended to include new Section 16A to provide for a new application for registration of a design to be treated as filed on the date of filing of an earlier application for registration of a design, if the new application is filed pursuant to an invitation by the Registrar to correct a non-compliance in the earlier application to comply with either or both of the formal requirements of Section 11(2)(c) and 11(4)(a) of the Registered Designs Act (as amended by the RDAA 2017).

Interface between Registered Designs and Copyright

The RDAA 2017 amends Section 9 of the Registered Designs Act, as well as Sections 70, 73 and 74 of the Copyright Act

Rule 12 of the Registered Designs Rules and Regulations 12 of the Copyright Regulations have been amended to streamline the situations of “applied industrially” as well as to provide for new situations of “applied industrially” in respect of non-physical products.

The updated legislative amendments in relation to the changes above will be made available on the IPOS website (<https://www.ipos.gov.sg/resources/ip-legislation>) after it is published in the Government Gazette.

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