# Commerce and Economic Development Department and Intellectual Property Department Consultation Paper

## *Review of the Hong Kong Registered Designs Regime* (December 2025)

### Submission by The Hong Kong General Chamber of Commerce

**Introduction**

We welcome the Government's review of the registered designs regime, and support its efforts to ensure that the regime remains competitive, and aligned with Hong Kong's design and innovation needs, alongside the city's efforts to develop the digital economy. In implementing the proposals, we recommend that careful consideration be given to ensuring that the registration and enforcement processes for such rights remain balanced, practical and business-friendly. Our comments are set out below, answering the consultation questions which are set out at the end of each Chapter (starting from Chapter 2) in the Consultation Paper.

**Chapter 2 Definitions of "Design" and "Article"**

a) Definition of "design"

*(i) Do you agree that the subject matter for design protection in Hong Kong should shift from the traditional approach of "features applied to an article" to "the appearance of a product"? Please explain.*

Yes. Industrial product design is more than designing features in articles. The ultimate goal of design is to impart not just the features, but accompanying functionalities, and importantly satisfactory or pleasing experiences from users. The shift should be to appearance and accompany experience of using the product.

*(ii) Do you agree that the specific requirement that a design must be applied to an article "by an industrial process" should be removed in view of the latest and emerging technologies in manufacturing? Please explain.*

Yes. We agree to such removal. Design in a contemporary setting ought to capture a broader scope of design, to enable and empower wider use of new or valuable technologies or techniques – such as Graphical User Interfaces (GUIs), web-based design outputs and interactives digital design, and even crafts.

*(iii) Regardless of whether or not the definition of "design" should be amended, do you agree that relevant features other than shape, configuration, pattern and ornament should also be specified? If so, what other design features do you think should be included to reflect the aspects of the design of a product that are considered valuable and important to its design (e.g. colour, lines and contours, or even moving elements)? Please explain.*

Yes. Design should include features that can be described through the senses, i.e. touch, sight, hearing and smell. Intangible features such as sensory experiences can be an integral part of the design (not just added- on attributes).

(iv) *Do you think that providing a non-exhaustive list of design features (with specified examples of protectable features) in the definition of "design" would be appropriate? Please explain.*

Yes. Such a list should be aimed at enhancing the inclusiveness of the concept of design.

b) Definition of and reference to "article"

(i) *Do you agree that the reference to "article" in the RDO should be replaced by "product"? Please explain.*

Yes, for the reasons explained in the CP. We also recommend broadening the term to encompass digital products (including website, apps, Augmented Reality/Virtual Reality environments), recognizing them as industrially produced digital assets.

(ii) *Do you think that Hong Kong's registered designs regime should also afford protection to designs applied to handicraft or handmade items in addition to industrial items in the traditional sense? Please explain.*

Yes. There is no valid reason in the current commercial environment why design protection should be afforded only to products manufactured through an industrial process.

**Chapter 3 Scope of Design Protection**

a) Virtual designs

(i) *What types of virtual designs should or should not be protected under Hong Kong's registered designs regime? Please elaborate.*

We support registrability of designs that exist only in digital or virtual form. Modern products, across transport, consumer technology and services, derive a significant part of their value and distinctiveness from user-facing digital elements. Extending coverage to non-physical designs would align Hong Kong with international practice and stimulate innovation in digital design.

(ii) *Do you think that the registrability for virtual designs should correlate to a physical product, or depend on characteristics such as the design's relevance to human interaction or its functionality in relation to the product? Please explain.*

There must be a correlation between a design, and a saleable product (or its functionality) to which it is applied. The sale of a design in itself, without such

correlation, is subject to possible copyright protection but not design registration.

(iii) *Do you think other existing forms of IP protection, in particular copyright, are appropriate forms of protection for virtual designs? Please explain.*

We support strengthening registered design protection for digital design. Copyright alone is insufficient for virtual designs because it protects expression (e.g. artwork) rather than overall visual appearance.

(iv) *Should registered design protection be extended to virtual designs, would the resulting overlap with other IP rights give rise to legal uncertainty or unintended legal consequences? Please elaborate.*

We consider it important for the scope of virtual design rights to be clearly defined, supported by statutory and or regulatory guidance that provides legal certainty and minimises unnecessary overlap with copyright.

b) Design of spare parts and parts of articles

(i) *Do you think the current legal requirement that a part of an article must be "made and sold separately" is sufficiently accurate to define the scope of component and spare parts, or do you prefer the concept of "complex product" for this purpose? Please explain.*

We support adopting the "complex product" concept. This would allow protection of visible components, such as car panels and other aesthetic parts that contribute to a product's appearance, even when not sold separately, consistent with global practice. However, the definition of "complex product" requires careful consideration.

(ii) *Do you consider the "must fit" exclusion preferable to the "must match" exclusion for excluding protection for designs of spare parts? Please explain.*

We support adopting the must-fit exclusion, but not the must-match exclusion. The must-fit exclusion appropriately removes protection for shapes dictated solely by functional interconnection, preventing any manufacturer from monopolising essential fitting features. In contrast, the must-match exclusion is overly broad, as it strips protection from visible components whose appearance has genuine design value, simply because they are meant to visually match the overall product.

(iii) *Instead of the "must match" exclusion, would a "right to repair" be a more appropriate means of addressing the right for a consumer to repair a product? Please explain.*

We consider that a more balanced and internationally aligned approach, followed in Australia, the EU and the UK, is to abandon the must-match exclusion and replace it with a narrow repair defence, allowing third-party

reproduction of matching parts only to repair, or restore a product's original appearance.

c) Partial designs:

*Do you think that Hong Kong's laws should be relaxed so that partial designs, whether made or sold separately, are registrable in their own right as registered designs? Please explain.*

We recommend that partial designs be registrable in their own right (as accepted in other jurisdictions) and that there should be no requirement for them to be made and sold separately in order to be registrable.

**Chapter 4 Requirement of Novelty for Designs and Examination of Novelty**

a) Novelty requirement

*(i) Do you consider the current novelty requirement under the RDO sufficient and effective to meet the needs of the design industry? Please explain.*

No - please see explanation at paragraph (ii) below.

*(ii) Do you agree that introducing into the legislation an additional registrability requirement guided by the overall impression produced by a design by reference to its individual character or distinctiveness would set a more appropriate threshold for registrability of a design for the contemporary market? Please explain.*

We support introducing an additional individual character or distinctiveness requirement. Most major jurisdictions require both novelty and individual character or distinctiveness. This helps filter out trivial variations. Without this requirement, applicants could monopolize broad design spaces by filing minor variants. Individual character preserves genuine innovation while ensuring fair competition.

*(iii) If your answer to question (ii) is in the affirmative, should the local legislation also lay down the approach and the factors (such as "informed user", "degree of freedom of the designer") for assessment of difference in overall impression? Please elaborate.*

Yes. Because the assessment of individual character or distinctiveness is potentially subjective, the more guidance that can be given on how these matters will be assessed (whether in the legislation or guidelines), the greater the legal certainty will be for all concerned.

b) Examination of novelty

*(i) Do you agree that the current formality examination procedure (i.e. generally requiring only formality examination to be conducted for a design application) should be retained? Please explain.*

We support retaining the faster, formality-based examination system. This system is cost-effective, predictable, and consistent with EU, UK, and Australian practice.

*(ii) Should your answer to question (i) be in the affirmative, do you consider it justifiable and necessary to consider introducing any enhancement measures adopted by overseas jurisdictions as discussed in paragraphs 4.15 and 4.16 above? Please explain.*

We consider that this formality-based examination system, when combined with structured pre-filing and pre-enforcement procedures (as in Australia and Singapore), offers a significant advantage in improving the overall quality and efficiency of design registrations.

**Chapter 5 Exclusive Rights of Registered Designs**

a) Exclusive rights

*(i) Do you consider the current scope of exclusive rights provided for registered designs under the RDO adequate? Please explain.*

No- please see answer to question (ii) below.

*(ii) To facilitate diverse legitimate uses of designs and promote effective commercialisation of the designs, particularly by making use of new technologies or digital platforms, do you consider it preferable for the scope of exclusive rights be broadened, such as to cover any business/commercial use of a registered design? Please elaborate.*

The scope of exclusive rights should be broadened to facilitate registered design owners in effectively coping with the challenges of exploiting and enforcing their rights in today's commercial environment. The exclusive rights should include "the right to use the design for any business, trade, and commercial purpose".

*(iii) Do you consider it justifiable for protection of a registered design be limited to the article in respect of which the design is registered, or alternatively be extended to any article in which the design is used? Please explain.*

We believe it is fair that protection of a registered design be extended to any article in which the design is used.

*(iv) Do you agree that the existing statutory exceptions under the RDO adequately strike a fair balance in addressing the reasonable uses of designs by members of the public? If not, please explain and elaborate what specific exception(s) ought to be introduced.*

We have no views to offer on this issue.

b) *Ownership*

*In respect of commissioned designs, do you agree that it is more proper to treat the designer as the original owner of the design, subject to any agreement to the contrary? Please explain.*

Yes. Such a legal position would recognize the creative input of the designer, whilst allowing parties to agree to diverge from the default position on mutually agreeable terms.

**Chapter 6 Facilitation Measures for Application for Registration of Designs**

a) Grace period

*(i) Do you agree that the scope of the current grace period prescribed in the RDO should be relaxed to cover disclosure of a design by the design owner for any purpose? Please explain.*

Yes, the scope should be relaxed to cover disclosure by the design owner for any purpose in their pursuit of market exploitation or product commercialization.

*(ii) Regardless of paragraph (i), do you agree that the duration of the grace period should be increased from 6 months to 12 months? Please explain.*

Yes, the grace period should be increased to 12 months, to align with the harmonised standard under RDLT.

*(iii) If a design owner is allowed to disclose and use a design before filing an application as described in (i) and (ii) without prejudice to novelty, would there be any impact on your business and whether any mitigation would be needed? Please explain.*

As a business association, this question is not relevant to us.

b) Deferment of publication of designs

*(i) Do you agree to introduce an option for applicants to defer publication of designs? Please explain.*

Yes. There should be an option for applicants to defer publication of designs, to facilitate commercial decisions relating to commercialisation and possible protection of intellectual property via patents.

*(ii) Should the aforesaid option for deferment be introduced, what should be the maximum period of deferment in order to offer designers or manufacturers sufficient flexibility? Please explain.*

We suggest a period of 30 months (noting that some jurisdictions offer up to 36 months of deferment).

(iii) *On the other hand, would deferment of publication of designs have any impact on your business and whether any mitigation would be needed? Please explain.*

As a business association, this question is not relevant to us.

**Chapter 7 Application and Registration Formalities**

a) Priority claims in applications

(i) *Do you consider it justifiable that the current statutory requirement on filing priority documents with the Registrar be dispensed with? Please explain.*

Hong Kong law should continue to contain a 6-month priority claim provision, with supportive documentation, in line with other jurisdictions such as the Chinese Mainland and the EU.

(ii) *For those Hong Kong design applications filed after expiry of the 6-month priority claim period, should (and if so under what conditions) the applicants be permitted to request restoration of the right of priority? Please explain.*

Yes - if the failure to file within the 6 months was unintentional, and all reasonable efforts had been taken to file on time.

b) Applications for multiple designs

*Do you consider the current requirements for filing multiple designs applications appropriate and practical, namely that the designs must relate to the same class or to the same set of articles? Please explain.*

The current requirements appear reasonable and should be maintained.

c) Mandatory requirement of application on statement of novelty

*Do you consider it appropriate to retain the mandatory requirement for a design application to contain a statement of novelty, or should the requirement be removed by making it optional for an applicant to make a statement to highlight the design feature(s) which is/are considered to be new or specifying the part(s) of the design to be disclaimed for protection? Please explain.*

The requirement of novelty should be retained, as this is an essential condition that has to be met for registrability.

d) Design registration term and renewal of registration

*Do you agree that the status quo in relation to the term of design protection and renewal of registration should be maintained? If you consider that there is room to enhance any aspect of the current renewal procedures, please elaborate.*

Yes- the term of design protection and renewal of registration should be maintained.

e) Other formality issues

*In your experience, is there any real practical issue/matter relating to Hong Kong's registered design application and registration procedures (notably requirements of formalities, documentary requirements or time limits to follow) that you consider should be reviewed or enhanced? Please elaborate.*

In regard to the filing process, we recommend that consideration be given to enhancing user experience through further digitalisation. This could include developing a fully online portal for digital file uploads, enhancing searchable digital databases, and exploring a one-stop gateway for international filings should Hong Kong move toward accession to the Hague Agreement.

Any further steps that can increase the efficiency of processing registration applications or subsequent procedures should be seriously considered, as this will reduce business costs and burdens.

**Chapter 8 Interplay between Registered Design Rights and Other IP Rights**

a) Overlapping protection of registered design rights and copyright

*(i) Do you consider that the current treatment of the interplay of registered design rights and copyright under the CO is sufficiently clear and effective in achieving its objective, and if not, whether and how the current statutory arrangements should be enhanced? Please explain.*

We have no suggestions for improvement in this respect.

*(ii) Have you encountered any real and practicable difficulty arising from the blurring lines between registered design rights and copyright in enforcing your design rights? Please elaborate.*

As a business association, this question is not relevant to us.

b) Unregistered design rights

*(i) Do you consider that there is any significant gap in the current domestic registered designs regime (if not otherwise filled in by the copyright regime) resulting in inadequate protection for certain unregistered designs? Please explain.*

To ensure full protection of resources that have been invested in creating, making and commercialising products, we believe it would be prudent to seriously consider introducing in Hong Kong an unregistered design regime similar to in the EU and in the UK. This would be have the potential to reduce the costs and burden of registration for businesses, particularly those with less resources, or whose products have a short lifespan.

(ii) *What are the potential benefits and drawbacks for introducing an unregistered designs regime in Hong Kong?*

An unregistered designs scheme would have the potential to offer IP protection with a lesser burden of registration formalities. Other potential benefits, and costs, would have to be considered before introducing such a scheme (we have not conducted a full analysis of those benefits and costs).

(iii) *If you consider there is a compelling case that Hong Kong should offer certain enhanced protection for unregistered designs, what is the proper scope of such protection, particularly in terms of the kinds of protectable design products, the duration of the protection and the exclusions/limitations pertinent to mitigating the legal uncertainty that may likely be brought onto other market players?*

See our answers to (i) and (ii) above.

**Chapter 9 Alignment with the International Design Systems**

a) When formulating an overall IP strategy for designs or when you are handling related matters for clients as an agent, have you ever considered obtaining registered design protection in jurisdictions outside Hong Kong? If so, which jurisdictions are usually within your consideration?

As a business association, we are not in a position to comment on this question.

b) Do you agree that application of the Hague Agreement to the HKSAR would bring real benefits/advantages to not only promoting your business development in multiple jurisdictions but also consolidating the development of Hong Kong as a regional IP trading centre? Please explain.

Yes. We support Hong Kong's accession to the Hague Agreement, which would keep it on par with international protection standards. Such accession would allow applicants to file an international application to protect designs in multiple jurisdictions. This reduces the cost and administrative burden of filing multiple applications, and improves access to key markets.

**Conclusion**

We recognise that, as the registered designs regime evolves, emerging issues such as artificial intelligence may also intersect with its development. We look forward to contributing views on these areas at an appropriate stage, and hope our comments will help the Government in shaping a modern, effective designs regime that strengthens Hong Kong's IP framework and enhances its competitiveness as an international IP, as well as innovation and technology hub.

HKGCC Secretariat
March 2026