

Q156

International Exhaustion of IP Rights

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The comments regarding registered designs are based on the new Registered Designs Bill currently before parliament. It is expected that the resulting Registered Designs Act will come into force towards the end of 2000 or in 2001. It is not expected that the provisions relating to international exhaustion in the bill will be substantially altered before the act comes into force.

1. (i) Yes – international exhaustion is provided for by Section 66(2)(g) of the Patents Act.
(ii) Yes - international exhaustion is provided for by Section 29(1) of the Trade Marks Act.
(iii) (a) Registered Designs: Yes - international exhaustion is provided for in Section 30(7) of the Registered Designs Bill.
(b) Copyright : Yes – international exhaustion is provided for in the Copyright Act reading the definition of “infringing copy” in Section 7(1) with Section 25(3).
2. (a) (i) No – contractual restrictions cannot be imposed to limit the effect of international exhaustion.
(ii) No – contractual restrictions cannot be imposed to limit the effect of international exhaustion.
(iii) (a) Registered Designs: No – contractual restrictions cannot be imposed to limit the effect of international exhaustion.
(b) Copyright : No – contractual restrictions cannot be imposed – Section 25(3) Copyright Act.
- (b) (i) None - exhaustion still occurs.
(ii) None – exhaustion still occurs.
(iii) (a) Registered Designs: None – exhaustion still occurs.
(b) Copyright :None – exhaustion still occurs..
3. (i) Not applicable - contractual restrictions cannot be imposed.
(ii) Not applicable – contractual restrictions cannot be imposed.
(iii) (a) Registered Designs: Not applicable – contractual restrictions cannot be imposed.
(b) Copyright : Not applicable.
4. (i), (ii) (iii) Except in the case of copyright, there are no specific provisions nor any precedents on this issue. Accordingly, it is not possible to give any definitive view. However, as the Singapore legal system is based to a large extent on the UK legal system and the Singapore Patents and Trade Marks Acts and Registered Design Bills are based on the corresponding UK provisions, it is possible that the courts may consider European precedents and follow European practice. If this is the case, they would probably take the view that international exhaustion did not apply where a product has been put on the market under a compulsory licence. The Copyright Act provides by Section 25(3)(b) that the making of an article shall not be deemed to have been carried out with the consent of the owner under conditions of compulsory licence.
5. (i), (ii), (iii) The interpretation of what amounts to “consent” would be a question of fact in each case.
6. (a), (b) (i) No.

- (ii) If the condition of goods has been changed or impaired and use of the mark is detrimental to the distinctive character or reputation or the registered trade mark.
- (iii) (a) Registered Designs : No.
(b) Copyright : No.