

## Response ID ANON-6TNE-VMWJ-1

Submitted to Reviewing the designs framework: Call for views  
Submitted on 2022-03-05 10:08:33

### 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?

A designer

If you have selected other please specify:

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?

0-1

### 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:

Don't know.

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

Prior art searching

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:

Registered design is too expensive and the application process is too time consuming for Dress Designer/maker Sole Traders who are just trying to earn their living from what they do.

So I rely on unregistered design right and copyright as I create mostly hand sewn one off ladies garments and specialise in creating unique embroidery, beadwork and hand painted design embellishments for my apparel designs.

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:

I think the system needs to be clarified so that people can really understand what it means.

I think that the fashion industry and the general public who wear fashion need to be educated about what design right and copyright are. Design right can apply to a decoration on a garment if it is mass produced but if a garment is a one off with one off embellishment such as original embroidery or beadwork then clarification is needed for if these works qualify for copyright if they are works of artistic craftsmanship.

There was a repeal of Section 52 a few years ago which meant that if more than 50 pieces are made of a work of artistic craftsmanship then full copyright applied rather than design right.

This needs to be not only clarified but the fashion industry needs to be aware of what the difference between works protected by design right, registered or unregistered, and copyright works are.

I don't know how you can do this except by raising awareness to industry professionals and the general public of what the different rights mean, using simple language and explanations so that most people can understand the meanings. Maybe you could use examples of different types of work, how they are made, and how many are made, to give some practical working insight into what the different rights are.

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:

Please can these be written in Plain English so that people who are not legal professionals can understand what they mean.

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:

None to share.

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:

Don't know.

## Future technologies

16 How can the current system better meet the needs of a digital environment and future technologies?

Please add your views here:

I don't know if this is the right box to enter this comment but I will enter it here.

I am very frustrated by constantly finding the use of the term "the Public Domain" being used in the media to mean "the Internet".

Unfortunately a lot of people think that if something is on the internet then it is in the public domain so they can copy it.

As far as I understand, the term "the Public Domain" as far as IP is concerned means that the copyright has expired, which in the UK is 70 years after the death of the author, or last remaining author of the work. So the copyright of any work by a living author will not be in the Public Domain so it is not available to be copied without permission from the author, or if copyright exceptions apply.

Please can the UK media and public be educated about this? And also can they be made aware of the Berne Convention which means that most countries of the world respect the copyright of other countries and how this applies to work published in good faith as copyright work on the internet. Thank you.

17 Are areas such as digital designs and 4D printed products adequately protected by the current system?

Please add your views here:

don't know.

18 Do you think it would be useful to introduce any of the options outlined? These include extending supplementary unregistered design to cover computer generated designs, filing of digital representations and ceasing accepting physical specimens.

Please add your views here:

Ceasing accepting physical specimens may cause problems to people who do not use computer technology or who do not like using it as it is not always suited to giving an accurate representation of what the design actually looks like. A lot of textural detail is lost in digital images of textile and fashion work as well as colour loss due to different digital colour systems such as CMYK, sRGB, Adobe RGB 1998 etc. as they all give different representations of colours. Some colours are registered trademarks, like Tiffany Blue, so the colour representation needs to be accurate, so that it is not confused with a colour that may be a registered trademark. Digital colours are rarely accurate due to different screen representations and different computer colour management systems.

In the fashion industry textile companies provide physical swatches of their fabrics so that buyers can feel the fabric, which cannot be done digitally, and so that the buyer can see the actual colour of the current batch of fabric as the colour can vary from batch to batch, and also the colours may be multi-tonal which cannot be seen properly on a computer screen as a digital image tends to flatten the colour and the texture of textiles.

I would apply those comments to include surface decoration design such as embroidery and beadwork.

19 What are your views on the protection of computer-generated designs?

Please add your views here:

Do you mean designs created by a computer without human input? If that is what you mean, then I don't know. I do create art designs using computer software but they are input by a human (me). I checked with the IPO recently who told me that standard copyright applies to these artworks.

## Better regulation

20 Should UK law have an express deferment provision and how long should it be?

Please add your views here:

Yes. Between 18 months and 30 months.

21 What information, if any, should be published in relation to a deferred design?

Please add your views here:

Basic information.

22 Is there a need for specific provisions for prior use or to deal with co-pending applications?

Please add your views here:

Yes.

## Enforcement

23 What are your views on the effectiveness of the UK's enforcement framework?

Please add your views here:

No experience of it.

24 How could it be improved to help small businesses and individual designers enforce their rights?

Please add your views here:

Don't know.

25 What has been your experience of the introduction of criminal sanctions for registered designs?

Please add your views here:

None.

26 What are your thoughts on extending criminal sanctions to unregistered designs and what economic evidence do you have to support your view?

Please add your views here:

Don't know. It is probably too complex.