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Amendments to Singapore design law

Introduction

Many businesses in Singapore are recognizing the value of a novel design as the Singapore Government steers its economy towards an innovation-driven one. The amendments to the Singapore Registered Designs Act (Cap. 266) affirms Singapore's position to keep pace with the other major jurisdictions such as the UK and the EU as well as with the advancements of technology. We summarize some of the amendments in this article.

Summary of key amendments

- **Broaden scope of registrable designs**

- **Designs need not be applied to an article via an "industrial process"**

Before the amendment, a design was eligible for registration only if it was applied to an article via an "industrial process". This rather narrow definition inevitably resulted in the exclusion of innovative manufacturing methods such as 3D printing.

With the amendment in force, the requirement of "industrial process" is no longer needed and this paves the way for a more inclusive scope for registrable designs which can now include designs of artisanal or handcrafted items.

- **Virtual or Projected Designs are eligible for protection**

Virtual designs projected onto various mediums (including air) not restricting it to a physical article, would be eligible for protection under the revamped registered designs act.

However, it is vital to note that the subject matter of the design must be sufficient, certain and definable to be eligible for protection.

- **Colour recognised as one of the design features**

Before the amendment, design protection encompasses features such as shape, configuration, pattern or ornamentation, regardless of colour. With the amendments in place, colours which create a distinctive visual effect and a design feature of a pattern or ornamentation is now protected.

- **Designs need not be kept confidential before an application is filed**

Before the amendments, a design was granted protection only if it satisfied the criteria of novelty. The design must not be disclosed or made available in the public domain before the filing of the application except in very limited circumstances such as at selected international exhibitions.

The above stringent requirement for novelty as well as an inadequate appreciation of the law has resulted in designers unintentionally disclosing their own designs to the public before filing an application. Designers are often reluctant to invest in design registration ahead of knowing whether the design will become marketable and profitable. Furthermore, given the risk which the designers face as to the product's marketability, designers are often hesitant to invest in substantial amounts of money in filing design applications.

The recent amendments to the registered designs act addresses the dilemmas designers face by now allowing a 12-months grace period for designers to file the design application after disclosure of the design.

- **Designers given stronger rights with respect to their works**

Before the amendments, the commissioning party used to own the rights in a commissioned design work by default. With the amendments in place, the default position is that ownership belongs to the designers but the parties are still free to contract otherwise, by assigning their rights for a fee.

Comments:

With the amendments in place in Singapore, designers and practitioners may now take advantage of these changes to extend the scope of design protection further. The extended protection should boost industries based on design and innovation which will in turn spur economic growth and job creation in Singapore.

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