

Amendment to Thai Industrial Design Law Open for Public Hearing

From 18th October 2017 to 10th November 2017, the Department of Intellectual Property (“**DIP**”) of Thailand opened the period for public hearing and public consultation regarding a plan to amend the provisions on product designs under the Patent Act B.E. 2522 of Thailand (“**Patent Act**”).

A draft of the bill for the amendment has not been released. However, in the papers of the DIP for the public hearing on the amendment to the product design provisions of the Patent Act (“**Amendment**”), there are some interesting and substantial changes to the current provisions of law.

A new and separate legislation for industrial design protection may be passed to remove the industrial design from the Patent Act. One new substantive requirement for registrability of the industrial design may be added, i.e. “creativity requirement”. The DIP aims to add this requirement in order to prevent protection for any design consisting of geometric, natural, or well-known shapes, or a combination of these shapes that does not make the product substantially different from these existing shapes. However, there is no clear definition of “creativity” in the Amendment.

There are also some significant changes to the examination procedure. For instance, the Examiner will proceed to the substantive examination immediately after the formality examination while under the current law the substantive examination will be conducted only after the publication. Moreover, the Examiner will consider prior art in Thailand for novelty examination whereas the worldwide novelty examination may be required by an inventor or any person with the DIP after the design is granted protection.

The protection period of 10 years under the current law may be changed to a five-year term plus two consecutive renewals of 5 years each (15 years in total).

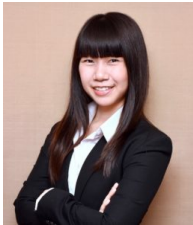
Provisions on accession to the Geneva Act of 1999 under the Hague Agreement Concerning the International Registration of Industrial Designs (the “**Hague Agreement**” or the “**Hague System**”) may also be added to make Thailand comply with the ASEAN IPR Action Plan 2016-2025.

Once a complete draft of the bill is released, we will update readers on its development in future issues of our newsletters.

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