

**For discussion on
17 June 2025**

**Legislative Council
Panel on Commerce, Industry, Innovation and Technology**

Review of the Registered Designs Regime

PURPOSE

To enhance Hong Kong's intellectual property ("IP") system, the Government is conducting a comprehensive review of the current local registered designs regime. This paper briefs Members on the relevant review exercise.

BACKGROUND

2. Effective and robust legal protection of IP rights lays the cornerstone for encouraging innovation, technological development and creativity, and is also a prerequisite for promoting IP trading in a highly competitive global environment. The Government therefore attaches great importance to the legal protection of IP rights, continuously strengthening the existing comprehensive IP system to ensure its robustness and competitiveness.

3. The IP laws of Hong Kong protect a variety of IP rights, including patents, trade marks, copyright and industrial designs as commonly seen. Hong Kong's registered designs regime has been in place since the enactment of the Registered Designs Ordinance (Cap. 522) ("RDO") in 1997. The Chief Executive's 2024 Policy Address proposed a comprehensive review of our registered designs regime. The review is now underway to ensure an up-to-date regime that aligns with the current international standards and meets the local needs for new industrialisation and a digital economy.

THE REGISTERED DESIGNS REGIME

4. Industrial design, which is one of the IP rights that is protected and registrable under the Paris Convention for the Protection of Industrial Property (“the Paris Convention”)¹ administered by the World Intellectual Property Organization (“WIPO”), protects the design of the appearance of an article. In comparison, patents protect scientific inventions; trade marks are signs used to distinguish the goods and services of one trader from those of others, whereas copyright² offers protection of original and other works and their authors’ rights.

5. With technological innovation and integration of industries, an outstanding industrial design can effectively enhance the overall competitiveness and value of the product and the brand in today’s highly competitive market. The designers’ efforts expended in innovation and creativity should be protected by law to ensure that the designers can reap the economic benefits from their designs, and to encourage them to continue to apply their creativity. Accordingly, provision for a registered designs regime with practical and effective legal protection for designs is essential.

6. In Hong Kong, legal protection for industrial designs can be obtained through application for registration under the RDO. Generally speaking, registrable designs are features of shape, configuration, pattern or ornament applied to an article by an industrial process, being new features appealing to the eye. Once a design is registered in respect of any article, its registered owner is conferred certain exclusive rights in Hong Kong, for example, to make, import, sell, or hire articles to which that design has been applied³ within a maximum period of registration of 25 years⁴.

7. Over the past five years, the Designs Registry has on average received applications for registration for over 3 800 designs annually, with the

¹ Patents and trade marks are also IP rights protected under the Paris Convention.

² Copyright is protected under the Berne Convention for the Protection of Literary and Artistic Works (“the Berne Convention”).

³ Section 31(1) of the RDO.

⁴ Section 28 of the RDO. The initial period of registration of a design is 5 years, and can be extended for additional periods of 5 years up to a maximum period of registration of 25 years.

applicants mainly from Hong Kong, the Mainland, the United States, Switzerland, Germany, etc. The main classes applied for registration, according to the Locarno Classification⁵, were Class 11 (articles of adornment), Class 14 (recording, telecommunication or data processing equipment) and Class 9 (packaging and containers for the transport or handling of goods). The relevant statistics are set out in the Annex.

REVIEW PROGRESS

8. A comprehensive review of the local registered designs regime was launched last year. We have studied the local registered designs regime from different perspectives by making reference to mainstream international practices and reforms of the regimes to date in various major common law jurisdictions and their latest developments, identifying the following material issues for review.

9. The first and foremost issue of the study is the substantive legal protection of designs which should align with the prevalent market situation and operational requirements, including:

- (a) Statutory definition of “design” – The existing RDO provides registered design protection to features of shape, configuration, pattern or ornament of the appearance of an article. The relevant features must appeal to and are judged by the eye, and be applied to an article of manufacture by any industrial process.⁶

In response to the development of technology and commercial design industry that brings innovative designs to the market, the international community has gradually updated the statutory definition of “design” in recent years, by changing the subject matter of registered design protection from individual features that applied to an article and appeal to the eye, to the overall appearance resulting from the relevant features. These relevant updates allow for appropriate registration protection which can be applied to

⁵ The International Classification for Industrial Designs (“the Locarno Classification”) published by the WIPO is the system adopted for classifying design articles in Hong Kong.

⁶ Section 2(1) of the RDO.

commercial designs of digital products, such as virtual designs and augmented reality designs⁷, designs for handmade products⁸, and specifically to, for example, partial designs, and designs of components and spare parts of products. We will accordingly consider the types and scope of designs that are protected under the existing law.

- (b) Registrability of designs – Under the design registration system, in order for a design that meets the statutory definition of “design” to obtain registration, a crucial requirement is that the design must be new. It generally means the design or any design substantially similar to it⁹ must not have been registered, and must not have been published to third parties in Hong Kong or elsewhere^{10, 11}

We note that over the past two decades, the legal concepts of what constitute new and sufficiently creative designs have gradually evolved following the legislative amendments and the development of case laws in different common law jurisdictions. We will consider these legal concepts and examine the registrability requirements for a design, ensuring that registration can protect the creativity of designers, appropriately confer rights on designs with economic value, and promote the enhancement of the overall IP value chain.

⁷ For example, the European Union has passed its design legislative reform last year to cover products that “materialise in non-physical form” and various forms of designs, including graphic works, animated designs, etc. The relevant regulation is applicable in phases as from 1 May 2025.

⁸ In addition to designs applied to industrial products, the laws of some overseas jurisdictions such as the United Kingdom, Australia, Singapore and the European Union also provide design protection for designs of handmade products.

⁹ A design will not be considered “new” if it differs from prior designs only in immaterial details or in features that are variants commonly used in the trade.

¹⁰ This does not apply to confidential disclosures or other prescribed circumstances (section 9 of the RDO).

¹¹ Section 5 of the RDO.

- (c) Scope of statutory protection – Under the existing law, unless the act is performed privately for non-commercial purposes or the circumstance falls within other exemptions¹², it is an infringement for any person to do, without the consent of a registered owner, any act which is the latter's exclusive right, including any act that enables the relevant article to be made (such as making a mould)¹³. We note that international developments have resulted in varying degrees of adjustments to the respective scope of exclusive rights of registered designs and acts of infringement. We will further explore how the relevant rights can be consolidated under the prevailing market environment, and at the same time ensure that a proper balance is struck between the legitimate rights and interests of registered owners and the public interest.

10. Furthermore, to facilitate the application for registration of designs, and ensure that the registration system meets the needs of the market, we will also review the current application procedures and post-registration management matters, including:

- (a) Grace period for filing applications and deferred publication – In principle, the disclosure of a design to the public before it is filed for registration may prejudice a design's novelty, rendering the design not meeting the registration requirement. On the other hand, the Registry will, in accordance with the current procedures, publish the design to the public after it is registered. Therefore, applicants are restricted from conducting product testing on the market or coordinating product launch before and after filing an application for design registration. In order to allow design owners to exploit and carry out market strategy more flexibly around the time of filing of applications, we will explore allowing applicants to file applications for registration within a certain grace period even if they have already disclosed their designs to the public, provided that the prescribed conditions are met; we will also consider allowing applicants to choose to defer publication so that their designs can remain undisclosed for a period of time.

¹² Section 31(3) of the RDO, including acts done for the purpose of evaluation, analysis, research or teaching.

¹³ Sections 31(2)(b) and (d) of the RDO.

- (b) Formal requirements for applications for registration and examination procedures – We will review and assess the formal requirements for applications for registration of design and the related examination procedures under the current legislation, as well as the management of post-registration matters such as the renewals and assignments of registration, with a view to streamlining and updating the application and management processes for registration and aligning them with international norms.

11. Every innovative product may contain different elements and functions, and be protected by multiple IP rights (including design) at the same time. The division of roles between design and other IP rights under the overall framework of IP laws and the protection they each provide are also worth exploring:

- (a) Specifically, once an original artistic work is created, it automatically enjoys copyright protection without the need for registration. Where that artistic work is applied to a product, it can obtain exclusive rights by way of registration of a registered design provided that the requirements for registration are met. In such circumstances, the scope of protection covered by copyright and registered designs may overlap.
- (b) We note that major common law jurisdictions have adopted different approaches to demarcate the copyright and design right protection afforded to designs. Additionally, certain jurisdictions (such as the United Kingdom and the European Union) provide another form of substantive design right for designs that have been commercially exploited but not registered.

The above issues need to be considered in light of market development, and an analysis has to be made balancing the overall IP system, so as to carefully examine whether the current approach can properly reflect the commercial rights acquired by artistic works due to industrial applications and balance the interests of design owners and the public.

12. Currently, a number of key international IP treaties are applicable to the Hong Kong Special Administrative Region (“HKSAR”), including the Agreement on Trade-Related Aspects of Intellectual Property Rights of the World Trade Organization, the Paris Convention and the Berne Convention of WIPO, etc. In updating Hong Kong’s registered designs regime, account must also be taken on the alignment of the local legal system with the international system for protection of industrial designs, in order to support our country’s proactive and active participation in the construction of the global IP governance system¹⁴, strengthen the advantage of the HKSAR’s connectivity with both the Mainland and the world, and further consolidate Hong Kong’s position as a regional IP trading centre.

WAY FORWARD

13. The review of the registered designs regime is progressing in full swing. We will continue to conduct in-depth study into the relevant issues and plan to launch a public consultation within this year to collect the views of various stakeholders and relevant evidence for careful consideration. This will help us balance the legitimate interests of all parties and determine the way forward for updating Hong Kong’s registered designs regime.

ADVICE SOUGHT

14. Members are invited to note the content of this paper and offer views.

Commerce and Economic Development Bureau
Intellectual Property Department
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¹⁴ For example, the Riyadh Design Law Treaty successfully concluded at WIPO in November 2024, which sets the basic international standards for the procedures of applying for and registering designs among the contracting parties; and our country’s accession to the Hague Agreement Concerning the International Registration of Industrial Designs in May 2022.

Summary of statistics on the numbers of design applications and registrations in the past five years

Figure 1: Statistics on the numbers of design applications and registrations (2020 to 2024)

	2020	2021	2022	2023	2024
No. of applications (3 878 designs)	2 015 (3 878 designs)	1 882 (3 858 designs)	1 672 (3 286 designs)	1 684 (3 560 designs)	2 228 (4 582 designs)
No. of registrations	5 045	4 206	3 319	3 390	3 852

Figure 2: Statistics of countries of origin/region of applicants of designs applied for from 2020 to 2024

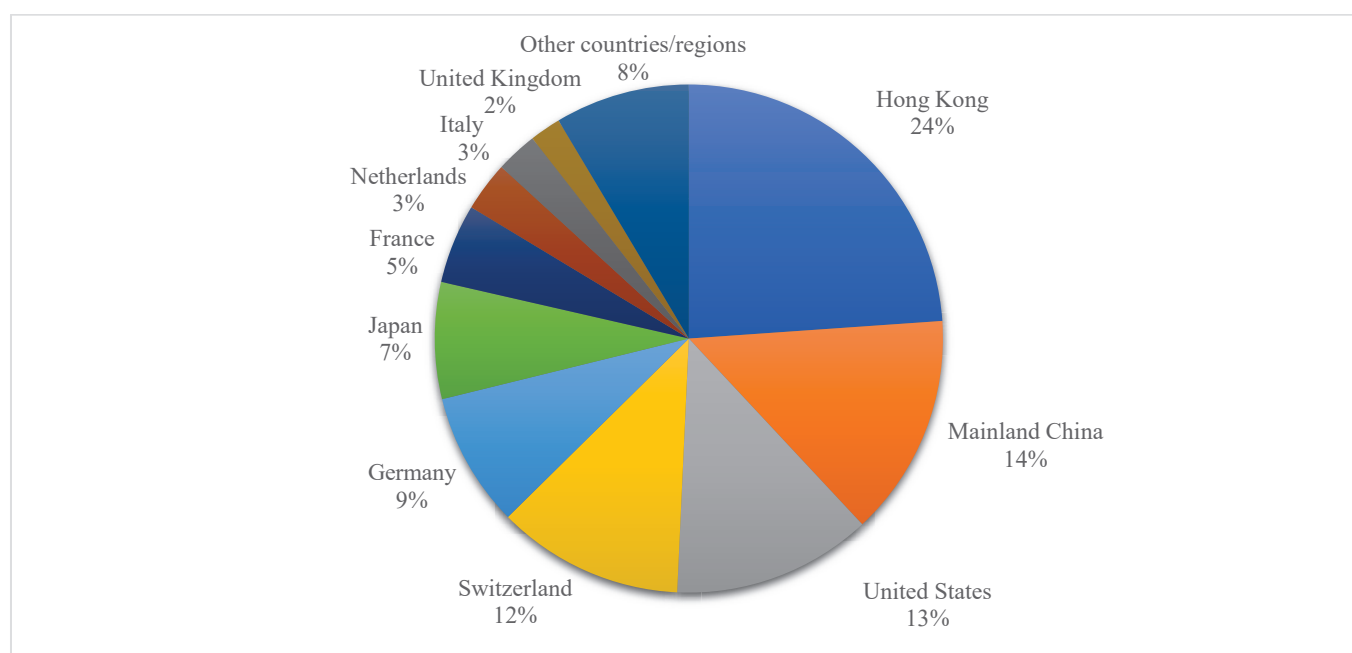


Figure 3: Statistics of main classes of designs applied for from 2020 to 2024

