

Alert | Intellectual Property & Technology



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Toward Digital-Ready Design Protection: The New EU Design Act

The European Union has undertaken a comprehensive modernization and harmonization of its design protection framework. The reform, commonly referred to as the “Design Act,” comprises two legislative measures: the Design Regulation (Regulation (EU) 2024/2822, which amends Regulation (EC) No 6/2002 and repeals Regulation (EC) No 2246/2002) and the Design Directive (Directive 2024/2823, which replaces Directive 98/71/EC).

The EU aims to align design protection with technological advancements, particularly in the realm of digital and animated designs. At the same time, the system is being simplified to better serve businesses and designers while strengthening enforcement mechanisms and promoting harmonization.

The Design Regulation deals with the EU Design (which is the new name for the former Community Design) and its registration, protection and enforcement, while the Design Directive sets mandatory requirements for the national designs that each Member State will need to implement into national legislation.

Key Changes at a Glance

The Design Act seeks to align EU design protection with the demands of the digital age while enhancing its accessibility and user-friendliness:

- Digital and animated designs are explicitly protected in order to ensure comprehensive protection in the digital and virtual space.
- For both the register for EU Designs and national Designs, protection of registered designs has been increased. A design that is registered in the EU register or a national register is deemed to be valid and is deemed to be owned by the registered owner.
- Application procedures are streamlined within the EU.
- Enforcement rights are strengthened.
- Design owners gain new tools for legal certainty.
- Specific market needs — such as component part availability— are addressed through the introduction of a repair clause, exempting repair parts from protection.
- Replacement of the term “Community design” with “EU design.”
- A circled D symbol (©) can be used to indicate design protection on products.

Implementation Phases

The reforms the Design Act introduces will be implemented progressively across three phases.

Phase 1 (from May 1, 2025): Initial Practical Changes

- **Simplified and Unified Registration Process**

The requirement for “unity of class” in multiple design applications is abolished, allowing multiple designs from different Locarno classes to be combined into a single application (capped at 50 designs per application), reducing administrative effort and costs.

(Art. 35 ff. Design Regulation/ Art. 27 Design Directive)

- **Updated Fee Structure**

A single, unified application fee simplifies the cost structure. Renewal fees are increased but better reflect the commercial value of extended design protection. While the registration itself will not become more expensive, the renewal fees after the fifth year will increase. However, because the “unity of class” requirement is abolished, multiple applications will be more cost-efficient than before.

(Design Regulation, Annex I)

- **Amended Renewal Process**

Registered designs must be renewed within the six-month period before expiration – this includes both the request and the fee payment.

(Art. 50d Design Regulation/ Article 32 Design Directive)

- **Enhanced Enforcement Powers**

New rights may enable design owners to act against unauthorized 3D printing of their designs and counterfeit goods passing through the EU (transit goods), closing enforcement gaps and enhancing the overall enforcement framework.

(Art. 19 Design Regulation/ Art. 16 Design Directive)

- **Design Symbol Introduction**

Design owners may now use the “©” symbol to indicate protected designs, similar to trademarks (®) or copyrights (©) to deter potential infringers in the field of design law. Additional identifiers, such as registration numbers or links to the EU design register, may also be used.

(Art. 26a Design Regulation/ Art. 24 Design Directive)

Phase 2 (from July 1, 2026): Expanding the Scope of Protection

- **Expanded Definition of Designs**

The definition of protectable designs now explicitly encompasses dynamic features such as motion, transitions, and animation – addressing the growing prominence of digital design.

(Art. 3 (1) Design Regulation; Art. 2 (3) Design Directive)

- **New Representation Requirements**

The European Union Intellectual Property Office executive director will determine formats, numbering, and technical specifications for both static and animated design representations, ensuring clarity and consistency in registration.

(Art. 36 Design Regulation/ Art. 26 Design Directive)

Phase 3 (by Dec. 9, 2027): Market-Specific Adjustments

- **Introducing a Repair Clause**

Component parts of complex products – where design is dictated by the appearance of the whole product and the component part used solely to restore that appearance (e.g., automotive body parts) – are excluded from design protection. However, an eight-year transitional period, ending on Dec. 9, 2032, preserves the existing protection for such parts during that time.

(Art. 20a Design Regulation/ Art. 19 Design Directive)

Conclusion

The EU’s Design Reform introduces a modernized legal framework that seeks to meet the evolving challenges of digitalization, enhance legal certainty, simplify administrative processes, and strengthen enforcement capabilities.

While EU trademark law has long been aligned across member states, design law had previously lagged behind in terms of consistency and uniformity. With the Design Act package, the EU is now taking further steps toward achieving a more coherent and fully harmonized design protection system.

Businesses and designers are encouraged to begin preparing for the phased changes now to enhance compliance and to leverage the new legal opportunities.

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