## Profit from Original Industrial Designs in Cambodia

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1. [Industrial Design in Cambodia](http://kenfoxlaw.com/practice-areas/cambodia/industrial-design.html) is protected under the Law on Patents, [Utility Models](http://kenfoxlaw.com/practice-areas/cambodia/invention-utility-model.html) Certificates and [Industrial Design](http://kenfoxlaw.com/practice-areas/cambodia/industrial-design.html) .  According to this Law, protection is provided for a period of five years and can be renewed for two consecutive periods of five years.  Application has to be submitted to the Registrar of the Ministry of Industry, Mines and Energy and has to be published in order to provide an opportunity for a third party to oppose the registration.  Since Cambodia is a member of the Paris Convention, a priority claim is affordable and the priority date is the date of first filing or first claim.  The registration of an [Industrial Design](http://kenfoxlaw.com/practice-areas/cambodia/industrial-design.html) is then granted with fees payable.  A period of six months is allowed as a grace period for the late payment of the renewal fee.  For commercial purposes, the Law allows the transfer or licensing of industrial designs through private agreement and this transfer of licensing has to be recorded with the Registrar of the Ministry of Industry, Mines and Energy

2 At the present time, profit from original [Industrial Design](http://kenfoxlaw.com/practice-areas/cambodia/industrial-design.html) is rarely clearly defined in Cambodia even though we have the Law on Patents, Utility Model Certificates and Industrial Designs to protect this kind of invention and many businesses have used this form of IP asset to generate revenue either directly or indirectly.  The reason why the importance of this asset has received less attention in this country is because the law enacted concerning this right is yet to be fully implemented pending the implementation of regulations to be adopted by the Council of Ministers.  However, standing by its commitment, the Government has paid much attention to the protection of this right with a view to recognizing the asset as an important tool for business development.  In Paragraphs 184 and 185 of the working party report for Cambodia’s accession to the WTO, the Government agreed that”…industrial designs were protected according to the Law on Patents in CAmbodia,  [Utility Models](http://kenfoxlaw.com/practice-areas/cambodia/invention-utility-model.html) and Industrial Designs, promulgated on 22 January 2003.  Only new industrial designs, i.e. designs not disclosed to the public through publication or use prior to the priority date, could be registered under the new Law. Protection did not extend to parts of a design dictated essentially by technical considerations.  Industrial designs contrary to public order or morality could not be registered.  Applications for registration were to be submitted to the Ministry of Industry, Mines, and Energy, and the priority date was the date of filing or first claim. Applications had to be published to afford an opportunity to oppose the registration.

Protection was provided for 5 years and could be renewed twice. Industrial designs could be transferred or licensed.  The owner had the exclusive right to request the competent authority to take action against infringements and could claim compensation”…” The Government also confirmed to the WTO that “…Cambodia’s legislation complied with the provisions of Article 26.1 of the TRIPS Agreement concerning the right of an industrial design holder to prevent the importation of articles bearing or embodying a protected design and Cambodia’s legislation guaranteed the right for the holder to prohibit third persons from “exploiting” a [registered industrial design](http://kenfoxlaw.com/practice-areas/cambodia/industrial-design.html), i.e. by making, selling, or importing articles incorporating the industrial design…”.  This commitment implied the Government’s recognition of a viable profit possibly being raised from an original industrial design which is protected by the present law.

However, for the moderately competitive business environment in Cambodia while marks play a more important role than industrial designs, a visually-attractive design alone will not be sufficient to generate revenue.  It has to be combined with the ability of entrepreneurs to find a possible way to market their design to other producers or to be able to put it into production themselves.  They can then meet consumer demand.  In the experience of Cambodia, design has been widely used to generate revenue in the fields of garments and textiles, furniture manufacturing, the plastics industry and the packaging business.  The volume of income generated from this IP asset is yet to be separately defined by any statistical research/study.

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