

The UK Government Consults on Proposed Reforms to Design Laws

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A consultation process proposing extensive reforms to the framework for design protection in the United Kingdom has come to a close on 27 November 2025.

One of the stated objectives of the proposed reforms is to tackle a legal system for the protection of designs that some commentators argued is “a complex

patchwork that many find difficult to navigate, particularly small businesses”. The consultation paper lays down proposals to create what the Government suggests is a simpler, more effective system which will be better able to support UK creativity and innovation.

The main characteristics of the current design protection system in the UK

In many respects, the design system in the UK is extremely simple. The law protects registered designs for up to 25 years and unregistered designs for shorter periods. All

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designs must meet the requirements of novelty and individual character to enjoy protection.

Registered designs (in the UK and the EU) are broadly similar to US design patents, and are the embodiment of simplicity. The application contains little more than images of the design itself (multiple views of the same design are allowed) and the examination is limited to verifying a few basic formalities. Designs are registered in the UK and the EU on a notification basis, with no examination of the application's compliance with the substantive legal requirements. Once registered, the design is renewable every 5 years up to 25 years.

Where the system is somewhat complex is in relation to unregistered designs. For historic reasons, the UK protects unregistered designs under two largely overlapping, parallel systems. The UK introduced the "design right" as part of its copyright legislation in 1988 (with the aim of separating design protection from general copyright protection). A unique right existing only in the UK, it provides protection for 3D designs of an article whether or not visible during normal operations. The right can therefore protect internal design features as well as external ones. Protection lasts for the shorter of 15 years from the date of creation of the design or 10 years from the date when articles made with the design were first made available for sale or hire. There is also a 'licence as of right' that any person can take advantage of in the last 5 years of protection of the design right.

Around the turn of this century, the EU introduced its own protection for unregistered designs (extending to both 3D and 2D designs, including surface decorations, but only those that are visible during normal use of the article and provided the design is not dictated by function). The right is granted for a limited period of 3 years from the date on which the design is made available to the public in the EU. Until the UK's withdrawal from the EU, the EU unregistered design extended also to the UK and existed in parallel to the UK's own design right. As part of the Brexit process, the UK adopted legislation that effectively continues the EU unregistered design protection in the UK (known as the supplementary unregistered design). Like the EU right, the UK supplementary unregistered design provides protection to unregistered designs for a period of 3 years from the date on which the design is made available to the relevant public in the UK.

The Proposed reforms

Some of the reforms proposed are to address the weakness of the current notification system for registered designs. Such a system allows anyone to obtain an enforceable right without substantive examination, which opens the door to bad faith applications and for registrations without justification, forcing defendants to challenge the validity of the registration once it is asserted against them.

The proposals relating to unregistered designs focus largely on the desire to move to a singular system of protection. The proposals (covering both registered and unregistered designs) can be summarised into five main reform objectives:

1. Targeted measures to combat design theft, anti-competitive filings or bad faith

applications.

2. Simplifying the designs regime and streamlining processes so that it is more accessible and easier to understand.
3. Modernising the designs regime to protect emerging forms of design, including virtual and animated designs and computer generated designs in an era of AI.
4. Addressing the impact of Brexit on the designs framework.
5. Addressing barriers to justice in design disputes.

The consultation paper is detailed and extensive. Below we discuss three key proposals suggested by the consultation and provide a brief summary of some other proposals of note.

1. UKIPO examination of design applications

Search and examination of designs

Two alternative proposals attempt to address the current system's absence of prior art searches and examination on substantive grounds. The first is to allow the UKIPO to search prior designs and examine applications, with the power to search, investigate and object to design applications where it suspects that the design lacks novelty or individual character. Alternatively, a two stage process is proposed by which designs would be registered, as now, without substantive examination but when a rights holder sought to enforce the design against a third-party they would be required to request substantive examination by the UKIPO, before the design can be enforced.

Neither proposal seeks to introduce a substantive search and examination requirement for every application (which would make the system slow and expensive). The first is useful to eliminate clear cases of bad faith and unmeritorious applications, but many cases would fall through the net. The second option has the disadvantage of delaying enforcement action when the rights holder needs to tackle infringements (although applicants could seek a voluntary examination before they face the need to take enforcement action).

A new bad faith provision

This proposal introduces a stand-alone ground for rejection by the UKIPO of applications filed in bad faith. The grounds could be useful in some cases although it is doubtful the UKIPO would have sufficient tools and access to information to identify many bad faith applications.

A new opposition procedure

This proposal introduces third party opposition proceedings, either pre-registration or a post-registration (where the design is "registered at risk" until the opposition period expires). The consultation paper notes that there may be some technical concern over how the publication of a design prior to registration may impact the novelty of the design in other territories (and see further below in relation to another proposed new procedure to allow deferment of the publication of new designs).

2. Simplification of unregistered designs

The consultation paper sets out a number of alternative options to consolidate the system for the protection of unregistered design under one regime.

One option is to retain supplementary unregistered designs for a 3 year term of protection in the format of the EU unregistered design right and to abolish the unique UK design right (which lasts for a longer period and offers protection for internal design elements as well as visible designs). Whilst this proposal offers simplification and harmonisation with the EU, the consultation paper acknowledges that it would result in the loss of protection for many designs that currently qualify for the design right, including those that include internal (non-visible) elements.

Another proposal is to consolidate the unregistered designs system into a single unregistered designs framework protecting both the aesthetic and non-visible design elements of a product. This would result in a single term of protection and consistent qualification requirements for unregistered design protection.

The consultation paper proposes a term of protection of three years, five years, five years plus an additional period in which the right would be subject to a “licence as of right term”, or 10 years. The government’s preferred option is a straight five year term. In all cases, the term of protection would start on the date the design becomes available to members of the relevant public in the UK.

3. Clarification of computer generated designs

Existing copyright and design legislation in the UK provide that the person who makes the arrangements for a work or design to be generated by a computer is deemed to be the author of the work. The implications of those provisions (which were introduced as early as 1988 in anticipation of developments in artificial intelligence) particularly in relation to the legal protection of works and designs generated entirely by AI without human contribution have not yet been tested in the courts.

The government suggests a range of proposals but its preferred proposal, in line with views expressed as part of another ongoing consultation relating to copyright and artificial intelligence, is to abolish those provisions and for the time being leave the law without specific provisions relating to computer-generated designs until further experience in the matter can be gained.

4. Additional proposed reforms

The consultation paper proposes a variety of additional reforms. The following may be of interest:

1. Addressing mismatches with the EU: As a result of Brexit and the absence of a mutual recognition arrangement between the UK and the EU in relation to unregistered design rights, there is uncertainty and potential loss of rights particularly where design products are launched in the EU before they are introduced in the UK.

The consultation paper proposes a number of partial solutions but acknowledges that a satisfactory position can only be achieved through an agreement with the EU on this issue which is unlikely to be negotiated in the foreseeable future. A degree of uncertainty and potential loss of some unregistered rights is therefore likely to continue. However, some of the proposals may help ensure that unregistered designs will be protected in the UK even if the product is first launched or exhibited outside the UK.

2. Provisions for deferment of design applications: The consultation proposes introducing a right to defer the publication of details of an application to register a design for 18 months from the earliest of the priority or filing date of the application. Only basic information would be published but the design itself will be kept confidential until the deferment period expires. This will allow design companies to register their designs well in advance of launching the product whilst avoiding the risk of copies appearing on the market before or shortly after commercial launch.
3. Animated designs and graphical user interfaces: There is insufficient clarity in the law as to how design protection applies to animation and design elements of user interfaces. The consultation paper proposes either requiring the UKIPO to issue guidance on how it applies the existing law, or to amend the legislation to clarify that animations and transitional designs can be registered and to permit filings in file formats such as video or providing an option to provide a description of the design.
4. Small claims track at the Intellectual Property Enterprise Court (**IPEC**): To address barriers to justice posed by more lengthy and expensive proceedings in the IPEC 'multi-track' proceedings that are currently available to design owners, the government is considering extending access to IPEC's small claims track – a simpler 'no frills' procedure - for registered designs cases. The government seeks further evidence from stakeholders regarding the proposal.
5. Criminal sanctions: Currently, criminal offences exist in the UK in relation to the intentional copying of a registered design to make a copycat product and in relation to the commercial stocking, offering for sale and other commercial dealing with the copycat product. Those offences do not extend to infringements of unregistered designs. By contrast, criminal offences do exist in relation to similar commercial activities involving infringements of copyright (which is also unregistered). The government is yet to formulate a view on whether to introduce new criminal sanctions relating to infringements of unregistered designs and seeks further evidence from stakeholders.

Now that the consultation process has been closed, the UK government and the UK Intellectual Property Office will consider the feedback from industry and other stakeholders and should publish their final reform proposals ahead of starting the legislative process in Parliament.