



9<sup>th</sup> October 2020

Dear 4 Presidents

### **First disclosure of unregistered designs at the end of the transition period**

The nature of our negotiations with the EU over a free trade agreement has meant that it has not always been possible to discuss the progress of the negotiations in detail with you, and I am grateful for your understanding and patience in this respect. However, as you will be aware, the end of the transition period is fast approaching and I am now able to update you on our negotiations with the EU over the last few months in respect of unregistered designs.

We know there have been concerns from the industry regarding unregistered designs protection across the UK and the EU, and you will be aware that earlier in the year the UK proposed draft treaty text seeking continued reciprocal protection following disclosure, as part of the FTA. The Government recognises the value of the design economy to the UK and we worked hard to reach agreement with the EU on reciprocal disclosure during the negotiations. Unfortunately, I am now able to confirm that the EU have been unwilling to agree to this.

I am disappointed with this outcome and accept it will be disappointing news for you too. We continue to believe that an agreement on this point would have been beneficial to businesses and individual designers in both the UK and the EU. We respect the EU's decision to pass up the opportunity to conclude such mutually beneficial text, but it does not detract from our disappointment.

### **What does this mean?**

- After the transition period, UK businesses will only have unregistered design protection in the territory of first disclosure - either the UK or the EU. Businesses will need to make an informed choice as to where they first disclose their designs.
- From 1 January 2021, the UK will create the supplementary unregistered design (SUD), providing similar protection to that conferred by the unregistered Community design, for the UK only.

- Designs that are protected in the UK as an Unregistered Community Design (UCD) prior to exit day will continue to be protected as a UK Continuing Unregistered Design (CUD).
- First disclosure in the EU will not establish SUD and but could destroy the novelty of the design should you later seek to establish unregistered rights in the UK.
- Businesses will still have the option of registering a design in the EU and UK during the 12-month grace period following disclosure.

We are currently updating our [business guidance](#) to reflect the outcome of negotiations.

Once again, I acknowledge that this will not be welcome news. We will continue to work closely with you, as a stakeholder group, as we approach the end of the Transition Period, and beyond, to ensure the design and trade mark frameworks are improved and meet the needs of our users. We look forward to further discussion in due course.

Yours sincerely

A handwritten signature in black ink that reads "David Holdsworth". The signature is written in a cursive style with a large initial 'D' and a horizontal line underlining the name.

**David Holdsworth**  
**Deputy CEO and Director of Operational Delivery**