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New Design Law in Israel

August 7 , 2018

We are pleased to announce that a new Israeli Design Law came into force on August 7, 2018.

The new law replaces the old Designs Ordinance, which dates back to 1924. Among the highlights of the new law are the following:

The new law replaces the alternative requirement for **novelty or originality** with a cumulative requirement for **novelty and individual character**.

The term of protection for registered designs filed on or after the new law comes into force, will be **25 years**, effective from the Israeli filing date (instead of 18 years according to the old act)

The new law replaces the requirement for local novelty with a requirement for **absolute novelty**. With regard to registered designs, a design shall be considered new if an identical design, or a design differing only in insubstantial details, was not published in or outside Israel before the filing date of the Israeli application, or, if priority is claimed, the date on which the prior application was filed; with regard to unregistered designs, it is the date on which the owner of the design, or someone on his behalf, first published in Israel the design or a product bearing the design, in Israel, or outside Israel.

A design that is novel and has individual character may be protected as an **unregistered design**, subject to some requirements. The unregistered design right affords its owner the right to prevent copying of the design by way of manufacturing for commercial use of a similar product, for a period of three years.

Disclosure of a design by its owner or by a third party who obtained information on the design from the owner, lawfully or unlawfully, within 12 months prior to the filing date of the application in Israel, or before its priority date, will not be considered prior publication (**grace period**).

The new law provides for **statutory damages** of no more than ILS 100,000 (approximately (USD 27,000) for each act of infringement. When determining the amount of damages, the court may consider, inter alia, the scope of infringement, the severity of the infringement, the actual damage sustained by the plaintiff, as assessed by the court, etc.

The owner of a registered design may request Customs to **detain suspected infringing** goods, subject to formal procedural requirements. This provision does not apply to goods imported for personal use.

The new law establishes a **criminal offense** for intentional copying of a registered design without the authorization of the registered design owner.

The new law contains an entire chapter dealing with **international applications**, which should pave the way for Israel's accession to The Hague System.

Although Israel has not yet joined The Hague Agreement, **priority** may be claimed from applications filed through The Hague System.

Pending design **applications are published** soon after they are filed (weekly, on Thursdays), on the Israeli Patent Office website. This is a significant change compared to the old Act, where pending designs remained unpublished, and registered designs were not available to the public for two years from their filing dates. That said, deferment of publication can be requested for a maximum of 6 months.

Multiple design applications may be filed, however each design will be assigned with a different

number, and official filing fees would be required for each design as if they were filed as single applications. The designs will be examined together, under one cover. As may be noted from the list above, the new law's target is to provide design owners, and especially local independent ones, with different tools to protect and enforce their design rights.

David Gilat

Adv., Patent Attorney, Senior Partner



David Gilat , attorney at law and patent attorney, is a senior partner at Gilat, Bareket & Co.

Sa'ar Alon

Adv., Partner



Sa'ar Alon is a partner and manages the Design department of Reinhold Cohn & Partners.

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