

Criminal Law News

online

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What criminality/ offences can be committed in the area of design intellectual property law?
by Sally Ramage

'Blackstone's Custody Officers' Manual, Oxford University Press (2008)', publication
reviewed by Sally Ramage

What criminality can be committed in the area of design intellectual property law?”

By Sally Ramage

Introduction

A design is an artistic work. An artistic work means a graphic work; a photograph; a sculpture; a collage, all irrespective of artistic quality. A work of architecture is an artistic work. Graphic work includes any painting, drawing, diagram, map, chart, plan, engraving, etching, lithograph, woodcut or similar work. Intellectual property (IP) can allow you to own things you create in a similar way to owning physical property. You can control the use of your IP, and use it to gain reward. This encourages further innovation and creativity. Designs protect the visual appearance or eye appeal of products. The United Kingdom Patent Office is now called the UK IP Office and is situated at Concept House, Cardiff Road, Newport, South Wales, NP10 8QQ, and United Kingdom. To register a design, the application form and fee must be sent to the UK Intellectual Property Office, Designs Registry, Cardiff Road, NEWPORT, South Wales, NP10 8QQ.

Registering a design

Many brilliant people design things and miss the just rewards of their work because they fail to register their designs. If you are the creator of a design, you will be regarded as the owner of that design and entitled to apply for design registration. In the United Kingdom designs are protected by three legal rights- registered designs which give you the right to stop anyone copying or using your design in the United Kingdom for up to 25 years; an automatic design right when you create an original design which stops anyone copying your design for up to 15 years and automatic copyright protection against illegal copying. The Forms that must be completed are Form DF2A and the £60 Fee Form, after which your design will be examined and you may have to make amendments to your application, should the examiner object to certain aspects of your application. By registering a design, the proprietor obtains the exclusive right for 25 years (provided renewal fees are paid every 5 years) to make, offer, put on the market, import or export the design, or stock the product for the above purposes. With no objections, a design can be registered, in pursuance and subject to the provisions of the Registered Designs Act 1949, after which your registered design becomes a valuable piece of property. Sections (1) and (2) of the Act states:

“(1) A design may, subject to the following provisions of this Act, be registered under this Act on the making of an application for registration.

(2) In this Act “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 or materials of the product or its ornamentation”.

Your registration is renewable every five years for up to twenty – five years. Copyright may exist in designs, and will principally protect documents detailing the design as well as any artistic or literary work incorporated within the finished product. Design rights exist independently of copyright, while copyright may protect documents detailing the design as well as any artistic or literary work incorporated within the finished product, the design right focuses more on the shape, configuration and construction of a product. For UK designers, both the UK and EC rights can exist at the same time. Registered design rights have a broader application to manufactured articles than the unregistered design right. Graphic symbols and typefaces can be registered. The aspects of appearance of the whole or part of a product, resulting from features lines, contours, colours, shape, texture or materials of the product or its ornamentation can be registered, provided it is novel and it has an individual character.

Designs may remain unregistered

If you have not registered your IP rights, you may be still able to take action under common law of "passing off".

Design: a valuable intellectual property, which should be protected

The design process begins with a brief setting out of the aims and objectives of a project and outlining certain targets and parameters for its completion. Designers and in particular product designers use computers to perform a wide range of tasks including communication, visualization and 3D modelling. Computers are used to create storyboards that respond to the client's brief, to collaborate with one another and other professionals and to design appropriate prototypes. The design process includes the development of a design specification in collaboration with the client.

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