

PROTECTION OF INDUSTRIAL DESIGNS

The Copyright Designs and Patents Act 1988 will have been in force for 10 years on 1 August 1999. With that anniversary the transitional provisions concerning copyright protection for functional (industrial) designs will cease to have effect.

Consequently, from 1 August 1999, commercially applied industrial designs will be protectable in the UK only by (unregistered) design right or, if they have "eye appeal", by registration at the Designs Registry.

In general, design right arises automatically when the design is created by nationals, residents or companies of the European Community. Only designs relating to the shape or configuration of an article qualify for design right protection. Thus 2-dimensional designs such as textile or wallpaper designs are excluded. Case law indicates that the right conferred is narrow in most cases. Also, the duration of design right is a maximum of 15 years only. There is no direct equivalent of design right overseas.

In contrast, registered designs typically provide broader monopoly rights. Registered designs require renewal only once every 5 years, and they last for a maximum of 25 years from the filing date.

It is possible to file an overseas design application claiming priority from a British one.

For these reasons we recommend that you protect the appearance of your new designs by registered designs whenever possible. Since novelty of the design is a prerequisite for registrability, we recommend that you contact us for advice on the registration of new designs as soon as possible after you have finalised the key aesthetic details.

For further information please get in touch with your usual contact in our firm.

The information in this Newsletter was correct at the date of release. More up to date information is available by contacting Eric Potter Clarkson. All comments contained here are of a general nature and full professional advice should be sought on any specific problem.

Please note that all our Newsletters can be found on our website at www.eric-potter.com.

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