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## A New Design Registration Regime: What You Need to Know

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**New Design Law came into effect on 7 August 2018**  
**Ministry of Justice subsequently published draft new Design Regulations**  
**Israel is expected to join Hague System by end of 2018**

On 7 August 2018 the new Israeli Design Law came into effect. The new law replaced the old Designs Ordinance, which dates back to 1924, although the latter still governs designs filed before the new law came into force. Soon thereafter, the Israeli Ministry of Justice published draft new Design Regulations, but until the new regulations come into force, the old Design Regulations 1925 apply mutatis mutandis.

The new Design Law introduces many novelties in comparison to the old Designs Ordinance, including: the requirement for individual character, a 25-year term of protection, a 12-month grace period, unregistered design protection, statutory damages, criminal offence and custom measures (these and other provisions are detailed [here](#)).

This update deals with the provisions of the new law and proposed regulations with respect to the filing, examination and registration process.

### **Publication and Filing**

Publication of design applications – while, in the past, registered designs were not available for public inspection for a period of two years from the date of filing, according to the new law, design applications, including their representations, will be published on the Israeli Patent Office (ILPO)'s website shortly after filing.

Deferment of publication is available for a period not exceeding six months from the date of filing of the application.

Priority from international applications – while, in the past, priority could not be claimed from an application filed through the Hague System, and an applicant wishing to claim priority from such an application had to submit a special document from one of the designated countries' national IP office, the new law makes it possible to claim priority from applications filed through the Hague System. It should be noted that, according to the recently published ILPO Annual Report for the year 2017, Israel is expected to join the Hague System by the end of 2018, and the new law already contains corresponding provisions in this regard.

### **Design applications**

Disclaiming techniques – according to the proposed regulations, portions of the product which are not part of the claimed design may be disclaimed by using broken lines, blurring, blackening or lightening. Broken lines – according to the proposed regulations, different types of dashed lines may be used in the

representations, and the ILPO does not specify the type of broken line that should be used. Since it is possible that the broken lines are used for different purposes (eg, to disclaim portions of the design as ornamental features), a descriptive text must indicate what each type of dashed lines represents. Descriptive text – according to the proposed regulations, a descriptive text of the visual features of the design may be included in the application, provided that it only describes features that are visible in the representations.

Multiple design applications may be filed but, according to the new regulations, will be divided into separate, single design applications (“divisional applications”), either at the time of filing (if filing fees for each design have been paid) or at the commencement of the examination process (if filing fees for each design have not been paid). An application for a set of articles (articles of the same class, where their visual characteristics differ only in non-essential details and are ordinarily offered for sale together, or intended for use together) may be examined and registered as a single application, although each article will get independent protection.

### **Examination**

Term of examination for divisional applications – the examination of a design application must be concluded within 12 months of the first substantive examination report (extensions are available, subject to payment of the prescribed fees). While, in the past, the examination of a divisional application had to be concluded within 12 months of the first substantive examination report in the divisional application, according to the new regulations the 12-month period will be calculated from the first substantive examination report in the parent application.

Third-party observation – the examiner may rely on documents submitted by any person during the examination process.

### **Registration process and renewals**

Publication of registration – as mentioned above, while, in the past, registered designs were not available for public inspection for a period of two years from the date of filing, according to the new law, if the design was found eligible for registration, it will be published in the registry, and its details will be published on the ILPO website, including its visual description.

Renewals – according to the proposed regulations, any renewal fees shall be paid no earlier than six months before the expiration date of the registered design. It is possible, however, at the time of payment of the prescribed fees for the second term of protection, to pay in advance the renewal fees for all available terms of protection, for a total term of protection of 25 years.

### **Comment**

As noted above, until the new regulations come into force, design applications that are under the new law are subject to the old regulations. Nevertheless, the ILPO is unlikely to completely disregard the new regulations' provisions with respect to the application process (eg, the new disclaiming techniques and descriptive text), to the extent that they do not contradict the stipulations of the old regulations.

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