

The New Design Act in Israel (Highlights)

In August 2018, the new Design Act (5777-2017) (hereinafter: "the Act") will be implemented in Israel, as a much-needed replacement to the 94-year-old Patents and Designs Ordinance (1924) (hereinafter: "the Ordinance"), which up until now was the law governing designs protection in Israel. While the Act will regulate all matters regarding the registration of designs in Israel, the old Ordinance will still largely regulate designs registered prior to implementation of the Act.

The Act constitutes a significant, long-awaited overhaul and revision to the laws governing Designs in Israel. While certain aspects remain similar to the Ordinance, several new key laws and definitions have been introduced. Below are some highlights of the Act to familiarize both practitioners and designers alike as to what is included in the new law:

Definition of Product

The new term "product" replaces the term "article". Article 1 of the Act defines "product" as "including set of articles, packaging, graphic symbol, screen displays..." Typefaces (fonts) and computer programs are specifically excluded

"Unique character" requirement

The Act requires a cumulative novelty and individual character, instead of the previously separated novelty and originality requirements. (Article 3) A design will be considered to possess a "unique character" when the general impression it creates on an informed user is different than the general impression created by a prior design. (Article 7)

Absolute/Global Novelty

In a major departure from the provisions of the Ordinance, a design shall be considered new if it substantially differs from a design that was published in Israel or abroad before the priority date. (Article 6)

Duration of Protection

Application for designs made on or after 7 August 2018 will have a 25-year duration, provided that five yearly renewal fees are paid.

Extension of Existing Registration

Under the new Act, Designs that are within their 15-year registration period will be eligible to receive a fourth extension period of 3-years. The extension must be requested during the third 5-year extension period and the fee paid upon approval of the extension. (Article 113(2)(b) of the Act).

Unregistered designs may receive protection for up to 3 years

A design having novel and individual characteristics may be protected as an unregistered design for a duration of three years. The unregistered design affords its proprietor the right to prevent others from manufacturing a product that copies the design or creates an overall impression on the informed user that is similar to the overall impression created by the product subject of the design. (Articles 61, 65)

12 month grace period

The Act provides a twelve-month grace period allowing an applicant to apply for the registration of a new design, up to twelve months after it is made public. (Article 64)

Owner of the design

The rights in the design shall be vested in the designer. Where the design is developed for an employer by an employee during his duties or while using the employer's resources, the right shall be vested in the employer, except where otherwise agreed between the employee and the employer. In cases where the design is developed through commission, the rights to the design are vested in the person who commissioned the design, unless otherwise agreed by the parties. (Articles 11-14)

Customs

An owner of a registered design may request the Customs Authority to detain suspected goods, subject to formal procedural requirements. This provision applies only to imported commercial goods and not those for personal use.

Publication of design

After all formal requirements are fulfilled, the application is published on the Registrar's website, along with the specification filed by the applicant.