

AIPLA

American Intellectual Property Law Association

February 20, 2026

Director Simrat Kaur
Department for Promotion of Industry and Internal Trade
Ministry of Commerce & Industry
Government of India
Vanijya Bhavan
New Delhi – 110011
India

Submitted electronically via: ipr7-dipp@gov.in

Re: Comments on Concept Note Proposing Amendments to the Designs Act, 2000

Dear Director Kaur,

The American Intellectual Property Law Association (“AIPLA”) appreciates the opportunity to submit its views to the Department for Promotion of Industry and Internal Trade (“DPIIT”), Ministry of Commerce and Industry, Government of India, in response to the Concept Note on Proposed Amendments to the Designs Act, 2000 (January 2026) (hereinafter the “Concept Note”).

Founded in 1897, the American Intellectual Property Law Association is a national bar association of approximately 6,500 members who are primarily lawyers and patent agents 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. 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.

AIPLA appreciates the DPIIT’s efforts to modernize India’s design protection framework and to align the law with evolving technologies and international practices. In response to the Concept Note, AIPLA offers the following comments on the key proposals, with the goal of supporting a balanced, effective system that promotes innovation, legal certainty, and fairness for all stakeholders.

1. Virtual Designs Protection

Last few years have seen rapid advancements in technology transforming the way consumers interact with products and services. Graphical user interfaces (“GUIs”), icons, animated characters, and immersive virtual environments are nowadays a core part of consumer

experience across sectors like technology, fintech, gaming, e-commerce, healthcare, and digital services. These visual elements embody significant aesthetic value.

Globally, there is strong recognition of the creative and commercial value of GUIs. A WIPO survey¹ shows that over 95% of responding jurisdictions provide some or the other form of intellectual property protection for GUIs. Notably, 92% of these countries protect GUIs under their industrial design laws. This reflects a broad international consensus that GUIs carry independent aesthetic value.

World is increasingly moving to protect not just GUIs but other forms of virtual designs including icons, animated designs etc. EU has recently implemented major design law reforms to extend protection to new types of designs. The definitions of “product” and “design” have been updated to expressly cover animation, movement and transition, as well as intangible products such as projections of light and spatial arrangements, in order to ensure that technological advancements are properly recognized under the new EU Design framework.

UK has also published a consultation paper on September 4, 2025, proposing amendments to the definition of ‘design’ under its Registered Designs Act to clarify that a design can contain an animation or transition and also amend the definition of ‘product’ to clarify that 2D designs such as GUIs and animations are considered products in law. In 2023, IP Australia sought views on proposals to expand protection to include virtual designs. The consultation paper² says that *“excluding virtual designs from protection is inconsistent with the approach taken in some other countries, which may result in a disadvantage to Australian designers and international applicants seeking protection in Australia.... Allowing visual features to be considered in their active state will provide a modern and flexible designs system that will support further innovation in the designs sector”*. As per the outcome of this consultation published by Australia, “stakeholders broadly supported protecting virtual designs” and IP Australia “intends to proceed with the proposal to protect virtual designs, including user interfaces, and product elements only visible when the product is in use”.

In December 2025, the Government of Hong Kong launched a three-month public consultation on the review of the registered designs regime. As per the consultation paper³, *“the evolving concept of industrial design calls for a review of whether the current statutory definitions of design and article are capable of affording sufficient legal protection to modern designs so as to support the development of design industry in the digital and knowledge-based economy.”*

¹ See https://www.wipo.int/edocs/mdocs/sct/en/sct_is_id_ge_25/sct_is_id_ge_25_p5.pdf.

² Available at https://consultation.ipaustralia.gov.au/policy/enhancing-australian-design-protection/user_uploads/designs-consultation---protect-virtual-designs.pdf, See also https://consultation.ipaustralia.gov.au/policy/enhancing-australian-designprotection/?_gl=1*tjojkt*_ga*MjExMzE0NDk2OC4xNzY2ODM4Mjk5*_ga_GMT4KC15KS*czE3NjgwMzU0ODckbzMkZzAkdDE3NjgwMzU0OTkkajQ4JGwwJGgw, last accessed on January 16, 2025.

³ Available at https://www.ipd.gov.hk/filemanager/ipd/en/content_272/Review%20of%20the%20Hong%20Kong%20Registered%20Designs%20Regime%20Consultation%20Paper_Eng.pdf, last accessed on January 16, 2025.

In India, the Designs Rules, 2001 were amended in 2021 to align with the Locarno Classification, which expressly includes GUIs, icons, and other virtual designs under Classes 14-04 and 32.

However, despite this classification update, the substantive legal framework under the Designs Act, 2000 continues to be anchored in physical products. The definitions of “article” and “design” have traditionally been interpreted with reference to tangible objects and visual features applied to such objects. This results in uncertainty regarding the protection of GUIs and other virtual designs. Stakeholders have also advocated the ideas of providing protection to GUIs and other virtual designs under Designs Act, in consultations with DPIIT.

To address this gap, it is proposed to clarify and modernize the definitions of “design” and “article” to expressly enable protection of virtual designs, independent of any physical carrier. The definition of “design” may be expanded by broadening the scope as well as meaning of “industrial process” and by expressly including animation, movement, and transition, thereby clarifying that design protection extends beyond static visual features to dynamic visual effects that are central to contemporary digital and screen-based designs.

In parallel, the definition of “article” may be revised to expressly cover items in physical or *nonphysical form*, including GUIs, icons, graphic symbols, typefaces, augmented reality graphical user interfaces, and other virtual products provided under Locarno classification, clarifying that a design may subsist regardless of whether it is embodied in a tangible object or materializes in a purely digital or virtual environment. These amendments would help explicitly decoupling design protection from the requirement of physical embodiment, enabling protection for designs in virtual, augmented, and immersive digital environments. Corresponding amendments can be considered to be made to other provisions of the Design Act, including the infringement related provision, to give effect to protection of virtual designs.

Expanding the scope of protectable designs in this manner would allow protection of digital aesthetics that satisfy the core requirements of design protection including novelty and visual appeal, while continuing to exclude purely functional features. This approach would ensure that the Designs Act remains technologically neutral, responsive to innovation, and aligned with evolving global design practices.

AIPLA: AIPLA strongly supports the Concept Note proposals to amend the Designs Act, 2000 to clarify and modernize the definitions of “design” and “article” to expressly enable protection of virtual designs, independent of any physical carrier by (1) expanding the definition of “Design” to explicitly include animated, transitional, and movement-based design features and (2) revising the definition of “article” to expressly cover items in physical or nonphysical form, including GUIs, icons, holographic projections, and augmented reality graphical user interfaces, and other virtual products provided under Locarno classifications, such as classes 14-04 and 32.

Last year, AIPLA submitted similar comments to the UKIPO supporting the proposal to amend the Registered Designs Act to make clear that dynamic design features are protectable and that products may include non-physical digital subject matter such as GUIs and animations. See p. 11, [aipla-comments-to-uk-ipo-on-designs-framework-consultation.pdf](#). Similarly, in 2024, AIPLA submitted comments suggesting that the Design Law Treaty (DLT) define the term

“industrial design” to include both physical and virtual appearances. See Comments of AIPLA in response to the Notice on the WIPO Diplomatic Conference on the Design Law Treaty 89 Fed. Reg. 60 (March 27, 2024), Docket No. PTO-C-2024-0008, p. 1, [aipla-comments-on-wipo-diplomatic-conference-on-the-design-law-treaty.pdf](#).

As stated in the Concept Note, these proposed amendments to the Designs Act, 2000 are consistent with international developments and would align India’s law with the technological realities of modern design practice. Further, as explained in AIPLA’s comments to the USPTO, technologies have “untethered computer-generated images from discrete, tangible display panels” and many emerging designs are displayed through projections, holography, or virtual and augmented reality environments. Therefore, protection should not depend on the design being embodied in a physical article. AIPLA likewise noted that limiting protectable subject matter to designs “on a display screen” is “an antiquated practice” and that digital designs should be eligible when disclosed as part of a programmed system, even if not displayed on a traditional device. [See Aipla-comments-in-guidance-for-gui-examination.pdf](#)

Amending the Designs Act, 2000 to cover virtual and dynamic designs would also harmonize statutory definitions with India’s 2021 adoption of the Locarno Classification, which already includes classes—such as 14-04 for screen displays/icons and 32 for graphic symbols and ornamentation—that protect digital interfaces and virtual representations. See https://www.wipo.int/en/web/wipolex/w/news/2021/article_0006.

Accordingly, AIPLA strongly supports India’s proposed amendments to the Designs Act. Clarifying that designs may exist in virtual form, and expressly including animation and movement, will improve legal certainty, eliminate outdated interpretations tied to physical embodiments, align India with international standards, and ensure the Indian system can fully protect contemporary digital design innovation.

2. Design-Copyright Interface

Over the years, Design-copyright interface has remained a subject matter of conflicting interpretations leading to frequent litigation and low predictability for businesses.

A design that is registered under the Act is expressly excluded from copyright protection, under Section 15(1) of the Copyright Act, 1957. However, ambiguity often arises in relation to works that are capable of being registered as designs but which have not been so registered and are applied to articles through an industrial process. Section 15(2) says that copyright in such a design shall cease as soon as any article to which the design has been applied has been reproduced more than fifty times by an industrial process.

To reduce conflict and clarify the legal boundaries, it is proposed to consider amending Section 15(2) of the Copyright Act, 1957 in a way that it allows copyright protection for designs that are registrable under the Designs Act, 2000 but remain unregistered, however, restricts the duration of such copyright protection to 15 years only. Permitting the continued copyright protection but aligning the term of protection with commercial lifespan of designs, would help reconcile the

two statutes. This would help prevent any attempts to claim long-term copyright monopolies over the subject matter which is more appropriately regulated under design law.

AIPLA: No comment.

3. Full Grace Period

It is proposed to introduce a full grace period of 12 months, consistent with Article 7 of DLT, to reflect today's commercial realities. Many jurisdictions around the world including the United States, United Kingdom, Canada, Japan, South Korea and Australia already provide a 12-month grace period in designs. Also, it is pertinent to note that most of the countries provide a full grace period and not an exhibition like exception. Section 21 of Indian Designs Act is, however, very limited in scope. It offers a 6-month grace period in cases where the disclosure is made at exhibitions notified by Central Government. Such restrictive scope undermines the very objective of the grace period. Today, designs are commonly disclosed through online launches, investor presentations, pilot sales, crowdfunding platforms, academic publications, and digital marketplaces. A much broader grace period provision is needed to accommodate such disclosures.

A blanket grace period of 12 months without any pre-conditions, and regardless of the manner of disclosure, would align with globally accepted practices. It would benefit those who accidentally disclose their designs before applying for registration, or who lack knowledge about the legal implications of pre-filing disclosures. This would be particularly beneficial for MSMEs, startups, first-time entrepreneurs, rural enterprises and individuals who often lose design rights, owing to the lack of awareness about novelty requirements.

Grace period also reduces upfront costs by giving small businesses the choice to advertise their products first and check the market response, before incurring costs on design registration. This flexibility helps them make informed and strategic IP investments.

Full grace period of 12 months would help lower market entry barriers, while mandating filing of the applications within a reasonably defined time frame. It would help strike a fair balance between the strict novelty requirements for design registration and practical business needs of the modern world.

AIPLA: In 2024, AIPLA submitted comments supporting the Design Law Treaty's (DLT) inclusion of a 12-month grace period. See Comments of AIPLA in response to the Notice on the WIPO Diplomatic Conference on the Design Law Treaty 89 Fed. Reg. 60 (March 27, 2024), Docket No. PTO-C-2024-0008, p. 10, [aipla-comments-on-wipo-diplomatic-conference-on-the-design-law-treaty.pdf](#). Accordingly, AIPLA supports the Concept Note proposing that the Designs Act, 2000 be amended to introduce a full 12-month grace period, without any pre-conditions, and regardless of the manner of disclosure, consistent with Article 7 of the DLT. AIPLA notes that the objective of a grace period provision is that disclosures by a creator or his/her successors (i.e., "applicant"), or disclosures by another who obtained the disclosed information directly from the applicant, during the 12-month grace period preceding an application's filing date or date of priority, if claimed, should not serve as prior art that is prejudicial to a design's registrability and validity. AIPLA therefore recommends that any

amendments to the Designs Act, 2000 clarify that such disclosures in the grace period are not prejudicial to the overall registrability and validity of a design (i.e. rather than being a narrower grace period exception that is, for example, limited only to novelty).

To that end, AIPLA recommends replacing Section 21 of the Designs Act, 2000 with wording consistent with Article 7 of the DLT, which provides:

A disclosure of the industrial design during a period of 12 months preceding the date of filing of the application or, if priority is claimed, the date of priority, shall be without prejudice to the novelty and/or originality, and as the case may be, individual character or non-obviousness, of the industrial design, where the disclosure was made:

(i) by the creator or his/her successor in title; or

(ii) by a person who obtained the disclosed information directly or indirectly, including as a result of an abuse, from the creator or his/her successor in title.

For consistency with the proposed amendment to Section 21, AIPLA also proposes amending Section 4 of the Designs Act, 2000, so that disclosures in the grace period may not be prejudicial to registration.

AIPLA further recommends amending Section 19 (a) – (d) of the Designs Act, 2000 for consistency with the proposed amendments to Sections 21 and 4, so that disclosures in the grace period may not be prejudicial to validity in respect of other parts of the Act, including in proceedings under Section 19 concerning the cancellation of registrations.

To minimize administrative burdens and costs for applicants, AIPLA recommends allowing applicants to enjoy the grace period without having to assert the grace period or to provide evidence detailing the disclosure sought to be accepted at the time of filing an application.

Amending the Designs Act as proposed would align India's grace period with the grace period in other jurisdictions, including the United States, the United Kingdom, the European Union, Australia, and Canada.

4. Deferment of Publication

Currently, the Designs Act, 2000 does not provide the option of deferred publication to applicants. Designs are published immediately upon registration. Applicants often wish to keep their designs confidential until their product is ready for launch. This is particularly important for industries where early disclosure of designs could compromise commercial strategy, reveal their strategic intent, or expose products to copying before market entry. According to Nasscom's written submission to DPIIT dated December 18, 2025, "*In industries like consumer electronics and software, design finalisation often occurs months before a product's market launch, and early publication gives counterfeiters a roadmap to produce copies. Therefore, flexibility provided by deferred publication is essential for maintaining commercial secrecy, managing strategic product roadmaps, and preventing third-party copies from hitting the market before the official Indian product launch.*" As per INTA's submission to DPIIT dated December 13, 2025,

“It should be possible to defer publication of a design application for a period of not less than 12 months from the date of application.”

It is proposed to introduce a mechanism for deferred publication of registered designs at the request of the applicant. It allows applicants to maintain confidentiality during the critical pre-launch phase of a product. The availability of deferred publication would be especially beneficial for businesses with long or capital-intensive development cycles. In many cases, publicly disclosing designs before finalizing tooling, mould development, regulatory approvals, distribution and retail channel arrangements, and market testing can impact commercial value of the product. By way of delaying publication, applicants can assess market viability before committing to full disclosure.

Deferred publication also serves as a risk-mitigation tool by reducing the likelihood of design piracy before launch and allowing businesses to avoid premature enforcement actions. By postponing the point at which infringement liability and enforcement considerations arise, applicants can conserve legal resources and pursue enforcement in a more targeted, evidence-based manner. In this way, deferred publication transforms design registration from a purely procedural formality into a flexible, market-responsive business instrument.

Introducing a deferment option would align India’s design protection regime with widely followed international standards. Article 10 of the DLT recognizes deferred publication as a key procedural safeguard and provides for a minimum deferment period of six months without prescribing an upper limit. The contracting parties do have an option not to provide for deferment, by way of taking a reservation under DLT. Hague Agreement also permits applicants to request deferred publication for up to 30 months from the international registration date or, where priority is claimed, from the priority date. Many jurisdictions, including the European Union, Japan, United Kingdom, South Korea, and others, already provide for deferred publication of designs, however, the duration of maximum deferment period varies. While the EU allows a deferment period of 30 months, the UK provides 12 months, and Japan and Korea offer the option to defer publication for up to 3 years.

Under the Hague system, the deferment of publication is determined by the shortest period among the designated countries. For instance, if the UK is designated, publication must occur within 12 months from the filing date, as the UK allows a maximum deferment of 12 months. Therefore, to encourage filings and the designation of India under the Hague system, it is practical to adopt a deferment period of 30 months, which corresponds to the maximum allowed under the Hague Agreement.

Taking into account global standards, Hague Agreement requirements, industry practices where the period from prototype development to commercial launch can be lengthy, and stakeholder feedback, it is proposed to allow a maximum deferment period of 30 months for publication. Incorporating deferred publication option into Indian design law would enhance confidentiality, reduce the risk of copying, encourage timely filings, and improve the overall effectiveness of the design registration system.

At the same time, it is important to balance the rights of design owners with those of third parties. Applicants who decide not to proceed with publication would need to surrender their

design registration at least one month before the expiry of the deferment period. Pending application can be withdrawn during the deferment period. In such cases the design will not be published and the related documents will remain confidential. Notably, the request for deferment would need to be made at the time of filing, on the prescribed form along with the prescribed fee.

To maintain fairness, an innocent infringer defense can be incorporated under law. This would apply if a registered design is infringed during the deferment period when the design is not publicly available and the third party is unaware of its protection. In such cases, the defendant can show that they had no knowledge, and no reasonable way to know, that the design was registered.

If successfully invoked, the defense limits remedies for the design owner. The infringer would not be liable for damages or an account of profits for actions taken before the design was published or before the infringer was notified of registration. However, courts may still grant injunctive relief to prevent future infringement once the infringer becomes aware of the design, ensuring protection is enforced prospectively rather than retrospectively.

AIPLA: AIPLA supports amending the Designs Act, 2000 to include an explicit deferment provision. Currently, the Designs Act does not provide any provision to defer publication. The design is published in the official journal soon after a design is registered.

Length of Deferment:

As noted in its comments to the UKIPO, AIPLA supports at least a 30-month deferment period because it provides applicants with greater ability to secure protection in other jurisdictions where earlier publication can be detrimental to establishing design rights. See p. 8 - 9, [aipla-comments-to-uk-ipo-on-designs-framework-consultation.pdf](#). Adopting a 30-month deferment period would align the Designs Act, 2000 with other jurisdictions, like the EUIPO, CNIPA, JPO, and KIPO, which each provide at least a 30-month deferment period. See A.5., [Questionnaire DefermentofPublicationofIndustrialDesigns_Final_Publicver.pdf](#).

Commencement of Deferment Period:

AIPLA supports 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 is generally consistent with various international practices. In the EUIPO, the deferment period starts from the filing date or the priority date, if claimed. See 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>. 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. See 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>. Accordingly, starting the deferment period from the earlier of filing or priority date would harmonize Indian practices with international practices.

Deferment of Registration and Publication:

AIPLA recommends deferring both registration and publication rather than only deferment of publication. This approach avoids confusion for applicants and ensures that the design is not enforceable until it is publicly disclosed, which is appropriate given the nature of design rights. This is consistent with the EUIPO and the Hague Agreement, 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. *See* 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> Accordingly, deferring both registration and publication aligns Indian practice with international practices, reduces the risk of premature disclosure, supports strategic international filings, and simplifies enforcement planning.

Additionally, deferred registration and publication 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.

Information Published for Deferred Applications:

AIPLA recommends publishing basic bibliographic data during the deferment period, including: applicant name and address, filing date and priority date, and Locarno classification. Publishing limited bibliographic data during the deferment period balances confidentiality with legal certainty by alerting third parties to the existence of a pending design application without disclosing the design itself. As a result, this approach helps prevent inadvertent infringement while preserving the applicant's control over disclosure.

AIPLA recommends 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. *See* EUIPO – Registration After Applying European Union Intellectual Property Office, Designs: Registration After Applying, <https://www.euipo.europa.eu/en/designs/afterapplying/registration>. 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. *See* 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.

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

Comprehensive Design Disclosure After Registration:

AIPLA recommends that, contrary to current Indian practice of publishing only one view after registration, the publication should include all submitted views of the design (or at least enough such views to fully disclose all aspects of the design). Publishing only a single view (unless the design is, e.g., a two-dimensional GUI or icon) often fails to convey the complete visual characteristics of the design, which can lead to ambiguity regarding the scope of protection. Since design protection is fundamentally based on appearance, a comprehensive representation is essential to provide clarity to competitors, examiners, and the public. Publishing all submitted views, along with novelty statements, ensures transparency and makes it easier to assess potential infringement. This aligns with international best practices and enhances legal certainty.

5. Statutory Damages

Remedies represent the practical end of a right, and stronger remedies translate to stronger protection. The Designs Act does not provide criminal remedies for infringement, and enforcement often faces challenges. In order to strengthen enforcement, reasonable statutory damages are proposed for willful infringement to provide some meaningful compensation when it is difficult to prove actual damages.

The court may, as it considers just, having regard to the nature and gravity of the infringement and the scale of business of the infringer, grant statutory damages within the range of a minimum prescribed amount provided under the statute and a maximum up to 50 lakhs for first instance of infringement, in cases where proving actual damages is difficult or impractical. It would provide a predictable as well as effective remedy, and strengthen deterrence by increasing the cost of infringement. Enhanced bands for repeat offenders are also proposed to be considered to be prescribed in the statute.

AIPLA: AIPLA supports the introduction of statutory damages for willful infringement to strengthen design law enforcement and offer clearer, more predictable remedies in a range up to a maximum of INR 50 lakhs (Approximately \$55,100) for a first instance of infringement. AIPLA further supports higher statutory damages for repeat offenders.

Safeguards should be incorporated to prevent misuse of statutory damages provisions, including clear guidance on when statutory damages may be invoked.

6. Term of Protection

Currently, the design protection is granted for 10 years initially, which can be renewed for a further period of 5 years upon filing a renewal request. It is proposed to adopt a “5+5+5” term of protection in order to align India’s law with Article 17 of the Hague Agreement. Under the proposed system, an initial term of 5 years shall be granted for both national as well as Hague applications, with the option of two successive renewals of 5 years each. This would offer flexibility to design owners to extend protection only where the designs continue to be commercially relevant. The objective is to help strike a balance between design innovation incentives and competitive access. Such a system of granting renewal in blocks allows designs which are no longer of any value to design owners to lapse and fall into public domain sooner,

while simultaneously protecting those where continued protection is desired by the design owners. This staged mechanism where legal protection doesn't last longer than economically necessary minimizes deadweight loss and reduces barriers to competition.

AIPLA: AIPLA is in favor of maintaining the current 10+5 years model for design term. The Concept Note's proposed 5+5+5 model raises concerns regarding its impact on administrative efficiency, commercial predictability, and long-term design protection. Moving from one renewal event to two events introduces additional procedural steps, increasing administrative load for both right-holders and the Office without clear justification that this added complexity would improve system functioning. By contrast, the current 10+5 model is relatively simple and cost-effective, requiring only a single renewal decision and avoiding unnecessary procedural friction.

While AIPLA favors renewal frameworks that support aggregate cost recovery while maintaining a balanced structure, renewal fees should not be used as a mechanism to influence applicant behavior or prematurely terminate rights, and should not impose unnecessary administrative burdens. The current proposal has not shown that the revised renewal model is necessary to support balanced cost recovery.

Furthermore, although AIPLA generally supports harmonizing procedures across jurisdictions, alignment with the Hague System does not, in this case, appear to produce meaningful benefits for applicants. The Hague Agreement accommodates a variety of national renewal structures and does not require a three-stage renewal model; rather, it allows Contracting Parties to maintain their own renewal periods so long as renewal terms and fees are clearly stated. As a result, shifting to a 5+5+5 model merely for nominal alignment does not provide applicants with greater predictability, reduced cost, or procedural simplification. Instead, the change risks adding complexity without offering appreciable improvements in global filing strategy, given that applicants already navigate renewal differences across jurisdictions and are accustomed to the longstanding 10+5 model in India. In short, adopting the 5+5+5 model would increase administrative burden without meaningfully advancing international harmonization or improving user experience.

For these reasons, maintaining the 10+5 model offers a more efficient and predictable framework than the proposed 5+5+5 model. At minimum, any shift to more frequent renewals should be supported by clear evidence of administrative or operational need. As drafted, the existing system remains more practical, less burdensome, and better aligned with the commercial realities of design protection.

7. Multiple Designs in single application

It is proposed to allow filing of multiple designs falling in the same class under a single design application. It would reduce filing costs and administrative effort for applicants. Many products are developed with several design variants. Requiring separate applications for each variant increases cost and paperwork. A single application covering multiple designs would simplify filing and examination, and make the system more accessible for startups, MSMEs, and individual designers. It would also allow examiners to assess related designs together, improving consistency and processing efficiency.

This approach would align with DLT and also bring Indian practice closer to international systems such as the EU, UK, and the Hague System. It would improve procedural efficiency and consistency in examination. Indian and foreign applicants will be able to manage their design portfolios easily.

AIPLA: AIPLA supports the Concept Note proposal that the Designs Act, 2000 be amended to allow for a single design application to include multiple designs, consistent with Article 4(4) of the DLT. AIPLA agrees that permitting the filing of multiple designs in a single application would result in a more streamlined filing and examination process that would reduce costs and administrative burden and improve the consistency of examination. This change would align with the current design filing practice in other jurisdictions, including the United Kingdom and European Union.

AIPLA proposes that any amendments to the Designs Act, 2000 clarify that each design in a multiple design application is treated as a standalone right (rather than merely being different “embodiments” of the same design) and that the validity of each design is assessed independently from the remaining designs. That is, if one design in a multiple design application is found to be invalid, this itself should not be prejudicial to the validity of the remaining designs in the same application. Likewise, each design in a multiple design application should be separably enforceable.

It is noted that Article 5(3) of the Designs Act, 2000 currently recites that “A design may be registered in not more than one class, and, in case of doubt as to the class in which a design ought to be registered, the Controller may decide the question”. AIPLA proposes that there is no requirement that each design in a single application must relate to the same class (for example, the same Locarno classification). This would otherwise prevent the protection of related designs (e.g. to a product and packaging) in the same application and would therefore introduce needless complexity and place unnecessary burden on applicants. Similar issues have been addressed in other jurisdictions in this manner. For example, the European Union removed the Locarno classification unity requirement for multiple designs from its own designs system from 1st May 2025 (and is now aligned with the multiple designs practice in the United Kingdom).

The provisions of Article 6 of the Designs Act, 2000, permitting the protection of multiple articles in a prescribed class, should also apply to multiple designs in the same application.

8. Division of Applications

The introduction of divisional applications in the Designs Act in line with Article 9 of DLT would provide applicants with greater procedural flexibility. Divisional applications allow an applicant to split a pending design application into one or more separate applications, when multiple distinct designs are claimed in a single filing or when objections arise during examination. This would help prevent blocking of an entire application due to issues with one design, thereby safeguarding the rights of the applicant over other valid designs. Incorporating divisional applications explicitly into the law would align India with international best practices, and enhance administrative efficiency for the Design Office. It would offer designers a practical tool to manage complex set of filings while reducing the risk of losing valuable design rights.

AIPLA: AIPLA supports the Designs Act, 2000 be amended to permit the filing of divisional applications, consistent with Article 9 of the DLT.

Article 9(1) of the DLT provides that:

“If an application that includes more than one industrial design (hereinafter “initial application”) does not comply with the conditions prescribed by the Contracting Party concerned in accordance with Article 4(4), the Office may require the applicant, at the option of the applicant, to either:

(i) amend the initial application to comply with those conditions; or

(ii) divide the initial application into two or more divisional applications that comply with those conditions by distributing among the latter the industrial designs for which protection was claimed in the initial application.”

Article 4(4) of the DLT, referred to above, provides that “[s]ubject to such conditions as may be prescribed under the applicable law, an application may include more than one industrial design”.

Article 9(1)(ii) of the DLT therefore provides a mechanism by which applicants can file a divisional application if the Office raises an objection that the inclusion of multiple designs in a single application does not comply with certain conditions (for example, requiring all designs to relate to the same class). As discussed above in AIPLA’s comments on preceding section 7 on multiple designs, AIPLA recommends the abolition of same class and other unity requirements. Nevertheless, if it is decided that unity requirements should remain, then it is proposed that applicants are provided with the option to file a divisional application in accordance with Article 9(1)(ii) of the DLT as a remedy to an objection by the Office. This is considered highly preferable to only permitting applicants to delete designs (i.e. without the option to file divisional applications to the deleted designs), which would then lead to a loss of rights in respect of the deleted designs.

AIPLA also recommends that applicants are provided with the option to voluntarily divide a single application into divisional applications, for example, at any time while the parent application is still pending (and without first requiring an objection such as a unity rejection to be raised by the Office). Article 9(3) of the DLT references this option. The option to voluntarily file divisional applications would provide applicants with greater flexibility.

AIPLA supports the wording of Article 9(2) of the DLT that divisional applications shall preserve the filing date of the initial application and the benefit of the claim of priority, if applicable. It is proposed that a design that is the subject of a divisional application, when registered, shall be registered as of the date of the *parent* application for registration (i.e. corresponding to Article 5(6) of the Designs Act, 2000) and, following from this, that the term of protection of the divisional application shall be calculated from this date of registration (i.e. corresponding to Article 11 of the Designs Act, 2000).

9. Introduction of a Chapter on International registrations under Hague

It is proposed to become a part of the Hague System of designs and introduce a dedicated Chapter in the Designs Act to implement the provisions of the Hague Agreement.

The Hague Agreement creates an easier and simpler mechanism for registering designs in multiple countries. Notably, it does not harmonize the substantive aspects of design protection among contracting parties. Same is left to the domestic laws of member countries. Over time, Hague System has evolved and adapted to meet the growing needs of businesses and designers worldwide. From just 11 signatories in 1925, its membership has swelled and reached 100 economies after a century with 2 million designs having been registered under the Hague System so far.⁴

Accession to the Hague System would allow Indian businesses / designers to seek design protection in several countries by way of filing a single application through WIPO. It would also help foreign designers to seek protection in India by designating India under their international application with WIPO. Since Hague Agreement provides a familiar, easier and globally accepted route for design filing to foreign businesses, acceding to it would integrate India more into international design ecosystem and contribute to cross border trade in design intensive sectors like fashion, GUIs, packaging, electronics etc.

AIPLA: AIPLA supports the proposal for India to become part of the Hague System for the International Registration of Industrial Designs and, correspondingly, to introduce a dedicated Chapter into the Designs Act to implement the provisions of the Hague Agreement. A new chapter for the Hague System represents a positive step forward to modernize India's design framework and align it with global best practices. This strategic integration will provide substantial and measurable economic value by enabling Indian designers to secure comprehensive international design protection across 99 countries through a single, efficient international application, significantly reducing costs compared to the traditional burden of individual country filings.

Consistent with the successful experiences of other countries, this cost efficiency will particularly benefit and empower India's vibrant small business sectors, innovative startups, and individual designers who previously faced prohibitive international filing expenses that often prevented them from accessing global markets. The streamlined process will significantly accelerate time-to-market for Indian design innovations, substantially enhancing competitiveness in increasingly complex global supply chains while positioning Indian designers as key players in the international marketplace.

Importantly, the Office of the Controller General of Patents, Designs and Trademarks is already a well-established participating office in the WIPO Digital Access Service for patents and designs, demonstrating India's proven commitment to international IP cooperation. India is not only technically and operationally prepared but also strategically positioned for the streamlined

⁴ See 'A Century of Design Registration 1925-2025 – The Hague System for International Registration of Industrial Designs', available at [wipo-pub-1088-en-a-century-of-design-registrations-1925-2025.pdf](https://www.wipo.int/patent_cooperation/publications/en/a-century-of-design-registrations-1925-2025.pdf), last accessed on January 15, 2025.

document exchange required by international treaties like the Riyadh Design Law Treaty and the Hague Agreement. This existing infrastructure and expertise mean that India is already exceptionally well-positioned for efficient Hague System administration, ensuring a smooth transition that will immediately benefit Indian innovators and the broader economy.

10. Accession to Riyadh Design Law Treaty

DLT provides a closed list of indications / elements that must be submitted with an application (Article 4 and 6); allows including multiple designs in a single application (Article 4); offers a broad 12 months grace period (Article 7) with the option to contracting parties to take a reservation if they choose not to offer such grace period; and gives the option to Applicants to defer publication of their designs for at least 6 months from the filing date (Article 10, Rule 6). It also provides time relief measures to applicants who miss deadlines despite exercising due care (Article 14 and 15); and simplifies the procedure for requesting the renewal of a design registration (Article 13) or license / assignment recordal (Article 20, 21 and 22).

It is proposed that India accede to this Treaty and amend the Designs Act to meet the treaty obligations. As mentioned above, a full grace period of 12 months prior to the filing date, and the option of deferring the publication for up to 30 months starting from the filing date or priority date is proposed. Time relief and reinstatement provision is proposed to be included in line with Article 14 and 15 of DLT to restore design rights lost due to non-compliance with procedural time limits, provided the failure occurred despite due care or was unintentional. This is to ensure that minor procedural lapses do not result in irreversible loss of valuable design rights, disproportionately affecting MSMEs, startups, individual designers, and foreign applicants operating across jurisdictions.

Further, the Treaty allows correction, addition, or restoration of priority claims (Article 16) and the Act is proposed to be amended to provide a framework for exercising this right. This would further strengthen protection for designers and foster greater ease of doing business.

AIPLA: AIPLA strongly recommends that India accede to the Riyadh Design Law Treaty without reservations, as this represents a significant opportunity to enhance India's design protection framework and international competitiveness. The treaty offers substantial benefits including streamlined international filing procedures that will reduce administrative burdens for both applicants and the intellectual property office, harmonized examination standards that provide greater legal certainty and predictability for designers and businesses, and improved access to international markets through simplified cross-border design protection mechanisms. By joining without reservations, India would position itself as a forward-thinking participant in the global design protection system, potentially attracting more international design filings and fostering innovation within its domestic market. The DLT's comprehensive approach to design law harmonization will also facilitate easier enforcement of design rights across member jurisdictions, benefiting both local and international stakeholders. Given these compelling advantages and the Treaty's potential to modernize and strengthen its design protection regime, full accession without reservations would demonstrate commitment to international cooperation and provide the maximum benefit from this important multilateral agreement.

Conclusion

Accordingly, AIPLA respectfully submits these comments and encourages the DPIIT to adopt amendments that strengthen India's design regime, enhance legal certainty for stakeholders, and align India's framework with evolving technologies and international best practices. AIPLA believes these reforms will improve the effectiveness and accessibility of design protection for creators and businesses of all sizes, including startups and MSMEs, while maintaining appropriate safeguards for third parties and healthy competition. AIPLA welcomes the opportunity to engage further with DPIIT as the amendment process continues.

Very truly yours,

A handwritten signature in black ink, appearing to read "Salvatore Anastasi". The signature is written in a cursive, flowing style.

Salvatore Anastasi
President
American Intellectual Property Law Association