

Designs

Designs are automatically protected in the UK and the European Community (UCD) from the moment they are created by copyright as artistic works and also by Design Right. They may also be further protected from copying or unauthorised commercial exploitation by registering as a UK Registered Design and/or a Registered Community Design (RCD).

The rights are owned by the creator or by the employer if the design was created as part of normal contractual duties of an employee, unless a contract has been agreed otherwise.

The duration of the protection is as follows:

- **Copyright** protection lasts for 70 years from the death of the creator.
- **UK Unregistered Design Right** - lasts for 15 years after creation of the design or if marketing 10 years after the first marketing of items that use the design, whichever occurs first. This automatic UK Design Right is only recognised in the UK and will only protect the 3 dimensional shape or configuration of the design. The 2 dimensional aspects of a design such as a surface pattern or texture can only be protected if registered.
- **UCD – Unregistered Community Design** protection lasts for only 3 years maximum, allowing 1 year to test the market. However after this 1 year testing, the designs are often considered as having lost their novelty, one of the Community Registration requirements and fail to meet the criteria. Therefore it is advisable to register a design for Community protection within the first year.
- **UK Registered Designs** - Registration must be renewed every 5 years up to a total of 25 years and protects all aspect of a design i.e. 2D and 3D. Also recommended to protect a design from exploitation outside the UK.
- **RCD - Registered Community Design** Registration must be renewed every 5 years up to a total of 25 years and protects all aspect of a design from copying or exploitation across all EU member states.
- **International protection** – Would need to apply for registration direct with the individual states. Legislation and protection varies but you can check if a country is a signatory to the WIPO Treaties (World intellectual Copyright Organisation) using their online [Country Profiles Tool](#)

Useful information regarding the recent legislative changes to design rights:

[‘Changes to design law’ by Sarah Darby](#) of AA Thornton & Co, Lexology.com, September 25 2014

[‘United Kingdom’ by Richard Willoughby and Richard Burton](#) of D Young & Co, Lexology.com, December 11 2014

For further information, go to the:

IPO - Intellectual Property Office website at: <http://www.ipo.gov.uk/design.htm> and

OHIM - Office for Harmonization of Internal Markets website at:

<http://oami.europa.eu/ows/rw/pages/RCD/design.en.do>

WIPO – World Intellectual Property Organization at: <http://www.wipo.int/designs/en/>

There is also a useful guide on infringement at the Outlaw.com website at;
<http://www.out-law.com/page-9794>

For more information on student Intellectual Property please see:
[Intellectual Property Rights: Students](#)

For Staff Intellectual Property, see the 'IP Intranet Information and Policy Statements' on the Staff Intranet.

A small claims track has recently been launched at the Patent County Court to hear cases of Copyright Infringement, which would otherwise have been too expensive for the victim to pursue (see: <http://www.itma.org.uk/news/2012-09/patent-county-court-reform>).

For general copyright advice, contact k.vasili@mdx.ac.uk