

Title: Amendments of design ownership provisions PIR No: BEIS018(PIR)-20-IPO Original IA/RPC No: BIS0360 Lead department or agency: Intellectual Property Office (IPO) Other departments or agencies: Click here to enter text. Contact Mark Davies 01633 814006 mark.davies@ipo.gov.uk	Post Implementation Review
	Date: 12/05/2020
	Type of regulation: Domestic
	Type of review: Non-statutory
	Date measure came into force: 01/10/2014
	Recommendation: Keep
	RPC Opinion: N/A Choose an item.

1. What were the policy objectives of the measure? (Maximum 5 lines)

This is PIR 1 of 3 for design measures introduced by the Intellectual Property (IP) Act 2014. It covers amendments of design ownership provisions. The other PIRs relate to revision of scope of design protection and the introduction of a criminal offence for the deliberate infringement of a UK or EU Registered Design.

The policy objectives of this measure were:

- i) To simplify legal provisions on ownership of registered and unregistered designs to make them easier for business to understand, and make design rights more accessible.
- ii) To ensure legal provisions are fit for use and do not allow unfair exploitation of inconsistencies and complexities.
- iii) To match EU ownership provisions to ensure simplicity across Europe.

2. What evidence has informed the PIR? (Maximum 5 lines)

For this PIR, we took into consideration feedback given by stakeholders. In total we contacted eleven various trade associations and umbrella organisations, key stakeholder groups including legal representative professional bodies and individual companies.

We considered internal management information such as customer feedback from the Intellectual Property Office's (IPO) information centre and customer insight teams. We also reviewed tribunal designs decisions since 01/10/2014 for invalidation decisions based on ownership provisions which showed no invalidations.

3. To what extent have the policy objectives been achieved? (Maximum 5 lines)

Responses from stakeholders have not indicated any concerns or dissatisfaction with the changes made to the ownership provisions and there have been positive comments from customers. We therefore consider the policy objectives have been achieved. Since the introduction of these measures designs applications have increased from around 5,000 in 2015 to over 25,000 in 2019 which whilst not proven causally, this does support that the changes have contributed to this positive effect.



Sign-off for Post Implementation Review: Chief economist and Minister

I have read the PIR and I am satisfied that it represents a fair and proportionate assessment of the impact of the measure.

Signed: Steph Dales

Date: 17/06/2020

Signed: 

Date: 24/07/2020

AMANDA SOLLOWAY MP
Parliamentary Under Secretary of State
Minister for Science, Research & Innovation

Further information sheet

Please provide additional evidence in subsequent sheets, as required.

4. What were the original assumptions? (Maximum 5 lines)

In 2014 the provisions associated with ownership of UK designs were not aligned with those for EU designs, making the design landscape unnecessarily complex for business to understand, and creating complex ownership issues leading to legal disputes. A change in the law would simplify and streamline ownership provisions of designs and reduce the likelihood of disputes over ownership arising.

5. Were there any unintended consequences? (Maximum 5 lines)

The IPO is not aware of any unintended consequences of this new measure. Stakeholders have not expressed any concerns or dissatisfaction with the changes made.

6. Has the evidence identified any opportunities for reducing the burden on business?

This measure was introduced to reduce the burden on business and applicants. We did not expect the changes to have a large financial impact; they were intended to improve the functioning of the UK designs framework.

In the absence of evidence to the contrary, we consider that stakeholders are content with the changes as no negative comments have been received.

7. For EU measures, how does the UK's implementation compare with that in other EU member states in terms of costs to business?

This is a UK specific law. It is not implementing an EU measure and therefore there is no relevant comparison to be made with other member states in terms of costs to business.

It has aligned UK law with EU provisions covering ownership of EU designs and with those governing ownership of UK copyright, which is particularly closely related to UK unregistered designs.

Review of the 2014 amendments of design ownership provisions

Introduction

There are a number of ways in which a design may be protected in the UK, resulting in a patchwork of rights protecting different aspects for differing periods of time. The following types of design protection now are available:

- Registered UK design
- Unregistered UK design
- Registered Community design
- Unregistered Community design
- International Design registrations through the Hague system (since 2018).

In some instances, a design may also be covered by copyright as well.

Context and purpose

This document sets out the results of the IPO's post implementation review (PIR) of changes to design law introduced by the Intellectual Property Act 2014. The changes to the legislation aimed to help modernise and improve the design framework.

In conducting the review, the IPO has considered whether and to what extent the changes:

- Have achieved the original objectives.
- Are still required and remain the best option for achieving those objectives.
- Could be achieved in another way which involves less onerous regulatory provision.

Prior to 2014 the provisions for ownership of UK designs were not aligned with those for Community (EU) designs. This made the legal framework for designs unnecessarily complex for business to understand and created complex ownership issues during legal disputes. Following the recommendations of the 2011 [Hargreaves Review](#) of Intellectual Property and Growth, a call for evidence, associated online survey and a public consultation, the Government introduced new legislation to simplify design law and improve how the IP framework supports innovation.

The aim of changing the law was to help modernise and improve the design framework so that it is less complex to use, by harmonising it where appropriate with the EU regime so that the designs system overall is easier to navigate. This PIR covers the measures intended to simplify and streamline ownership provisions of designs, to help reduce the likelihood of ownership disputes, and to make ownership provisions easier for businesses to understand. The change also sought to remove barriers faced by the IPO entering details about changes in ownership on its designs register, to ensure businesses can rely on that information being accurate and up to date.

In addition, the changes aimed to align UK law with EU provisions covering ownership of EU designs and with those governing ownership of UK copyright, which is particularly closely related to UK unregistered design.

Methodology/Review Process and stakeholder responses

The impact of this measure was expected to be below the £5 million threshold (net annualised impacts to business). Therefore, as per guidance, we have taken a proportionate approach to the review appropriate to the expected benefits or levels of uncertainty associated with the measure. It has not been possible to estimate costs/benefits over the last five years due to the lack of monetised evidence provided by stakeholders.

We sought feedback on the measures from stakeholders. We contacted eleven different trade associations and umbrella organisations, key stakeholder groups including legal representative professional bodies and individual companies. We also invited a mixture of the thirty-four respondents to “The Consultation on the Reform of the UK Designs Legal Framework” to express their views on whether the design related measures which were brought in by the IP Act 2014 have been a benefit to them as a stakeholder, or their clients if they are a legal representative. We were also keen to understand any negative outcomes or unintended consequences of the measure.

Our review of tribunal designs decisions since 01/10/2014 shows there have been no decisions for invalidation of designs based on the new ownership provisions, suggesting they have not caused an unintended problems for stakeholders.

The stakeholders that responded were mainly positive about the changes introduced and have stated that the ownership provisions for designs in the UK have been harmonised with the EU system and to the UK copyright provisions. Harmonising UK and EU law brings benefits by reducing complexity, which if left unaddressed would increase the risk of companies becoming involved in cost and time intensive legal disputes reducing the resources they are able to use on developing and expanding their businesses.

They also stated that they were content with the ‘claim to ownership’ provisions and feel that it allows for easier correction of errors rather than the invalidation of the design if it was filed in the incorrect name.

IPO administrative data¹ shows that applications for designs increased from 5,084 in 2014 to 25,545 in 2019. There have been other changes to the design system which has contributed to this increase, so we cannot attribute these increases solely to this policy. It is more broadly indicative that the policy changes have contributed towards this increase in application behaviour.

Issues and recommendations from stakeholders

Stakeholders have expressed that more work should be done to educate people within the design community so that they are aware aware of the changes. They stated that more work needs to be undertaken by the IPO to educate both small and large businesses on the ownership provisions.

Conclusion and Next Steps

We judge that the information gathered through this review suggests that overall stakeholders welcome this provision, and the objective remains valid and necessary.

¹ [Facts and Figures](https://www.gov.uk/government/statistics/facts-and-figures-patent-trade-mark-design-and-hearing-data-2019) (2020), Intellectual Property Office, <https://www.gov.uk/government/statistics/facts-and-figures-patent-trade-mark-design-and-hearing-data-2019>

The lack of negative feedback suggests that stakeholders are broadly satisfied with this measure which simplified ownership provisions for UK designs. The review has not identified any improvements in the assumptions which would change the original assessment.

Based on the positive responses from stakeholders, the original objectives remain valid and we conclude that it would be appropriate to retain the measure in its current form.

