



February 20, 2026

IPR - Copyrights, Design and CIPAM Section
Department for Promotion of Industry and Internal Trade
Ministry of Commerce & Industry
Government of India
Vanijya Bhavan
New Delhi-110011
India

Submitted via email: ipr7-dipp@gov.in

Re: IPO's Comments on the "Concept Note: Proposed Amendment to the Designs Act, 2000" (January 2026)

Dear Director Kaur:

The Intellectual Property Owners Association ("IPO") appreciates the opportunity to provide comments on the "Concept Note: Proposed Amendment to the Designs Act, 2000" (the "Concept Note") released by the Department for Promotion of Industry and Internal Trade ("DPIIT") on January 23, 2026.

IPO is an international trade association representing a wide array of stakeholders in all industries and fields of technology that own, or are interested in, intellectual property (IP) rights. IPO membership includes over 125 companies and spans over 30 countries. IPO advocates for effective and affordable IP ownership rights and offers a wide array of services, including supporting member interests relating to legislative and international issues; analyzing current IP issues; providing information and educational services; and disseminating information to the public on the importance of IP rights.

IPO commends the DPIIT for its forward-looking initiative to modernize the Designs Act, 2000, particularly the vision of "Design in India, Design for the World." IPO strongly supports the Concept Note's objectives to align Indian design law with international best practices, including certain practices found in the Hague Agreement and the Riyadh Design Law Treaty (DLT).

Based on feedback from its members, IPO respectfully submits the following specific comments and proposed revisions to ensure the amendments achieve their intended goals of robustness and clarity.

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1. Virtual Designs Protection

IPO strongly supports the proposal to amend the Designs Act's definitions of "article" and "design" to extend protection to virtual designs (graphical user interfaces ("GUIs"), icons, screen displays, etc.) independent of a physical carrier as a critical step towards modernization. However, the Concept Note is silent on the liability of intermediaries in the digital ecosystem, such as search engines, social media platforms, and e-commerce marketplaces, which inevitably display virtual designs as part of their functions (e.g., search results or user-generated content).

While Section 79 of the Information Technology Act, 2000 provides a safe harbor, IPO recommends the DPIIT include a provision in the Designs Act that explicitly clarifies that the mere display of a virtual design by an intermediary for referential or index purposes does not constitute infringement, provided the intermediary acts as a passive conduit.

IPO Recommendations:

Explicitly include a provision in the Designs Act—distinct from the IT Act—protecting intermediaries from liability for virtual designs displayed on their platforms, provided they act as passive conduits.

Adopt limitations similar to those in the European Union, ensuring that "referential use" (such as in search results) is not treated as an infringing use.

2. Design-Copyright Interface

The Concept Note proposes amending Section 15(2) of the Copyright Act, 1957 to grant 15 years of copyright protection to unregistered designs. IPO strongly opposes this specific proposal. Copyright law and design law serve different commercial purposes and should be allowed to co-exist without one curtailing the scope of protection under the other.

Comparative study offers a useful perspective. The United Kingdom once pursued a model similar to India's approach, limiting copyright protection for industrially exploited artistic works. That mechanism was ultimately abandoned in favor of what is now Section 51 of the UK Copyright, Designs and Patents Act which does not extinguish copyright; instead, the current law limits the scope of infringement by clarifying that making an article from a design document does not infringe copyright unless the article itself qualifies as an artistic work. Such an approach recognizes that sketches and drawings possess independent economic and evidentiary value while acknowledging that the governance of product appearance belongs primarily to design law.

IPO Recommendation:

IPO recommends the DPIIT delete Section 15(2) of the Copyright Act and instead consider protecting unregistered designs under the Designs Act in a manner similar to the EU's "Unregistered Community Design," which offers a short term of protection (e.g., three years) strictly against copying.

3. Full Grace Period

The Concept Note proposes a full grace period of 12 months, consistent with Article 7 of the DLT. The Note also clarifies that the grace period will be without any pre-conditions (as currently exists) and regardless of the manner of disclosure. In international practice, it is crucial that this period be calculated backward from the priority date in the country where priority is claimed. Without this clarification, applicants who file first in a foreign jurisdiction (and then in India within 6 months) might inadvertently lose the benefit of the grace period if their disclosure occurred more than 12 months before the Indian filing date but within 12 months of the priority date.

IPO Recommendation:

IPO supports the introduction of a 12-month grace period consistent with Article 7 of the DLT but recommends clarifying that the grace period is calculated from the date of priority or the date of filing, whichever is earlier (similar to practice in Europe, the U.S., and the United Kingdom).

4. Deferment of Publication

The Concept Note proposes introducing a 30-month deferment of publication. An applicant will need to request such deferment at the time of filing. The Concept Note also suggests an option for surrender of registration / application at least one month before expiry of the deferment period to avoid publication of the design.

A defense of innocent infringement is also suggested to be incorporated for infringement during the deferment period when the design is not publicly available. This defense provides immunity against damages or account of profits for actions taken before the design was published or notified to the infringer. It is also clarified that only prospective injunctive relief will be available to prevent infringement after the publication / disclosure of registered design.

IPO Recommendations:

IPO welcomes the proposal for a 30-month deferment of publication for designs. IPO also welcomes the proposal for including provisions in relation to innocent infringer defense to provide immunity against damages / account of profits for infringement during the deferment period, and prospective injunction after the publication / disclosure of registered design.

To make this provision practically effective for industry, IPO suggests enhancements as shown below:

- Early Publication: Applicants and registrants should have the option to request publication prior to the expiry of the 30-month period if they choose to launch the product early.
- Enforcement of Unpublished Registered Designs through Confidential Disclosure: The law should clarify that a registered but unpublished design can be invoked for enforcement against an infringer in a legal notice and in a court action, provided that the design holder is willing to disclose the design, under the conditions of confidentiality, to the infringer or the court as the case may be. This aligns with practice in the EU.

5. Statutory Damages

The Concept Note proposes that the upper limit of statutory damages be increased to 50 lakhs for the first instance of infringement in cases where providing actual damages is difficult or impractical. The Note also proposes enhanced bans for repeat offenders.

IPO supports introduction of an enhanced upper limit of statutory damages, particularly where proving actual loss is difficult, such as in the case of virtual designs.

6. Term of Protection

The Concept Note proposes a change in the break-up of the term of design protection of 15 years from the current “10+5” years to “5+5+5” years. IPO welcomes the "5+5+5" year structure for the protection of designs. IPO, however, believes the total 15-year term is insufficient given the lifespan of modern iconic designs. Many major jurisdictions, including Japan, the European Union, and the UK, offer a maximum term of 25 years.

Accordingly, IPO recommends increasing the total maximum term of design protection to 25 years (e.g., 5+5+5+5+5) to align India with global standards. The DPIIT may also

consider incrementally increasing renewal fees for the later terms to deter squatting and ensure only commercially valuable designs are maintained.

7. Multiple Designs in a Single Application

IPO supports the proposal to allow multiple designs in a single application. However, the Concept Note suggests restricting this to designs "falling in the same class." Modern products often integrate designs across multiple Locarno classes (e.g., a physical device in Class 14 and its GUI in Class 32). Restricting a single application to a single class forces applicants to file multiple applications for a single product ecosystem, increasing costs and administrative burdens.

IPO Recommendations:

IPO recommends the DPIIT remove the "single class" restriction and allow applicants to include multiple designs in a single application regardless of class, provided they meet a unity of design or product standard. At a minimum, the law should permit a single application to include multiple designs with multiple classes to safeguard priority claims and the right to file divisional applications prior to the issuance of the parent.

8. Division of Applications

IPO fully supports the proposal to introduce a provision for the division of a design application, as it aligns with international best practices and provides applicants with greater procedural flexibility to protect distinct designs contained within a single filing. This amendment will help prevent the loss of rights due to procedural objections and enhance administrative efficiency.

9. Introduction of a Chapter on International registrations under Hague

The proposal of accession to the Hague Agreement and introducing necessary provisions towards compliance is a welcome move. IPO fully supports the proposal as it will integrate India into the global design ecosystem and simplify the protection of designs for both domestic and international applicants.

10. Accession to Riyadh Design Law Treaty

The Riyadh Design Law Treaty (DLT) includes provisions regarding grace period, deferring publication, time relief, and reinstatement. These provisions would help harmonize procedural requirements and reduce the risk of loss of rights due to formalities.

IPO thanks the DPIIT for its consideration of these comments and welcomes any further opportunity to discuss these important issues to help strengthen India's design framework.

Sincerely,

A handwritten signature in black ink, appearing to read "John Cheek". The signature is written in a cursive style with a large initial "J" and a distinct "C".

John J. Cheek
President