

Preserving creative innovation: a look at design rights



Whilst most people have heard of copyright and trademarks, design rights are also important legal tools that help to ensure that creative ideas remain the property of their creators. Design rights refer to legal protections granted in respect of the appearance, shape, configuration, and ornamentation of a product. These rights are aimed at safeguarding the visual design elements of a product and preventing unauthorised copying by other parties.

You don't need detailed drawings in order to attract protection from design rights, and you don't even necessarily have to register them.

Design right protects the appearance of a purely functional product with no aesthetic appeal e.g. agricultural tools or clothes pegs. The default position is that the designer (the person who created the design) is the first owner of design right in his or her work. In contrast, designs which fall into the category of 'a work of artistic craftsmanship', such as an item of jewellery, which satisfies the test of originality, and is capable of copyright protection under the Copyright Design and Patents Act 1988 ("**CDPA**"), s4(1)(c)

Registered design rights

Designers spend a lot of time and effort creating unique designs and products. Registering a design is an inexpensive and sensible step, which can help avoid infringement disputes and protect the appearance of the functional product created.

A registered design right is a formal legal protection granted for a specific design, which can include the shape, configuration, pattern, or ornamentation of a product. To obtain a registered design right, the design must be



new and have novel and unique character and must create a different overall impression to an informed user.

Registering design rights helps you legally protect and control these kinds of designs, and prevent or challenge infringing conduct.

To get registered design rights, you need to show that your design is new and has its own novel look. A short application to the UK Intellectual Property Office (UKIPO) is required and an application fee of £50 payable. If your application is approved, your design is protected 25 years subject to payment of the 5-yearly renewal fee (presently £70 per renewal if filed electronically).

Unregistered design rights

Unregistered design rights automatically arise when a new design is created. This protection provides a limited term of legal rights to prevent others from copying the design. Unregistered design rights last for the lesser of: (i) 15 years from the end of the calendar year when the design was first recorded in a design document or, if earlier, from when the product was first made to the design; or (ii) 10 years from the end of the calendar year when products made to the design were first made available for sale or hire.

These rights protect how a design is put together and what it looks like. They stop others from copying innovative ideas. But it's important to note that they don't cover surface decoration/aesthetics. Unlike registered design rights, unregistered rights do not require a formal application process. However, they offer a more limited level of protection compared to registered rights and can be harder to identify and assert when there is infringing conduct.

Understanding the details

It's important to remember that design rights only protect how things look, not how they work. If you want to protect functional parts or mechanisms, patent protection is required.

In a world where creativity is highly valued, design rights give businesses and creators a powerful tool. They help creators stand out in the market, knowing that their designs can't be copied without permission. Whether it's the shape of a futuristic gadget or the design on a piece of clothing, design rights can help empower creators to make their mark and prevent others from taking advantage of their creative work.

How we can help

If you need further information on design rights, please don't hesitate to contact our expert [commercial disputes team](#).



[Moya Faulkner](#)



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