

Response ID ANON-6TNE-VMW1-8

Submitted to Reviewing the designs framework: Call for views
Submitted on 2022-02-18 17:30:13

Introduction

1 What is your name?

Name:

[REDACTED]

2 What is your organisation?

Organisation:

[REDACTED]

3 What is your email address?

Email:

[REDACTED]

4 The Intellectual Property Office may wish to contact you to discuss your response. Would you be happy to be contacted to discuss your response?

Yes

Respondent information

5 If you are an individual, are you?

Other

If you have selected other please specify:

Manufacturing original design products

6 If you are responding on behalf of an organisation, are you?

Not Answered

If you selected other please specify:

7 In which main industry do you or your business operate?

Specialist design, e.g. fashion design, industrial design, graphic design

If you selected other please specify:

8 How many people does your business employ?

2-9

Registered designs - search and examination

9 Do you have views on whether the IPO should change examination practice for designs?

Please add your views here:

Time scale is so important, many designs are based on trends, and the timescale required to design, research and manufacture prototype can be very short. In addition packaging, leaflets and promotional images can take time, and have to be committed too very early in the marketing process. Any delay in processing design registration can lead to additional costs on printing (no design registration number).

It is also very important that U.K. design closely relates to the EU standard. Product is not manufactured to "only" sell in the U.K.

Also "exact" in reference to "other designs" is not helpful when trying to legally enforce your registration. IP enforcement needs to be affordable, and "expert" judgement is not required and should not be needed. If a judge can hold the origin in one hand and the copy in the other and think yes they look the same then that should suffice. "Mine is 1mm wider than yours" should not be a defence.

10 Do you think it would be useful to introduce any of the options outlined? (please select all that apply)

Prior art searching, Use of AI tools

Please provide more detail below:

Simplifying the designs system

11 What form of designs protection works best for you at present?

Please add your views here:

We used to register all of our designs through the EU system. Since Brexit we now register them through the U.K. system. Having enforced our registered design rights in the court, we are of the opinion that “unregistered design rights” are of little help. On line platforms such as EBay, Amazon will not act upon any infringement unless you can provide a “registered design” reference.

12 Do the different and overlapping ways of protecting the appearance of a product present any issues to creators and users of the system? If you think the system could be simplified, we would like your views on how to do this.

Please add your views here:

The overlapping of design rights is only an issue to designers who have “registered their designs. I have never seen the point of them. Having spent a small fortune to register all of our designs through the EU system, to suddenly lose “enforceable “ registered design cover in 28 of the 29 countries covered was a major issue. However since Brexit, even if there was a way of supporting each other’s systems, the legal cost of enforcing such rights in the rest of Europe is sadly prohibiting to many.

13 Are there terms in the Registered Designs Act which would benefit from clarification or guidance e.g. “get up”?

Please add your views here:

The whole guidance needs to be clarified. Designers are designers, they are not barristers. Having dealt with a number of “patent attorneys “ I can safely say that many of them do not understand the act.

14 Please share any issues you or your clients have experienced in relation to the changes to disclosure requirements for unregistered designs since the end of the transition period (31 December 2020).

Please add your views here:

We only use the registered design service.

15 Would any of the options outlined, such as simultaneous disclosure, address this issue? Are there any other ways of addressing the lack of reciprocal recognition for unregistered designs in the UK and EU? If so, please provide details on how they may work in practice.

Please add your views here:

Unregistered designs are not a priority.

A copy is a copy, be it in the U.K. or the EU. As it stands, anyone can copy my U.K. registered design and register it in the EU, and visa versa. The lack of reciprocal recognition is a political issue, it has nothing to do with “design”.