

## **The proposed supplementary unregistered design (SUD)**

The Federation represents IP intensive companies in the United Kingdom - a list of members is attached. Our member companies are extensively involved with IP in Europe and internationally. Not only do our companies own considerable numbers of IP rights, both in Europe and elsewhere, but they are affected by the activities and IP rights of competitors. They may be either plaintiffs or defendants in IP related court actions, here and elsewhere.

On 30 January 2020, the UK IPO published guidance entitled “Changes in unregistered designs from 1 January 2021”. The IP Federation welcomes the rights and measures set out in the guidance as largely meeting our previously-stated position (set out in policy paper [PP 3/17](#)), including the creation of the supplementary unregistered design (SUD) which will go part-way to compensate for the loss of unregistered Community design (UCD) which is a particular concern for certain sectors of the UK industry.

The IP Federation policy position regarding the SUD is as follows:

- Businesses will benefit from improved certainty if the SUD mirrors the UCD exactly. The guidance specifies that the terms of SUD protection will be similar to that conferred by UCD, and that SUD will mirror the UCD by providing protection for both 3- and 2-dimensional designs. There is, however, no indication of how far this similarity will go. The SUD should have the same scope of protection as UCD and the same 3 year term as UCD.
- Businesses will benefit from a reciprocal agreement between the UK and the EU which ensures that disclosure in either the UK or EU attracts both SUD and UCD. The guidance warns that first disclosure in the EU will not establish SUD. Companies will be disadvantaged by the loss of SUD should they disclose first in the EU. Similarly, if UCD is construed by the courts as requiring first disclosure in the EU, companies will be disadvantaged by a loss of UCD if they first disclose in the UK. Steps to protect a design in both territories are available but would involve significant bureaucratic burden on industry and any measures to reduce such a burden would be beneficial.

IP Federation  
3 June 2020



## IP Federation members 2020

The IP Federation membership comprises the companies listed below. The UK Confederation of British Industry (CBI), although not a member, is represented on the IP Federation Council, and the Council is supported by a number of leading law firms which attend its meetings as observers. The IP Federation is listed on the joint Transparency Register of the European Parliament and the Commission with identity No. 83549331760-12.

AGCO Ltd  
Airbus  
Arm Ltd  
AstraZeneca plc  
Babcock International Ltd  
BAE Systems plc  
BP p.l.c.  
British Telecommunications plc  
British-American Tobacco Co Ltd  
BTG plc  
Canon Europe Ltd.  
Caterpillar U.K. Ltd  
Cummins Ltd.  
Dyson Technology Ltd  
Eisai Europe Limited  
Eli Lilly & Co Ltd  
Ericsson Limited  
Ford of Europe  
GE Healthcare  
GKN Automotive Limited  
GlaxoSmithKline plc  
Hitachi Europe Ltd  
HP Inc UK Limited  
IBM UK Ltd  
Infineum UK Ltd  
Johnson Matthey PLC  
JuuL Labs UK Holdco Ltd  
Merck Sharp & Dohme Ltd  
Microsoft Limited  
Nokia Technologies (UK) Limited  
NEC Europe  
Ocado Group plc  
Pfizer Ltd  
Philips Electronics UK Ltd  
Pilkington Group Ltd  
Procter & Gamble Ltd  
Reckitt Benckiser Group plc  
Renishaw plc  
Rolls-Royce plc  
Shell International Ltd  
Siemens plc  
Smith & Nephew  
Syngenta Ltd  
UCB Pharma plc  
Unilever plc  
Vectura Limited  
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