

**APAA DESIGNS COMMITTEE –
2009 Report for Hong Kong**

By Yvonne Chua

The new section 4 of the Registered Designs Ordinance (Cap. 522) (“the Ordinance”) came into operation on 8 May 2009. Save for this, there has not been any amendment to the Ordinance or the Registered Designs Rules (Cap. 552A) in the preceding year nor any reported decisions on registered designs.

THE NEW SECTION 4 OF THE ORDINANCE

The old section 4 read “Subject to Part IV, this Ordinance binds the Government.” It has been amended to read “Subject to Part IV, this Ordinance applies to the Government and the Offices set up by the Central People’s Government in the Hong Kong Administrative Region.”

Purpose of amendment

Section 66(1) of the Interpretation and General Clauses Ordinance (Cap. 1) (“IGCO”) provides that no ordinance (whether enacted before, on or after 1 July 1997) shall affect the right of or be binding on the PRC unless it is stated expressly to be so in the ordinance or unless it appears by necessary implication that the PRC is bound by it.

The HKSAR Legislature has enacted ordinances which expressly bind the HKSAR Government but are silent on their applicability to offices set up by the Central People’s Government in the HKSAR. In order to make such ordinances applicable to those offices, the Adaptation of Laws Bill 2009 was drafted to amend four ordinances of which the Ordinance is one.

Accordingly, the new section 4 has come into operation on 8 May 2009 and the Ordinance is now also applicable to “Offices set up by the Central People's Government

in the Hong Kong Special Administrative Region” which is defined to mean the following in the IGCO:-

- (a) the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region;
- (b) the Office of the Commissioner of the Ministry of Foreign Affairs of the People's Republic of China in the Hong Kong Special Administrative Region; and
- (c) the Hong Kong Garrison of the Chinese People's Liberation Army.

STATISTICS AND PERFORMANCE

The following are the statistics and performance level for Registered Designs in year 2008 as released by the Intellectual Property Department:-

Country	No. of Applications	No. of Registrations
Argentina	-	-
Australia	30	24
Austria	5	9
Bahamas	-	-
Belgium	-	-
Brazil	3	-
British Virgin Islands	25	27
British West Indies	-	-
Canada	43	19
Cayman Islands	6	8
Channel Islands	-	-
Christmas Island	2	-
Cook Islands	-	-
Czech Republic	23	28
Denmark	10	16
Egypt	-	-
Finland	220	115
France	160	149
Germany	154	166
Greece	-	-
Hong Kong, China	2,431	2,304
Honduras	-	-
India	-	1
Ireland	8	20
Isle of Man	-	-
Israel	7	3
Italy	91	141
Jamaica	2	-

Japan	480	460
Liechtenstein	111	100
Luxembourg	4	10
Macao, China	-	-
Malaysia	11	8
Malta	-	-
Netherlands	58	70
Netherlands Antilles	-	-
New Zealand	9	5
Nigeria	-	-
Norway	3	3
Panama	1	1
People's Republic of China	247	198
Philippines	-	-
Poland	2	2
Portugal	-	-
Republic of Korea	159	111
Russian Federation	1	1
Samoa	-	-
San Marino	1	4
Seychelles	2	2
Singapore	24	16
South Africa	-	-
Spain	35	42
Sweden	73	79
Switzerland	283	289
Taiwan, Province of China	29	31
Thailand	1	1
Turkey	2	-
United Kingdom	94	81
United States of America	747	609
United States Minor Outlying Islands	-	-
Zimbabwe	-	-
	5,597	5,153

Performance Target: Time taken to process 99% of design applications: 10 days

As reported in the last committee report, there were 5,568 design applications received and 5,804 registrations granted in 2007. We can see that there has been a slight increase (0.52%) in the number of applications received and a 11.22% drop in the number of applications granted.

Below is a table showing the number of design registration applications and the number of designs registered during the period between August 2008 and August 2009 as released by the Intellectual Property Department:-

Period	No. of Designs Applied for Registration	No. of Designs Registered
August 2008	495	608
September 2008	628	337
October 2008	384	392
November 2008	342	380
December 2008	351	305
January 2009	255	392
February 2009	276	255
March 2009	329	399
April 2009	329	273
May 2009	307	253
June 2009	286	331
July 2009	308	317
August 2009	370	301

The number of design registration applications dropped sharply from 628 in September 2008 to 384 in October 2008 (almost 40%) likely as a result of the financial crisis. The figure then remained relatively stable between October 2008 and August 2009 with the monthly number of applications ranging from 255 to 384 and January and February recording the lowest numbers.

As for the number of designs registered, there was a 45% drop between August 2008 and September 2008. The number then remained stable from September 2008 and ranged from 253 to 399.