

Response ID ANON-6TNE-VME9-X

Submitted to Reviewing the designs framework: Call for views
Submitted on 2022-01-25 16:38:14

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:

Photographic and Video Library

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

Any other type of organisation

If you selected other please specify:

We originate both still photographs and video imaging and sell across the world

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

Other

If you selected other please specify:

We originate both still photographs and video imaging and sell across the world

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:

Any new laws introduced for IP or Copyright needs to include both photography and videography.

Over the past 5 years we have employed an agency to track down copyright/theft of our imaging and average +60 legal cases ongoing each month.

Copyright infringement and theft of our IP is destroying our industry.

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

Please provide more detail below:

Introducing anything that helps protect our IP would be better than what we have currently

Simplifying the designs system

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

Please add your views here:

The only help we have at present is to register our image copyright within the American courts. There is no provision to register image copyright within the UK.

Proof of copyright certainly speeds up the legal process - because you don't have to prove copyright, you have already registered it.

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:

AI information 'burnt' into an image would certainly help but needs to be international. We are currently starting to research how creating NFT's of all our imaging would possibly benefit us. However with many thousands of images I fear that the energy consumed producing the NFT's is potentially incredibly bad for the environment.

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:

An ability to register copyright would be very useful. The American registration process has been incredibly helpful in the American judicial system. Some of these image thefts cost our company (and the UK) considerable amounts of money. We had one case, that we won in the US courts, that with not having to prove copyright as it was already registered, generated £25k.

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:

N/A

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:

I was always hopeful that the EU would introduce new IP/Copyright protections but I guess that will not happen now. But yes international agreements would be incredibly beneficial.

Future technologies

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

Please add your views here:

You should be looking at blockchain, NFT's, digital passports etc.

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

Please add your views here:

N/A

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:

I come back to an earlier point - Copyright Registration. But it needs to be cheap and simple.

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

Please add your views here:

N/A

Better regulation

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

Please add your views here:

N/A

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

Please add your views here:

N/A

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

Please add your views here:

N/A

Enforcement

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

Please add your views here:

It's pretty poor. Enforcement is incredibly expensive. English courts will only enforce what the defendant would have paid had they legally purchased the image/license whereas in American you can seek damages up to I believe \$300k. So the risks of going to court often outweigh what possible awarded fees you may receive from the court.

The whole system is wrong.

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

Please add your views here:

1.) An effective advertising campaign explaining copyright/IP theft

2.) Simple, cheap copyright registration

2.) Allowing damages to be sought. There is currently no real deterrent to offenders intent on stealing imaging as the most they will ever pay is what they would have done if they legally licensed the image.

The whole system needs root and branch reform to ensure copyright/IP protection is fit for a modern digital world. Infringements are costing this country millions every single year.

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

Please add your views here:

N/A

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:

N/A