

# EU approves Design Rights reform

At the end of 2024, the EU finally approved the first significant reform to its now 20+ year old system for design protection. The primary objective of the reform is to make the system more attractive, efficient, and better aligned with the evolving nature of designs and technological advancements in modern society.

On 1 May 2025, the Community Design Regulation will be updated by the Amending Regulation 2024/2822 and renamed as the European Union Design Regulation ("EUDR"). While many of the new provisions in the EUDR will apply immediately on 1 May, some will only apply from 1 July 2026 as they depend on forthcoming secondary legislation.

For national design rights, the EU Member States have until 9 December 2027 to implement the revised provisions of the new 2024/2823 EU Design Directive ("EUDD") into their domestic laws.

Some of the significant news in the reform are:

## New EU Terminology

- References to Community are replaced with EU, so references to Registered and Unregistered *European Union* Designs (REUD/UEUD) replaces Registered and Unregistered *Community* Designs (RCD/UCD).

## Fees and renewals

- Current separate registration and publication fees are unified into a single, lower €350 application fee, plus €125 for each additional design.
- Multiple designs in an application no longer need to belong to the same Locarno class.
- An application can include up to 50 designs. (Art. 37 EUDR)
- Renewal fees increase significantly and exponentially with time, to encourage only utilised designs to be maintained on the register. Owners of registrations due for renewal soon may therefore wish to consider early renewal, prior to 1 May 2025. (International registrations designating the EU are subject to alternate (lower) fees.)

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- The renewal fee will be due by the date of expiry of the registration rather than by the last day of the month, and the six-month grace period will expire six months after that expiry date. This is consistent with EU trade marks. (Art. 50d EUDR)
- Fees for registering a transfer, cancellation of the registration of a licence, and for the issuance of certified and uncertified copies, are abolished.

## Application & Registration

- The filing date is now dependent on the payment of the application fee, and the fee must be paid within one month of filing. (Art. 35(4) and Art. 38 EUDR)
- The technical means for filing design representations will be updated, and the number of different views allowed is expected to exceed seven, but exact details are not yet known.
- The option to submit a physical specimen has been abolished.
- Under current legislation, where deferred publication has been requested, an applicant could prevent a future publication by not paying the publication fee. The publication fee is now abolished, meaning the applicant must explicitly surrender a design three months before the end of the deferment period to avoid publication. (Art. 50(5) EUDR)
- The EUID will provide for deferring design publication for up to 30 months in all member states.
- All REUD applications must now be submitted to the EUIPO directly and can no longer be filed through national IP offices. (Art. 35(1) EUDR)

## Scope of protection and rights

- The term "design" is broadened and modernised to include animations, movements and transitions. The term "product" is revised to explicitly include digital items (but not computer programs). (Art. 3(1) and (2) EUDR)
- Design right holders now have the explicit ability to prohibit unauthorised creation, downloading, copying and distribution of the protected design, targeting risks posed by emerging technologies such as 3D printing. (Art. 19(2)(d) EUDR)
- Design right holders can now intercept counterfeit goods in transit through the EU, mirroring the EU trade mark system. (Art. 19(3) EUDR)

## Limitations to rights

- Acts of referential use, commentary, critique, and parody can now be invoked as defences against infringement claims, provided they meet specific criteria, to properly safeguard the freedom of expression (Art. 20 EUDR)
- The transitional provision concerning spare parts is made permanent and amended to align with the case-law of the Court of Justice of the European Union (CJEU). As a result, spare parts that remain visible during normal use continue to be eligible for registration. However, these rights cannot be enforced against actions with the intention to restore a product to its original appearance, provided that the supplier of a spare parts fulfils their duty to inform the consumers that these parts must be used solely for repair or restoration purposes. (Art. 20a EUDR)
- For national design rights there will be a transitional period of 8 years (until December 2032), where existing spare parts design rights will still enjoy full protection in that member state.

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## Processes

- Request for a change of ownership through entitlement proceedings can be filed by a person who is entitled, rather than first having to invalidate the design. (Art. 15 and 16 EUDR)
- As EU designs are registered without a substantive examination of their novelty and individual character, fast track invalidity proceedings are expected to be introduced for cases where the holder of the design does not contest the grounds of invalidity.

## Additional clarifications/codifications

- There is no general requirement that a design is visible during the normal use of a product, except for interchangeable parts of a product. (Art. 18a EUDR)
- A design made available to the public anywhere in the world may affect the novelty of an EU design, and the uncertainty caused by the second sentence of Art. 110a (5) regarding the impact of disclosures made outside the EU, has been rectified.
- The EUDR encourages right holders to use a D-symbol © to indicate design protection, similar to using ® to indicate a registered trade mark (Art. 26a EUDR).