

# The Designs Law, 5777-2017\*

## Chapter 1: Definitions

Definitions 1. In this Law –

"The Paris Convention" means the Paris Convention for the Protection of Industrial Property, signed at Paris on the 11<sup>th</sup> of Adar II, 5643 (March 20, 1883)<sup>1</sup>, as revised and amended, to the extent that Israel is bound by such;

"The World Trade Organization" means the World Trade Organization established under the agreement signed at Marrakech on the 4<sup>th</sup> of Iyar, 5754 (April 15, 1994);

"Proprietor of a design" means the owner of a design under the provisions of Article 1 of Chapter 3, and anyone to whom the ownership of the design was duly transferred;

"Design application" means an application to register a design that was filed pursuant to the provisions of Article 1 of Chapter 4;

"The Competent Authority" means one of the following:

(1) The Commissioner;

(2) An employee of the Authority to whom the Commissioner has delegated his power pursuant to the provisions of section 95;

"The Locarno Agreement" means the Agreement Establishing an International Classification for Industrial Designs signed at Locarno on the 16<sup>th</sup> of Tishrei, 5729 (October 8, 1968), as revised and amended ;

The "Economic Affairs Committee" means the Economic Affairs Committee of the Knesset;

The "Patents Law" means the Patents Law of, 5727-1967<sup>2</sup>;

"Member State" means a "Union State" or a state member of the World Trade Organization;

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\* Passed by the Knesset on the 3<sup>rd</sup> Av, 5777 (July 26, 2017); the Bill and Explanatory Notes were published in *Hatza'ot Chok Memshala* No. 928 of 19<sup>th</sup> Tamuz, 5775 (July 6, 2015), page 696.

<sup>1</sup> *Kitvei Amana* No. 735, Volume 21, page 495.

<sup>2</sup> *Sefer HaChukkim* of 5727, page 148.

"Union State" means a state that is a member of the Union for the Protection of Industrial Property under the Paris Convention, or a group of Union states that established a joint system for filing design applications, including territories which the Paris Convention was applied under the powers granted for this regard in the aforesaid Convention;

The "Relevant Date means the date as detailed below, upon each case:

(1) Regarding a design to which an application was filed – the date of filing the design application under section 20, if a prior application was filed regarding the design, according to the conditions enumerated in section 21, and the conditions have been satisfied – the date of filing the prior application, within the meaning in section 21;

(2) Regarding a design to which no design application was filed – the date on which the proprietor of the design, or anyone on his behalf, first made public the design or the design product, in Israel or abroad;

"Product" including a set of articles, packaging, graphic symbol, screen display, excluding typeface and computer program;

"Designer" means a person who has designed a design, and if the design was designed by two or more persons jointly – all jointly;

"Set of articles" means at least two articles with respect to which all the following conditions are satisfied:

(1) They are in the same class;

(2) Their visual characteristics differ from each other only in immaterial details;

(3) They are ordinarily offered for sale together, or are intended to be used together;

"Informed user" means a person interested in a design product the for its use, familiar with the variety of designs existing in the sector to which the aforesaid product belongs;

"Design" means the appearance of a product or part of a product, composed of one or more visual characteristic of the product or of part of the product, as the case may be, including outline, color, shape, decoration, texture or the material from which they are made;

"Unregistered design" means a design that is not a registered design;

"Registered design" means a design that is registered in the Register;

the "Register" means the Register of Designs, within the meaning in section 102;

"Making public" means each of the acts set forth herein, including if performed over the Internet:

- (1) making a design public;
- (2) design product have been made available to the public;
- (3) a design product have been offered for sale;

the "Authority" means the Israel Patent Office established under section 156 of the Patents Law;

"The Commissioner" means each of the following:

- (1) the Commissioner of Designs, within the meaning in section 94;
- (2) a person appointed as deputy Commissioner of Patents under section 158 of the Patents Law;
- (3) regarding the powers enumerated in sections 12(b), 34(b), 46 to 48, 98 and 99 – also anyone appointed as an IP Adjudicator under section 172A(a) of the Patents Law;

"Personal use" is as defined in section 129 of the Customs Ordinance<sup>3</sup>;

"The Minister" means the Minister of Justice.

## **Chapter 2: Exclusivity of the Law's Provisions and Eligibility of Design for Protection**

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| Exclusivity of the Law provisions of                        | 2. | There shall be no right in a design except under the provisions of this Law.   |
| Eligibility of design for protection as a registered design | 3. | A design will be eligible for protection as a registered design under the provisions of Chapter 4, if it is novel and has an Individual character, pursuant to the provisions of this Chapter. |

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<sup>3</sup> *Dinei Medinat Yisrael (Nusach Chadash)* Vo. 3, page 39.

- Eligibility of a design for protection as an unregistered design
4. (a) A design will be eligible for protection as an unregistered design under the provisions of Chapter 5, upon the satisfaction of the following two conditions:
- (1) it is novel and has an individual character, pursuant to the provisions of this Chapter;
- (2) the design product the was offered for sale or distributed to the public in Israel commercially by the proprietor of the design, or anyone on his behalf, including over the Internet, within six months of the relevant date.
- (b) Notwithstanding the provisions of subsection (a)(2), where a treaty has been signed between Israel and another state on the protection of unregistered designs, or Israel has acceded to a treaty on this matter, the Minister may, with the approval of the Economic Affairs Committee, prescribe by order that the unregistered design that such treaty obligates its protection in Israel, will be protected in Israel pursuant to the provisions of the order, even if any condition in the aforesaid subsection is not satisfied in its regard; however, the protection over such a design will not exceed the protection that would have been granted to the design if the conditions in subsection (a)(2) have been satisfied in its regard, unless otherwise agreed in the treaty, but not more than what was agreed.
- a design contrary to the public policy
5. Notwithstanding the provisions of sections 3 and 4, a design contrary to the public policy will not be eligible for protection.
- Novel design
6. A design shall be deemed a novel design if, prior to the relevant date, a design identical to it or a design that differs from it only in immaterial details, was not made public in Israel or abroad.
- A design of an Individual character
7. (a) A design shall be deemed of an Individual character if the overall impression it creates for the informed user differs from the overall impression created for such a user by another design that was made public prior to the relevant date. For this purpose, designs concerning all classes of products will be taken into account.
- (b) In addition to the provisions of subsection (a), when determining whether a design creates for the informed user a different general impression as stated in the aforesaid subsection, should take into account, *inter alia*, the various options available for designing designs with respect to products from the field to which the product subject to the registered design belongs.

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| Limitation on making public   | 8.  | The presentation of a design by the proprietor of the design to another person will not be deemed making the design public if the person to whom the design was presented agreed, explicitly or impliedly, not to disclose the design.   |
| Making public not harming eligibility for protection as registered design | 9.  | Making a design public will not harm the eligibility of the design for protection as a registered design under the provisions of Chapter 4 if it was done within the 12 months prior to the relevant date, as defined in paragraph (1) of the definition of “relevant date” by the proprietor of the design, or as a result of information originating in the proprietor of the design, whether the information was obtained lawfully or unlawfully.   |
| Visual characteristic of product ineligible for protection as a design    | 10. | <p>Notwithstanding the provisions of this Chapter, the following are ineligible for protection as a registered design or an unregistered design:</p> <p>(1) the appearance of a product, or part of a product, dictated solely by the function of the product;</p> <p>(2) the appearance of a product or part of a product, if the product or part of the aforesaid product were intended to connect to another product, become integrated within another product or the other product is integrated therein, and to achieve their aforesaid designation it is necessary to manufacture them in the exact form and dimensions in which they were manufactured.</p> |

### **Chapter 3: Design Ownership, Transferring ownership and Granting a License to Use a Design**

#### **Article 1: Ownership of a Design**

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| First ownership of design                | 11. | The designer is the first proprietor of a design, unless determined otherwise in this Chapter.  |
| The first proprietor of a service design | 12. | <p>(a) The first proprietor of a design that was designed by an employee in the performance of his duties, or by actual use of the employer’s resources (hereinafter referred to in this section as a “service design”) is the employer, unless agreed otherwise between the employee and the employer.</p> <p>(b) In case a dispute arises on the question whether the design is a service design, the employee or the employer, or anyone on their behalf, may request that the Commissioner decide on the issue.</p> |

The first proprietor of a design designed upon commission

13. The first owner of a design that was designed upon commission is the customer, unless agreed otherwise between the customer and the designer.

Presumption of ownership of design

14. (a) Whoever is registered in the Register as the proprietor of a registered design will be deemed the proprietor of the registered design, unless proven otherwise.

(b) Whoever has made public an unregistered design for the first time, either himself or by means of anyone on his behalf, in Israel or abroad, will be deemed the proprietor of the unregistered design, unless proven otherwise.

## Article 2: Transfer of Rights in Design and Grant of Licenses

Transfer of rights and grant of licenses

15. (a) The rights in a design are wholly or partially transferable, under agreement or under the provisions of any law, and the proprietor of the design may grant with respect to such rights an exclusive license or a non-exclusive license.

(b) An agreement for the transfer of rights in a design or the grant of an exclusive license in its regard requires a written document.

(c) In this section –

“Exploitation of a design” means the exploitation of a registered design, within the meaning in section 37, or the exploitation of an unregistered design, within the meaning in section 61, as the case may be;

“Exclusive license” means a license granting its owner the right to exploit the design, as determined in the license, and restricting the proprietor of the design from exploiting the design himself and permitting any other person from exploiting such design.

Validity of transfer of rights and granting of exclusive licenses in a design *vis-à-vis* a third party

16. The transfer of rights in a registered design and the grant of exclusive licenses with respect to such rights pursuant to the provisions of section 15 are not valid *vis-à-vis* any other person unless registered in the Register. The provisions of this section will not apply to the parties of an agreement or to a person who knew of the transfer of rights or the granting of such licenses.

Registration in the Register of rights and licenses in a

17. A person to whom rights in a registered design were transferred, a person who transferred to any other person his rights in a registered design, a person who was granted a license in a registered design and a person

registered design or in a design with respect to which a design application was filed

who granted another person a license in a registered design, pursuant to the provisions of section 15, may request that the competent authority record in the Register the rights or the grant of the license, as the case may be, so that it reflects the rights or licenses in the registered design. Where such a request has been submitted with the competent authority, the competent authority will record in the Register the rights or the grant of the license, according to the request. For the purpose of this section, "Registered Design" includes a design with respect to which a design application was filed

## **Chapter 4: Registered Design**

### **Article 1: Design Application**

Right to request registration of a design  
Filing a design application

18. A proprietor of a design may file with the Authority a design application.

19. (a) A design application will include the details as set forth below, and attached thereto a certificate on payment of the fee under section 112(a)(5) for filing the application:

(1) name of the design proprietor ;

(2) address for delivery of documents in Israel;

(3) with respect to each design included in the application, all the following:

(a) an explanation on how the design applicant is the proprietor of the design;

(b) the class and sub-class in which the registration is requested, pursuant to the provisions under section 112(a)(1);

(c) a proper visual description of the design, pursuant to the criteria determined by the Minister.

(b) A design application can include several designs.

(c) If a design is under the joint ownership of two or more persons (hereinafter in this Law, a "design under joint ownership"), each of the joint proprietors may file on behalf of all the joint proprietors a design application, by noting the joint ownership and the names of the joint proprietors; a joint proprietor who filed such an application will deliver a written notice thereof to all the other joint proprietors of the design.

(d) Each of the joint proprietors of a design under joint ownership may renounce his share in such design by delivering a notice thereof to the Commissioner. Where such a notice has been delivered to the Commissioner, the Commissioner will delete the name of the joint proprietor who delivered such a notice from the design application.

(e) Where the design application included several designs, the competent authority may divide it into several design applications for registration of a so that each application includes one design.

Date of filing a design application 20.

(a) The date of filing a design application will be the date on which the application was first filed with the Authority.

(b) Notwithstanding the provisions of subsection (a), where a design application was filed and included one of the deficiencies enumerated below, the date of filing the application will be the date on which the aforesaid deficiency was amended:

(1) the application does not include the name of the proprietor of the design;

(2) the application does not include a proper visual description of the design, pursuant to the provisions under section 19(a)(3)(c);

(3) The application's filing fee in accordance to section 112(a) (5) for was not paid.

(c) The Authority will notify the applicant about any deficiency under subsection (b) as promptly as possible, and no later than 21 days after the date of first filing the application or the date on which the applicant remedied the deficiency after the Authority has notified him about the existence of such deficiency, as the case may be. Where an application has been filed with the Authority, pursuant to the provisions of section 17, the Authority will notify under this subsection the person to whom the rights in the design application were transferred.

Priority

21. Where the proprietor of a design has filed a design application, with respect to which or with respect to a design that differs from it only in immaterial details, the proprietor of the design or anyone preceding him in ownership has already filed a prior registration application in a member state or a prior application under the Paris Convention, which is as if the application had been filed in a union state (hereinafter referred to in this section as a "prior application"), the proprietor of the design may demand with respect to sections 6, 7 and 32 that the date of filing the prior application will be deemed as the date of filing the design application in Israel, if all the following are satisfied:



(1) the design application in Israel was filed within six months of the filing date of the prior application, and if more than one prior application was filed to register the same design – from the date on which the first prior application was filed pursuant to the provisions of the Paris Convention;

(2) the request for recognition of the date of filing the prior application was filed on the date and in the manner prescribed by the Minister;

(3) a copy of the prior application, certified by the competent authority with whom such application was filed was submitted to the competent authority on the date and in the manner prescribed by the Minister.

Publication of  
a design  
application.

22. (a) Where a design application has been filed, the competent authority will publish the application, including the visual description of the design included therein, on the Authority's website, as soon as possible after its filing.

(b) Notwithstanding the provisions of subsection (a), the applicant may request that the competent authority postpone the date of publication of the design application for a period not exceeding six months from the date of filing the application. The competent authority will postpone the date of publication of the application as requested.

(c) Where a request has been filed for the postponement of the publication date as stated in subsection (b), the applicant may request that the competent authority, at every stage during the period of postponement, publish the design application before the expiration of the period of postponement. Where such an application has been filed, the provisions of subsection (a) will apply, *mutatis mutandis*.

Amendment of  
a design  
application  
upon the  
applicant's  
request d by

23. (a) An applicant may, up to the date of registration of a design under section 31, request that the competent authority amend his design application, only if such an amendment does not alter the design in its material details. Where the competent authority has permitted the amendment of such application, the provisions of section 29(c) will apply with respect to the amended application.

(b) Where a design application has been filed under joint ownership, each of the joint proprietors of the design may file a request as stated in subsection (a), only if he obtained the consent of all the other joint proprietors of the design.

Withdrawal  
from a design  
application

24. (a) An applicant may withdraw from a design application no later than the date of registration of the design under section 31.

(b) Where a design application has been filed under joint ownership, each of the joint proprietors may withdraw from the application as stated in subsection (a), only if such proprietor obtained the consent of all the other joint proprietors of the design.

Disagreements between joint proprietors of a design application 25. Where a design application under joint ownership has been filed and the Commissioner is convinced that the handling of the application is being delayed as a result of disagreements which arose between the partners, he may act at the initiative of part of the joint proprietors and give instructions with respect to such an application, only if the initiators of the act deliver to the remaining joint proprietors not party to it, notice on every proceeding before the Commissioner and of every amendment of the application.

### **Article 2: Examination of A design application**

Examination of a design application 26. (a) Where a design application has been filed, the competent authority will examine if the design included in the application is eligible for protection as a registered design pursuant to the provisions of Chapter 2. Where the design product was a set of articles, the competent authority will examine the satisfaction of the aforesaid conditions with respect to each of the articles in the set.

(b) In an examination under this section the competent authority may rely, *inter alia*, on documents submitted up to the date of registration by anyone who is not the applicant. This submission of documents will not obligate the competent authority to notify the party that submitted such documents about the examination proceedings of the design application or of its decision regarding the application.

Postponement of continued examination 27. Where the competent authority has found that the design with respect to which a design application was filed is likely not to be eligible for protection as a registered design pursuant to the provisions of Chapter 2 due to the existence of a design application that was filed on a date prior to the relevant date (hereinafter in this section the “first application”), he may order that the continued examination of the later application will be postponed until after registration under section 31 of the design with respect to which the first application was filed, or until the withdrawal by the applicant of the first application under section 24, or until the refusal to register the design with respect to which the first application was filed under section 30, all according to the earliest.

Advancing the examination 28. (a) An applicant may file with the competent authority a reasoned request, together with an affidavit in support of the facts, for an expedited examination of the design application he filed (in this section,

the “expedited examination request”) on account of one or more of the following:

(1) the advanced age or medical condition of the applicant;

(2) another person began exploiting the design in regard to which the design application was filed, or a design differing from it in immaterial details, without the applicant’s permission, or there is cause for concern that he will do so. For the purpose of this section, “exploiting the design” means the performance of any of the acts enumerated in section 37;

(3) the duration of time which has elapsed since the design application was filed is significantly longer than the time which elapsed up to the commencement of the examination of other applications filed at the same time;

(4) special circumstances justifying this.

(b) A request as stated in subsection (a) (2) will be filed with the competent authority together with a certificate on payment of the fee under section 112(a) (5).

(c) Where the competent authority has found that the conditions stated in subsections (a) and (b) are satisfied, an examination of the eligibility of the design subject to the protection application as a registered design pursuant to the provisions of Chapter 2 will be performed as close as possible to the filing date of the request for an expedited examination. Where the design with respect to which such examination was made is registered in the Register, the act of the application examination shall be noted in the Register and in the publication under section 31.

Notice on  
deficiencies  
and  
amendment of  
deficiencies

29. (a) Where the competent authority saw that the design application does not comply with the provisions of Article 1, with the exception of the provisions of section 20(b)(1) and (3), or that the design with respect to which the registration application was filed is not eligible for protection as a registered design pursuant to the provisions of Chapter 2, he will notify the applicant of the deficiencies in the application or of the reasons for the ineligibility of such design for protection as a registered design (hereinafter referred to in this section as “deficiencies”).

(b) Where an applicant has been notified under subsection (a), he may amend the deficiencies in the application pursuant to the notice of the competent authority within the period prescribed by the Minister, provided however that the amendment will not alter the design in its

material details (hereinafter referred to in this section as an “amended application”).

(c) Where the application has been amended pursuant to the provisions of subsection (b), the amended application will be deemed to have been filed on the relevant date and it will be examined pursuant to the provisions of this Article.

Refusal of A  
design  
application

30. (a) Where the applicant has failed to amend the deficiencies in the application pursuant to the notice of the competent authority under section 29, within the period prescribed by the Minister, the competent authority will refuse to register the design and will notify the applicant.

(b) Where the competent authority has refused to register the design as stated in subsection (a), it may, upon the applicant's request, reconsider the aforesaid refusal, provided however that the request for reconsideration is filed within three months from the date on which the notice of the competent authority's refusal of the registration was sent to the applicant.

### **Article 3: Design Registration**

Design  
Registration

31. (a) Where the competent authority is convinced that the design with respect to which the design application was filed is eligible for protection as a registered design pursuant to the provisions of Chapter 2, the Commissioner will register the design in the Register and publish on the website of the Authority such registration, the visual description of the design and the name of the proprietor of the design, and will also deliver to the proprietor of the design a certificate attesting to the registration (hereinafter referred to in this Article as the “certificate of registration”).

(b) Registration in the Register will be according to sub-classes, pursuant to the provisions prescribed by the Minister under section 112(a) (1). The competent authority will determine the class and sub-class of the design according to the ordinary use of the design product taking into consideration the requested class and sub-class.

(c) Registration of a design in the Register is a condition for the validity of its protection as a registered design under this Chapter and will be *prima facie* evidence as to the validity of the registered design.

First come,  
first served

32. Where two or more applicants have filed separate registration applications for the same design or of designs that differ from each other only in immaterial details, the design will be registered in the Register in the name of the person who first duly applied for it.

Listing the  
designer's  
name

33. (a) A designer of a design to which a registration application was filed, or his successors, may request from the competent authority to list the designer's name in the Register or the registration certificate, as the case may be, pursuant to the provisions of subsection (b) (hereinafter referred to in this section as a "request to list the designer's name").

(b) Where the designer of a design or his successors have filed a request to list the designer's name, and the competent authority is convinced that the person in whose name the registration is requested is indeed the designer, the competent authority will list the designer's name as requested, pursuant to the following provisions:

(1) if the request to list the designer's name was filed before the design was registered under section 31 – the name of the designer of the design will be listed in the Register and in the registration certificate;

(2) if the request to list the designer's name was filed after the design was registered under section 31 – the name of the designer of the design will be listed in the Register only;

(3) notwithstanding the provisions of paragraph (2), if the designer is the proprietor of the registered design, he may request that the competent authority amend the registration certificate to include his name, after having paid the request fee under section 112(a)(5). Where such request has been filed, the competent authority will send the proprietor of the registered design an amended registration certificate as requested.

(c) The competent authority shall notify the applicant of the design application or the proprietor of the registered design, as the case may be, about listing the designer's name as stated in subsection (b), and if a request was filed to list the designer's name by any other person or where another person is registered in the Register as designer – also to such person.

Cancellation of  
listing a  
designer's  
name

34. (a) Where the name of a person has been listed as the designer of a design pursuant to the provisions of section 33, any person who believes that such listing of the name does not reflect the facts may file with the Commissioner a request to cancel the listing of the designer's name from the design registration in the Register (hereinafter referred to in this section as a "request to cancel the listing of the designer's name").

(b) Where a request to cancel the listing of the designer's name has been filed, the Commissioner will decide the matter and notify the person who filed the cancellation of the listing request of his decision, a notification

shall be sent to anyone who was notified about listing the designer's name under section 33(c), he will also amend the registration in the Register according to his decision.

- Waiver of listing a designer's name 35. A stipulation in an agreement wherein the designer waives the right to request a list his name pursuant to the provisions of section 33 will be of no effect.
- Listing the designer's name does not grant rights 36. Anyone whose name is listed in the Register as a designer pursuant to the provisions of section 33 will not be entitled, for this reason alone, to any right whatsoever in the registered design.

#### **Article 4: Rights Deriving from a Registered Design and the Period of its Validity**

- Rights of proprietor of registered design 37. (a) Registration of a design pursuant to the provisions of this Chapter grants the proprietor of the registered design an exclusive right to perform all of the acts enumerated below, with respect to the registered design and any other design which creates for the informed user a general impression that does not differ from the general impression created by the registered design, and if the design product is a set of articles – with respect to each of the articles in the set (hereinafter referred to in this Article as “exploitation of registered design”):
- (1) manufacture, sale or lease, including a bid or position for sale or lease of a registered design product, in a commercial manner, the distribution of such product on a commercial scale or its import into Israel not for personal use, except importing to Israel a product manufactured abroad with the permission of the proprietor of the design, or anyone on his behalf;
  - (2) possession of a registered design product for the purpose of performing any of the acts enumerated in paragraph (1).
- (b) When determining whether a design creates for an informed user a general impression not differing from the general impression the registered design creates for him, as stated in subsection (a), It shall take into account, *inter alia*, the various options available for designing designs with respect to products from the field to which the registered design product belongs.
- Limitation on exploiting registered design 38. Notwithstanding the provisions of section 37, the registration of a design does not constitute a permission to exploit the registered design in a manner of violating existing rights under the provisions of any law.

The validity period of a registered design 39. The validity period of a registered design is 25 years from the date of filing the design application under section 20, subject to the provisions under Article 5.

#### Article 5: Fees

Payment of renewal fee 40. A registered design will be valid for the entire period determined in section 39 if the proprietor of the design paid a renewal fee in the amounts and on the due dates prescribed by the Minister under section 112(a)(5) (hereinafter referred to in this Chapter as the “renewal fee”).

Delay in payment of renewal fee 41. Where the renewal fee is not paid on the due date as stated in section 40, it may be paid within six months of such date, with an additional fee in the amount prescribed by the Minister under section 112(a) (5) for the delay in payment, and when made the renewal fee will be deemed to have been paid on the due date determined for its payment as stated in section 40.

Lapse of validity of registered design due to non-payment of fees 42. Where the period stated in section 41 has elapsed and the fees as stated in the same section have not been paid, the validity of the registered design will lapse from the renewal due date as stated in section 40. The Commissioner will register the validity lapse of the registered design in the Register and will publish a notice thereof on the Authority’s website.

validity  
Renewal of registered design that lapsed due to non-payment of fees 43. (a) A proprietor of a registered design of which its validity lapsed due to non-payment of fees as stated in section 42, may request from the Commissioner within six months of the date the validity lapse of the registered design was registered under the provisions of that section, in the manner and form prescribed by the Minister, the validity renewal of the registered design, provided however that he specifies in his request the reasons for non-payment of the fees (hereinafter referred to in this Article as the “request for validity renewal”).

(b) Where a request for validity renewal has been filed, the Commissioner will renew the design validity if he found that the delay in payment of the fees as stated in section 41 was caused notwithstanding the fact the proprietor of the registered design took reasonable measures in the specific circumstances to pay the fees on time, provided however that the applicant paid the fees as stated in the section. The Commissioner will publish a notice of the validity renewal of the registered design on the Authority’s website.

(c) The validity renewal of a registered design that has lapsed under the provisions of this section will not extend the period of validity of the design beyond the period stated in section 39.

A person exploiting a registered design of which the validity has lapsed and renewed

44. (a) A person who began exploiting in Israel a registered design of which the validity has lapsed, or anyone who has made proper preparations to exploit in Israel a registered design of which validity has lapsed, after the notice regarding the validity lapse of the registered design was published under section 42 and prior to publication of its validity renewal under section 43(b), is entitled to further exploit the design for the purposes of his business only, even after the validity renewal of the registered design.
- (b) The right to exploit a registered design under this section is non-transferable and non-inheritable, except together with the business in which the design was exploited, and no licenses may be granted in its regard except by the business in which the design was exploited.

Provisions on notice to proprietor of a registered design prior to the validity lapse of the design

45. The Minister, with the approval of the Economic Affairs Committee, will prescribe provisions on the Authority's obligation to send an electronic notice to the proprietor of a registered design stating that the validity of the registered design is expected to lapse due to non-timely payment of the fee pursuant to the provisions of this Chapter, all as shall be determined.

#### **Article 6: Amendment of Records and Documents and Cancellation or Deletion of Registered Design**

Amendment of records and documents

46. (a) The Commissioner may, at his own initiative or at the request of any person, after having given the proprietor of the registered design an opportunity to state his case under the provisions of this subsection, amend a registered particular in the Register or in any other document issued by the Authority under this Law if he is convinced that it does not reflect the facts. The Minister may prescribe types of particulars that may be amended in this manner and provisions on the amendment process under this subsection.
- (b) The Commissioner may, at his own initiative or at the request of any person, amend a typographical error in the Register, or in any other document issued by the Authority under this Law.
- (c) Where a request has been filed as stated in subsection (a) not by the proprietor of the registered design, the Authority will notify thereof to the proprietor of the registered design.

Deletion or cancellation of design registration in Register, at the request of the proprietor of

47. (a) The proprietor of a registered design may request from the Commissioner to delete or cancel the registration of a registered design in the Register (hereinafter referred to in this Article as "request for deletion or cancellation"). If the registered design is under joint ownership, each of the joint proprietors of the design may file a request



the registered design

for deletion or cancelation, provided however that obtains a written consent from all the other joint proprietors of the design.

(b) The Commissioner will publish on the Authority’s website a notice on the filing of a request for deletion or cancelation.

(c) The Commissioner will decide on the request for deletion or cancelation, will notify the parties of his decision and publish his decision on the Authority’s website.

(d) Where the Commissioner has decided to accept the request for deletion or cancelation, he will record the deletion or cancelation of the design in the Register at the request of the proprietor of the design.

Cancelation of registration of design in Register, cancelation of renewal of validity of design that lapsed and cancelation of amendment of a registered particular, at the request of a person who is not the proprietor of a registered design

48.

(a) Any person who is not a proprietor of the registered design may request that the Commissioner cancel the registration of a registered design in the Register, upon fulfillment of one of the following conditions:

(1) the design was ineligible for protection as a registered design pursuant to the provisions of Chapter 2;

(2) the registration application of the design was not filed by the proprietor of the design, contrary to the provisions of section 18;

(3) two or more separate applications were filed for registration of the same design or of a design that differed from it only in immaterial details, and the design was not registered in the name of the person who first duly applied for it, contrary to the provisions of section 32.

(b) Any person who is not the proprietor of the registered design may request that the Commissioner cancel the validity renewal of a registered design that lapsed as stated in section 43, under the assertion that the conditions for the validity renewal under the aforesaid section were not satisfied.

(c) Any person who is not a proprietor of the registered design may request that the Commissioner cancel the amendment of a particular recorded in the Register or in any other document issued by the Authority under this Law (hereinafter referred to in this Article as “cancel an amendment”) performed under section 46, under the assertion that the conditions for amendment under the aforesaid section were not satisfied.

(d) A person who filed a request under subsections (a) to (c) will notify the proprietor of the registered design regarding the filing of the request,

and he will be the respondent in the request. The Commissioner shall publish on the Authority's website a notice about the filing of the aforesaid request.

(e) The Commissioner will notify the parties of his decision in the request under this section. If the Commissioner decided to accept the request under this section, he will note in the Register the cancellation of the registered design, the cancellation of the validity renewal or the cancellation of the amendment, as the case may be.

Results of request under section 47 or 48

49. (a) Where the Commissioner has decided to delete the registration of a registered design upon request under section 47, the Commissioner will note the deletion in the Register on the date of entry into effect of the decision under section 50, and the design will be deemed to have been deleted from the Register on the date of filing such request.

(b) Where the Commissioner has decided to cancel the registration of a registered design upon request under section 47 or 48, the Commissioner will note the cancellation in the Register on the date of entry into effect of the decision under section 50, and the design will be deemed to have not been registered in the Register.

(c) Where the Commissioner has decided to cancel the renewal of validity of a registered design which lapsed upon request under section 48(b), the Commissioner will note the cancellation of the validity renewal in the Register on the date of entry into effect of the decision under section 50, and the design will be deemed to have lapsed on the date stated in section 42.

(d) Where the Commissioner has decided on the cancellation of an amendment of a particular upon request under section 48(c), the Commissioner will note the cancellation in the Register on the date of entry into effect of the decision under section 50, and the particular will be regarded as if the aforesaid amendment had not been implemented.

Entry into effect of decisions of the Commissioner under sections 47 or 48

50. A decision of the Commissioner under section 47 or 48 will enter into effect 30 days after the expiration of the period for filing an appeal on the decision under section 106.

Limitation period for assertions with respect to a registered design

51. An assertion that a design was ineligible for protection as a registered design under the provisions of Chapter 2, assertions on the cancellation of listing a designer's name, cancellation of a design registration, cancellation of an amendment of a registered particular or cancellation of validity renewal of a registered design that lapsed, as well as assertions relating to the identity of the proprietor of a registered design are not

subject to a limitation period during the validity period of the registered design.

### Article 7: Supplementary Design

- Definition – Article 7 of Chapter 4
52. In this Article, “supplementary design” in relation to a registered design or a design with respect to which a design application was filed (hereinafter referred to in this Article as the “main design” is a design satisfying each of the following:
- (1) the design product is the main design product, and the visual characteristics of the design differ from the visual characteristics of the main design only in immaterial details;
  - (2) the design product is not the main design product, and the visual characteristics of the design are identical to the visual characteristics of the main design.
- Eligibility for protection as supplementary design
53. Notwithstanding the provisions of section 3, a supplementary design will be eligible for protection as a supplementary registered design even if it is not novel and without an individual character in relation to the main design only.
- Application of provisions with respect to supplementary design
54. The provisions of this section will apply with respect to a supplementary design, *mutatis mutandis* and with the changes set forth in this Article.
- Application for registration of supplementary design
55. (a) A proprietor of a main design may request that a design with respect to which he filed a design application is registered as a supplementary design under the provisions of this Article (hereinafter referred to in this Article as an “application”. The proprietor of the design will state in such application the main design in relation to which the registration of a supplementary design was requested.
- (b) A supplementary design application will be filed together with the main design application or at a later date during the validity period of the main design.
- Examination of supplementary design application
56. Where supplementary design application has been filed a and the competent authority found that the conditions enumerated in the definition of “supplementary design” in section 52 are not satisfied with respect to the design –
- (1) he will notify the applicant thereof;

(2) he will examine, at the request of the applicant, the eligibility of the design for protection as an independent registered design pursuant to the provisions of section 26, provided however that the applicant paid the fee under section 112(a)(5) for filing the application.

Limitation on supplementary design registration 57. A design will not be registered as a supplementary design if the application for its registration was filed before the date of filing the main design application.

Lapse of validity of supplementary design 58. Where the validity of the main design has lapsed, the validity of the supplementary design will lapse together with it, subject to the provisions of section 60.

Payment of renewal fee for supplementary design 59. The renewal fee for a supplementary design will be paid on the relevant date for payment of the renewal fee for the main design, pursuant to the provisions under Article 5.

Validity of supplementary design upon cancelation or deletion of the main design 60. (a) Where the main design has been canceled or deleted under the provisions of Article 6 and its supplementary design has not been canceled or deleted with it, the supplementary design will be an independent design, if the proprietor of the supplementary design so requested.

(b) Where the main design has been canceled or deleted as stated in subsection (a) and the main design had several supplementary designs, the proprietor of the design may state in his application under this section which of these will be registered as the main design, and the remainder will be registered as supplementary designs.

(c) Notwithstanding the provisions of subsection (b), where the competent authority found with respect to any of the designs as stated in the subsection, that the conditions enumerated in the definition of “supplementary design” in section 52 are not satisfied, he will register each of them as an independent design if the conditions of eligibility for protection as a registered design under Chapter 2 are satisfied, and he may, if the proprietor of the design so requested, register according to the provisions under this Article, one of the designs as the main design and the remainder as supplementary designs.

(d) Supplementary designs as stated in subsections (a) and (b) will remain valid until the expiration of the period in which the main design would have remained valid, had it not been canceled or deleted, provided however that the renewal fees as stated in Article 5 were paid, as imposed in section 59.

## **Chapter 5: Unregistered Design**

Rights of a proprietor of an unregistered design

61. The proprietor of an unregistered design eligible for protection pursuant to the provisions of Chapter 2 shall be vested the exclusive right to prevent any other person from manufacturing, for commercial use, a design product which is a replication of the design, whether the replication is carried out by manufacturing an identical design product or whether it is carried out by manufacturing another design product creates with an informed user a general impression not differing from the general impression the design product creates with him (hereinafter referred to in this Article as “exploitation of an unregistered design”). If the design product is a set of articles, the aforesaid right will apply with respect to each of the articles in the set.

(b) When determining whether a design creates for an informed user a general impression not differing from the general impression the design product creates for him, as stated in subsection (a), It shall take into account, *inter alia*, the various options available for designing designs with respect to products from the field to which the design product belongs.

Marking an unregistered design

62. A proprietor of an unregistered design believing that his design is eligible for protection as an unregistered design under the provisions of this Law may mark the design product in the manner prescribed by the Minister; the mark will indicate that this is an unregistered design and the relevant date applying to the design.

Limitation on exploitation of an unregistered design

63. Notwithstanding the provisions of section 61, the protection of a design as an unregistered design does not constitute a permission to exploit the design as stated in that section in a manner of violating existing rights under the provisions of any law.

Application for registration of an unregistered design

64. A proprietor of an unregistered design may, within twelve months of the relevant date, file with the Authority an application for registration of the unregistered design and the provisions under Chapter 4 will apply with respect to the application, examination of the application and registration of the design.

Period of validity of unregistered design

65. The period of validity of an unregistered design is three years from the relevant date.

**Chapter 6: Design Infringement**

Infringement of a registered design

66. A person exploiting a registered design as stated in section 37, either on his own or through another, after the date of publication of the design application under section 22 and without the permission of the proprietor of the registered design, is infringing the registered design.

- Infringement of unregistered design 67. A person exploiting an unregistered design as stated in section 61, either on his own or through another, after the relevant date and without the permission of the proprietor of the unregistered design, is infringing the unregistered design.
- Indirect infringement of an unregistered design 68. (a) A person doing any of the acts specified below in an unregistered design product is infringing the unregistered design, if at the time of doing the act he knew or should have known that the design product is an infringing product:
- (1) sale or lease, including a bid or position for sale or lease, in a commercial manner;
  - (2) possession for the purpose of doing any of the acts stated in paragraph (1);
  - (3) distribution on a commercial scale;
  - (4) import to Israel not for personal use.
- (b) In this section, “infringing product” means an unregistered design product manufactured without the permission of the proprietor of the unregistered design, excluding such product that was manufactured outside of Israel with the permission of the proprietor of the design or anyone on his behalf.
- Presumption of knowledge with respect to unregistered design 69. Where the proprietor of an unregistered design has marked the design product pursuant to the provisions under section 62, it is presumed that anyone who exploited the unregistered design as stated in section 67, or carried out an act as stated in section 68, knew that the proprietor of the unregistered design believed that his design was eligible for protection as an unregistered design pursuant to the provisions of this Law.
- Defense in an action on infringement of registered design 70. (a) Any ground under which a registered design can be cancelled shall serve as a good defense in a registered design infringement action. Where the court is convinced that there is such a good defense, it will order the cancelation of the design registration or the amendment of the registration in the Register so that it reflects the rights in the registered design. Where the court has ordered the cancelation of such registration, the provisions of section 49(b) will apply to this matter, *mutatis mutandis*.

(b) An assertion that an unregistered design was ineligible for protection under the provisions of this Law will serve as a good defense in an unregistered design infringement action.

Action for design infringement

71. (a) A design infringement action may be filed by the design proprietor, and if an exclusive license is granted with respect to the design under section 15 – also the aforesaid licensee. However, where an agreement has been made with respect to a registered design pursuant to the provisions of section 15 and the rights have not yet been registered in the Register in its regard pursuant to the provisions of section 17, a party to the agreement whose rights under the agreement have not yet been registered in the Register may file a design infringement action.

(b) Where the design is under joint ownership, each of the joint proprietors of the design may file a design infringement action.

(c) No action should be filed under the cause of a registered design infringement except after the design is registered; however, where an action has been filed for such infringement, the court may grant a remedy for the infringement of the design as registered done after the date of publishing the filing of the design application under section 22, as if a registered design had been infringed. Nothing in the provisions of this subsection will derogate from the right of the proprietor of the design to file an action on the grounds of design infringement as an unregistered design, as long as the design has not yet been registered.

(d) A plaintiff filing an action as stated in subsection (a) or (b) will join as a party to the action any person entitled to claim under the aforesaid provisions of the subsections; however, the court may, at the request of the plaintiff, or at the request of any person whose joinder is requested, exempt from the aforesaid joinder of a party.

Declaration on non-infringement of design

72. (a) Anyone who intends to perform any of the acts enumerated in section 37(a) or 61 may request from the court a declaratory judgment according to which the act sought is not by any mean design infringement.

(b) Issuing such a declaratory judgment or refusing to issue it as stated in subsection (a) will not determine on the question of the validity of the design.

## Chapter 7: Remedies for Design Infringement

Design infringement – a tort

73. Design infringement is a civil wrong and the provisions of the Torts Ordinance [New Version]<sup>4</sup> will apply to it, *mutatis mutandis*, and subject to the provisions of this Law.

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<sup>4</sup> *Dinei Medinat Yisrael (Nusach Chadash)* No. 10, page 266.

- injunction order for design infringement
74. In an action on design infringement, the plaintiff is entitled to a remedy by way of an injunction order, unless the court finds that there are reasons that justify not making such an order.
- compensation without proof of damage
75. (a) In an action on design infringement, the court may, at the request of the plaintiff, award the plaintiff for any infringement, compensation without proof of damage in an amount not exceeding 100,000 New Israeli Shekels.
- (b) When determining compensation under the provisions of subsection (a), the court may take the following, *inter alia*, into considerations:
- (1) the scope of the infringement;
  - (2) the severity of the infringement;
  - (3) the actual damage caused to the plaintiff, according to the court's estimation;
  - (4) the profit the defendant accrued, according to the court's estimation;
  - (5) the nature of the defendant's activity;
  - (6) the nature of the relationship between the defendant and the plaintiff;
  - (7) the defendant's good faith, taking into account, *inter alia*, the various options available for designing designs with respect to products from the sector to which the registered design product belongs.
- (c) For the purpose of this section, infringements committed under one set of acts will be deemed one infringement.
- (d) The Minister, with the approval of the Economic Affairs Committee, may, by order, alter the amount determined in subsection (a).
- giving account
76. In an action for design infringement, the court may require the defendant to give an account to the plaintiff in regard to the details of the infringement. The Minister may prescribe the manner on how giving account shall be done under this section.
- Remedies regarding design
77. (a) Upon conclusion of an infringement action hearing of a right in a design, the court may, after having taken into consideration, *inter alia*,



products in which a right has been infringed

the severity of the infringement and the interest of any other person concerned that is not a party to the action, order the following –

(1) the performing of an act with respect to the design products in which the right was infringed (hereinafter referred to in this section as the “infringing products”) the purpose of which is to prevent any damage to the proprietor of the design, including the transfer of ownership in said products to the plaintiff if he requested so, or their destruction; however, where the court has ordered such transfer of ownership, it may, if it found that the plaintiff is likely to use the infringing products, charge him with payment as it shall determine;

(2) the performing of an act in assets whose main and central use was for the manufacture of the infringing products whose purpose is to prevent the continued infringement heard by the court, or any other infringement of a right in the design.

(b) The provisions of subsection (a) will also apply with respect to a product found in the possession of a person who did not personally infringe the design, all subject to the provisions of section 34 of the Sale Law, 5728-1968.<sup>5</sup>

Innocent infringer

78. (a) In an action due to a design infringement, the infringer will not be ordered to pay damages as a result of the infringement if he did not know or could not have known, on the date of the infringement, that there were rights in the design.

(b) Without derogating from the generality of the provisions of subsection (a), it is presumed that the infringer knew that there are rights in the design upon the fulfillment of the following conditions:

(1) the design was registered under section 31;

(2) with respect to an unregistered design – the design was marked under section 62 or an application for its registration was published under section 22.

## **The Designs Bill, 5775 – 2015**

### **Chapter 7: International Designs**

#### **Article 1: Definitions**

Definitions 79. In this section -

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<sup>5</sup> *Sefer HaChukkim* of 5728, page 98.

“International Application” means an application for the registration of a design as a registered international design, submitted to the International Bureau under the Hague Agreement;

“The Hague Agreement”, “The Agreement” – as defined in Article 1 of the Geneva Act;

“The International Register” – as defined in Article 1 of the Geneva Act;

“The International Bureau” – as defined in Articles 1 and 22 of the Geneva Act;

“The Hague Act” means the Hague Act of the Hague Agreement concerning the international registration of industrial designs, dated November 28<sup>th</sup> 1960;

“The Geneva Act” means the Geneva Act of the Hague Agreement concerning the international registration of industrial designs, dated July 2<sup>nd</sup> 1999;

“Registered International Design” means a design registered in the International Register in accordance with the Hague Agreement;

“Registered International Design Designated for Israel” means a registered international design where its registration application designates the state of Israel as the destination for the registration of the design;

“The Hague Regulations” means the common regulations under the Geneva Act and the Hague Act, published on the website of WIPO – World Intellectual Property Organization; as amended from time to time.

## **Article 2: International Applications**

filling an  
International  
Application

80.

(a) An Israeli citizen, an Israeli resident or a person who has an active industrial or commercial establishment in Israel, may file for an International Application in accordance with the provisions of subsection (b), together with fees as stipulated in the Hague Agreement and the Hague Regulations.

(b) An International Application and any other document relating to such an application that must be submitted or that may be submitted pursuant to the Hague Agreement or the Hague Regulations, shall be submitted in the form, in the manner and at the time prescribed in the said agreement and regulations.

Forwarding an International Application submitted to the Authority 81. Without derogating from the provisions of section 80, the Minister may prescribe provisions regarding filling an international application and its transfer to the international Bureau through the Office, upon the applicant's request, and the Minister may determine under section 112(a) (5) that the applicant will be required to pay a fee to the Office for transferring such application

### **Article 3: Handling Registered International Designs Designated for Israel**

The status of a Registered International Design Designated for Israel 82. A Registered International Design Designated for Israel shall be deemed a design with respect to which an application to register the design was filed under the provisions of Article 1 of chapter 4, starting on the date of its registration in the international Register under the provisions of the Hague Agreement.

Examination of a Registered International Design Designated for Israel 83. (a) The competent Authority shall examine whether a registered international design designated for Israel is illegible for protection as a registered design under the provisions of part 2.

(b) Notwithstanding the provisions of chapter 2, the relevant date for the purpose of examining the eligibility of such a design in subsection (a) shall be the date of the design's registration in the international register, and if the international application in respect of such design included declaration of priority due to a prior application as defined in section 21, one or more. Pursuant to the provisions of section 6 of the Hague Agreement (in this section, Prior Application), the relevant date shall be the date recognized by the International Bureau, as the filing date of the international application, provided that the applicant or the International Bureau filed to the Office, on time and in the manner proscribed by the Minister, a copy of the prior application allowed by the competent authority the prior application was submitted to.

(c) Notwithstanding the provisions in subsection (b), a holder of a registered international design designated for Israel may file a request to recognize a priority for the registered international design also under the provisions of section 21.

(d) the provisions of article 2 of chapter 4 shall apply for the purpose of examining a registered international design designated for Israel as stated in subsection (a), *mutatis mutandis* and subject to the following changes; A notice of definition under section 29 may only concern the ineligibility of the design for protection as a registered design under the provisions of chapter 2, unless stipulated otherwise under the Hague Agreement or the Hague Regulations.

Registration in  
a Register of a  
Registered  
International  
Design  
Designated  
Israel

84. Where the competent Authority deemed a Registered International Design that is Designated for Israel is eligible for protection as a registered design under the provisions of Chapter 2, the provisions of article 3 of chapter 4 shall apply to the design registration in the register, except for section 31(a) and (b), *mutatis mutandis* and subject to the following changes; The Commissioner shall register the design in the Register, it shall be noted in the registration that the design is an international registered design, a reference to the registration of the international registered design shall be published on the International Bureau website, and notify the international Bureau within 12 months from the date the design was published regarding the protection granted to the design in Israel.

Notice of  
refusal

85. (a) Where the competent Authority deemed a Registered International Design that is Designated for Israel is not eligible for protection as a registered design under the provisions of Chapter 2, it shall notify the international Bureau, within the period of twelve months from the day the design was published in the international Register, a notice of refusal to register the design (in this section – Notice of refusal), attaching the reasons for this.

(b) Where the Competent Authority has deemed such design under subsection (a) may be eligible for registrations as a supplementary design under the provisions of Article 7 of Chapter 4, the following provisions shall apply:

1. the Competent Authority shall send a notification of refusal regarding the application as stated in subsection (a) and it will send the international Bureau notice thereof, unless prescribed otherwise by the minister and in accordance with the provisions he prescribed.
2. the competent authority shall give notice to the applicant that he is entitled to submit a supplementary design application under the provisions of article 7 of chapter 4 and that he is exempted from paying a fee for such application.
3. if such application in paragraph (2) was submitted, the provisions of section 7 of chapter 4 will apply, and the relevant date for this matter is the date specified in section 83(b); the authority will not charge an extra fee for the application applied following the notice as stated in this paragraph.

(c) If the competent authority did not send a notification of refusal to the international bureau within the period mentioned in subsection (a) or the design was not registered under the provisions of section 84, the registered international design shall be deemed as

registered in the Register at the end of the aforesaid period, the commissioner shall register it in the Register and publish it in accordance with the provisions of section 84

(d) Where the competent authority, at any time, has deemed a registered international design designated for Israel, of which a refusal notification has been sent, eligible for protection as a registered design under the provisions of chapter 2, it shall send the international Bureau a notification of cancelation of such notice of refusal, or a notification of grant of protection to the design in Israel under the provisions of article 84, the provision of the aforesaid article shall apply, *mutatis mutandis*.

Applying the provisions on an International Design Registered in Israel 86. When an international design is registered in the Register in pursuant to the provisions of Article 84 or Article 85(c), such design (in this chapter – an International Design Registered in Israel) will be subject to the provisions of Article 2 of Chapter 3, Articles 4 to 6 of Chapter 4, except for the provisions of section 40, 41 and 47, as well as chapter 5, 7 and 10, *mutatis mutandis* and according to following changes.

(1) A renewal fees and an arrears fee payable in accordance with the provisions of Article 17 of the Hague Agreement and the Hague Regulations;

(2) The Minister may prescribe additional types of actions in connection with an International Design Registered in Israel, which shall be carried out only in accordance with the provisions of the Hague Agreement and the Hague Regulations.

The effect of amendments to the International Register 87. (a) The Minister shall determine, in accordance with the provisions of Article 16 of the Hague Agreement, types of amendments to an international design registered in Israel, which if registered in the international register; shall have validity as if they had been registered in Israel.

(b) The competent official shall document such amendments in subsection (a) in the Register.

#### **Article 4: General Provisions regarding International Designs.**

Notification regarding cancellation of an International Design 88. The competent authority shall notify the International Bureau a regarding any decision under Article 6 of Chapter 4 as applied pursuant to the provisions of article 86, or of any court decision under Article 70 in respect of which a notification has been given to the Authority, regarding the deletion or cancellation of the registration of an international design registered in Israel.

Registered in  
Israel

Confidentiality of the documents 89.

The competent authority and the Office employees shall not disclose any information or document that they have received from the International Bureau in the course of the execution of the provisions under this chapter, all in accordance with the provisions of the Hague Agreement.

Application of the provisions of the Hague Agreement and the Hague Regulations 90.

In any matter relating to an International Application or a Registered International Design, which has not been regulated under this chapter, the provisions of the Hague Agreement and the Hague Regulations shall apply, in accordance with the obligations of the State of Israel with regard to said agreement and regulations.

Publishing the Hague Agreement

91. The Office shall publish on its website the Hague agreement and a reference to the Hague regulations

## Chapter 9: Penalties

Penalties 92.

(a) A person commercially exploiting a registered design through a business in one of the ways specified below and without the permission of the proprietor of the registered design, contrary to the provisions of section 66 shall be liable to the fine prescribed in section 61(a)(4) of the Penal Law, 5737-1977<sup>6</sup> (hereinafter referred to in this Chapter as the “Penal Law”):

(1) the manufacture of a design product identical to the registered design;

(2) the import of a design product identical to the registered design.

(b) Where an offense under this section has been committed by a corporation, it shall be liable to double the fine prescribed for such offense.

Liability of officer of corporation 93.

(a) An officer of a corporation is obligated to oversee and do his utmost to prevent any of the offenses specified in section 92 (hereinafter referred to in this section as an “offense”) by a corporation or by any of its employees; violation of the aforesaid duty shall make him liable to the fine determined in section 61(a) (2) of the Penal Law.

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<sup>6</sup> *Sefer HaChukkim* of 5737, page 226.

(b) Where an offense has been committed by a corporation or any of its employees, there is a presumed that the officer violated his duty under subsection (a), unless he proved that he did his utmost to fulfill his aforesaid duty.

(c) In this section, an “officer” is an active manager of a corporation, a partner, with the exception of a limited partner, or the official responsible on the corporation’s behalf for the sector in which the offense was committed.

### Chapter 10: Miscellaneous Provisions

- |  |     |  |
|--|-----|--|
| Commissioner of Designs                      | 94. | A person appointed as the Commissioner of Patents under section 157 of the Patents Law will also serve as Commissioner of Designs.   |
| Delegation of powers to Commissioner         | 95. | (a) The Commissioner may delegate to an employee of the Authority the powers granted to him under this Law, with the exception of powers under sections 12(b), 25, 34(b), 43, 46 to 48, 96, 98(b) and (c), 99 and 103(b).<br><br>(b) A notice on delegation of powers under this section will be published in <i>Reshumot</i> .  |
| Objection to decisions of Authority employee | 96. | A person who considers himself as aggrieved by a decision or act of an employee of the Authority to whom the Commissioner has delegated his power pursuant to the provisions of section 95 may object to this in writing before the Commissioner within the period prescribed by the Minister.   |
| Decisions of the competent authority         | 97. | A decision of the competent authority under this Law will be reasoned and in writing and will be delivered in the manner prescribed by the Minister to anyone that was a party to the application or the proceedings in which the decision was handed down.  |
| Proceedings before the Commissioner          | 98. | (a) (1) The Commissioner will publish a notice on any proceeding conducted before him under sections 12(b), 25, 34, 43 and 46 to 48.<br><br>(2) The provisions of paragraph (1) will not derogate from the power of the competent authority to publish, at his discretion, a notice on any proceeding being conducted before him under this Law.<br><br>(b) Any person who considers himself as aggrieved by a proceeding being conducted before the Commissioner as stated in subsection (a)(1) |

may request from the Commissioner to be joined to the proceeding, within 30 days of the date that the fact of holding the proceeding was published under this Law, and the Commissioner may join him as aforesaid. The Commissioner will give the parties and any other person likely in his opinion to be aggrieved by the decision, an opportunity to file their evidence and present their arguments, in writing or verbally, in the manner, form and on the dates as prescribed by the Minister.

(c) The Commissioner may order payment of reasonable expenses and instruct any of the parties to pay the expenses, and how they are to be paid.

(d) An order under subsection (c) may be implemented as if it were a judgment of a court.

Evidence before  
the  
Commissioner

99. (a) Subject to the provisions under this Law and unless the Commissioner instructed otherwise on special grounds to be recorded, testimony given before the Commissioner will be by affidavit and the other party will have a right to cross-examine the deponent.

(b) When collecting oral testimony, the Commissioner will have all the powers of a court with respect to the warning of the witnesses, obtaining a declaration from them and obligating witnesses to appear before him and with respect to other related matters, as well as on matters relating to the giving of testimony.

Extension of  
periods

100. (a) The competent authority may, under a request submitted to him and if he believes there are reasonable grounds for doing so, extend any period determined under Chapter 4 for the doing of any act before him or before the Authority, with the exception of the periods determined in sections 30(b), 40, 41 and 43(a), and in addition to extend the periods under sections 96 and 98(b), however with respect to section 21 –

(1) he will not extend the period under section 21(1) unless he was convinced that the design application in Israel was not filed on time due to reasons over which the applicant and his legal representative had no control and which could not have been prevented;

(2) he will not extend the period under section 21(2) unless the competent authority found that no application was filed for recognition of the date of filing a prior application due to an innocent mistake, provided however that the design has not yet been registered.

(b) The competent authority may make the extension of the periods stated in this section contingent on conditions he deems fit.



(c) A request for the extension of the period as stated in this section may be filed within or after the period; however, if the request was filed after the expiration of the period, the competent authority will extend it only on special grounds to be recorded.

Confidentiality 101. A person who received information or a document under this Law in the course of carrying out his duties or in the course of his employment will keep such information confidential, not transfer it to any other person and will not make any use of it except under the provisions of this Law, and subject to the provisions of any law or under a court order.

Designs Register 102. (a) A register of designs will be kept at the Authority in which the information required under this Law will be recorded, as well as additional details that the Commissioner deems fit to record.

(b) The Register will be open for public inspection on the Authority's website.

Publication of information on the Authority's website 103. (a) Information published on the Authority's website under this Law, including the Register, will be accessible to the public free of charge. Such publication on the website will be carried out in such manner to ensure the credibility, availability and retrieval of the information published thereon, and output capability.

(b) Notwithstanding the provisions of subsection (a), the Commissioner may not publish information as stated in the aforesaid subsection, at the request of anyone who passed on the information to the competent authority or the Authority under this Law.

(c) To safeguard the information published on the Authority's website under this Law, the Authority will use dependable software and hardware systems providing reasonable protection against penetration, disruption, disturbance or causing damage to the computer or the computer material.

(d) In this section, "computer material" and "output" are as defined in the Computers Law, 5755-1995.<sup>7</sup>

Safeguarding the Authority's documents and public inspection 104. (a) All documents in the possession of the Authority relating to the examination of a design application, the period of the design and the rights therein, or any other matter that may affect the period of the design or the rights therein, with the exception of internal correspondence between the Authority's employees or categories of documents determined under section 112(a)(6) will be kept by the

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<sup>7</sup> *Sefer HaChukkim* of 5755, page 366.

Authority from the date of validity expiration of the design or from the date the design application was rejected or that the applicant withdrew from such an application, as the case may be, and until the expiration of at least seven years from such date or until the expiration of any other period determined under the aforesaid section.

(b) The documents that must be safeguarded pursuant to the provisions of subsection (a) will be open for public inspection on the Authority's website, with the exception of documents relating to a design application that has not yet been published under section 22 and information as stated in section 103(b).

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|---|------|--|
| Registration of rights under a judgment | 105. | Where a judgment has been delivered to the Commissioner in which there is a determination concerning rights in a registered design and no notice was delivered to the Commissioner concerning the filing of an appeal on the judgment, the Commissioner will record in the Register the rights with respect to which it was determined as aforesaid upon the expiration of the period for filing an appeal, unless determined otherwise in the judgment.   |
| Right of appeal                         | 106. | <p>(a) A person who considers himself as aggrieved by a decision of the Commissioner that concluded the hearing of the proceeding conducted before him under this Law, including a decision on an objection under section 96, may appeal it before the court within 45 days of the date of handing down the decision.</p> <p>(b) A person who considers himself as aggrieved by any other decision of the Commissioner under this Law may appeal it before the court after having been given permission to do so from the appellate court. The provisions of the last clause of section 41(b) of the Courts Law [Consolidated Version], 5744-1984<sup>8</sup> shall apply, <i>mutatis mutandis</i>, to the court's discretion to grant a leave to appeal, also the provisions under section 41(c)(1) and (d) of the aforesaid Law. For this purpose, "any other decision" means any decision that does not conclude the hearing proceeding conducted before the Commissioner.</p> <p>(c) The competent court with respect to an appeal on a decision of the Commissioner under this Law is the Jerusalem District Court or the Tel Aviv District Court, at the election of the appellant; however, the Minister may, by order, prescribe that the power of the District Court under this Law will also be with other District Courts as he prescribed.</p> |
| Respondents in an appeal                | 107. | Where an appeal has been filed under section 106, the respondent in the appeal will be any person who was a litigant in the proceedings before   |

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<sup>8</sup> *Sefer HaChukkim* of 5744, page 198.

the Commissioner, with the exception of the appellant; if there was no other litigant, the Commissioner will be the respondent in the appeal.

*In camera*  
hearing

108. An appeal on a decision of the Commissioner in an objection submitted to him under section 96 on a decision concerning the refusal of a design application under section 30, will be heard *in camera* if the design application was not yet published under section 22, unless the court instructed otherwise.

The  
Commissioner's  
hearing on a  
design with  
respect to which  
a proceeding is  
held in court

109. (a) Where a design registration application has been filed to the Commissioner or a request for a hearing concerning a design and the Commissioner is aware there is a proceeding pending before the court for infringement of the design with respect to which such application was filed or due to cancellation of the registration of the design in the Register, the Commissioner will not hear the application filed to him except with the leave of the court.

(b) Where the court's leave has been granted as stated in subsection (a), the Commissioner shall decide about the application after having given all the parties in the proceeding pending before the court an opportunity to present their arguments before him, except in the examination proceedings of a design application.

(c) Where a proceeding has been commenced in court for infringement of a design after an application was filed to the Commissioner for the deletion of registration of the design from the Register or for its cancellation under section 47 or 48, the Commissioner will continue to hear the application, unless instructed otherwise by the court on this matter.

Postponement by  
customs

110. (a) A proprietor of a registered design who believes that his right has been infringed or there is reasonable cause for concern that it has been infringed, may deliver a written notification to the Customs Director according to which he is the owner of a right in a registered design, and to request that he postpone the release of goods which, according to the assertion of the registered design proprietor are infringing his right in the design, and to treat them as goods whose import is prohibited under the Customs Ordinance (hereinafter referred to in this section as the "notification").

(b) The notification shall include all the following:

(1) a copy of the record of the design in the Register, as well as a clear visual description of the registered design enabling the Customs Director to compare the registered design and the infringing goods, including photographs, a catalog or any other

document enabling the Customs Director to make such comparison;

(2) sufficient indication of the name of the importer importing the infringing goods or the container number in which they are imported;

(3) additional details if they are known to the proprietor of the registered design, including the name of the ship or the means of import in which the infringing goods were imported, the date on which such goods are to arrive in Israel and the number of packages to be received.

(c) A proprietor of a registered design will furnish the Customs Director with initial evidence and an independent self-guarantee in an amount determined by the Customs Director to cover the expense relating to a postponement or to compensate for any damage incurred by such postponement, if it becomes apparent that the postponement was not justified, and also to pay any fee prescribed in this regard under the Customs Ordinance. For the purpose of this subsection, the furnishing of any details enumerated in subsections (a) and (b) will be deemed the furnishing of initial evidence.

(d) The provisions of this section will not apply to infringing goods imported for personal use.

(e) In this section, the “Customs Director” means the Director, as defined in the Customs Ordinance.

Application to  
the State

111. (a) This Law will also apply to the State, subject to the provisions of subsection (b).

(b) (1) The provisions of section 12 will also apply, *mutatis mutandis*, to a design designed by a State employee.

(2) The provisions of section 13 will also apply, *mutatis mutandis*, to a design ordered by a State employee, and the State will be the first proprietor of the design that was designed according to such order.

(3) In this subsection, a “State employee” includes a soldier, police officer and any officer or functionary under statute in any of the State institutions.

## **Chapter 11: Implementation and Regulations**

Implementation  
and regulations

112. (a) The Minister is responsible for the implementation of this Law and he may enact regulations on any matter relating to its implementation, and *inter alia*, on the following matters:
- (1) arrangements for registration of designs and the classification of design products ; the list of classifications will be determined, if possible, pursuant to the Locarno Agreement;
  - (2) procedures in proceedings under this Law;
  - (3) the determination of dates for implementation of acts required under this Law;
  - (4) applications filed under this Law, including the manner of filing the application, details to be included therein and the documents to be attached to it. In the regulations under this paragraph, the Minister may determine the documents the competent authority may demand from a person filing a design application, provided however that such documents are known to the applicant and they will affect the eligibility of the design for protection as a registered design;
  - (5) the fees for applications filed with the Authority or for acts of the Authority under this Law, including for registration and renewals of designs and proceedings before the competent authority, and the methods of updating the fee amounts, dates of updating and dates of payment of fees; in the regulations under this paragraph the Minister may prescribe fees for any design included in A design; regulations under this paragraph will be enacted with the consent of the Minister of Finance;
  - (6) categories of documents to which the provisions of section 104(a) will not apply or will apply with the changes as determined, and also documents and categories of documents to be kept by the Authority for a period that is different than the one prescribed in that section;
  - (7) the method of publication of information that must be published under this Law on the Authority's website, and the determination of additional methods for publication of such information;
  - (8) the method of filing an objection as stated in section 96.
- (b) Regulations under subsection (a) (5) and (7) will be enacted with the approval of the Economic Affairs Committee.

## Chapter 12: Indirect Amendments

Amendment of  
the Patents and  
Designs  
Ordinance – no.  
10

113. In the Patents and Designs Ordinance<sup>9</sup> -

(1) the following will be inserted after section 3A:

“Applying  
Ordinance in  
respect to  
designs:

3B. The provisions under this Ordinance will apply to a design that prior to the date of commencement of the Designs Law, 5777-2017<sup>10</sup> (referred to in this Ordinance as the “Designs Law”) satisfied one or more of the following conditions:

(1) the design was made public;

(2) a design application was filed for in the Designs Register;

(3) the design was registered in the Designs Register.”;

(2) In section 33 –

(a) in the margin heading, the word “copyright” should be replaced by the word “the design”;

(b) the following will be inserted after subsection (3):

“(3A) If the Commissioner was requested on the relevant date and in the manner prescribed, before the expiration of the third period of five years, to extend the date of the design right and the fee determined was paid, the Commissioner shall extend the period of the design right for a fourth period of three years from the date of expiration of the third period; the fee for the extension of the date of the design right under this subsection will be equal to the fee determined under the provisions of subsection (3);

(c) in paragraph (4), instead of the words “and – (3)” will be inserted the words “up to (3A)”, instead of “or (3)” will be inserted “up to (3A)” and instead of the words “the first or second” will be inserted “the first, second or third”;

(3) the following will be inserted after section 37:

<sup>9</sup> *Laws of Palestine*, vol. II, page (Hebrew) 1053, (English) 1076; *Sefer HaChukkim* of 5768, page 568.

<sup>10</sup> *Sefer HaChukkim* of 5777, page 1176.

“Remedies with respect to assets produced in infringement of a design right

37A. (a) Upon conclusion of a claim for infringement of a design right, the court may, after having considered, *inter alia*, the severity of the infringement and the interest of any other person concerned that is not a party to the claim, instruct as follows –

(1) the performing of an act with respect to assets produced in infringement of a right (in this section, the “infringing assets”) whose purpose is to prevent damage to the proprietor of the design right, and including the transfer of ownership in these assets to the plaintiff if he so requested, or their destruction; however, where the court ordered such transfer of ownership, it may, if it found that the plaintiff was likely to use the infringing assets, charge him the payment as it shall determine;

(2) the performing of an act with assets whose main or central use was for the manufacture of infringing assets whose purpose is to prevent the continued infringement heard by the court or any other infringement of a design right.

(b) The provisions of subsection (a) will also apply with respect to an asset found in the possession of a person who was not himself in infringement of such right, all subject to the provisions of section 34 of the Sale Law, 5728-1968<sup>11</sup>.”;

(4) Section 55 – repealed.

Amendment of Customs Ordinance – No. 27

114. In the Customs Ordinance<sup>12</sup>, in section 200A(a) –

(1) In the opening section, after the words “or in any other manner” will be inserted the words “and with respect to a design – by way of receipt of a notice as stated in section 110 of the Designs Law, 5777-2017 (in this section, the “Designs Law”); instead of the words “infringement of

<sup>11</sup> *Sefer HaChukkim* of 5728, page 98.

<sup>12</sup> *Dinei Medinat Yisrael (Nusach Chadash)*, Vol. 3, page 39; *Sefer HaChukkim* of 5776, page 283.

copyright or trademark” will be inserted the words “infringement of copyright, trademark or right in a registered design”;

(2) in paragraph (3), instead of the words “the proprietor of the copyright or trade mark” will be inserted the words “the proprietor of the copyright, design or trademark” and instead of the concluding part, beginning with the words “or 69A” will be inserted the words “section 110 of the Designs Law or section 69A of the Trademarks Ordinance, where notice was given”.

Amendment of the Income Tax Ordinance – No. 243 115. In the Income Tax Ordinance<sup>13</sup>, in sections 2(9), 8(b) and 125, wherever the words appear “patent or design”, will be inserted the words “patent, design (old version) design”.

Amendment of the Purchase Tax (Goods and Services) Law – No. 24 116. In the Purchase Tax (Goods and Services) Law, 5712-1952<sup>14</sup>, in section 1, in the definition of “service” in paragraph (3), instead of the words “design rights” will be inserted the words “rights in a design or a design”, instead of “for use thereof” will be inserted the words “for use thereof” and instead of “design right” will be inserted “rights in a design or design”.

Amendment of the Chamber of Advocates Law – No. 40 117. In the Israel Bar Association Law, 5721-1961<sup>15</sup>, in section 20(2) after the words “the Registrar of Patents and Designs” will be inserted the words “the Commissioner, as defined in the Designs Law, 5777-2017<sup>16</sup>;

Amendment of the Appellations of Origin and Geographical Indications (Protection) Law – No. 5 118. In the Appellations of Origin and Geographical Indications (Protection) Law, 5725-1965<sup>17</sup> (hereinafter, the Appellations of Origin (Protection) Law”) –

(1) in section 21A, instead of the words “under sections 22 and 23” will be inserted the words “under sections 22, 23 and 23A”;

(2) in section 21B(a), instead of the words “under sections 22 and 23” will be inserted the words “under sections 22, 23 and 23A”;

(3) the following will be inserted after section 23:

Remedies with respect to assets produced in infringement	23A. (a) Upon conclusion of hearing of an action for infringement of a right in a registered appellation of origin, the court may, after having considered, <i>inter alia</i> , the severity of the
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<sup>13</sup> *Dinei Medinat Yisrael (Nusach Chadash)*, Vol. 6, page 120; *Sefer HaChukkim* of 5777, page 1092.

<sup>14</sup> *Sefer Ha-Chukkim* of 5712, page 344; of 5776, page 286.

<sup>15</sup> *Sefer Ha-Chukkim* of 5721, page 178; of 5776, page 1115.

<sup>16</sup> *Sefer Ha-Chukkim* of 5777, page 1176.

<sup>17</sup> *Sefer Ha-Chukkim* of 5725, page 186; of 5772, page 57.



of a right in a registered appellation of origin

infringement and the interest of any other person concerned that is not a party to the action, instruct as follows –

(1) the performing of an act with respect to assets produced in infringement of a right (in this section, the “infringing assets”) whose purpose is to prevent damage to the proprietor of the right, and including the transfer of ownership in these assets to the plaintiff if he so requested, or their destruction; however, where the court ordered such transfer of ownership, it may, if it found that the plaintiff was likely to use the infringing assets, charge him the payment as it shall determine;

(2) the performing of an act with assets whose main or central use was for the manufacture of infringing assets whose purpose is to prevent the continued infringement heard by the court or any other infringement of a right.

(b) The provisions of subsection (a) will also apply with respect to an asset found in the possession of a person who was not himself in infringement of such right, all subject to the provisions of section 34 of the Sale Law, 5728-1968<sup>18</sup>.”

Amendment of Patents Law – No. 12

119. In the Patents Law, 5727-1967<sup>19</sup> -

(1) in section 143(a), instead of the word “design” will be inserted the words “the design, the designs”;

(2) in section 154(a), instead of the word “for designs” will be inserted “for design, for designs”;

(3) in section 182, subsection (b) – repealed.

Amendment of Trademarks

120. In the Trademarks Ordinance [New Version], 5732-1972<sup>20</sup> -

<sup>18</sup> *Sefer Ha-Chukkim* of 5728, page 98.

<sup>19</sup> *Sefer Ha-Chukkim* of 5727, page 148; of 5774, page 274.

<sup>20</sup> *Dinei Medinat Yisrael (Nusach Chadash)*, Vol. 26, page 511; *Sefer Ha-Chukkim* of 5770, page 562.

- Ordinance – No. 8 (1) in section 11(4), instead of the words “registered design” will be inserted the words “registered design”, “design”, “registered design”, “unregistered design”;
- (2) in section 69A(b) at the opening part of the section, instead of the words “a copy of the trademark registration certificate” will be inserted the words “a copy of the trademark registration in the Register”.
- Amendment of the Criminal Procedure Law – No. 80 121. In the Criminal Procedure Law [Consolidated Version], 5742-1982<sup>21</sup>, in the First Schedule A, in Part A, item (66) – to be deleted.
- Amendment of Companies Ordinance – No. 20 122. In the Companies Ordinance [New Version], 5743-1983<sup>22</sup>, in section 178(a)(6) in each place after the word “patents” will be inserted the words “design or designs”, and instead of the words “rights of copyright” will be inserted the word “copyright”.
- Amendment of the Courts Law – No. 90 123. In the Courts Law [Consolidated Version], 5744-1984<sup>23</sup>, in section 40(4), after sub-paragraph (i) will be inserted the following:  
“(j) The Designs Law, 5777-2017<sup>24</sup>;
- Amendment of the Restrictive Trade Practices Law – No. 19 124. In the Restrictive Trade Practices Law, 5748-1988<sup>25</sup>, in section 3(2), after the word “design” will be inserted the word “design”.
- Amendment of the Integrated Circuits (Protection) Law 125. In the law for the protection of the Integrated Circuits (Protection) Law, 5760-1999<sup>26</sup> (hereinafter, the “Integrated Circuits (Protection) Law”), the following will be inserted after section 12:  
“Remedies with respect to assets produced in infringement of exclusive right in a layout plan (topography) 12A. (a) Upon conclusion of a hearing in an action for infringement of an exclusive right in a layout plan (topography), the court may, after having considered, *inter alia*, the severity of the infringement and the interest of any other person concerned that is not a party to the action, instruct as follows –  
(1) the performing of an act with respect to assets produced in infringement of a right (in this section, the “infringing assets”) whose purpose is to prevent damage to the

<sup>21</sup> *Sefer Ha-Chukkim* of 5742, page 43; of 5777, page 921.

<sup>22</sup> *Dinei Medinat Yisrael (Nusach Chadash)*, Vol. 37, page 761; *Sefer Ha-Chukkim* of 5776, page 626.

<sup>23</sup> *Sefer Ha-Chukkim* of 5744, page 198; of 5777, page 695.

<sup>24</sup> *Sefer Ha-Chukkim* of 5777, page 1176.

<sup>25</sup> *Sefer Ha-Chukkim* of 5748, page 128; of 5776, page 1262.

<sup>26</sup> *Sefer Ha-Chukkim* of 5760, page 42.

proprietor of the right in the layout plan (topography), and including the transfer of ownership in these assets to the plaintiff if he so requested, or their destruction; however, where the court ordered such transfer of ownership, it may, if it found that the plaintiff was likely to use the infringing assets, charge him the payment as it shall determine;

(2) the performing of an act with assets whose main or central use was for the manufacture of infringing assets whose purpose is to prevent the continued infringement heard by the court or any other infringement of a right in a lay-out plan (topography).

(b) The provisions of subsection (a) will also apply with respect to an asset found in the possession of a person who was not himself in infringement of such right, all subject to the provisions of section 34 of the Sale Law, 5728-1968<sup>27</sup>.”

Amendment of  
the Prohibition  
on Money  
Laundering Law  
– No. 23

126. In the Prohibition on Money Laundering Law, 5760-2000<sup>28</sup>, in the First Schedule, in item (16), the word “design” and the words “the Patents and Design Ordinance” shall be deleted.

Amendment of  
the Copyright  
Law – No. 4

127. In the Copyright Law, 5768-2007<sup>29</sup> (hereinafter, the “Copyright Law”)

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(1) In section 1 –

(a) In the definition of “creative work”, the following words will be inserted at the end “and including a typeface”;

(b) In the definition ““publication” of a work”, the following words will be inserted at the end “that is not a typeface”;

(2) In section 7 –

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<sup>27</sup> *Sefer Ha-Chukkim* of 5728, page 98.

<sup>28</sup> *Sefer Ha-Chukkim* of 5760, page 293; of 5777, page 1038.

<sup>29</sup> *Sefer Ha-Chukkim* of 5768, page 38; of 5777, page 504.

(a) In the margin heading after the word “design” will be inserted the word “designs”;

(b) After the words “the Patents and Design Ordinance” will be inserted the words “or in a design as defined in the Designs Ordinance, 5777-2017<sup>30</sup>”, after the word “design” will be inserted the words “or the design” and after the word “design” will be inserted the words “or design”;

(3) In section 11(6) after the words “artistic work” will be inserted the words “that is not a typeface”;

(4) After section 28A will be inserted the following:

“Permitted use of typeface	28B. Use of a typeface by data entry, word processing, typesetting, printing or typing, as well as keeping a product for such use – are permitted even if carried out while using a computer program or other product infringing the right in the typeface.”;
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(5) The following will be inserted after section 41:

Period of copyright in typeface	41A. The copyright in a typeface will be for a period of seventy years from the date of publication of the typeface.”;
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(6) in section 45(a), the following words will be inserted at the end “however, with respect to a work that is a typeface, the right as stated in section 46(1) will not apply”;

(7) in section 47, its provisions will be marked “(a)” and thereafter the following will be inserted:

“(b) When examining an assertion of infringement as stated in subsection (a) with respect to a work which is a typeface, *inter alia*, the variety of options existing for a design of letters, numbers and other language signs will be taken into account;”;

(8) in section 48, its provisions will be marked “(a)” and thereafter the following will be inserted:

“(b) The provisions of subsection (a) will apply, *mutatis mutandis*, to a copy of a work, even if made pursuant to the provisions of

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<sup>30</sup> *Sefer Ha-Chukkim* of 5777, page 1176.

section 28B, provided however that it was made without the permission of the owner of the copyright in the typeface.”;

(9) in section 50(b), the following words will be inserted at the end “and with respect to a typeface – even if the act was made pursuant to the provisions of section 28B”;

(10) in section 60, the following will be inserted instead of subsection (a):

“(a) Upon conclusion of a hearing in an action for infringement of copyright, the court may, after having taken into consideration, *inter alia*, the severity of the infringement and the interest of any other person concerned that is not a party to the action, instruct as follows –

(1) the doing of an act with respect to infringing copies the purpose of which is to prevent any damage to the owner of the copyright, including the transfer of ownership in those copies to the plaintiff if he so requested, or their destruction; however, where the court has ordered such transfer of ownership, it may, if it found that the plaintiff is likely to use the infringing copies, charge him the payment, as it shall determine;

(2) the doing of an act in assets whose main and central use was for the manufacture of the infringing copies whose purpose is to prevent the continued infringement of copyright that the court heard or another infringement of copyright.”

### **Chapter 13: Commencement, Application and Transitional Provisions**

Commencement 128. (a) This Law shall come into effect on the date of its publication (hereinafter referred to in this Chapter as the “date of commencement”).

(b) Notwithstanding the provisions of subsection (a) –

(1) the commencement of sections 33 and 37A of the Patents and Designs Ordinance and the repeal of section 55 of the aforesaid Ordinance, sections 21A, 21B(a) and 23A of the Appellations of Origin (Protection) Law and section 12A of the Integrated Circuits (Protection) Law, as drafted in this Law, is on the date of publication of this Law (hereinafter referred to in this Chapter as the “date of publication”);

(2) the commencement of Chapter 8 is three months after the date of accession of the State of Israel as a party to the Hague Agreement, provided however that such date does not precede the

date of commencement. The Minister will publish in *Reshumot* a notice on such date of accession and the Authority will publish such notice on its website. In this paragraph, the “Hague Agreement” is as defined in section 79.

Application 129. (a) The provisions of section 33 of the Patents and Designs Ordinance, as drafted in section 113(2) of this Law, will apply to a design that on the eve of the date of publication satisfied one of the following conditions:

(1) it is a registered design under the provisions of the Ordinance and the period of the design right has not elapsed in its regard as stated in section 33(3) of the Ordinance;

(2) the period of the design right in its regard has expired due to non-filing of an extension request pursuant to the provisions of section 33(3) of the Ordinance, and on the eve of the date of publication a request was filed to extend the date of the design right pursuant to the provisions of section 33(4) of the Ordinance.

(b) The provisions of the sections specified below, as drafted in this Law, will not apply to the infringement of such a right in those sections that was made on the eve of the date of publication:

(1) section 37A of the Patents and Designs Ordinance;

(2) section 23A of the Appellations of Origin (Protection) Law;

(3) section 12A of the Integrated Circuits (Protection) Law;

(4) section 60(a) of the Copyright Law.

Application of the Designs Regulations with respect to designs 130. (a) The Designs Regulations will apply, *mutatis mutandis*, to applications for registration of a design and to a registered design under the provisions of this Law, and they will be deemed to have been enacted under this Law in those matters respecting which power was granted to enact regulations hereunder, as long as regulations have not entered into effect in their place under this Law or until the expiration of two years after the date of publication, according to the earlier of the two, provided however that all the following conditions are satisfied:

(1) the Designs Regulations were not repealed under law;

(2) no provisions were determined in this Law in those matters regulated in the Designs Regulations;

(3) the Designs Regulations are not contrary to the provisions of this Law.

(b) Without derogating from the generality of the foregoing in subsection (a) (2) and (3), Regulations 4, 5, 12, 14 to 16, 18, 29, 34 to 36, 40 to 46, 48 to 54, 57 to 58, 70(2) and 71 of the Designs Regulations and the Second Schedule to the aforesaid Regulations – will not apply with respect to designs as stated in subsection (a).

Transitional provisions

131. (a) Notwithstanding the provisions of section 35 of the Patents and Designs Ordinance, the competent authority will publish on the Authority’s website a visual description of each design registered in the Designs Register under the provisions of the aforesaid Ordinance (in this section, the “Designs Register”), as registered in such Register, and also the name of the proprietor of the design on the dates as specified below:

(1) with respect to designs registered in the Designs Register until the date of commencement – up to 30 days after the date of commencement;

(2) with respect to designs registered in the Designs Register after the date of commencement – upon their registration in the Designs Register.

(b) The Register and the Designs Register will be combined and will be displayed together on the Authority’s website, provided however that with respect to any record of a design or design the Authority will note whether it was made pursuant to the provisions of this Law or pursuant to the provisions under the Patents Ordinance.

(c) Anyone making any proper preparations to perform any of the acts stated in section 37(1)(a) or (b) of the Patents and Designs Ordinance concerning a design that but for the provisions of section 33(3A) of the aforesaid Ordinance, as drafted in this Law, the third period of design right therein as stated in section 33(3) of the Ordinance would have lapsed at the latest upon the expiration of two years after the date of publication of this Law, is entitled to perform any of the acts as stated in section 37(1)(a) or (b) of the Patents and Designs Ordinance, for the purpose of his business only, even if the period of the design right was extended as stated in the aforesaid section 33(3A).

(d) (1) A request for the extension of the date of a design right under the provisions of section 33(3A) of the Patents and Designs Ordinance, as drafted in this Law, will not be filed except upon

the expiration of three months after the date of publication and henceforth.

(2) Notwithstanding the provisions of paragraph (1), with respect to a design whose third period of design right therein as stated in section 33(3) of the Patents and Designs Ordinance has expired within the three months stated in paragraph (1), the proprietor of the design may file a request for the extension of the date of the design right pursuant to the provisions of section 33(4) of the Patents and Designs Ordinance, as drafted in this Law, and he will be exempt from payment of an additional fee under this section. Such request will be filed in the period which commenced upon the expiration of three months after the date of publication and ended upon the expiration of six months after the date of publication.

Reuven Rivlin  
*President of the State*

Benjamin Netanyahu  
*Prime Minister*

Yuli-Yoel Edelstein  
*Speaker of the Knesset*

Ayelet Shaked  
*Minister of Justice*

DISCLAIMER: For your attention please note that The English version is a translation of the original in Hebrew that is for reference only. In case of a discrepancy, the Hebrew original will prevail