

INTERNATIONAL TRADEMARK ASSOCIATION COMMENTS ON UKIPO'S CONSULTATION ON CHANGES TO THE UK DESIGNS FRAMEWORK

November 24, 2025

The International Trademark Association (INTA) would like to thank UKIPO for the opportunity to provide feedback on the Public Consultation on Changes to the UK Design Framework.

The following comments were prepared by INTA's Designs Committee and Staff.

We hope you will find these comments helpful, and we welcome the opportunity to further engage in discussions on the topic.

INTA has adopted Model Design Law Guidelines¹ and Guidelines for Examination of Industrial Designs², which contain INTA's basic positions on design law and practice and serve as a baseline standard by which INTA analyses and comments on national and regional design laws, regulations, and the practices of IP offices.

GENERAL COMMENTS

From a user's perspective, it would be highly desirable for designs practice in the UK to be kept as consistent as possible with the position in the EU.

Taking into account that companies are frequently operating both in the EU and UK, it would be highly beneficial for the legal protection to be aligned.

We trust that the proposed initiatives would contribute to align the UE-UK positions.

¹ <https://www.inta.org/wp-content/uploads/public-files/advocacy/model-laws-guidelines/202305-Model-Design-Law-Guidelines.pdf>

² https://www.inta.org/wp-content/uploads/public-files/advocacy/model-laws-guidelines/20210505-INTA-2021-Guidelines-for-Examination-Designs_FINAL.pdf

SPECIFIC COMMENTS

Section A - Search, examination, bad faith and opposition/ observation

A.1 – Search and Examination

INTA believes that no change (option 0) should be made to the current system to keep the alignment with the EU perspective since harmonisation of design practice between the UK and EU makes seeking protection simpler and more cost-effective for users and businesses.

Diverging to make the UK system more complex and costly could simply result in businesses deciding not to seek design protection in the UK and consequently reducing business in the UK.

A key feature of the current UK registered design system is a quick and affordable way to obtain registered design protection. Any change to the procedure for search and examination would very likely increase the cost and time to registration for users of the system.

Requiring the UKIPO to undertake full search and examination would introduce significant costs and administrative burden for the UKIPO. Furthermore, a determination of validity of a registered design can be a complex assessment, particularly considering individual character. A UKIPO Examiner would have difficulty assessing this as accurately or thoroughly as a court under the current regime.

A.2 – Bad Faith

It would be desirable not to introduce a specific bad faith provision in order to keep the alignment with the EU perspective.

In this regard, introducing a provision for Examiners' discretionary power to object if they considered an application to be in bad faith could be prone to being applied quite differently by different Examiners and lead to uncertainty for users as to likelihood of registration/objection to applications by the UKIPO. Such assessment by Examiners would also be unlikely to be as accurate and certain as the current system of validity being determined through the courts.

A.3 – Observation and Opposition

As mentioned above, INTA believes that no changes (option 0) should be made to the current system to maintain the alignment with the EU perspective and ensure closer harmonisation.

Therefore, the introduction of an opposition period for UK registered designs would not be desirable as it would add complexity into the existing system, lead to uncertainty for

users of the system, delays in registration and likely additional costs in the design registration process.

The UKIPO does currently have a mechanism by which a third party can challenge the validity of a design post-registration, and so it seems the current system before the UKIPO adequately caters for third party challenges without there being a need for introduction of an opposition/observation period.

A.4 – Information on the Existence of a Right in a Registered Design (DF21 search)

This might be a useful service in some circumstances for designers wishing to get a rough idea of similar UK design registrations in existence and for designers during the process of designing their own products in related fields or deciding whether to apply for design registration themselves. Section B - Deferment

According to INTA's Model Design Law Guidelines (s. 12), "*it should be possible to defer publication of a design application for a period not less than 12 months after the date of application*".

On the other hand, INTA's Guidelines for Examination of Industrial Designs (s. 5.4) states that "*The permitted deferment period should be up to 30 months after the date of application*".

INTA welcomes the introduction of a deferment provision and considers it desirable to adopt a 30-month deferment period which is consistent with the EU design registration system. At a minimum, a publication deferment period of at least 12-months from the filing date would be desirable.

Section C – Graphical User Interfaces and Animated Designs

INTA applauds the changes to UKIPO practice, guidance and legislation to make it easier for the protection of digital designs, GUIs and particularly animated designs.

According to INTA's Model Design Law Guidelines, Icons and graphical user interfaces (GUI) and projected, holographic, and/or virtual augmented reality designs (PHVAR designs) should be registrable as a design provided that they otherwise meet the requirements for registration.

In accordance with Section 4.2.1 of the INTA Guidelines for Examination, INTA welcomes the possibility of filing dynamic views (e.g. 3D digital representations and video files) as an optional representation tool. Search tools and databases should be updated accordingly to reflect these kinds of representations and make them searchable.

Therefore, changes to legislation to explicitly make clear that animations and transitional designs can be registered is strongly welcomed. This would also be consistent with the recent changes in effect from 1 May 2025 under the EU design system.

The proposal for filing in different file formats and allowing additional description are welcome in the above objective of making GUI/animated designs easier to protect. Written disclaimers and additional description are already permitted in UK design applications anyway so the inclusion of a description for GUI/animated designs is not a significant departure from current practice.

These practical improvements would modernise the UK system and better reflect the realities of digital design, aligning the UK's approach with the EU.

Section D – Computer-Generated Designs

INTA welcomes the proposal as it is aligned with EU practice that has already excluded protection for designs without a human author. Divergence from the latest EU practice in this area would result in uncertainty, complexity and cost for businesses and users of the design registration regime.

The view is that the UK should follow the EU's lead to maintain consistency and avoid unnecessary complexity.

Furthermore, since AI tools can produce a large number of designs very quickly, this may result in a crowding-out effect on human designers by restricting the availability of novelty or individual character.

Section E – Miscellaneous Changes

Removing the ability to file specimens

INTA welcomes the deletion of the provision related to the ability to file specimens. This position is aligned with the *INTA Guidelines for Examination* (Section 4.2.1) which states that "INTA does not encourage the use of specimens".

Rectification of Registrar

INTA welcomes the proposal which is aligned with section 7.1 of the INTA Guidelines for Examination that states "amendments to the application should be permitted for the purpose of correcting errors and overcoming objections".

Priority claims

The UKIPO is not part of the WIPO DAS system for designs (although it is for patents).

We strongly encourage UKIPO to join to WIPO Digital Access Service (DAS), an electronic system that allows priority documents and similar documents to be securely exchanged between Industrial Property Offices.

WIPO DAS system enables applicants and Industrial Property Offices to meet the requirements of priority documents by only obtaining the DAS Code and eliminating the obligation of requesting and submitting the certified paper copies of documents from one Industrial Property Office and then submitting those documents to other Industrial Property Office(s).

INTA believes that, once the IPO has joined WIPO DAS for designs, the priority document will not be required if the DAS CODE is provided.

Section F – Simplification of Unregistered Designs and Overlap with Copyright

INTA welcomes the option to make the UK system easier from the user's perspective.

The UK system is perceived as overly complex due to the coexistence of both the UK unregistered design (design right) and the Supplementary Unregistered Design (SUD).

Aligned with EU perspective, the proposal will be abolishing UK design right [10 years from first marketing or 15 years from first recording in a design document (whichever is shorter)] and retaining SUD for maximum simplification [i.e. the appearance of the whole or part of a product would be protected for 3 years from first disclosure in the UK; 2D and 3D articles would be protected, including surface decoration].

According to the INTA Model Design Law Guidelines (section 21), if protection for unregistered designs is considered, it should be protected from copying from the first publication of a design regardless of where the publication occurs, and it should be available for a shorter term of protection than for registered designs, such as three years.

Section H – Call for Evidence on Criminal Sanctions for Design Infringement

INTA understands that criminal sanctions should apply for registered designs, as it is stated in section 17 of the INTA Model Design Law Guidelines:

At a minimum, Provisional and final civil remedies should be provided for, including injunctive relief, compensatory damages, statutory damages, and/or punitive damages, as well as fees and costs arising from the enforcement of the IP rights. Such remedies should be expeditious and effectively enforceable. Border controls, administrative, criminal procedures, and sanctions should also be considered to effectively stop and deter intellectual property infringements.

Criminal remedies involve imprisonment that can effectively deter future IP infringement. In addition, customs seizures are also available in a number of countries, although enforcement approaches vary considerably.

However, from INTA's UK practitioners view, the current system is considered adequate, and there is no clear justification for expanding criminal sanctions relating to the unauthorised copying of unregistered designs. Such a change appears unnecessary and in practice difficult to determine the level of criminality.

Section I – Call for evidence on inclusion of claims at the Intellectual Property Enterprise Court's (IPEC) small claims track (SCT)

According to the UK practitioners' opinion, the proposal would provide a valuable, affordable enforcement route and support the simplification of the UK's design rights system for small entities and individuals.

CONCLUSION

INTA would be pleased to answer any questions UKIPO may have and is available to discuss our recommendations in more detail. Please contact Erica Vaccarello, Senior Advisor, External Relations (evaccarello@inta.org) or Tat-Tienne Louembe, Chief Representative Office, Europe (tlouembe@inta.org).

Thank you in advance for considering the views of INTA.

Sincerely,

Etienne Sanz de Acedo

INTA CEO

International Trademark Association