

EU modernises design laws for digital era: What SA can learn

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2 May 2023

The European Union (EU) is currently undertaking a review of its design laws, with the aim of making design law protection more relevant as the world transitions into a digital area. The proposed revision to the legislation introduces several key changes to expand the protection afforded by design law and to make it simpler, faster and more cost effective to protect and enforce design rights in the EU.



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Notably, the proposal will see the definition of a design being broadened to encompass designs that include movement, transitions and animations, and to extend protection to digital products. Similarly, as with registered trade marks and copyrighted works, that are commonly identified by the symbols ® and ©, respectively, registered designs will be identified with the symbol of the letter “d” within a circle.

It is expected that the revision to the legislation will also allow for the possibility to combine multiple designs in one application, thereby doing away with the requirement that the designs within an application must belong to the same class of goods.

The draft revisions to the legislation also introduce measures to crack down on unauthorised 3D printing, whereby only a right holder can consent to the “creating, downloading, copying and sharing or distributing to others any medium or software recording the design for the purpose of enabling a product”.

The EU's efforts to modernise its design laws are commendable and offer valuable lessons for our own design laws. In an increasingly digital world, it is imperative that South Africa also updates its legislation to keep up with advances in technology and to ensure that our designers are protected both locally and abroad. Some changes to the Designs Act that will go a long way in achieving this could include broadening the definition of a design to include digital products, removing the restriction on the enforceability of a design beyond the class in which it is registered and allowing for the protection of multiple designs in a single registration. It may also be an opportune time to abolish the distinction between aesthetic and functional designs in South Africa to align our design laws with those of the EU and other major markets.

In conclusion, the EU's efforts to modernise its design laws should serve as a valuable example for South Africa in reviewing and updating our own legislation. Keeping up with technology is critical to ensure that our designers and creators are protected, and that South Africa remains a desirable destination in the global economy.

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