



American Intellectual Property Law Association

November 25, 2025

The Honorable Feryal D Clark MP
Parliamentary Under-Secretary of State for AI and Digital Government
c/o Intellectual Property Office
Concept House
Cardiff Road
Newport
South Wales
NP10 8QQ
United Kingdom

Via email: designsconsultation@ipo.gov.uk

Dear Ms. Clark:

The American Intellectual Property Law Association (“AIPLA”) appreciates the opportunity to respond to the UK IPO’s Designs Consultation published in September 2025 (the “Consultation”).

AIPLA is a U.S. national bar association of approximately 6,500 members engaged in private or corporate practice, in government service, and in the academic community. AIPLA members represent a wide and diverse spectrum of individuals, companies, and institutions involved directly or indirectly in the practice of patent, trademark, copyright, trade secret, and unfair competition law, as well as other fields of law affecting intellectual property, and the resolution of disputes in these areas. Our members represent both owners and users of intellectual property. Our mission includes helping establish and maintain fair and effective laws and policies that stimulate and reward invention while balancing the public’s interest in healthy competition, reasonable costs, and basic fairness.

Because many of our members represent companies that maintain design rights within the UK, AIPLA is grateful for the opportunity to provide these comments in response to the Consultation.

We offer the following commentary below in response to the questions provided as part of the consultation.

Our responses are structured to provide an overview of our commentary first, under each section. Detailed answers to the specific questions posed follow in subsequent sections of the document.

Section A – Search, Examination, Bad Faith, and Opposition/Observation

A1. Search and Examination Options:

- Option 0: Maintain the current system (no change).
- Option 1: Introduce powers for the IPO to carry out limited searches.

- Option 2: Introduce a two-stage system (partial registration followed by full examination for enforcement).

AIPLA: Option 0 – Maintain the current system without changes, as the proposed search and examination options are not likely to address the identified issues effectively and, instead, they are more likely to complicate the system further.

A2. Bad Faith Provisions:

- Introduce an explicit bad faith provision to address dishonest design applications.

AIPLA: We agree that a bad faith provision is necessary, but any such provision should have clear parameters in order to be most effective, so as not to be overly burdensome, complex, or unnecessarily invite further bad faith or abuse.

A3. Opposition/Observation Options:

- Option 0: Maintain the current system.
- Option 1: Post-registration opposition period.
- Option 2: Pre-registration opposition period.
- Option 3: Pre-registration observation period.

AIPLA: Option 0 – We have concerns with Options 1-3, although Option 1 would be most preferable if any opposition is to be considered, though the details of any such system would need further clarification. Options 2 and 3 would require publishing designs before registration, which has the potential to harm the applicant by either preventing valid filings in other jurisdictions or disclosing a design that the applicant wishes to keep confidential. For instance, if the UKIPO publishes the design, it would not be protected by the grace period offered by IP Australia. Additionally, both pre-registration and post-registration oppositions would likely require third parties to monitor the register, which would be both time-consuming and costly.

A4. DF21 Search Service:

- Retain or discontinue the DF21 search service for identifying existing rights in registered designs.

AIPLA: No comment.

Section A1 Options

We are now seeking users' views on the following options for search and examination of designs:

- Option 0: No change to the current system
- Option 1: Introduce powers to allow the registrar to carry out a search
- Option 2: Introduce a two-stage system, where a design can be partially registered without search, and a full search and examination is required in order to enforce a design

Do you agree that the “do nothing” option should be discounted?

AIPLA: Option 0 – After careful consideration of the consultation findings, we believe that the proposed Options 1 and 2 will not address the identified issues effectively. Instead, they are likely to complicate the system further.

Questions

Please rank the options (most preferred/least preferred/no preference):

- Option 1: Introduce powers to make it clear that the IPO can carry out a search

- Option 2: Introduce a two-stage system

AIPLA: We would rank Option 1 higher than Option 2, and we would not recommend Option 2 at all since a two-stage system can create confusion, as discussed further below.

Limited Searching

Questions

If limited searching was introduced, which designs should be subject to search (select all that apply)?

- A. Designs which IPO knows are the same as another e.g. re-filing a previously invalidated design.
- B. Applications to register generic products/designs.
- C. Designs which an examiner suspects may be anti-competitive.
- D. Other (please specify)
- E. None of the above
- F. Don't know

AIPLA: We believe that A, B, and C could all be subject to searches, with searches for A being of most importance. Searches for B and C are also important, though the scope of each (e.g. what constitutes a generic product/design and what constitutes potentially anti-competitive behavior) would need to be clearly defined.

To what extent do you agree or disagree that limited searching would help combat the number of anticompetitive filings?

AIPLA: The likelihood of finding relevant results using the current search methods is likely low, so we have concerns that limited searching would not be productive in combating the number of anticompetitive filings.

If better search tools become available to allow a search to be carried out quickly, do you think IPO should extend searching to other design applications?

AIPLA: Yes, if better search tools become available they could be used to extend searching to other design applications, assuming the right guidance is provided on what constitutes anti-competitive behavior, what is generic, etc.

If limited searching is reintroduced, would it provide you/your business with:

- A benefit/opportunity -

AIPLA: No - it could slow down the registration process.

- A challenge -

AIPLA: Yes - it would be unclear if an application would or wouldn't be searched under the current options.

If limited searching is reintroduced, would the impact on you/your business be:

- Positive

AIPLA: From this speculative perspective, we do not expect limited searching to have positive impacts on our members.

- Negative

AIPLA: From this speculative perspective, we do not expect limited searching to have positive impacts on our members.

Two-stage system

Questions

To what extent do you agree or disagree that limited searching would help combat the number of anticompetitive filings?

AIPLA: We disagree, at this time, because although enforcement may not be possible until after a search, it is still feasible to file anti-competitive applications.

If this option was introduced, should the pre-enforcement examination be limited to an assessment of novelty or should it include individual character?

AIPLA: We believe the search should be for novelty and individual character.

If this option was introduced, to what extent do you agree that litigation should be able to start prior to the search and examination, while allowing the defendant time to see results prior to filing their defense.

AIPLA: We do not believe a two-stage system is desirable. However, if such a system is put in place, then we disagree that litigation should be able to start prior to search and examination under these conditions.

If a two-stage system is introduced, would it provide you/your business with:

- A benefit/opportunity (yes, no, don't know)

AIPLA: We do not expect that the two-stage system will provide benefits or opportunities.

- A challenge (yes, no, don't know)

AIPLA: We expect that the two-stage system will present challenges to our members.

If a two-stage system is introduced, would the impact on you/your business be:

- Positive (yes/no/don't know)

AIPLA: We do not expect that the two-stage system will have a positive impact on our members.

- Negative (yes/no/don't know)

AIPLA: We expect that the two-stage system will have a negative impact on our members.

Please provide any additional information or evidence relevant to search and examination. In particular we would like to hear about:

- Any impacts the current system has had on your business.
- Any impacts you anticipate the options set out above would have on your business

AIPLA: We understand there is considerable confusion surrounding the status of registered designs across the globe. This confusion stems from the common misconception that a design must undergo substantive examination to achieve registration, whereas in some jurisdictions, a mere formalities check is all that is required for a design to be considered 'registered'. Moreover, for those jurisdictions that do perform substantive examination, the level of examination required to obtain registration varies, which generates further uncertainty regarding the validity of a 'registered' design.

Section A2: Bad faith

Questions

To what extent do you agree or disagree with the proposed approach to introduce an explicit bad faith provision for designs?

AIPLA: We agree that an explicit bad faith provision for designs is appropriate and needed, although we do not have enough information to specifically comment on the "proposed approach."

To what extent do you agree or disagree with each of the following? A bad faith provision would allow IPO to address:

- Applications for well-known products. [Strongly agree, Agree, Neither agree nor disagree, Disagree, Strongly disagree]

AIPLA: We agree that a bad faith provision would allow UK IPO to address for application for well-known products, provided there is clarity around what qualifies as a "well-known" product.

- Applications where another company's product photographs are used by a third party to seek protection. [Strongly agree, Agree, Neither agree nor disagree, Disagree, Strongly disagree]

AIPLA: We agree that a bad faith provision would allow UK IPO to address applications where another company's product photographs are used by a third party to seek protection.

- Applications which are re-filed for previously invalidated designs. [Strongly agree, Agree, Neither agree nor disagree, Disagree, Strongly disagree]

AIPLA: We agree that a bad faith provision would allow UK IPO to address applications which are re-filed for previously invalidated designs.

- Anti-competitive applications more generally [Strongly agree, Agree, Neither agree nor disagree, Disagree, Strongly disagree]

AIPLA: We agree that a bad faith provision would allow UK IPO to address anti-competitive applications more generally, provided the parameters of anti-competitive applications are properly defined.

If a bad faith provision is introduced, would it provide you/your business with:

- A benefit/opportunity (yes, know, don't know)

AIPLA: We believe it would be beneficial generally, although it is unclear whether this would benefit our members specifically.

- A challenge (yes, know, don't know)

AIPLA: We do not believe it would present a challenge to our members.

If a bad faith provision is introduced, would any impact on you/your business be:

- Positive (yes/no/don't know)

AIPLA: We believe the bad faith provision would have a generally positive impact on the business of legal services for designs.

- Negative tick (yes/no/don't know)

AIPLA: We believe the bad faith provision would have a generally positive impact on the business of legal services for designs.

Please provide any additional information relevant to deferment.

Section A3: Observation and Opposition

Questions

Please rank the options in order of preference (1=most preferred, 4=least preferred):

- 1. Option 0: Do-nothing
- 2. Option 1: introduce a post-registration opposition period for designs ("registered at risk")
- 3. Option 2: Introduce pre-registration opposition period for designs
- 4. Option 3: Introduce an Observation Period

AIPLA: We would rank Option 0 highest, followed by Option 1, Option 2, and finally Option 4. We are uncertain about what specific issue the observation period aims to address. Publishing any design before registration could potentially harm the applicant by either preventing valid filings in other jurisdictions or disclosing a design that the applicant wishes to keep confidential. Additionally, both pre-registration and post-registration oppositions would necessitate third parties to monitor the register, which would be both time-consuming and costly.

To the extent that opposition is chosen, we are in favor of post-registration opposition, which has proved useful in the context of patents, by providing interested parties an early and cost-effective opportunity to challenge validity, particularly in a jurisdiction where designs need only meet formality requirements to be registered.

In your opinion, would these options provide an effective tool to address potentially anticompetitive or otherwise invalid designs being registered?

- Post-registration opposition (Y/N/don't know)

AIPLA: We do not believe post-registration opposition would provide an effective tool to address potentially anticompetitive or otherwise invalid designs from being registered.

- Pre-registration opposition period (Y/N/don't know)

AIPLA: We do not believe pre-registration opposition would provide an effective tool to address potentially anticompetitive or otherwise invalid designs from being registered.

- Observation period (Y/N/don't know)

AIPLA: We do not believe an observation period would provide an effective tool to address potentially anticompetitive or otherwise invalid designs from being registered.

How likely would you be to use the following options if introduced? (very likely, likely, neither likely or unlikely, unlikely, very unlikely).

- Post-registration opposition
- Pre-registration opposition period
- Observation period

AIPLA: We believe each of the options above will be unlikely to be frequently used if introduced. Of the three options, pre-registration opposition is likely to be the most used, and has proven a useful tool in the context of utility patents. Post-registration opposition also provides an avenue for early and more cost-effective invalidity challenges, particularly where substantive examination is not carried out.

To what extent do you agree or disagree with the government's view that a two-month period for opposition or observation strikes the right balance between the needs of applicants and third parties?

AIPLA: We disagree that a two-month period for opposition or observation strikes the right balance between the needs of applicants and third parties.

Would publishing a design before registration cause you or your clients any problems if introduced (YES/NO/Don't know)?

AIPLA: We generally do not believe that pre-registration publication is beneficial, and could create issues with respect to validity in other jurisdictions. However, if publication prior to registration is chosen, we recommend ensuring that deferment of publication is possible as an option.

Would publishing a design before registration cause you any problems when filing in other countries (YES/NO, don't know).

AIPLA: Yes, as noted above, publishing a design before registration can cause problems when filing in other countries.

If an opposition or observation period is introduced, would it provide you/your business with a benefit or challenge:

- Post-registration opposition (benefit/challenge/don't know)
- Pre-registration opposition period (benefit/challenge/don't know)
- Observation period (benefit/challenge/don't know)

AIPLA: We believe that if an opposition or observation period is introduced, this will present a challenge to our members for each of the above periods.

If an opposition or observation period is introduced, would any impact on your/your business be:

- Post-registration opposition (positive/negative/don't know)
- Pre-registration opposition period (positive/negative/don't know)
- Observation period (positive/negative/don't know)

AIPLA: We believe that if an opposition or observation period is introduced, this will have negative impacts to our members for each of the above periods.

Please provide any additional information relevant to opposition or observation

Combination of options

Questions

Several options for addressing anticompetitive filings have been set out above. Do you (select appropriate) think:

- It would be useful to users to have different ways of addressing anti-competitive behaviour (Y/N/don't know).

AIPLA: We believe that offering users different ways of addressing anti-competitive behavior, in particular bad faith, would be useful.

- Having different ways to address anti-competitive behaviour would unnecessarily complicate the legal framework? (Y/N/don't know)

AIPLA: We believe that offering users different ways of addressing anti-competitive behavior could complicate the legal framework, so considerations would be needed to

ensure a proper balance between addressing this behavior and overly complicating the process.

Which options should be introduced (please tick all that apply)

- ☐ Search and examination
- ☐ Bad faith
- ☐ Post-registration opposition
- ☐ Pre-registration opposition
- ☐ Pre-registration observation

AIPLA: We believe that of the options above, only bad faith should be introduced.

Section A4: Information on the existence of a right in a registered design (DF21 search)

Questions

Have you ever used the DF21 service? Yes/No

AIPLA: No comment.

If so, please explain how you use the DF21 service in your role.

How many DF21 searches have you filed in the past 5 years?

What were your main reasons for using this service (tick all that apply)?

- ☐ To know if identical designs exist
- ☐ For due diligence
- ☐ Another reason (please specify)

If you have never used the DF21 service before, why not?

- ☐ Didn't know the service existed
- ☐ Too expensive
- ☐ Don't know what the scope of the search is
- ☐ Carry out own search
- ☐ Other

What do you think is included in a DF21 search (tick all appropriate):

- ☐ Identical designs on the UK designs register
- ☐ Identical designs on the EUIPO designs register
- ☐ Identical designs anywhere in the world
- ☐ Similar designs on the UK register
- ☐ Similar designs on the EUIPO designs register
- ☐ Similar designs anywhere in the world
- ☐ Don't know
- ☐ Anything else (please specify)

Section B – Deferment

Length of Deferment:

- ☐ 12 months
- ☐ 18 months (aligns with UK patents)
- ☐ 30 months. (aligns with EUIPO)

AIPLA: We support an explicit deferment provision in UK design law. Deferment for 12 months already exists under UK law and is a feature of the recently negotiated Riyadh Design

Law Treaty (see Article 10 and Rule 6). A 30-month deferment period is preferred as it harmonizes with the EUIPO, which in turn may reduce administrative burdens for applicants filing in both jurisdictions. The longer deferment period also provides applicants with greater ability to secure protection in other jurisdictions where earlier publication can be detrimental to establishing design rights.

Commencement of Deferment Period:

- Filing date, OR
- Priority date, if claimed.

AIPLA: We support starting the deferment period from the earliest application date (filing or priority) as a measure that ensures equitable treatment of all applicants and simplifies administration.

This approach mirrors the UK patent system and avoids giving undue advantage to applicants who defer filing in the UK until the end of the priority window. Further, this approach is generally consistent with various international practices. In the EUIPO, the deferment period starts from the filing date or the priority date, if claimed. [1] Similarly, under the Hague Agreement, administered by the WIPO, the deferment period starts from the filing date, or, where priority is claimed, from the priority date.[2] Accordingly, starting the deferment period from the earlier of filing or priority date would harmonize the UK IPO practices with international practices.

[1] EUIPO – Request for Deferment European Union Intellectual Property Office, *Designs Guidelines: Request for Deferment*, <https://guidelines.euipo.europa.eu/1803372/1658184/designs-guidelines/6-2-5-2-request-for-deferment>

[2] WIPO – Hague Guide: Publication of the International Registration World Intellectual Property Organization, *Hague Guide for Users: Publication of the International Registration*, <https://www.wipo.int/en/web/hague-system/guide/publication> (last visited Nov. 4, 2025).

Deferment of Registration and Publication:

- Defer both registration and publication OR
- Defer publication only.

AIPLA: We agree with the UK government's proposal to continue deferring both registration and publication. This approach maintains consistency with current UK practice and avoids confusion for applicants. It also ensures that the design is not enforceable until it is publicly disclosed, which is appropriate given the nature of design rights. Additionally, deferment of both registration and publication practiced by the EUIPO, where applicants may request deferment at the time of filing, and no registration certificate will be made available as long as the publication is deferred.[1] Similarly, under the Hague Agreement, administered by WIPO, deferment of publication is permitted, and registration is only finalized upon publication.³

This approach aligns the UK with international practices. Deferring both registration and publication reduces the risk of premature disclosure, supports strategic international filings, and simplifies enforcement planning. It allows applicants to file early while maintaining confidentiality during critical development and marketing phases, which is especially valuable in competitive and fast-paced industries such as fashion, consumer electronics, and automotive design.

[1] EUIPO – General Principles on Deferment European Union Intellectual Property Office, *Designs Guidelines: General Principles on Deferment*, <https://guidelines.euipo.europa.eu/1803372/1786943/designs-guidelines/6-2-5-1-general-principles>

Information Published for Deferred Applications:

- Publish basic information (e.g., applicant name, filing date, classification) OR
- Keep deferred applications confidential.

AIPLA: We support the publication of basic bibliographic data during the deferment period, including: applicant name and address, filing date and priority date, and Locarno classification.

This approach balances confidentiality with legal certainty. Publishing limited bibliographic data during the deferment period alerts third parties to the existence of a pending design application without disclosing the design itself. This approach helps prevent inadvertent infringement while preserving the applicant's control over disclosure.

We recommend aligning this practice with EUIPO standards to facilitate cross-jurisdictional consistency. Under EUIPO practice, when publication is deferred, only the application number, filing date, registration date, and the names of the rights holders and representative are made publicly available. The design representation and any identifying visual details remain confidential until the deferment period ends. [1] Similarly, in the ID5 Questionnaire on Deferment of Publication, the Japan Patent Office (JPO) commented that during deferment, it publishes the name and residence of the holder, the name and date of the application for design registration, the registration number, and the date of registration establishing the design right. [2]

This harmonized approach supports transparency, legal certainty, and international filing strategy without compromising confidentiality.

[1] EUIPO – Registration After Applying European Union Intellectual Property Office, *Designs: Registration After Applying*, <https://www.euipo.europa.eu/en/designs/after-applying/registration>

[2] ID5 Questionnaire on Deferment of Publication ID5, *Questionnaire on Deferment of Publication of Industrial Designs* (Nov. 2022), https://id-five.org/wp-content/uploads/2022/11/Questionnaire_DefermentofPublicationofIndustrialDesigns_Final_Publicver.pdf.

Prior Use Provisions:

- Extend prior use provisions to include deferred designs.

AIPLA: We provide no comments in relation to prior use provisions.

Section C – Graphical User Interfaces and Animated Designs

Options for Animated Designs/GUIs:

- Option 1: Provide further guidance on what can be protected.
- Option 2: Amend legislation to clarify definitions of "design" and "product."
- Option 3: Allow filing of moving/animated designs via different file formats.
- Option 4: Allow additional descriptions alongside still/video representations.

Background Questions

Do you register animated designs/GUIs? If yes, how many animated designs/GUIs have you registered in the last 12 months? If yes, do you think the current system is fit for purpose for registering animated designs/GUIs?

AIPLA: Many AIPLA members represent applicants that register animated GUI designs. Some members represent applicants that have registered 50+ animated GUI designs in the last 12 months. The current system is not fit for registering animated designs, in part, because of Section 11.35 of the Registered Designs Examination Practice Guide requires that “any and all views presented [for an animated sequence] be visually-related.” Registered Designs Examination Practice guide, published March 16, 2017, updated July 21, 2025, <https://www.gov.uk/guidance/designs-examination-practice/part-c-formalities>.

Discounted Options Questions

Do you agree that “do nothing” should be discounted?

AIPLA: Yes. As the consultation acknowledges, the “do nothing” option would retain the status quo, and therefore, would not address the issues which stakeholders have raised with the UKIPO. AIPLA encourages the UKIPO to consider revising Section 11.35 of the Registered Designs Examination Practice Guide, as discussed in greater detail below.

Option 2- Amend legislation

Do you think the current definition of a design within the RDA meets the needs of applicants who want to protect animated designs and GUIs?

AIPLA: No. The RDA does not explicitly encompass designs that animate, defining “design” as “the appearance of the whole or a part of a product resulting from the features of, in particular, the lines, contours, colours, shape, texture or materials of the product or its ornamentation,” and “product” as including “graphic symbols” and “typographic type-faces.”

Do you think the current definition of a product within the RDA is adequate?

AIPLA: No. The RDA’s definition of “product” (i.e., “any industrial or handicraft item other than a computer program”) arguably does not encompass non-physical objects.

Would you be in support of the UK amending the definition/s of a product and/or design?

AIPLA: Yes, we would support amending the definition of design and product. Although the UKIPO currently allows the protection of animated designs (when the static representations show a single design), amending the RDA’s definitions of “design” and “product” so that it explicitly encompasses non-physical designs that animate would provide greater clarity.

If yes, do you think we should make similar changes to the EU?

AIPLA: Yes, we would support making similar changes to the EU, which recently broadened its definition of “design” to encompass animation, transition and movement of design features, and “product” to include industrial and handcrafted items, whether they take form as a physical object or materialize in a non-physical state.

Would you be in support of the UK extending the rights in a registered design to prohibit creating, downloading, sharing or distributing to others any medium or software which records the design, (similar to the EU)?

AIPLA: Yes, because most digital products are now distributed electronically (e.g., downloading).

Option 3 - Allow users of the designs registration system to file different file formats

Should IPO accept file formats which show movement and animation?

Should IPO accept file formats which show movement and animation?

AIPLA: AIPLA neither supports nor opposes accepting file formats that show movement in animation. However, AIPLA encourages the UKIPO not to require file formats that show movement and animation when applicants apply for registered protection for animated designs. AIPLA instead encourages the UKIPO to continue to accept file formats that do not show movement and animation (e.g., a series of still frames), as many other Intellectual Property Offices—including the U.S. Patent & Trademark Office (USPTO)—do not currently accept file formats that show movement/animation. Regarding the concern that a series of still frames may be interpreted as containing more than one design, the AIPLA encourages the UKIPO to publish accompanying explanations that describe still frames as showing a single animation.

The AIPLA would not object to consideration of file formats that show animation being discussed amongst the patent offices of the world so that a standard format can be agreed among them.

If yes, which file types should we accept? Please tick all that apply

AIPLA: The UKIPO currently supports only .jpeg, .png, .gif or .tiff file formats. <https://www.registered-design.service.gov.uk/Apply/design/b02dba09-3971-4aeb-97b4-ef3f8efb2efe/illustration/quality>. AIPLA encourages the UKIPO to accept files in at least PDF format because that is the standard format of representations filed with the USPTO, until the largest five patent offices agree upon a standard acceptable format.

How problematic do you feel the following would be when protecting a design using a video or CAD file format? (Not problematic, Somewhat problematic, Very problematic, Don't know)

- Claiming priority

AIPLA: Very problematic; many other Intellectual Property Offices—including the USPTO—do not currently accept video or CAD file format.

- Displaying the registered design on the register

AIPLA: Unknown; potential problems would depend on a user's access to software displaying video or CAD formats.

- Displaying the registered designs on the registration certificate

AIPLA: Unknown; assuming that the registration certificate continues to be formatted as a .pdf file, potential problems would depend on a user's access to software enabling display of video and interactive 3D objects in .pdf files.

- Certified copies

AIPLA: Very problematic for videos; UKIPO does not currently participate in WIPO DAS. Therefore, Applicants currently need to obtain printed certified copies, which would not be capable of displaying videos.

- Visual disclaimers

AIPLA: Unknown.

Would any potential issues claiming priority be overcome by being able to file a sequence of still images alongside a video or CAD file?

AIPLA: Unknown. If the priority application includes a video or CAD file accompanied by a sequence of still images, and the Applicant can file only the sequence of still images in subsequent Intellectual Property Offices due to their inability to process video or CAD files, it is unclear whether those Intellectual Property Offices would recognize a priority claim.

Under our Public Sector Equality Duty, we do not expect any significant equality impacts from this change. Do you agree (Y/N/don't know)

AIPLA: Unknown.

Option 5 – Publication of an additional description filed alongside stills/video clips

Would you find it useful to file a description to describe an animation or transition?

AIPLA: Yes, especially for representations that show still frames. A description describing the still frames as showing a single animation, and not including anything not shown in the still frames, should address the UKIPO's concern that the still frames may be interpreted as containing more than one design.

Do you think that such a description should be published as part of the registration:

AIPLA: Yes, AIPLA encourages the UKIPO to publish accompanying explanations.

Do you think that the scope of protection of a design should be assessed in light of the optional description? (Y/N/don't know)

AIPLA: Yes.

What would the impact be of allowing a description to be filed as part of an application (Easier, no change, harder, don't know)

- Understanding the register

AIPLA: Easier.

- Carrying out due diligence

AIPLA: Easier.

- Filing in the UK based on a foreign priority.

AIPLA: Easier. Most jurisdictions, including the U.S., permit including a written description describing the presentations.

- Filing abroad based on a UK priority.

AIPLA: Easier. Most jurisdictions, including the U.S., permit including a written description describing the presentations.

Combining Options

Which options do you think we should introduce? (please select all that apply)

- None
- Additional guidance

- Amend the legal definition of a design only
- Amend the legal definition of a product only
- Amend the legal definitions of a design a product
- Increase the file formats available to users
- Publish description as part of the registration

AIPLA: Our preferred options are: Additional guidance, Amend the legal definitions of a design and a product, Increase the file formats available to users, and Publish description as part of the registration.

Please provide any further comments you wish to make about protecting animated designs and graphical user interfaces

AIPLA: AIPLA encourages the UKIPO to consider amending Section 11.35 of the Registered Designs Examination Practice Guide to remove the requirement that “any and all views presented [for an animated sequence] be visually-related that is they must have features in common.” Registered Designs Examination Practice guide, published March 16, 2017, updated July 21, 2025, <https://www.gov.uk/guidance/designs-examination-practice/part-c-formalities>. This limitation precludes protection for animations where all views arguably do not have visually-related features. For example, the following 7-frame animation of DM/213 131 would likely be objected to because Figures 3.1 and 3.2 arguably do not have visually-related features to each other or to Figures 3.3 through 3.7.



However, the same is not true in, for example, the U.S., because animations are accompanied by a descriptive statement clarifying that the scope of the claim does not include anything not shown (e.g., “The subject matter in this patent includes a process or period in which an image changes into another image. This process or period forms no part of the claimed design.”). AIPLA therefore encourages the UKIPO to accept animations consisting of views that do not necessarily have visually-related features, provided that Applicants specify in the brief description that the still frames show a single design, and that the scope of the claim does not include anything not shown.

Assessment of Impacts

Do you agree with our assessment of the impacts as set out in the annex? (Yes/No/Don't know)

AIPLA: No comment.

Are there any impacts which we have not been included but should be? (Yes/No/Don't know)

AIPLA: No comment.

Section D – Computer-Generated

Options for Protection:

- Option 0: Maintain existing protection for computer-generated designs without a human author.
- Option 1: Reform protection for computer-generated designs without a human author.

- Option 2 (Preferred): Remove existing protection for computer-generated designs without a human author.
- Option 3: Collect data on AI use in design creation.

AIPLA: We support Option 2. Option 2 is consistent with the current position of the USPTO and prior comments of AIPLA (see May 15, 2023 letter from then-AIPLA President Brian H. Batzli to then-USPTO Director Kathi Vidal, available at https://www.aipla.org/docs/default-source/advocacy/aipla-comments-to-uspto-on-ai-and-inventorship-051523-final.pdf?sfvrsn=5d6eac22_1). Relevant quotes from the May 15, 2023 letter include:

- “We believe that only natural persons can “conceive” an invention in the manner required by inventorship law. Conception is the formation in the mind of the inventor — and thus of a natural person — of a definite and permanent idea of the complete and operative invention as it is applied in practice. An AI system is, at best, merely generating an output based on how it is trained and prompted.”
- “In scenarios where a natural person uses an AI system to develop a patentable invention, the Patent Act supports listing only the natural person as an inventor because the AI system cannot be a joint inventor.”
- “There is no pressing need for the USPTO to expand its current guidance on inventorship to address situations in which AI significantly contributes to an invention. The existing legal framework, which recognizes only humans as inventors and treats AI systems as tools that assist in the inventive process, remains sufficient for managing ownership issues arising from AI-assisted inventions.”

Option 0 and Option 1 to allow design protection for an AI-author or an AI-designer seems to run contrary to the general reasoning behind providing such protection—namely, to incentivize innovation. Such an incentive is not needed in order to prompt an AI system or AI tool to generate a design.

Assessment of Impacts

Do you agree with our assessment of the impacts as set out in the annex? (Yes/No/Don't know)

AIPLA: No comment.

Are there any impacts which we have not been included but should be? (Yes/No/Don't know)

AIPLA: No comment.

Section E – Miscellaneous Changes

Proposed Changes:

- Introduce provisions to object to matter prohibited by law in design applications.
- Harmonize time periods for responding to IPO objections.
- Disallow filing of physical specimens.
- Allow the registrar to share applications before publication for statutory duties.
- Introduce powers for the registrar to make late objections.
- Harmonize warrant of validity and liability provisions across IP rights.
- Allow the registrar to rectify the designs register.
- Update provisions for inspection of designs to reflect online availability.
- Broaden the registrar's power to direct forms.
- Simplify priority claims process.

Questions

Do you agree that an express provision should be introduced to allow an objection to be raised to matter prohibited in law contained in a design application?

AIPLA: Yes

If not, why not?

Harmonising time periods for response to an official action

Questions

Do you agree that the registrar should be able to object to both substantive and formalities issues in the same examination report?

AIPLA: Yes

Do you agree that the time limit for responding to both types of objections should be harmonised at 2 months?

AIPLA: No

If not, why not? Limited text box?

AIPLA: Two months is very short for substantive objections. If the deadline is a compliance deadline, rather than a response deadline, two months can be a very tight deadline.

Removing the ability to file specimens

Questions

Do you agree that the filing of a physical specimen as part of a registered design application should be disallowed? (Y/N/don't know)

AIPLA: No

If not, the reason is that :

- I file/have filed physical specimens in the past.
- I like having the option of filing a physical sample.
- Only a physical sample adequately represents by designs.
- Other (please specify)

AIPLA: We like having the option of filing a physical sample.

Provision to allow the registrar to share an application before publication

Questions

Do you agree that the registrar should be allowed to share an application before publication for the purpose of carrying out his statutory duties? (Y/N/don't know)

AIPLA: Yes.

If not, why not:

- I don't think any information should be shared before a design is registered.
- Other (please specify).

Powers to make a late objection

Questions

Do you agree with the proposal to introduce a provision to allow the registrar to raise objections to matters coming to his attention after an opposition period, should the government introduce one in future (Y/N/don't know)

AIPLA: Yes.

If not, why not?

Warrant of validity and liability

Questions

Do you agree that warrant of validity and liability provisions should be similar across trade marks, patents and designs? (Y/N/don't know)

AIPLA: Yes.

If not, why not?

Rectification of the register

Questions

Do you agree that the Registered Designs Act 1949 should be amended give the registrar of designs the power to rectify the designs register? (Y/N/Don't know)

AIPLA: Yes.

If not, why not?

Do you think the power should be limited or have safeguards? For example, limited to rectifying specific issues (e.g., only entitlement/ownership) or in particular circumstances (eg only unopposed requests, or with agreement of both parties)

AIPLA: Yes - the power should have safeguards.

Updating provisions relating to inspection of designs

Questions

Should the Act be updated to reflect that representations for currently registered designs are made available online? (Y/N/don't know)

AIPLA: Yes to ensure that registered designs can be easily accessed.

How important is it to you to have access to historical design records (important, neutral, unimportant).

AIPLA: Important for purposes of cataloging prior art.

Please provide reasons or your answers

Power to direct the use of forms

Questions

Should the registrar be able to direct forms for any purpose relating to the registration of a design and any other design proceeding?

(Y/N/don't know)

AIPLA: Yes.

If not, why not

Priority Claims

Questions

Please rank the options for dealing with designs priority claims in order of preference:

- Option 0: Maintain current practice (do nothing).

- Option 1: Only require details of a priority claim. Do not require a declaration of identicalness or a priority document.
- Option 2: Require details of a priority claim and a priority document whenever a priority claim is made, once the IPO has joined WIPO DAS for designs.

AIPLA: Option 2 is our preferred Option.

If the IPO introduces searching for designs, do you agree that the IPO should be able to request a copy of the priority document where the validity of the priority claim is relevant to the novelty or individual character of the design being examined? (Yes/No/Don't know)

AIPLA: Yes.

Please provide any additional information relevant to priority claims.

Assessment of impacts

- Do you agree with our assessment of the impacts as set out in the annex? (Yes/No/Don't know)
- Are there any impacts which we have not been included but should be? (Yes/No/Don't know)
- If yes, please briefly explain which additional impacts should be included.

AIPLA: No comment.

Section F – Simplification of Unregistered Designs and Overlap with Copyright

Term of protection

Questions

Rank the options in order of preference:

- Option 0: Maintain the current system.
- Option 1: Retain supplementary unregistered design and abolish design right (maximum simplification).
- Option 2: Consolidate unregistered designs into a single framework (maximum protection).

AIPLA: The current dual framework of the UK Unregistered Design (UKUD) and the Supplementary Unregistered Design (SUD) presents significant challenges for designers and businesses operating in today's global marketplace. The complexity arising from multiple overlapping rights creates unnecessary barriers to innovation and commercial activity. Particularly, those in small and medium enterprises may struggle to navigate the different qualification requirements, protection scopes, and duration periods.

Option 1 represents the most balanced approach to reform, offering meaningful simplification while preserving the comprehensive protection that designers require. A consolidated unregistered design framework would address these complexities by bringing clarity, certainty, and consistency to the law, while still providing designers with avenues to protect their designs in any way they might desire.

Would harmonising the following aspects make it easier for you to use the system?

- Qualification requirements (yes/no/don't know)
- Term of protection (yes/no/don't know)

AIPLA: Yes, to both.

Do you agree that a single qualification requirement should apply to both aesthetic and functional aspects of a design (Y/N/Don't know)

AIPLA: Yes.

Do you agree that a single term of protection should apply to both aesthetic and functional aspects of a design (Y/N/don't know).

AIPLA: Yes.

If term of protection is harmonised, how long should it be (please choose preferred option):

- 3 years
- 5 years
- 5 years plus 5 years licence of right
- 10 years
- Other (please specify)

AIPLA: 3-year protection under the current SUD systems provides sufficient time for designers to commercialize their innovations while avoiding excessive market exclusion and remaining consistent with the EU Unregistered Design term. The term is long enough to justify investment in design development but not so long as to stifle follow-on innovation. Additional duration of protection remains available under the Registered Design framework while providing public notice of such rights.

To what extent should unregistered design be harmonised or consolidated?

- Harmonise some legal provisions but keep separate regimes (Y/N/Don't know).
- Create a single right which is harmonised in some respects but where different provisions may apply to aesthetic and functional aspects of a design (Y/N/don't know)
- Create a single right where the same provisions apply to both the aesthetic and the functional aspects of a design (Y/N/don't know)

AIPLA: We support creating a single right where the same provisions apply to both the aesthetic and the functional aspects of a design. Many other jurisdictions operate unified design systems that protect both aesthetic and functional elements under consistent rules.

Do you agree that the SUD legal framework should apply to a new consolidated unregistered design, if introduced (Y/N/don't know)

AIPLA: Yes.

Do you agree that the repair/spare parts provisions should be harmonised across all different types of design protection? (Y/N/don't know)

AIPLA: We provide no comment, but are generally in favor of harmonized rights.

If yes, we should use the provisions currently used for (tick preferred option):

- Registered designs
- Supplementary unregistered designs
- UK unregistered design right

Do you think that design protection for a component part of a complex product should be limited to features which are visible in normal use (Y/N/don't know).

AIPLA: Yes, with respect to unregistered designs only.

Do you think that design protection for any product should be limited to features which are visible in normal use (Y/N/don't know).

AIPLA: Yes, with respect to unregistered designs only.

How important to you is the ability to protect the internal configuration of a product (important, neutral, unimportant, don't know).

AIPLA: Neutral. It depends on the particular product.

Are there any elements of the design right regime which you think should be used in a consolidated right, rather than going fully with SUD regime?

AIPLA: We provide no comment, but are generally in favor of harmonized rights.

Consolidation

Questions

Do you find the number of legal instruments relating to design law confusing (Y/N/don't know/I have never looked at them).

AIPLA: Yes. A single, consolidated framework would provide clear guidance on what protection is available and how it may be obtained. This clarity would reduce legal costs and enable more informed business decisions. Additionally, the current system's complexity leads to uncertainty about which rights may or may not exist in existing products their respective scopes, creating indeterminable risks for designers that have the potential to stifle innovation.

Do you think the government should consider consolidating designs law into a single piece of legislation (Y/N/don't know)

AIPLA: We provide no comment, but are generally in favor of harmonized rights.

Please provide any additional comments in relation to consolidation of designs law here

AIPLA: The current system creates confusion relating to first disclosure requirements present in the current system, which results in designers having to choose between EU unregistered design protection and UK unregistered design protection. A unified disclosure requirement and consolidated system would better align with international design protection frameworks, facilitates cross-border commerce by reducing compliance burdens for multinational businesses, and enhances rights for designers.

Section G – Post-Brexit Issues Relating to Unregistered Designs

Options for Addressing Disclosure Issues:

- Option 0: Do nothing.
- Option 1: Unilaterally recognize simultaneous disclosure in law.
- Option 2: Introduce a grace period for unregistered designs.
- Option 3: Create SUD following first disclosure anywhere in the EU that comes to the attention of UK trade circles.
- Option 4: Create SUD following first disclosure anywhere in the world that comes to the attention of UK trade circles.

AIPLA: Option 4. Absent separate reasons not to adopt a particular framework, AIPLA generally supports an approach which improves efficiency for applicants and harmonizes laws across jurisdictions within each jurisdiction's own framework. AIPLA's position is to adopt Option 4. The consultation itself indicates that:

- This option would “allow a disclosure made anywhere in the world to give rise to a supplementary unregistered design. It would require that the disclosure must have come to the attention of relevant trade circles in the UK.”
- “This option recognizes that businesses operate globally, and large international trade fairs take place outside the UK and EU. It would ease financial, legal and administrative burdens on businesses seeking registered design protection to ensure adequate protection in both territories.
- “However, this option would result in asymmetry, as disclosure in the UK would not give rise to equivalent protection in other jurisdictions. This could disadvantage trade shows in the UK compared to those elsewhere and may encourage disclosure outside of the UK due to availability of SUD based on disclosures abroad.”

Section H – Criminal Sanctions for Design Infringement

Evidence Submission:

- Provide evidence on the prevalence, impact, and costs of unregistered design infringement.
- Share views on whether criminal sanctions should be extended to unregistered designs.

We support robust intellectual property rights, protections and means for enforcement, especially with regard to countering the scourge of counterfeit and pirated goods. But extending criminal sanctions to unregistered design infringement may go too far, as it could ensnare well-meaning competitors in addition to counterfeiters—particularly given less notice and less certainty inherent with the scope of unregistered design rights. Accordingly, AIPLA does not support all-encompassing criminal sanctions based on unregistered designs.

Section I – Registered Designs in the IPEC Small Claims Track

Options for Inclusion:

- Support or oppose inclusion of registered designs in the IPEC SCT.
- Suggest additional measures or alternatives to improve access to justice for SMEs and individual designers.

General Evidence and Impact Assessment

1. Provide evidence on the impacts of proposed changes.
2. Share any additional information or case studies to support your responses.

You can choose to respond to specific sections or questions based on your expertise or interests.

Question 1 – Since 2020, have you been involved in a dispute, or considered launching a dispute, in relation to a registered design that you consider would have been suitable for the Intellectual Property Enterprise Court's small claims track, if it heard these types of cases?

(Y/N/Don't know/Prefer not to say)

AIPLA: No Comment

Question 2 – Have you been a party to a dispute at the IPEC concerning an unregistered design where the validity of the design right has been challenged? (Y/N/Don't know/Prefer not to say)

AIPLA: No Comment

If yes

- How often this has occurred
- Was the case(s) able to be heard within the IPEC SCT (Y/N/Don't know).

Question 3 – Do you have any evidence from other jurisdictions to indicate that lower cost dispute procedures are/are not appropriate forums for registered designs cases? (Y/N)

If yes, please provide details of the evidence and the jurisdiction(s).

AIPLA: No comments to Questions 1-3 above.

Question 4 – Do you support the inclusion of registered designs cases within the IPEC SCT? (Y/N/Don't know)

AIPLA: Yes. AIPLA commends the UKIPO for considering an option intended to be easier to use than litigating before the SCT.

Question 5 – Do you think that most registered designs cases are suitable for the IPEC SCT? (Y/N/Don't know)

AIPLA: Currently, the IPEC SCT only hears cases relating to copyright, registered UK trademarks, passing off, and UK unregistered designs. It seems inconsistent that the IPEC SCT would hear cases related to UK unregistered designs, but not UK registered designs, given that the only difference between them is that one was registered with the UKIPO.

If not, why not:

Question 6 – If there is a risk that registered designs cases could be moved from the IPEC SCT to the multi-track would this deter you from launching proceedings at the SCT? (Y/N/Don't know)

AIPLA: No Comment

Question 7 – If registered design cases were included within the IPEC SCT, are there any other additional measures that could be taken to ensure these cases were handled effectively? (Y/N/Don't know)

AIPLA: No Comment

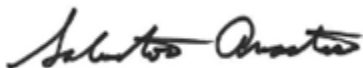
Question 8 – Are there any alternatives to the inclusion of registered designs cases in the IPEC SCT that would improve access to justice for individual designers and SMEs? (Y/N/Don't know)

AIPLA: No comment.

Conclusion

AIPLA supports the UK IPO's efforts to explore ways of improving its Designs system, and we appreciate the opportunity to provide these comments. If AIPLA can be of any further assistance in the development and implementation of the Guidelines or of any other assistance on intellectual property issues, please do not hesitate to contact us.

Regards,



Salvatore Anastasi
President
American Intellectual Property Law Association