



BARDEHLE PAGENBERG

**Copyright Directorate Intellectual Property**  
Office 4 Abbey Orchard St  
London SW1P 2HT  
United Kingdom

Via email [Section52CDPA@ipo.gsi.gov.uk](mailto:Section52CDPA@ipo.gsi.gov.uk)

Venice, 9 December 2015

**Re Response to consultation on the timing of the repeal of section 52 of the Copyright, Designs and Patents Act 1988 ("CDPA").**

**BARDEHLE  
PAGENBERG**

I, undersigned Giovanni F. Casucci, member of the Bar of Venice (IT), contribute in my quality of:

BARDEHLE PAGENBERG  
Studio Legale Casucci  
Ferretti STP

- a) IP litigator of **FLOS spa** ([www.flos.com](http://www.flos.com)), as well
- b) Coordinator of **Centro Studi Anticontraffazione**, Milano  
(<http://www.centrostudigrandemilano.org/page.php?id=14>), and
- c) IP advisor **ADI** (Italian Association for the Industrial Design - [www.adi-design.org](http://www.adi-design.org)); and
- d) Past Coordinator of the Design Commission at the CNAC (Consiglio Nazionale Anti-Contraffazione - [www.cnac.gov.it](http://www.cnac.gov.it))

Viale Regina Margherita 35  
20122 Milano  
T +39.(0)2.87389450  
F +39.(0)2.87389452  
[milano@bardehle.eu](mailto:milano@bardehle.eu)

Piazza Bra 28  
37121 Verona  
T +39.(0)45.9230185  
F +39.(0)45.9230186  
[verona@bardehle.eu](mailto:verona@bardehle.eu)

Santa Croce 2122  
30135 Venezia  
T +39.(0)41.0991600  
F +39.(0) 41.0991619  
[venezia@bardehle.eu](mailto:venezia@bardehle.eu)

[www.bardehle.com](http://www.bardehle.com)

\*\*\*

- 1. What will be the impact of a transitional period of six months, both costs and benefits?.**
  - *Six months transitional period is more than reasonable and consistent with the ECJ C 60/98 (Butterfly) that was recognising that 3 months of transition were sufficient in a similar case. The impact will imply a sufficient term for the third entities to change their business model and terminate any stock.*
- 2. Should the six months run from the start date of this consultation or from a different date, and if different, why?**
  - *The term should run from the start of the Consultation period. At the latest, from the deadline of the Consultation (December 9<sup>th</sup>).*

**3. Should a longer or shorter transitional period than six months be adopted, and if so, what are the costs and benefits?**

- *Longer transitional period is unreasonable and not consistent with the ECJ C-60/98, quoted before.*

**4. Are there any other issues which the guidance should cover which are not listed?**

- *Not*

**5. Do you agree that the Government is right not to distinguish between two- and three-dimensional copies?**

- *Yes*

**6. Do you agree that applying the depletion period only to those contracts entered into prior to the start time and date of this consultation appropriate, and what are the costs and benefits of this?**

- *Yes.*

**7. Are there any other factors that the Government should consider for the depletion period?**

- *Not*

**8. Do you agree that the period provided for depletion of stock is proportionate?**

- *Not really: a reasonable solution should take into consideration the 3 months indicated in the EJC C 60/98, so the depletion of the stock should be within the 6 months.*

**9. Should a longer or shorter depletion period than six months be adopted, and if so, what are the costs and benefits?**

- *Longer stock depletion is unreasonable and not consistent with the ECJ C-60/98, quoted before.*

**10. Do you agree that no legislative change should be made in respect of items previously purchased under section 52 CDPA? If not, what provision would you make and why?**

- *Yes.*

**11. Do you agree that Paragraph 6 of Schedule 1 of the Copyright, Designs and Patents Act 1988 should be amended to exclude items protected by copyright in the EU at 1 July 1995?**

- *Can be an acceptable compromise*

**12. If Paragraph 6 of Schedule 1 of the Copyright, Designs and Patents Act 1988 is repealed or amended, are you aware of items where copyright would be conferred which never previously had copyright protection anywhere?**

- *Not*

**13. Do you agree that Regulation 24 of the Duration of Copyright and Rights in Performances Regulations 1995 should be repealed?**

*Yes*

**14. Have you relied on or been subject to compulsory licensing in the past under Regulation 24 of the Duration of Copyright and Rights in Performances Regulations 1995, and what were the costs or benefits?**

*N/A*

**15. If you are a publisher, will a 6 month, 3 year or 5 year transition period be sufficient to factor in any licensing costs (if any) to development plans?**

*N/A*

**16. Would you expect to rely on or be subject to compulsory licensing in the future, and what would you expect the costs or benefits to be?**

*N/A*

In faith,

Giovanni F. Casucci

