

REGISTERED DESIGNS

IPOS issues Guide on Registered Designs for Non-Physical Products

In 2017, Singapore amended the Registered Designs Act (“**RDA**”) to, among other things, expand the scope of registrable designs to include virtual designs for non-physical products. With the rise of immersive technologies such as augmented and virtual reality, as well as evolving business models, the scope of the registered design protection was expanded to ensure that the RDA stays relevant.

To assist applicants seeking protection for virtual designs applied to non-physical products, the Intellectual Property Office of Singapore (“**IPOS**”) has recently issued the Registered Designs Guidelines on Non-Physical Products (the “**Guide**”) in November 2020. The full Guide may be accessed [here](#).

We have summarized below, the key considerations for an application to register virtual designs for non-physical products.

1. Requirements to apply for Registration of Virtual Designs for Non-Physical Products

Under the RDA, registrable virtual designs are designs that are applied to an eligible non-physical product. An eligible non-physical product must satisfy all of the following requirements:

- 1) It must not have a physical form;
- 2) It must be produced by the projection of a design on a surface or into a medium (including air); *and*
- 3) It must have an intrinsic utilitarian function (and does not merely portray the appearance of the thing or convey information).

The following examples provided by IPOS serve to illustrate the abovementioned requirements:

Description of Product	<u>Virtual Piano</u> created by a smart projector which can convert any flat surface into an interactive screen using a combination of infrared technology and real time detection via built-in camera and allow users to directly interact with the projections like how it would be done with a physical product.	<u>Virtual characters</u> used in augmented reality games (games which integrate the games’ visual and audio content with the user’s environment by superimposing a pre-created environment on top of the actual environment, for example, Pokémon Go).
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<i>What is the non-physical product?</i>	A virtual musical instrument (piano)	A virtual character
<i>What is the virtual design sought to be registered?</i>	Features of shape, configuration, colours, pattern or ornament applied to the virtual piano.	Features of shape, configuration, colours, pattern or ornament applied to the virtual character (for example, virtual character design of Pokémon used in Pokémon Go).
<i>Does the non-physical product have a physical form?</i>	No it is a mere projection.	No it is a mere image displayed on a screen.
<i>Is the non-physical product produced by projection on a surface or into a medium (including air)?</i>	Yes, it is created through projection through a smart projector.	No. The virtual character is displayed or emitted from a screen. It is not created through projection on a surface or a medium.
<i>Does the non-physical product possess an intrinsic utilitarian function that is not merely to portray the appearance of the thing or to convey information?</i>	Yes, the virtual piano had a musical function when the user interacts with the non-physical product (virtual piano).	No. The function of the virtual character is to merely portray its appearance to the user to play and enjoy the game.
<i>Is this a registrable virtual design for a non-physical product under the RDA?</i>	Yes.	No. However such designs may be protected under the RDA as a Graphical User Interface instead.

Other examples can also be found in the Guide.

2. Rights Conferred by Registration of Virtual Designs for Non-Physical Products

The owner of a registered virtual design for a non-physical product has exclusive rights to:

- a. make, import into Singapore, sell, hire or offer to expose for sale or hire in Singapore any device for projecting a non-physical product; and

- b. sell, hire or offer to expose for sale or hire in Singapore any non-physical product in respect of which the design is registered.

As it stands, the rights appear fairly wide and can serve as a valuable intellectual property asset for first-movers. If you would like to find out more about registering a design, whether applied to a non-physical product or otherwise, please do not hesitate to contact us.

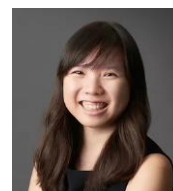
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