

Quick Guide to Registering Designs in Israel Frequently Asked Questions

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1. What is the current design protection regime in Israel? The Israel design protection regime is currently governed by the Patents and Designs Ordinance ('the Act'), dating back to 1924, which has been amended over ten times to meet modern needs. That said, a new Designs Bill is currently being prepared for a second and third reading in the *Knesset* (Israel's legislature). The new Designs Law, when enacted, will replace the Act and will modernize the design regime in Israel¹. The information in this guide is based on the current legislation and practice.

2. What qualifies as a 'design'? A design is the overall appearance of an article. The visual features that form the design are the shape, configuration, pattern or ornament applied to any article by any industrial process or means, whether manual, mechanical or chemical, separate or combined, which in the finished article appeal to and are judged solely by the eye, but do not include any mode or principle of construction or anything that is in substance a mere mechanical device. To be applicable for registration, a design must be new and distinctive.

3. Can a functional article be registered as an industrial design? A functional article may be registered as such insofar as its appearance is not dictated solely by its functionality.

4. What are the novelty requirements in Israel? The Act calls for local novelty. If the design was granted and published overseas in an official publication available at the Israel Patent Office, this alone may bar its registration. Also, online publications can possibly be cited as prior publication, but only where the examiner can prove its publication date.

5. Is there a grace period for exposure of industrial designs in Israel? There is no grace period for any disclosure available to the public in Israel (see *novelty requirement* above).

6. Must an industrial design be registered in order to be protected in Israel? In order to be protected, an industrial design must be registered. Currently, there is no unregistered design protection in Israel. However, an unregistered industrial design can possibly be protected under the Unjust Enrichment Law.

7. Is Israel part of *The Hague System for the International Registration of Industrial Designs*? Israel is not part of the Hague system; however, the new Designs Bill takes note of Israel's accession to *The Hague Agreement Concerning the International Deposit of Industrial Designs*, which will allow registration of an international design application in several countries or region by means of a single application, with one set of fees and minimal formalities².

8. Can several designs be protected in a single application (multiple design application)? Multiple designs can be filed in a single application; however, upon commencement of examination of the application, the applicant will be required to elect one design for prosecution and delete the excessive designs, which may be filed as divisional applications; any divisional application will be entitled to bear the filing date of the parent application. That said, two or more articles of the same

¹ For more information, see: <http://www.rcip.co.il/en/article/new-designs-bill-in-israel/>.

² *ibid*

general character that are ordinarily offered for sale together or intended to be used together, sharing the same design, or the same design with modifications or variations not sufficient to alter the character or significantly affect the identity thereof, may be protected in a single application as a "set".

9. Can a design application claim priority on the basis of a prior application filed in another country? Priority may be claimed on the basis of a prior design application or utility model application filed in countries party to the Paris Convention. Priority can only be claimed where the application is filed within six months from the date of filing of the first application. A certified copy of the priority document must be presented within three months of filing.

10. What kinds of representations are required? Photographs, line drawings or computer-generated images clearly representing the design from various views (preferably six elevations and at least one perspective view) are required. Line drawings with shading may be accepted, subject to the examiner's discretion. Unclaimed parts of the design may be shown in dashed lines.

11. What is the role of color when determining the scope of protection for industrial designs? Design registration may be restricted to specific colors. Color Images of the design will limit the scope of protection to the colors appearing in the images, while line drawings or grey-scale images will provide protection regardless of color.

12. How long is a registered design valid for? A registered design is protected for a period of five years. This period can be extended twice, each time for an additional five-year term, totaling a 15-year term of protection. The registration of a design entitles its proprietor with the right to prevent any unauthorized third party from producing, marketing, selling and/or publicizing the protected design.

13. What documents are required for filing a design application in Israel?

- An original Power of Attorney signed (in blue ink) by a competent officer of the applicant company, specifying his/her name and title
 - Representations (as detailed in sec. 10)
 - Certified copy of the priority document (where priority is claimed, it must be presented either together with the documents when filed, or within three months of filing)
- No legalization or translation is required if the documents are in English.

14. Is it possible to perform an online search for registered designs and design applications on the Israel Patent Office website? A search engine of registered designs qualified for publication is available at the following web address: <http://designsearch.justice.gov.il>. Due to a peculiarity in the Israeli design legislation, there is a two-year blackout period following registration during which designs are not open for public inspection. However, if petitioned to do so, the Registrar may allow a search of registered designs still within the blackout period³.

Our Design department specializes in consulting its clients on optimal ways for protecting designs as well as on selection of strategies and tactics for filing designs, occasionally alongside drafting patent applications pertaining to the same subject matter in order to consider all aspects of protection and enforcement of respective rights.

For more information regarding industrial designs in Israel, please contact Mr. David de Vries, senior partner and head of the Technology Department at dade@rcip.co.il, or Mr. Sa'ar Alon, head of the Design Department at saalon@rcip.co.il.

³ For more information, see: <http://www.rcip.co.il/en/article/on-line-searches-of-registered-designs-in-israel/>.