



Photo: Fernando Javier Urquijo / StudioMilou Singapore



DESIGNING THE FUTURE

A note from Indranee Rajah S.C., Senior Minister of State for Law

2025 is ten years away. It may seem like a long time, but before you know it, it will have arrived. What will the future economy look like then?

The vision is that by 2025, Singapore will be a thriving innovation-driven economy. Design will be a key pillar of this future economy. It will be integral to innovation and create value for businesses.

Design can be something as simple as design in consumer products (Check out naiise.com for some quirky and uniquely Singaporean design items).

Or it can be on a much larger scale, where design is incorporated into the surroundings to create a distinctive vibe and a singular experience, as this design does for the National Library.



Photo: National Library Board, Singapore

Either way, design is set to grow in a big way and become an important part of the economy. To help make this happen, the government released the Design 2025 Masterplan on 10 March 2016. The Masterplan can be found at designsingapore.org.

The Masterplan:

- identifies how design can contribute to the creation of good jobs, sustainable firms, and new markets;
- sets out initiatives to accelerate the use of designs in service and product innovation.

To provide the right environment for companies to include design in their business strategy and use it as a catalyst for growth, MinLaw and IPOS will be reforming the Registered Designs regime and amending the **Registered Designs Act** (“RDA”). Amendments to the RDA are expected to be made in late 2016.

The review report can be found at www.mlaw.gov.sg.

AMENDMENTS TO THE RDA

The proposed RDA amendments fall into three broad categories:

- (A) Scope of designs protection
- (B) Registration of designs
- (C) Use of registered designs

(A) Scope of designs protection

We will update the scope of designs protection to keep the RDA relevant to technological advances and evolving business models.

- **The definition of designs will be updated.**

- We will remove the current requirement that designs must be applied to articles by an industrial process.
- This will extend protection to designs of handmade or artisanal products.
- The amendments will also clarify that designs of articles made by advanced manufacturing techniques (e.g. 3D printing) in low volumes are protectable.



Photo: Meykrs, image by Naliise

- **The scope of protection for specific emerging design trends will be clarified.**

- Virtual designs. We will amend the RDA to protect virtual designs i.e. designs that can be projected onto various surfaces or into space.
 - An example of a protectable virtual design would be using light to project the image of a keyboard onto a surface, with the virtual keyboard being able to perform the same functions as a physical keyboard.
 - To be registrable, the virtual design must be capable of being represented clearly and without subjectivity, and retain the same design features irrespective of the surface or medium they are projected on.
- Dynamic designs. Dynamic designs which are applied onto fluid mediums, and as such take on the intrinsically dynamic nature of the fluid medium, cannot be protected.
 - An example of a non-protectable design would be the spray pattern of a water fountain.
 - However, dynamic designs which are capable of being represented clearly and without subjectivity on a static medium, and through a series of freeze-frames, can be protected.
 - An example of a protectable dynamic design would be animated Graphical User Interfaces (GUIs), such as the animated icons on mobile phones.

(B) Registration of designs

- **The grace period, which allows a designer to disclose his design for a specified period without destroying novelty, will be lengthened from the current 6 months to 12 months.** We will also remove the current restriction requiring disclosures to be made at selected international exhibitions only.

The revised grace period will mitigate the accidental loss of design rights due to disclosure prior to application. It will also allow designers to market test their designs before registration.

- **The RDA will be amended to vest ownership of design rights automatically with the creator of a commissioned work.**

This recognises the value of the creative act of designing. It will prevent designers unfamiliar with the RDA from inadvertently losing the rights to their designs. However, parties will be free to contract otherwise.



(C) Use of registered designs

We will provide greater clarity on the scope of design protection (see above), and on enforcement options as follows:

- IPOS will partner industry associations to conduct more outreach and information sessions.
- IPOS will also provide guidance notes, and these will be tailored for individual design sectors.

INTERNATIONAL RELEVANCE

The designs review, and the overall focus on design as a key driver in Singapore's future economy is not only of domestic importance, but also of international relevance.

- **Having design as a key pillar in the future economy presents opportunities for local and foreign entities.**

There will be more work for design firms and businesses that utilise designs, and also for design-related service providers. These opportunities will be enhanced by the formation of the ASEAN Economic Community.

- **The changes to our Registered Designs regime will further align it with registered designs regimes of major jurisdictions.**

This will allow Singapore-based businesses to more easily and effectively seek design protection in overseas jurisdictions.

Conversely, it will also allow foreign businesses to more easily and effectively seek design protection in Singapore.

HELPING CLIENTS NAVIGATE THE CHANGES

- **Clients will need the lawyers' help to navigate the changes to the Registered Designs regime.**

Please do familiarise yourselves with the proposed changes and help your clients to prepare for the revised regime.

IPOS will work closely with the designs industry and lawyers to implement the changes arising from the review.



Photo: www.supermama.sg

- **It is anticipated that following the changes there will be a need for legal services in both the contentious and non-contentious aspects of designs protection.**

The growth in the designs sector will result in increased creation and use of designs. Clients will need to protect their designs and associated IP rights.

- Registration work. The growth of the designs sector is likely to result in more advisory and registration work.
- International work. Singapore is a member of the Hague System for the International Registration of Industrial Designs. Singapore businesses can use the Hague system to protect their designs overseas. As more countries sign up to the Hague system (US and Japan joined in 2015, and we expect China and other ASEAN countries to join in the next few years), Singapore can serve as a gateway for clients to protect their designs internationally.
- Dispute resolution. With increased design-related activities, the demand for related dispute resolution services is likely to increase as well.

In addition, the greater clarity on the scope of design rights will make it easier for designers to enforce their design rights.

CONCLUSION

This is just one of the many myriad steps we are taking to build our future economy. But it is an important one, in which IP lawyers have a crucial role to play. And if we are successful at the end of the day, we can say it was done by design!

– Indranee Rajah S.C., Senior Minister of State for Law
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