



## Registered Designs

Registered designs are recorded in a register maintained by the Designs Registry (which is a section of the Patent Office) and regulated by the Registered Designs Act 1949, the Copyright Designs and Patents Act 1988 and the Registered Designs Rules 1989. Applications for registration are also made to the Designs Registry.

### Definition

A registered design is a right protecting the outward appearance of a manufactured article. A 'design' is defined as 'features of shape, configuration, pattern or ornament applied to an article by an industrial process' and which have 'individual character'.

To be capable of registration, a design must be 'new'. A design is not new if the same design has already been registered or has been published or disclosed in the United Kingdom, or if it differs from a prior design only in immaterial detail or by reason of variants commonly used in the trade. Design registration may be obtained in respect of designs capable of being protected by copyright as artistic works. To reduce overlap, certain artistic works - notably sculptures - have been totally excluded from the registered design system.

The Copyright, Designs and Patents Act 1988 tries to narrow the overlap between copyright protection and registered (and unregistered) design rights in the area of design documents. Since design documents are protected by copyright as graphic works, it was a possibility that it would be an infringement of copyright in the graphic work to make up an object to the design. The 1988 Act provides that copyright in the design document will not be infringed by making up articles to that design, unless the design is itself for an artistic work or typeface or embodies a surface decoration. Where there is no copyright infringement it will therefore be necessary to rely on the protection (if any) given by a registered or unregistered design right. The 1988 Act also makes it clear that copyright in an artistic work will not be infringed if using the work with authorisation (on an assignment or licence of rights granted by the registered proprietor). Duration Design registration protection lasts initially for a period of five years, though this may be renewed at five yearly intervals up to a maximum of 25 years (if the design was filed after 13 February 1988, otherwise the maximum is 15 years).

### Exceptions

Manufactured articles, where aesthetic appeal is not normally of concern (e.g. nuts and bolts), cannot benefit from design registration, nor can items whose features of shape or configuration are dictated solely by the function that they have to perform, or whose shape and configuration are dictated by those of another article with which the article must match. Sculptures (but not the casts or models used in the mass production of sculptures), wall plaques, medals and medallions and printed matter such as book jackets, dress-making patterns and trade advertisements are specifically excluded from registration. Registration also cannot be obtained for a method or principle of construction.

### Ownership

Generally the owner will be the creator of the design unless the design is created in the course of the creator's employment (in which case it belongs to the employer) or if made under paid commission (in which case it belongs to the commissioner).

### Rights

A successful registration gives a monopoly right to prevent any other person in the United Kingdom from making, importing, selling, hiring or offering for sale or hire articles in respect of which the design is registered to which the design, or a design not 'substantially different' has been applied. To give the public notice of the fact, once the design has been registered, goods bearing that design can be marked 'registered design' along with the registration number. Since registration could be obtained in respect of an artistic work in which copyright also exists, the Copyright Designs and Patents Act 1988 confirms that the copyright in such a work will not be infringed by acts done in good faith in reliance on the registration, or in reliance on an assignment or licence of rights granted by the registered proprietor.