



Anti Copying in Design (ACID) RESPONSE TO THE DESIGNS CONSULTATION SURVEY APRIL 1, 2025.

Author: Dids Macdonald (as a former designer and user of the system and as Chair and Co-Founder of Anti Copying in Design (ACID) representing many hundreds who use the current Designs and IP Framework.

Questions 1 – 11 inclusive were tick box or option replies. Below are responses to the self-editing questions

The interactions between the principles have been touched on above. We would like to understand the importance stakeholders place on each principle in respect of the others. Please rank the principles in order of importance to you 1-5 (1= most important, 5= least important):

COST, VALIDITY, SPEED, CHOICE, AND SIMPLICITY

All five principles—Cost, Validity, Speed, Choice, and Simplicity—are equally essential to an effective design protection framework and must not be prioritised in isolation. Each area presents challenges that require better understanding and reform to create a system that supports UK designers, most of whom are SMEs or individuals.

COST

- While registration fees are low, legal reliance on a design often requires specialist IP legal advice, significantly increasing total costs. This can deter registration altogether, especially for prolific designers. High-profile cases, such as Trunki, have diminished trust in design, as successful legal outcomes remain uncertain despite compliance. Enforcement is financially out of reach for many designers, with legal fees (£200–£500/hr) far exceeding typical design earnings. Many SMEs, including the author's, have faced legal stonewalling tactics from well-resourced infringers, forcing alternative survival strategies. Though unregistered design rights also involve potential legal costs, the ability to present a credible audit trail offers an accessible alternative.

VALIDITY

- Many designers lack awareness of what constitutes a valid registered design, such as novelty and individual character, leaving them vulnerable or misinformed. Introducing comprehensive searches or examinations to strengthen presumed validity would increase complexity and cost, primarily benefiting lawyers rather than applicants. In contrast, unregistered rights, backed by proper documentation, can offer a more practical and affordable way for designers to protect their creations. Tools like the ACID IP Databank exemplify this more accessible form of validity.

SPEED

- While registration is fast, enforcement is often slow and ineffective—particularly for SMEs. The time and cost required to challenge infringement discourage action, emboldening copyists, and eroding deterrents. The lack of rapid, proportionate enforcement undermines confidence in IP protection and stifles innovation in a sector
-



- that contributes £97 billion to the UK economy. Legal outcomes are rarely timely or financially reflective of the burden on the claimant. Designers require both fast rights acquisition and swift, affordable enforcement mechanisms.

CHOICE

- Designers face confusion over the multiple forms of protection—Registered, Unregistered, Supplementary, 3D Trade Marks, and Copyright in Artistic Craftsmanship—with few understanding the distinctions. IPO/PEC research shows 79% of designers have never registered a design, and 53% hold no formal IP protection. Despite this, 90% face infringement within 8 years. The complexity of navigating IP options, combined with a lack of education and systemic support, prevents informed decision-making. Reforms like allowing registered design cases in the Small Claims Track (recommended in 2011 but never implemented) could offer a significant boost. There is also a lack of parity within design for those who rely on copyright (2D designers) and those who rely on design right (3D designers) in term and protection.

SIMPLICITY

- Simplification is critical. With 99% of UK designers being micro-businesses or freelancers, the current system's complexity is a major barrier. The sector requires a more cohesive approach that recognises the intersection of design, copyright, and innovation—especially in emerging areas like AI. A national strategy must view IP not just legally, but as a vital business and economic asset. A streamlined system—faster, cheaper, and easier to use—is repeatedly called for. Resistance from large corporations and some legal professionals should not outweigh the overwhelming evidence and need for reform that better serves creators on the ground.

13. Are there any other principles which we have not included that are important to you? If so, what are they and why are they important?

- While the principles of Cost, Validity, Speed, Choice, and Simplicity are crucial, Deterrence and Wellbeing are equally important. IP should be viewed primarily as a business asset rather than a legal issue—only becoming legal when infringed. A stronger deterrent, such as criminalising intentional infringement of unregistered designs (as with copyright and registered designs), would help protect creators and discourage copying.
- Enforcement is often a long, costly, and emotionally draining process. The stress involved—personally and professionally—can be profound, especially for SMEs facing large corporate infringers. Legal redress takes valuable time away from innovation and business growth, often with little reward.
- There must be more recognition of the mental and emotional toll on creators, alongside stronger deterrents to reduce the need for litigation in the first place. Supporting originality means building a system that not only protects rights but also preserves the wellbeing of those who innovate. David v Goliath cases predominate a lone, micro and SME design sector making it almost impossible to fight back.



18. Is there anything else you think is important or very important relating to the design protection system? Please specify

- Despite huge amounts being spent on intellectual property awareness by the government, there is little understanding of the value of knowing about IP rights, especially design rights, as the majority of SMEs find it too expensive to take legal advice on registering and find it cost prohibitive to take legal action. Most find out about IP the hard way when their work is stolen and used without permission.
- For example, there were approximately 11,000+ submissions to the recent copyright and AI consultation, many in uproar about the intention to allow Generated AI to be allowed to data scrape work for training purposes without transparency, attribution or recompense thus diluting centuries old copyright law. The only option is to “opt out” which affects 3D designers. Currently there are no transparent safe and easily accessible “opt out” systems in place.

20. Are there any other aspects which you find burdensome/very burdensome? Please specify

- When I was a designer online infringement had not emerged, but we are increasingly experiencing that many find difficult to manage online infringements where there is a lack of online marketplaces (TEMU, SHEIN) accepting formal design/brand protection. It is exceedingly difficult to access take down with re-sellers appearing like 'whack a mole'.
- Many lone, micro and SME designers find it impossible to pursue their rights because “goliath” copyists can be elusive and have big legal pockets. My first case, amongst many was against John Lewis who had fiscal resource to fight my challenge. Another, Harrison Drape with a then turnover of £452 million threatened to put our product range in 11000 stores globally. This would have bankrupted us; we would have lost our business had this gone ahead. Over 25 years, with my ACID hat on, David v Goliath is alive and kicking and some of the man perpetrators are well known national and global retail and manufacturing names. There is little declared corporate social responsibility (CSR) on IP issues.

21. Does the burden of any of these elements limit your production or commercialisation of designs? (Tick all that apply)

- Understanding the design IP system is complex, with costly legal and renewal fees that hinder SMEs. Designers need clearer, user-friendly processes shaped by design thinking. Enforcement is often unaffordable and time-consuming, diverting focus from business growth. Licensing offers opportunity but carries legal risks without fair, balanced agreements like ACID’s industry standard. Overseas copying of original designs, often produced cheaply and poorly, has hurt production, ROI, and jobs—with minimal enforcement response. There’s also growing concern that AI developers could misuse 2D/copyrighted materials without permission, risking legal erosion.



24. Is there anything else you think is important or very important relating to the design protection system? Please specify

- The interaction between different design protections presents both benefits and challenges. Registered designs offer a clear advantage—no need to prove copying—but they only protect what’s registered, creating a limited "snapshot" effect, as seen in the Trunki case. In contrast, unregistered designs provide automatic protection but rely heavily on audit trails and the ability to prove ownership and copying. The system includes five types of design protection, yet many creators are unaware of their distinctions or benefits. Low awareness, especially around unregistered design rights (UDRs), combined with a high rate of infringement, highlights a systemic issue: those unfamiliar with IP protections are more vulnerable to theft and struggle to prove ownership when infringements occur.
- Additional concerns focus on the stress, cost, and time involved in enforcement, which disproportionately affects SMEs. Despite increasing reliance on digital platforms, designers regularly face mass infringement—often by large online retailers with little accountability. This creates an unfair playing field, where design originators lack realistic access to justice. The disparity in deterrents is stark: while copyright and registered design infringement are criminal offences, unregistered design infringement is not, leaving many designers without adequate protection. The bar for criminal cases to be heard by the CPS is extremely high which provides safeguards for all but acts as a strong deterrence if all else fails.
- The use of copyrighted material by Generative AI (GAI) without permission further erodes trust, especially when the burden falls on creators to opt out. This contradiction—claiming world-class IP protection while diluting actual safeguards—has been criticised across consultations and surveys. Fairness, parity, and enforceable deterrents are essential.

25. Do you think the definition of a design in UK IP law should be broadened?

- Yes
- No

26. If yes, what else do you think should be protectable (select all that apply):

- Yes, the definition of “design” in UK IP law should be broadened. Currently, design is narrowly interpreted within a rigid “Designs and IP Framework,” overlooking its wider significance. Design is not only a legal right but also a mindset that merges creativity with innovation, shaping culture, industries, and sustainability. In other words, according to the Design Council description, “*Design is what happens when people use creativity to solve problems. Computers to coffee cups, skyscrapers and socks. Everything not made by nature, has been designed*”.
- Reducing design right to a nebulous concept (especially unregistered design right) described by some who are not aware of the benefits, fail to acknowledge its societal, economic, and environmental impact.
- Design thinking drives technological and social progress, blending aesthetics and problem-solving. UK designers lead globally by fusing tradition and experimentation across fields from architecture to gaming. Design also plays a pivotal role in achieving Sustainable Development Goals (SDGs) by promoting circular economies, eco-materials, and responsible production.



- The current framework ignores this broader relevance. IP protections—including trade secrets—must reflect the full scope of design’s contribution. Restricting legal protection to what can be registered undervalues design’s true impact.
- Policy should embrace a more inclusive and creative framework that respects IP law but also enables innovation, culture, and sustainability. A dynamic system based on cost-effectiveness, validity, speed, choice, and simplicity—without hierarchy—is essential. This would help protect individuals and sectors from stress and exploitation, especially as AI developers increasingly use creative content without permission under the guise of “training.”
- Ultimately, design and AI can and should work together successfully to achieve growth, but only if the principles of transparency, protection, and fair compensation are upheld. The legal definition of design must evolve to reflect its central role in the UK’s creative economy and intellectual capital.