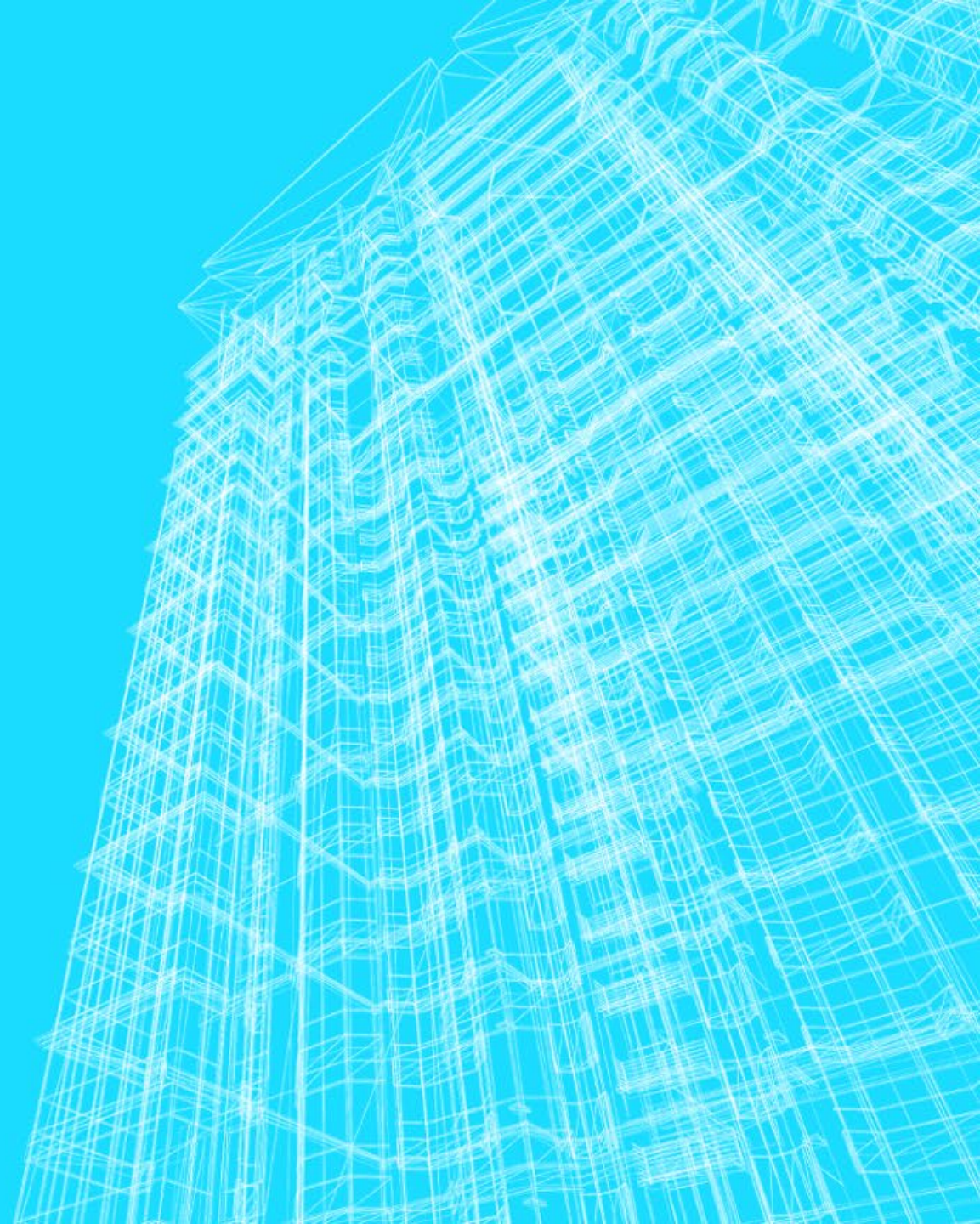


DESIGN EXAMINATION- JAMAICA

Adrienne Thompson
Manager, Trade Marks, Designs & Geographical Indications

Jamaica Intellectual Property Office





NEW DESIGNS ACT

Patent and Designs Act, 2020:

- Repeal and Replace The Designs Act ,1937
- Entered into force- February 11, 2022
- Modern law, Locarno classification system
- Priority Claims
- Deferred publication
- Increased filing fees
- Term of protection
- The Hague System

WHAT IS A DESIGN?

The definition of design:

➤ **Any composition of lines or colours; or any three dimensional form, (whether or not associated with lines or colours), which gives a special appearance to the product of industry or handicraft and serves as a pattern for a product of industry or handicraft.**

S. 81, Patent and Designs Act, 2020 (the Act)



THE DESIGN REGISTRATION CRITERIA. -1937 ACT

1. New – not known or used in Jamaica before;
and
2. Original – not substantially copied.
3. Not scandalous



NEW DESIGN REGISTRATION CRITERIA

- What is the new criteria?
- To be registered, the Design must:
 - **be new**
 - **have individual character**
 - **Not be contrary to public order or morality**

NOVELTY REQUIREMENT

❖ **Novelty** – A design is new if,
before the filing date of an application for registration or before the priority date claimed for the design,
the design has not been made available to the public anywhere or at any time (through description, use or in any other manner) or
there has not been prior disclosure of the design in Jamaica.

S.83(2)

- Worldwide novelty examination

NOVELTY REQUIREMENT

- ❖ Exceptions: Account shall not be taken of a disclosure which occurred within twelve months immediately prior to the filing date, and was due to:
 - The matter having been obtained unlawfully or by any person from the designer or from any other person to whom the matter was made available in confidence by the designer;
 - A breach of confidence by any person who obtained the matter in confidence from the designer or from any other person to whom it was made available, or who obtained it from the designer; or
 - The designer having displayed the design at a local, regional or international exhibition, and the applicant-
 - States, on filing the application that the design has been so displayed; and
 - Files, written evidence in support of the statement

INDIVIDUAL CHARACTER REQUIREMENT

❖ **Individual character (IC)** – a design has IC if, the overall impression it produces on the informed user differs from the overall impression produced on the informed user by any design which been made available to the public before the date on which the application for the registration of the design was filed or is treated a filed.

S. 83(5)



INDIVIDUAL CHARACTER REQUIREMENT

❖ **Individual character consideration,**

In determining the extent to which a design has individual character, the degree of freedom of the designer in creating the design is taken into consideration.

S. 83(6)



OTHER REGISTRATION REQUIREMENTS

- **Not contrary to public order or morality**
 - Promote crime/violence, sexually explicit, offensive to section of the public etc.

NON-REGISTRABLE DESIGNS

- Coat of Arms, Natl Flag, armorial bearings, Natl Emblems & Symbols, unless GOJ consent
- Country Name, map or colours of Jamaica
- Names or abbreviations of other countries
- Natl Flag, armorial bearings, Natl Emblems & Symbols of other countries, unless consent
- Emblems, abbreviations & names of IOs
- Regd or Unregistered TMs, unless consent
- Copyright works, unless consent
- Individual's images/ likenesses, unless consent
- TK or TCEs of ILCs

Section 83(7)



Jamaica Intellectual Property Office

(An agency of the Ministry of Industry, Investment &
Commerce)

18 Trafalgar Road

Kingston 10.

(876).946.1300 / 946-0789

Website: <http://www.jipo.gov.jm>

Email: info@jipo.gov.jm

QUESTIONS?

THANK YOU!