
Our patent and trade mark attorneys are here to help you protect and profit from your ideas, making sure they're working every bit as hard as you do.

Our people work with everyone from multi-nationals to start-ups, delivering jargon-free advice that tells our clients exactly where they stand. From day-to-day filing through to advising on IP strategy and due diligence, we offer a complete patent and trade mark service.

Whether you'd like a quick chat about what we do or you have a specific IP project to discuss, please get in touch.

UK and EU Registered Designs

A registered design is a monopoly right which can protect the overall appearance of the whole or a part of a product. A registered design is additional to any unregistered design right or copyright protection that may exist automatically in a design.

The 3D appearance of a product such as shape and configuration, as well as the 2D design or surface pattern may be protected by a design registration, for example:

- lines
- contours
- colours
- shape
- texture
- materials

Obtaining a UK registered design or EU Community Registered Design (CRD) is a relatively quick way of obtaining registered Intellectual Property rights. Both design registrations give exclusive rights to the appearance of a product or part of a product for up to 25 years from registration and subject to a renewal fee payment every 5 years. Whilst a UK registration will only provide protection in the UK, a single community design registration provides protection in all member states of the European Union (EU).

Acts of infringement - making, offering, marketing, importing, exporting, using or stocking a product to which the registered design is applied.

What makes a design registrable?

To qualify for registration, the design must:

- Be new. A design is considered to be new if it has not been published anywhere in the world, however, a 12 month grace period applies;
- Have individual character. This means that the overall impression the design produces on an informed user must be different to the

overall impression produced by any design which has already been made available to the public.

Exclusions include:

- Features dictated by technical function;
- Features necessary for a product to fit another article.

What is required to apply for a registered design?

In order to file a design application, we require a number of illustrations that show the design from all aspects. These may be drawings or photographs of the design. Photographic representations should show the design against a plain, contrasting background, omitting any confusing or extraneous details. In most cases “informal” representations or even a sample can be filed to secure a filing date, and we can have the necessary “formal” representations prepared later.

How long does it take?

Your application will normally be examined within two months of filing and will either be accepted to the register, or an Examination Report will be issued listing any objections. Design applications are not automatically searched and objections will only be raised if the Designs Examiner has reasonable grounds to believe that the design is not new or that it lacks individual character. Registration of a design carries no legal presumption of validity.

If no objections are raised, the design will proceed to Registration and will be published. If required, publication of a UK design registration may be deferred for up to 12 months and a EU design for up to 30 months on payment of an additional fee. This may be desirable where you wish to obtain protection for a product which is not yet ready to be launched.

Our design services include:

- Identifying registrable designs;
- Preparing, filing and prosecuting registered design applications throughout the world;

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- Providing infringement opinions and advising on appropriate courses of action both when you are the registered design owner and when you may be potentially infringing a registered design held by a third party;
 - Attending to payment of renewal fees.

We can represent you directly at the UK Designs Registry and the European Community Designs office of OHIM (the “Office for Harmonisation in the Internal Market”). And, through our network of overseas attorneys, we can obtain design registrations for you around the world.

Unregistered design rights

UK and EU unregistered design rights are automatic rights which protect original, non-commonplace designs against copying. No registration is required, however, the protection offered by unregistered design rights is limited relative to registered designs and validity can often be subjective/disputed.

In order to be able to prove validity of unregistered design rights, you are advised to keep record of the date the design was created and when it was first ‘made available’ to the public.

UK Unregistered Designs

UK unregistered design rights give you automatic protection for 15 years from the creation of the design or 10 years from when a product was first put on the market, whichever is earlier. For an unregistered design right to exist, the design must be original and not be ‘commonplace’.

Exclusions include:

- Method or principle of construction;
- “Must fit” and “must match” designs. For example, designs that are dictated by the fact that they will need to fit onto another product or dictated by the design of the product that it will be part

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- of e.g. a car door ‘must match’ the rest of the car;
Surface decoration e.g. 2D aspects.

Acts of infringement – copying the shape or configuration of the article but not the 2D aspects such as surface design. Making articles or drawings according to the design. Unauthorised dealing of an infringing article. If a third party produces the design independently, without copying, then there is no infringement.

Community (EU) Unregistered Designs

Community unregistered design rights give you automatic protection for three years from the date when the design is first made available to the public within the EU community (made available means e.g. by publishing, exhibiting, by use in trade etc.).

Community design rights protect the appearance of the whole or part of a product resulting from the lines, contours, colours, shape, texture and/or materials of the product or its ornamentation. The design must be ‘novel’ and possess ‘individual character’.

Exclusions include:

- Features of a design dictated by technical function;
- Features necessary for a product to fit another article.

Acts of infringement – copying the appearance of whole or part of a product, which may include shape or 2D decoration. Unauthorised dealing of an infringing article.

Copyright

Copyright is an automatic right which comes into effect on the creation of an original artistic, dramatic, musical and literary work (including computer programs). Copyright only protects against actual copying of the whole or a substantial part of a copyright protected work.

In order to be able to prove your ownership of copyright you are advised to keep a signed and dated original copy of your work. Computer programs should have some lines of dummy code inserted in them to act as a

“fingerprint” of your copyright, so you can prove that your program has been copied.

Our copyright services include:

- Advising on all aspects of copyright, including formal requirements;
- Providing infringement opinions and advising on appropriate courses of action, both when you are the copyright owner and when you may potentially be infringing copyright held by a third party.