



EU design reform

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Overview

Timelines

Review of
substantive
updates

Overview of
modernizing
reforms

Analysis of
new repair
clause

Explanation of
adjusted fee
structure



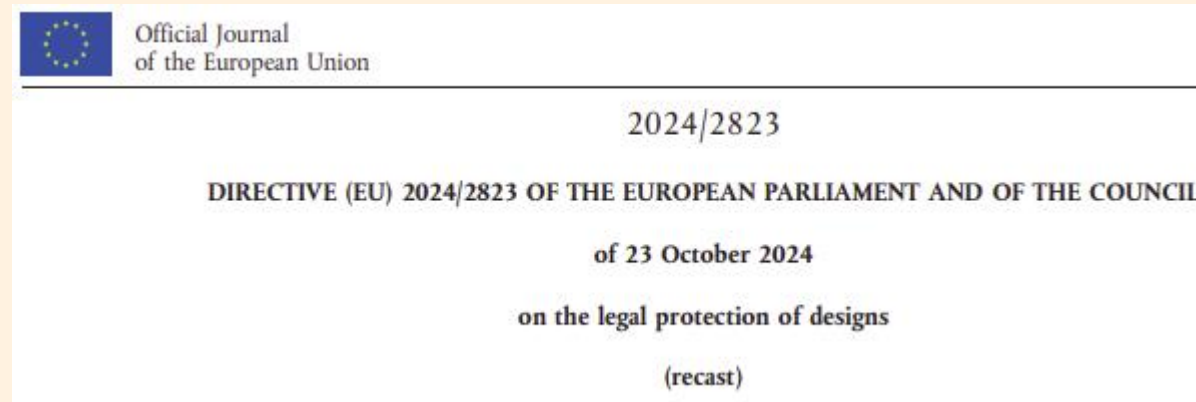
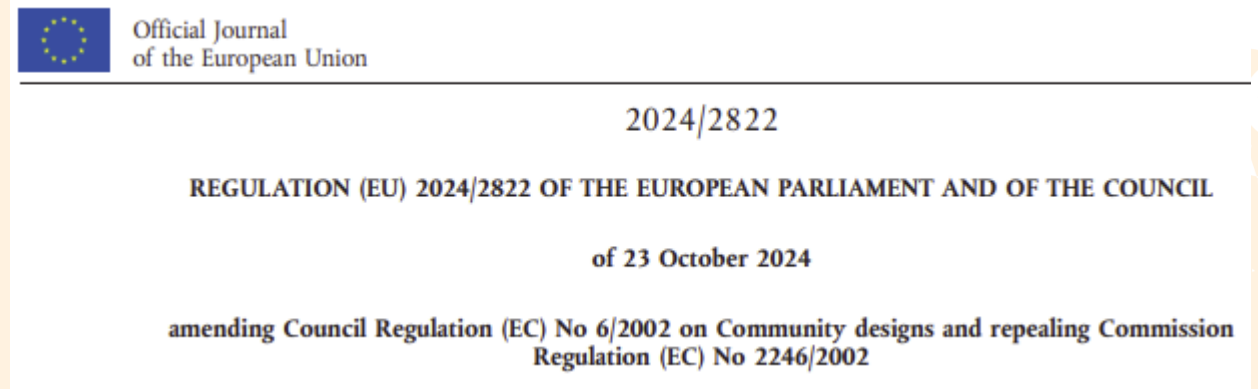
Reformed laws

Regulation

- Unitary EU registered and unregistered designs regulation
- Implementing regulation
- “Delegated” regulation

Directive

- National design rights



Timelines

New EU Regulation

- Phase I full effect from **May 1, 2025**
- Phase II full effect from July 1, 2026

New EU Directive

- Implementation in national law by December 9, 2027



Phase I reforms



What is not changing

Essence of what is protected

Examination (formalities only)

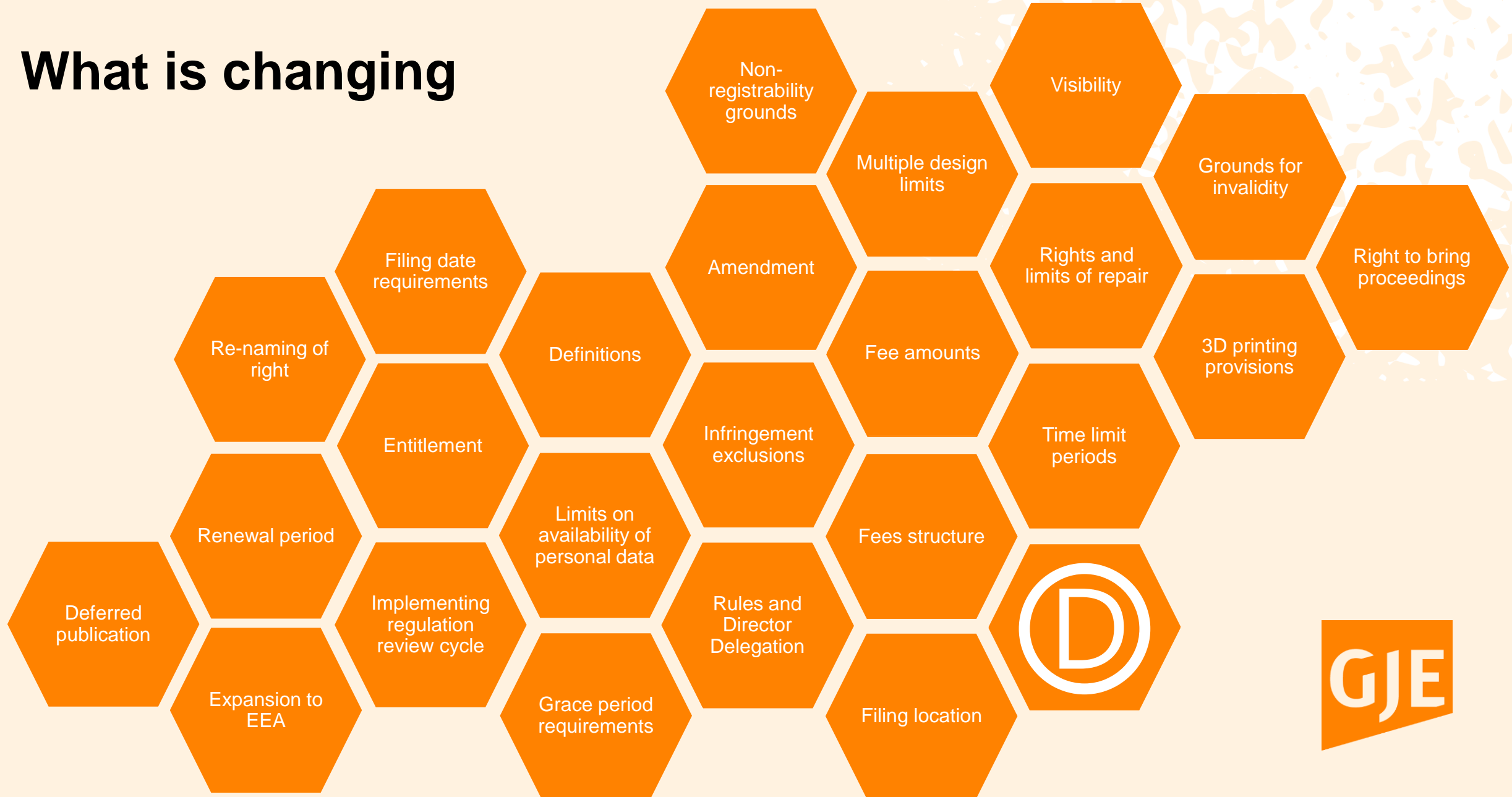
Existing exclusions

Term

Minimum rights conferred in the EU



What is changing



Cosmetic reforms

Renaming

- RCD → REUD
- UCD → UEUD
- Community Design Regulation → EU Design Regulation
(CDR → EUDR)

Registration icon

Codified existing procedures

Alignment with other regulations



What we do not know

Number of drawings



Amendment scope



Costs award limits



New representation
formats



EUIPO
implementation





Validity



Design definition

Article 3(1) EUDR

“design” means the appearance of the whole or a part of a product resulting from the features ~~of~~, in particular, the lines, contours, colours, shape, texture and/or materials, of the product itself and/or of its ornamentation decoration, including the movement, transition or any other sort of animation of those features;



Product definition

Article 3(2) EUDR

“product” means any industrial or handicraft item, ~~including inter alia other than a computer program, regardless of whether it is embodied in a physical object or materialises in a non-physical form, including:~~

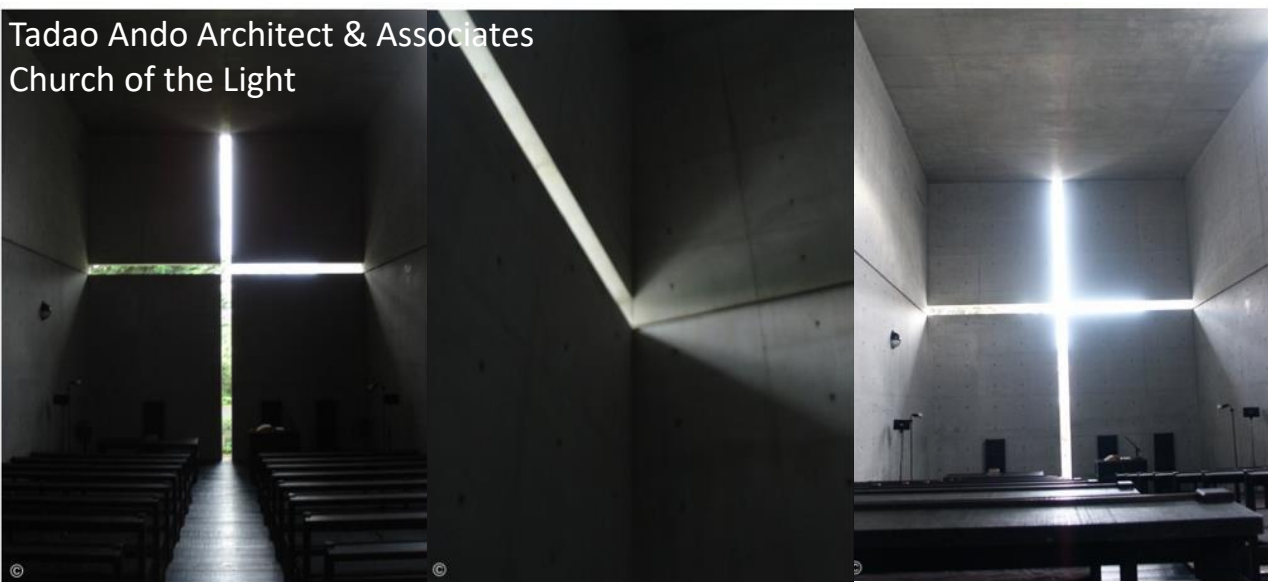
- ~~(a) packaging, sets of articles, spatial arrangements of items intended to form an interior or exterior environment, and parts intended to be assembled into a complex product, packaging, get-up,;~~
- ~~(b) graphic works or symbols ~~and~~, logos, surface patterns, typographic typefaces, ~~but excluding computer programs and graphical user interfaces;~~~~



What does this mean?

- Dependent on future case law
- Greater emphasis on non-physical
 - Virtual and augmented reality
 - Transient
 - Non-tangible physical arrangements
- No practical change for now
 - New representation types not available initially





Grace period definition

Article 7(2) EUDR

A disclosure shall not be taken into consideration for the purpose of applying Articles 5 *[novelty]* and 6 *[individual character]* ~~and if a~~ if the disclosed design, which is identical with or does not differ in its overall impression from the design for which protection is claimed under a registered ~~Community~~ EU design, has been made available to the public:

- (a) by the designer, his successor in title, or a third person as a result of information provided or action taken by the designer or his successor in title; and
- (b) during the 12-month period preceding the date of filing of the application or, if a priority is claimed, the date of priority.



What does this mean?

- Three options
 - Identical only
 - Identical and same overall impression
 - Any (related) disclosure
- UK and EU aligned
- Explicit limits



M&S v Aldi [2023] EWHC 178 (IPEC)

Visibility requirement

Article 4(2) EUDR

A design applied to or incorporated in a product which constitutes a component part of a complex product shall only be considered to be new and to have individual character:

- (a) if the component part, once it has been incorporated into the complex product, remains visible during normal use of the latter;

Article 18a EUDR

Object of protection

Protection shall be conferred for those features of the appearance of a registered EU design which are shown visibly in the application for registration.



What does this mean?

- What you see is what you get
- Show features
- Clear representations needed
- Cross-sectional views possible less useful





Filing & Prosecution



Filing changes – Representations

- No requirement for representation capable of reproduction
- Subject matter “sufficiently clear” from representation
- Representations only – no specimens



Filing changes – Multiple design filing

- No unity of class requirement – removed
- Up to 50 designs per application – imposed
- Removal of fee discount for 11th and subsequent designs

Filing changes – Fees

- Fees required for filing date
- Fee payment permitted within one month of filing
- Publication fee rolled into filing fee



Filing fee changes

Fee type	To April 30, 2025	From May 1, 2025
Registration fee ↓ “Application fee”	€ 230 for 1 st design € 115 for 2 nd to 10 th € 50 for 11 th +	€ 350 for 1 st design € 125 for 2 nd + (2 nd to 10 th & 11 th +))
Publication fee	€ 120 for 1 st design € 60 for 2 nd to 10 th € 30 for 11 th +	€ 0
Deferral fee	€ 40 for 1 st design € 20 for 2 nd to 10 th € 10 for 11 th +	€ 40 for 1 st design € 20 for 2 nd + (2 nd to 10 th & 11 th +))



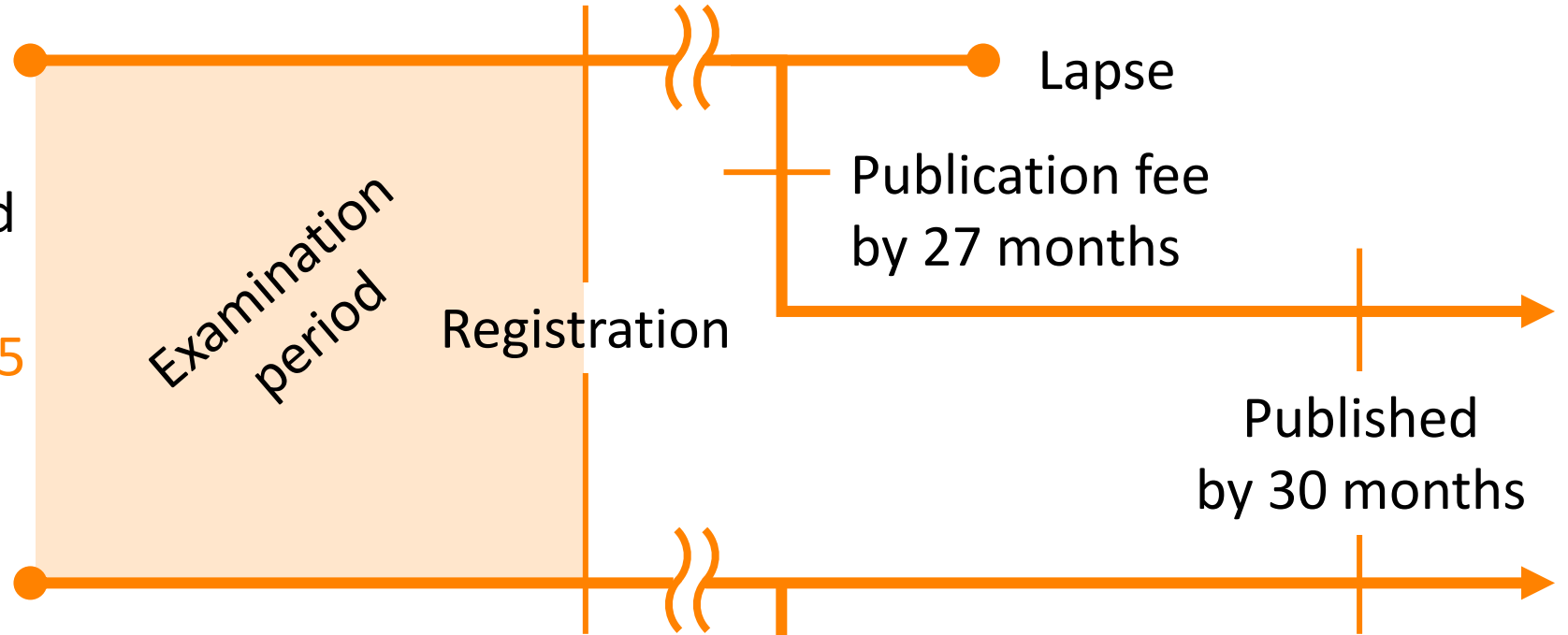
Filing changes – Deferral

Old system

Filing with deferral request

Filing fee & deferral fee paid

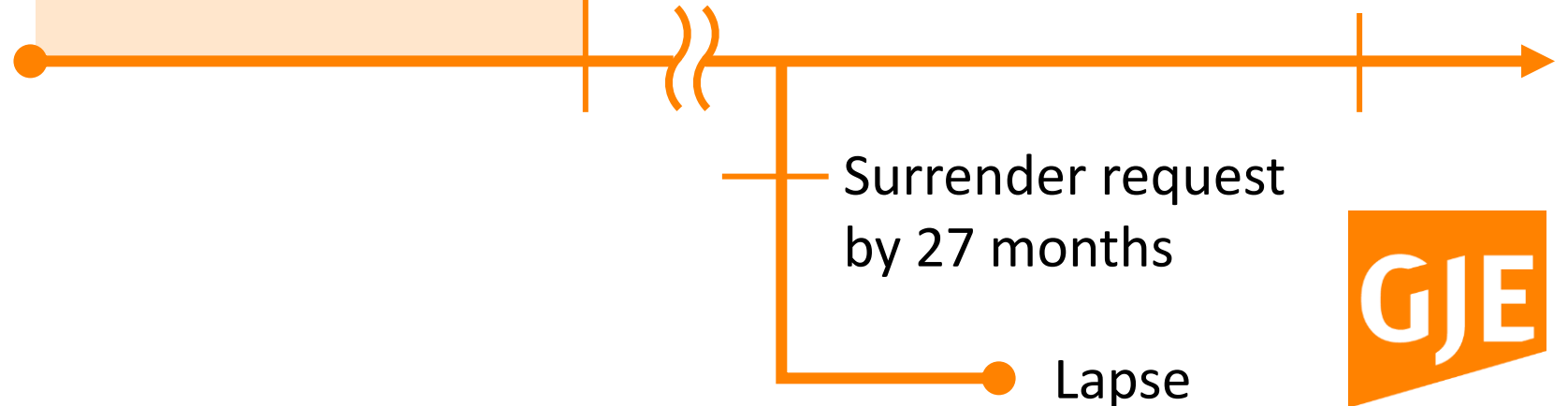
Continues for designs
deferred before May 1, 2025



Reformed system

Filing with deferral request

Application (combined) fee
& deferral fee paid





Enforcement



Renewals

- Due date change to filing date anniversary
- Fees changing

Fee	To April 30, 2025	From May 1, 2025
1 st renewal	€ 90	€ 150
2 nd renewal	€120	€ 250
3 rd renewal	€ 150	€ 400
4 th renewal	€ 180	€ 700



Repair clause

Article 20a EUDR

1. Protection shall not be conferred on an EU design which constitutes a **component part of a complex product upon whose appearance the design of the component part is dependent**, and which is used within the meaning of Article 19(1) *[exclusive right to use and prevent others from using]* for the **sole purpose of the repair** of that complex product so as **to restore its original appearance**.
2. Paragraph 1 shall not be invoked by the manufacturer or the seller of a component part of a complex product who failed to duly inform consumers, through a **clear and visible indication on the product or in another appropriate form**, about the **commercial origin**, and the **identity of the manufacturer**, of the product to be used for the purpose of the repair of the complex product, so that they can make an informed choice between competing products that can be used for the repair.
3. [End use guarantee exclusion]



What does this mean?

- “Must-match” components not protectable when marked appropriately
 - Exact form as sold
- “Must-fit” components protectable
 - Fit required, not appearance

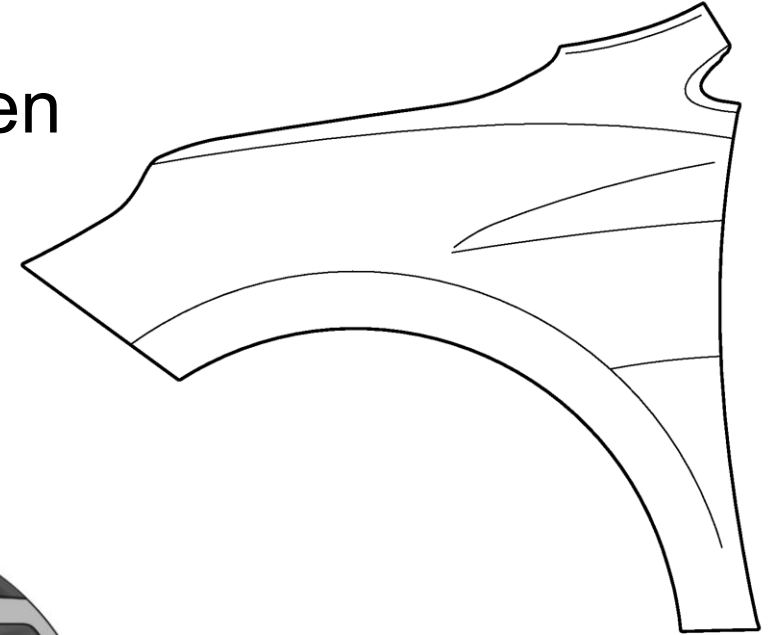


Fig. 2 US D797,625



New rights conferred

- “creating, downloading, copying and sharing or distributing to others any medium or software which records the design for the purpose of enabling a product ... to be made” – 3D printing
- “prevent all third parties from bringing products, in the course of trade, from third countries into the Union, that are not released for free circulation in the Union, where the design is identically incorporated in or applied to those products, or the design cannot be distinguished in its *essential aspects* from such products, and the right holder’s authorisation has not been given”

so long as

- the EU design holder is “entitled to prohibit the placing of the products on the market in the country of final destination”



New limits

- “where the acts are compatible with fair trade practices and do not unduly prejudice the normal exploitation of the design”
- “acts carried out for the purpose of identifying or referring to a product as that of the design right holder”
- “acts carried out for the purpose of comment, critique or parody”



Phase II reforms



Known changes

Priority

- Priority claim due date will be **2 months** from date of filing
- Current (unreformed) period is 1 month

Examination

- Amendment possible for “immaterial details”
- Indication of product proposal and adoption
- Assessment of representation clarity

Procedure and re-organisation

- Text moved from rules to Regulation – aligning with EU trade marks



What else can we expect?

- Number and formats allowable for representations
 - Acceptable disclaimers and permitted views
 - More Guideline updates
 - Effect of EU/national prior rights
-
- Amendment capabilities
 - “Fast track invalidation” procedure
 - Preparation for “paperless office”
 - Preparation for Design Law Treaty
 - Possible framework on use of AI





Design Directive (National design rights)



Updates

Harmonisation with EU designs

- Aligned with Phase I reforms
- Updates to add minimum criteria already applied to EU designs

Cultural heritage of national interest

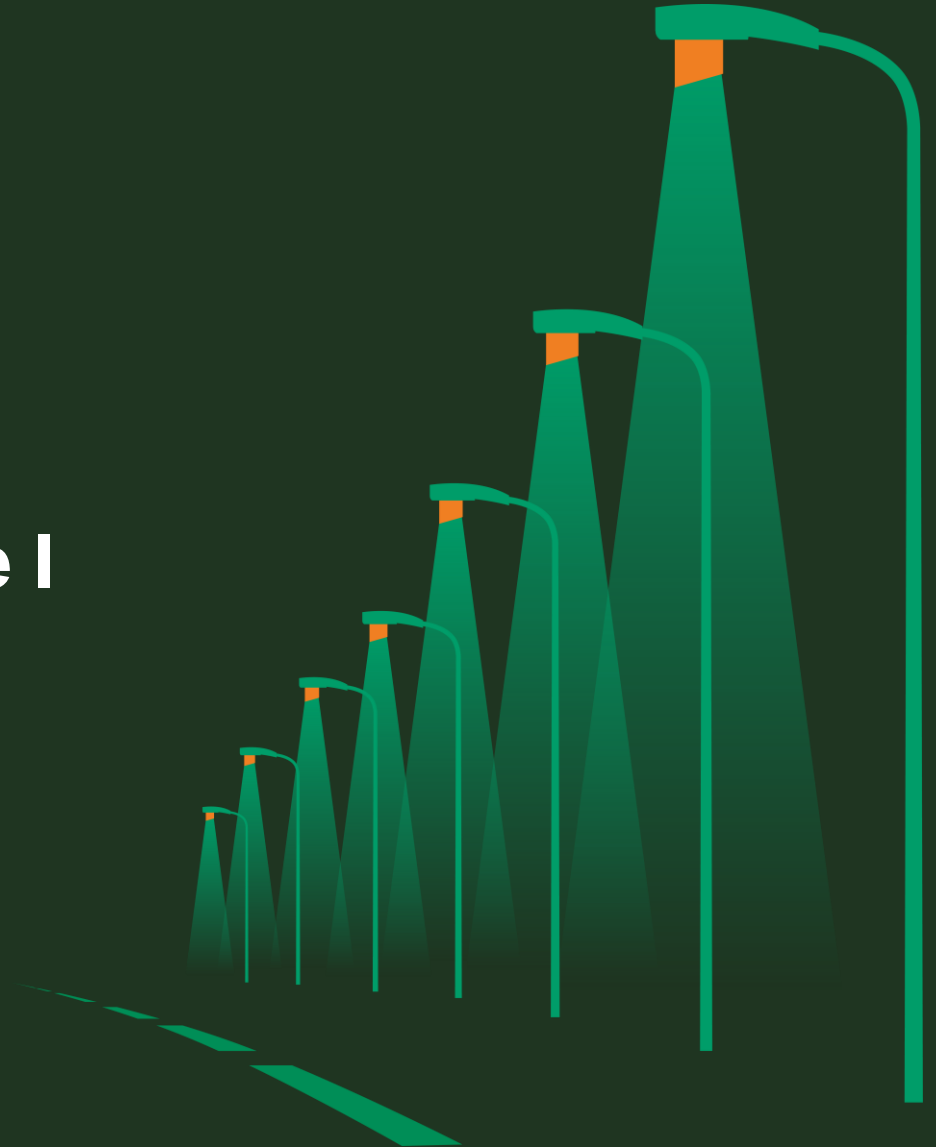
- Exclusion and invalidity of designs (partially) reproducing such elements





Summary

- **Phase I applies from May 1, 2025**
- **Directive mostly aligns with Phase I**
- **Minimal detail on Phase II**
- **Fees & renewals changes**
- **Mostly modernising other than:**
 - Deferral system
 - 3D printing and VR/AR provisions
 - Repair clause





Questions?





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