

Response ID ANON-6TNE-VMC3-P

Submitted to Reviewing the designs framework: Call for views
Submitted on 2022-03-16 15:45:14

Introduction

1 What is your name?

Name:

[REDACTED]

2 What is your organisation?

Organisation:

a firm of patent and trade mark attorneys

3 What is your email address?

[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?

No

Respondent information

5 If you are an individual, are you?

A legal professional

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?

Not Answered

If you selected other please specify:

patents and trade marks

8 How many people does your business employ?

10-49

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:

I think novelty searching should be introduced along with a corresponding examination of novelty and individual character.

Whilst this would increase the time and costs for registered design protection; should a designer want quick and low cost design protection, this could be obtained via unregistered design rights.

Searching and examination would make registered designs more robust and provide increased assurance to the owner, as well as 3rd parties, as to the validity of the design. This would also reduce uncertainty for 3rd parties and costs that a 3rd party may have to incur in seeking to invalidate a (non-searched and non-examined) registered design that wouldn't have been registered if a search and examination had been conducted.

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, Bad faith and opposition periods, Other

Please provide more detail below:

examination as to whether a design meets the requirements before allowing registration

Simplifying the designs system

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

Please add your views here:

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:

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:

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:

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:

Future technologies

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

Please add your views here:

greater options and flexibility in the form and manner of providing representations

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

Please add your views here:

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:

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

Please add your views here:

Better regulation

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

Please add your views here:

yes
up to 30 months to be align with Hague design systems and other international offices.

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

Please add your views here:

Applicant and address for service contact details, title, class, indication of goods, filing date, deferment date

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

Please add your views here:

Enforcement

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

Please add your views here:

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

Please add your views here:

A UKIPO design opinion service would assist both owners as well as alleged infringers

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

Please add your views here:

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: