

# STATES OF JERSEY



## **DRAFT PATENTS LAW AND REGISTERED DESIGNS LAW (JERSEY) AMENDMENT REGULATIONS 202 (P.48/2024): COMMENTS**

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**Presented to the States on 27th August 2024  
by the Economic and International Affairs Scrutiny Panel**

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**STATES GREFFE**

## COMMENTS

### Background

The Draft Patents Law and Registered Designs Law (Jersey) Amendment Regulations 202- [\[P.48/2024\]](#) (hereafter referred to as “draft Regulations”) were lodged *au Greffe* on 29th July 2024 and scheduled for debate at the States’ sitting commencing on 10th September 2024.

The Economic and International Affairs Scrutiny Panel (hereafter referred to as “the Panel”) received a briefing from Government of Jersey Officers on 10th April 2024 which included explanation of the anticipated work concerning patents and registered designs, as well as associated works regarding introduction of a system of Primary Trade Mark Registration.<sup>1</sup> The Panel has also questioned the Minister for External Relations (hereafter referred to as “the Minister”) during Quarterly Hearings. The Panel has agreed to form these comments in order to aid in the consideration of the draft Regulations.

### The Draft Regulations

The Government of Jersey is seeking extension of the UK’s ratification of both the Patent Cooperation Treaty (PCT) and the Geneva Act (1999) of the Hague Agreement Concerning the International Registration of Industrial Designs (Hague Agreement).

These agreements are similar to the Madrid protocol, relevant to Trademark registration, in the sense that they make it possible to seek patent and design protection, respectively, in a large number of countries by filing a single ‘international’ application.<sup>2</sup> The Panel is aware that the existing the [Patents \(Jersey\) Law 1957](#) (PJL) and [Registered Designs \(Jersey\) Law 1957](#) (RDJL) allow for additional treaties to be entered into, for example the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure (Budapest Treaty).

For awareness, the Panel has been advised that a patent is a type of intellectual property that gives its owner the legal right to exclude others from making, using, or selling an invention for a limited period of time in exchange for publishing an enabling disclosure of the invention.<sup>3</sup> Design Intellectual Property (Design IP) is the legal term for the exclusive rights that one has over their original design, such as its appearance, shape, configuration, or pattern.<sup>4</sup> Design IP can cover both functional and aesthetic aspects of a design, such as how it works, how it looks, or how it feels.

The Panel has been informed that patents and designs were grouped together due to their similar approach and understands that the main ambition of the Government of Jersey is to modernise, digitise, and automate the system of registration. The Panel has been informed the draft Regulations do not create any new obligations for Jersey businesses and/or residents and that no consultation has therefore been undertaken on the draft Regulations. The Panel, however, notes that consultation undertaken on anticipated changes regarding Intellectual Property and Trademarks identified the rationale behind

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<sup>1</sup> [Approved Panel Minutes - Economic and International Affairs Panel - 2024](#)

<sup>2</sup> [Consultation Paper on Intellectual Property and Trade Marks 2023](#)

<sup>3</sup> <https://www.gov.uk/patent-your-invention>

<sup>4</sup> <https://www.gov.uk/register-a-design>

the draft Regulations and would anticipate that the Minister would highlight any concerns raised by stakeholders.<sup>5</sup>

The Panel has been informed that when Jersey would have to seek the extension of the U.K.'s ratification of those the PCT and Hague Agreement review by the United Kingdom Intellectual Property Office would be required.<sup>6</sup> The Panel has been informed that compliance tables had been submitted to the U.K., and has received confirmation that they have had no concerns subject to reviewing the final draft Regulations. The Panel has been informed that it is anticipated extension of the U.K.'s membership will be sought by the end of 2024.

The Panel notes that should the draft Regulations be adopted, and on extension of the PCT and the Hague Agreement, Jersey residents and businesses will be able to file applications for international registration under the systems provided for by these agreements. The Panel understands that this will aid in the Commons Strategic Policy Priority to Reduce red tape, enhance opportunities for business and strengthen Jersey's international reputation.<sup>7</sup>

Additionally, the Panel was informed during a hearing with the Minister during of 26th April 2024 that it was not anticipated that any wholesale changes to the system of registration of patents and designs would be made with an approach of maintaining a system of re-registration for local registrations.<sup>8</sup> However, it has been highlighted to the Panel that the Government of Jersey will seek to digitise the registration processes as part of the initial modernisation programme.

### **Conclusion**

The Panel agrees that it is sensible to seek further inclusion within beneficial treaties concerning Intellectual Property. The draft Law has been brought forward for debate to allow such inclusion and the Panel has been informed that relevant U.K. authorities, at this stage, have not raised any concerns which would preclude extension of the PCT or Hague Agreement should the draft Regulations be adopted. The Panel is therefore minded to support the draft Regulations as proposed.

The Panel notes that further work remains in the Intellectual Property Framework and will continue to scrutinise this area, including:

- Successful extension of relevant treaties
- Digitalisation of registration systems
- Progression of a system of Primary Trademark Registration

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<sup>5</sup> [Consultation Paper on Intellectual Property and Trade Marks 2023](#)

<sup>6</sup> [Transcript - Quarterly Hearing with the Minister for External Relations - 26 April 2024](#)

<sup>7</sup> [Common Strategic Policy 2024 to 2026](#)

<sup>8</sup> [Transcript - Quarterly Hearing with the Minister for External Relations - 26 April 2024](#)