

# INDUSTRIAL DESIGN PROTECTION IN MALAYSIA 马来西亚工业设计保障

*The Malaysian Industrial Design Act 1996 (IDA '96) came into force on 1st September 1999.*

*The implementation of the IDA '96 is aimed at reducing the cost involved in registering industrial designs, which previously had to be done in the UK. The act also aims at encouraging local industrial designers to design products which are innovative, sophisticated and functionally appropriate to compete in the world market.*

## 如何在大马保障您的工业设计?

一九九六年大马工业设计法令经已于一九九九年九月一日开始生效。随着这项法令的实施也意味着本地设计创作拥有人将不须再缴付昂贵的费用，向英国申请有关设计注册。这项法令的实施也旨在鼓励本地工业设计创作人创造更多新颖，更多富创意的产品以便进军充满竞争性的环球市场。

## 1. What is an industrial design?

*An industrial design means features of shapes, configuration, pattern or ornament applied to an article by any industrial process or means which in the finished article appealed to and is judged by the eye. Articles which are commonly registered are containers, bottles furniture, lamp shape, vases, design packaging, etc.*

### 什么是工业设计?

工业设计是一件由任何工业方式制造而完成的产品的构造原理、配置方法、外形设计或装饰方式。我们一眼望过去就能分辨而检定的产品，一般注册工业设计的产品有容器、钢笔、家具、灯饰、花瓶、食品包装等。

## 2. What is the requirement for filling an industrial design?

*To be registrable, an industrial design must be new and original in Malaysia, i.e. the design must not have been disclosed before, fulfill the design definition and not contrary to public order or morality. Therefore, the validity of a Registered Design can be impugned:*

- a) If the design is not new and original*
- b) If the design features are functional, or*
- c) If the article is one which, when people buy it, they are unconcerned about its aesthetic features.*

### 想要注册工业设计应当符合哪些条件?

任何欲在大马注册的产品必须是属于新颖及创新的工业设计，意即未曾在市场或任何公共场所展示过的。同时该设计也必须符合设计法令的条规及不含任何足以造成公众不安或违反道德的意图。因此一件工业设计注册一旦被发现有如下之因素将被法庭撤消其合法地位。

- a) 并非新颖及创新的设计
- b) 并非由肉眼所分辨而检定的产品设计而是一项功能
- c) 当顾客购买该项产品时，并非被其外形所吸引，即其产品设计并非顾客购买的主因

## 3. How long does protection last when an industrial design is registered?

*The protection lasts initially for 5 years from the filing date of the application, but by paying extension fees you may keep it in force for two further consecutive terms of 5 years each.*

### 工业设计的注册有效期是多久?

工业设计的注册有效期是从申请日期算起为期五年，过后在缴付费用下可更新两次，每次亦为期五年合计十五年的保障。

## 4. What are the rights conferred on the owner of the industrial design?

*Registration of the industrial design gives the owner exclusive right to make or import for sale or hire, or for use for the purpose of any trade or business, or to sell, hire or to offer or expose for sale or hire, any article to which the registered industrial design has been applied.*

### 工业设计注册可为您带来什么利益?

在一九九六年大马工业设计法令下，注册拥有人将享受法令所给予的利益和保障，包括制造，进口，销售，转让，或使用的专利权。

## 5. What are the remedies for infringement of an industrial design?

*Sec. 35 of the IDA '96 states that on the registered industrial design owner proving infringement, the court may award damages or compel the infringer to account for profits, made delivery up of infringing articles and may grant an injunction to prevent further infringement.*

### 一旦发现有人抄袭我的设计注册，我将获得什么样的赔偿或保障?

一九九六年的大马工业设计法令阐明任何侵犯设计注册拥有人的权益者，一旦被法庭定罪，将被训令交出所有抄袭的产品，呈上有关的户口，与及发出法庭禁令以阻止类似活动的延伸以保障设计拥有人的权益。此外，拥有人也可通过民事诉讼要求赔偿损失及法庭讼费。

## 6. Can I still protect my industrial design under the Copyright Act with the implementation of the IDA'96 and the Copyright (Amendment) Act 1996?

The Copyright (Amendment) Act 1996 has removed copyright protection for works which need to be registered under the IDA'96. Sec.7 (6) of the said Act further provides that as soon as any article to which the design has been applied and has been reproduced more than 50 times by an industrial design process the design shall cease to be protected under the Copyright (Amendment) Act 1996.

我是否可以像之前那样把我的工业设计列为版权而寻求版权法令的保护?

不能。一九九六年版权(修正)法令已废除保护那些被认为应当在工业设计法令下注册的工业设计产品。有关法令第七节(6)也同时阐明任何制造超过50件以上的工业产品设计将不受一九九六年版权(修正)法令下保障,意即唯一途径乃通过工业设计法令来注册该设计款式。

## 7. Who can assist you in registering your registering your industrial design?

We, at INTELLECT Worldwide Sdn Bhd (Registered Industrial Design Agent), can assist you to register your industrial designs in Malaysia as well as overseas with our utmost professional advice and service.

我应该怎样申请工业设计注册与及寻求咨询?

本公司(政府委任工业设计代理)将提供予您适当的咨询及协助您在国内或国外获得适当的保障,欢迎随时联络我们。



Trade Mark 商标注册

Patent 专利

Copyright 版权

Industrial Design 工业设计

Franchising 特许经营

Branding 品牌塑造

Professional • Experienced • Reliable  
专业 资深 诚信

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Remarks :The above is intended to provide general information about industrial design. It should not be relied upon as legal advice, and is not a substitute for consultation with an agent. Please seek advice should you have any inquiries  
备注 : 以上资料是关于工业设计的信息,这些只是一般建议而非法律依据及取代注册专员咨询,具体的方案应向专员咨询。  
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