



Representing Garden Industry Suppliers

INTELLECTUAL PROPERTY GUIDELINES

CREATED BY ANTI COPYING IN DESIGN (ACID) AND DEVELOPED AND AGREED AS A
BEST PRACTICE BASIS FOR IP COMPLIANCE IN ASSOCIATION WITH THE GIMA COUNCIL

September 2014



Garden Industry Manufacturers' Association (GIMA)

The Garden Industry Manufacturers' Association (GIMA) is a membership organisation representing the majority share of suppliers and manufacturers' operating within the UK gardening industry.

Formed in 1999, its goal is to promote the commercial, trading and industrial interests of UK and EU based companies supplying the UK garden industry. As a proactive trade association, GIMA works tirelessly for the benefit of its members and the wider industry as a whole.

Run by a small team of dedicated professionals, and governed by a council of members, GIMA is funded by membership subscriptions and services.

By focusing on our key objectives of Saving, Connecting, Promoting, Representing & Supporting, GIMA offers its members tangible business benefits and a range of services for members regardless of their size or heritage.

The following guidelines have been commissioned by GIMA to support manufacturers and suppliers within the garden industry with Intellectual Property law and the imminent changes that are due to be implemented in October 2014. This information is provided free to all GIMA members.

The information provided is intended to provide general information concerning various aspects of intellectual property law. It is not intended to and does not constitute legal advice or opinion and should not be regarded as a legal authority. ACID has worked collaboratively with McDaniel & Co to produce these guidelines. Any further information can be provided by ACID www.acid.uk.com, help@acid.uk.com or www.mcdanielslaw.com or through Kelly Hudson, kh@mcdanielslaw.com

ANTI COPYING IN DESIGN (ACID)



ACID is a trade organisation representing thousands of designers. The organisation's key objectives are education and awareness, promoting deterrence and prevention against IP infringement, offering support to those whose IP is infringed and campaigning for IP law reform. The new IP Act for which ACID campaigned for many years, which received Royal Assent in May 2014, includes criminal provisions for intentional registered design infringement. Individual directors will also be held accountable if prosecuted. The provisions of the IP Act come into force on 1 October 2014.

WHAT IS INTELLECTUAL PROPERTY? AN OVERVIEW

Intellectual Property (IP) refers to creations of the mind, such as inventions; literary and artistic works; designs; and symbols, names and images used in commerce (which can collectively be referred to as 'trade marks').

IP is central to creative and innovative industries across the UK. The intellectual capital which underpins the creativity and innovation these businesses rely on is the basis of this success. It is effectively intangible property, but is an ownable and enforceable property right nonetheless. IP is essential to most businesses and forms a core basis to the tradable value of a brand whether micro or macro. IP is protected in law by, for example, patents, copyright, trademarks, design rights and trade secrets which enable people to earn recognition or financial benefit from what they invent or create. By striking the right balance between the interests of innovators and the wider public interest, the IP system aims to foster an environment in which creativity and innovation can flourish.

The Design Industry employs 350,000 people and UK businesses spend £35 billion on design each year. In 2012 the creative industries were responsible for £71.4 billion UK GDP. Every hour the creative industries earn £8 million per hour for the UK.

IP gives the owner the right to decide who can use their property. It is up to the owner of the property to make sure their interests and rights are protected. If IP is infringed the law provides access to a system for addressing the theft but it is the property owner's responsibility to pursue infringement.

Best practice within corporate social responsibility on intellectual property matters is underpinned by ethics and compliance with the law.

INTELLECTUAL PROPERTY RIGHTS (summary)

UK Copyright (2-D Designs)



Copyright will exist in 'literary, dramatic, musical and artistic works', covering works such as paintings, drawings, fabrics, diagrams, and photographs. These are protected irrespective of the artistic quality. Surface decoration on 3-D designs can also be covered by copyright.

The work must be ORIGINAL. The author must use his own skill to create the work, so the design must not have been copied from an existing design. You should consider you may have more than one type of copyright in a work.

UK Copyright (2-D Designs) (continued)

For example, there will be an artistic copyright in any artwork or photographic images used on packaging and also potentially a separate literary copyright in assembly or user instructions.

No formalities are required. The right is automatically created once the design is recorded in some permanent form. The ownership of copyright will rest initially with either the creator or their employer. You should keep a record of the creation documents so you can prove when the copyright came into existence.

Copyright lasts for the life of the creator plus 70 years following their death.

Copyright will be infringed if the design is copied and the copy features important parts taken from the design (the copy does not have to look similar to the design).

Protecting your Copyright – Even though copyright automatically exists, it is essential that you are able to prove it so always insert © and an exact date and the name of the originator. Alternatively, or in addition, you can upload copies of all copyright work to the ACID Design Data Bank giving you independent evidence of the date they are received by ACID. You should also consider that although copyright is not registerable in the UK, it is registerable in some jurisdictions, such as the USA and China.

UK Artistic Copyright (3-D Designs)

Artistic copyright will exist in sculptures, works of architecture and works of artistic craftsmanship (the definition of which is uncertain, but the courts have said it should be limited to works which would normally be considered as art, e.g. hand blown vases).

As before, the work must be original. No formalities are required and the ownership will rest initially with the creator or their employer.

Artistic copyright lasts for the life of the creator plus 70 years following death. Again you should keep evidence of your creation date to demonstrate the date the work came into existence. This does not require you to post yourself a sealed envelope containing drawings or images, the Courts generally do not accept this as good evidence. Computer dated Jpeg files would be fine as an example. ACID's Design Data Bank, as mentioned above, is again a good means of giving third party proof.

In line with most EU countries, recent changes to the law have been introduced by the Enterprise and Regulatory Reform Bill which repeals Clause 52 of the Copyright Designs and Patents Act 1988. This will mean that some reproduction of iconic furniture will be unlawful. The new regulations also applies to artwork, photography, furniture, jewellery, watches, clocks, lamps, light fittings, clothing, handbags, accessories and many other manufactured products. Transitional arrangements for those who have built their business on the reproduction of iconic furniture will be published.

However there is still great confusion because only products designated 'artistic' will be considered illegal, other iconic designs which are not considered 'artistic' by a court of law will continue to be 100% legal as long as the designs are more than 10 or 25 years old (the periods for UK unregistered protection and registered protection respectively) from the date the design was launched (see registered designs).

UK Unregistered Design right (3-D Designs)

Design right will exist in most 3-D articles, including furniture, interior accessories, lighting designs etc., However, in general, UK design right does not subsist in surface decoration (which is covered by copyright).

Design right exists in all ORIGINAL designs (the design must not have been copied from an existing design or regarded as 'commonplace' in the design field in question at the time it was designed).

No formalities are required. The right is automatically created once the design has been recorded or an article has been made to the design (e.g. a prototype).

Certain design features are excluded from design right protection, including methods of construction and features which enable the design to be connected to or to match another article.

Design right protection lasts for the shorter of either 10 years from the end of the first year the design is made available for sale or 15 years from the end of the year in which the design is created.

In the last 5 years of the period of protection, anyone can copy the design, as long as they agree to the payment of a commercial royalty to the designer (the so-called "licence of right" period).

Copies do not have to be exactly the same for your rights to be infringed and a copyist will not escape liability by making slight alterations, or by only copying part of a design. A substantial similarity between the whole or part of a design and the copy will be enough for infringement to occur. Theories on making a certain number of changes (often either 5 or 7) to escape infringing are a fallacy. The legal test is whether a substantial part of the design has been taken.

Unregistered Design Right – Like copyright this right is automatic so always create a signed and dated audit trail behind your work. Alternatively, or in addition, you can upload copies of all copyright work to the ACID Design Data Bank giving you independent evidence of the date they are received by ACID.

UK Registered Design (2-D & 3-D Designs)

Registered design protects the appearance of a product - this includes shape, contours, lines, colours, texture of the product or ornamentation. The definition of a 'product' includes parts, get-up, symbols and typefaces.

To qualify for registration, a design need not have 'eye appeal' but it must be visible. The design must not have been disclosed or marketed for more than one year before registration is applied for.

The design must differ from existing designs in the marketplace by more than just immaterial details and must create a different overall impression on someone who is familiar with the relevant design field (legally known as 'the informed user').

Protection does not cover features which are dictated solely by the function which the product has to perform. An infringement will occur where another design creates the same overall impression as the registered design.

Once registered, the owner has a monopoly over the design. No evidence of copying is required to prove an infringement of a registered design, unlike copyright or design right.

UK Registered Design (2-D & 3-D Designs) (continued)

Registered design protection lasts for up to 25 years, renewable on payment of a fee every five years after registration.

UK Registered Designs – It is preferable to try and register your designs if possible. Being in possession of a numbered certificate which says you own the design is compelling and, unless the validity is challenged, you don't have to prove copying. There is a period of a year's grace to test the market when you can still apply for a registered UK or EU design after the first day it is publicised.

Unregistered Community Design (2-D & 3-D Designs)

This EU right which was introduced in 2002 applies automatically throughout the European Union. It will apply to exactly the same type of designs as can be protected by a Registered Design.

As with copyright and design right, there is no need to file a registration in order to benefit from the right. The rules for qualification for protection and the test for infringement are also exactly the same as with Registered Design save that copying must be proved.

The right only lasts for three years from the date the design is first made available to the public. The protection is slightly wider than with UK Unregistered Design Right as with the Unregistered Community Right surface decoration will be protected. Both UK unregistered and unregistered community design rights can subsist in one design (as potentially can registered rights if the product has been registered). It is possible to apply for a UK, National, Community or an International design registration.

Registered Community Design (2-D & 3-D Designs)

It allows one registration to be filed which will be effective throughout the European Union, unlike a UK Registered Design, which only provides protection within the UK. All the other aspects are the same as for a UK Registered Design (RCD).

Benefits: Protection - an RCD allows you to take legal action to stop others from copying, manufacturing, selling, and importing your designs without your permission. It is easier for a lawyer to act for you because they don't have to prove copying. Prevention - By communicating your design registration number on marketing material and packaging adds to the deterrent effect & may be enough on its own to stop others from trying to exploit your design. Design ownership allows you to sell the design and all the intellectual property (IP) rights or license the design to someone else but retain all the IP rights.

Trade Marks



A trade mark is essentially a 'badge of origin', i.e., a sign which is usually a logo or a brand name. It allows the world to identify the goods or services offered as yours. A trade mark provides the owner with an exclusive right to use the mark on the goods and services for which the trade mark has been registered. In limited cases, it can be used to protect the shape of a product.

To qualify for registration, a trade mark must be capable of distinguishing goods or services of one business from that of another. Registration will be refused if a mark is devoid of distinctive character, (i.e. if it is descriptive), customary to the trade or exclusively consists of a sign used in the relevant trade to designate the product's features, e.g. size or geographical origin.

It is possible to apply for a UK, National, Community or an International Trade Mark.

Trade Marks are one of the most valuable assets you can own. The minute you start trading and building up a reputation under a brand it starts to gain value. UK Registered trade marks are recognised TM and unregistered trade marks with a ® Trade Marks offer protection against competitors using your name, protecting your business from being accused of infringing another company's mark and re-assurance for your marketing spend. Useful for valuing your IP asset and recording your asset on the balance sheet.

Passing Off

Passing off protects the reputation and goodwill of a business and an established reputation is required. When we talk about unregistered trade marks what is actually meant is that the brand you have has a quantifiable goodwill and reputation which can be protected through passing off.

Any copies must confuse or be liable to confuse the public as to who has made them, so that people believe the copies to be the originals, or were made by the maker of the originals, or that there is some connection between them. Usually, actual evidence of confusion is required.

Price differences can have an effect on the likelihood of confusion between original and copy products, as can use of the manufacturer or retailer's name in connection with the products.

Patents

Patents protect inventions which constitute technical improvements on what has gone before.

The invention must be new (i.e. not published or disclosed to the public prior to the application date), involve an inventive step and be capable of industrial application. Once registered, the owner has a monopoly right over the invention. The patent lasts for 20 years from the date of filing, although annual fees from the fourth anniversary of filing are required.

Useful registration websites

www.ipo.gov.uk  www.oami.europa.eu  www.wipo.org

WHAT ARE THE ESSENTIAL ELEMENTS OF AN IP STRATEGY?

Rule no. 1	Create one!
Positive communication	Positive Communication of your IP strategy is essential - internally and externally and throughout the whole supply chain. If you don't want to be copied say so! There is no better place than on a website, within terms & conditions, marketing material and product labelling. IP Communication sends a clear message that original design and design integrity = value, not only for the purchaser but for the originator!
Create a pro-active IP strategy	Create a pro-active IP strategy, not reactive, only dealing with IP issues when it becomes fire fighting. Identify IP issues and put a plan in place. Ask what are the risk factors? What protection can you put in place? What is our plan of action if we discover copies?
Education	Become "IP Savvy" - create an informed understanding within your team. IP knowledge is important to all organisations, regardless of size.
Choose battles carefully	Never sue on principal, only if there is a quantifiable loss and a clear IP case to pursue. Most importantly you must have a commercial reason for doing so. Consider publicising any settlements in the trade press to communicate a zero tolerance of IP infringement. The trade press is a small world and word soon gets out.
Territories	Identify where you are trading, what are the risk factors? If your designs are infringed in another country where is your IP support? Have you registered your designs in that country? For example, to take legal action in China you need to have registered your designs.
Registrations	Create an IP Portfolio of your design and trade mark registrations including any patents you may have. This is also essential for raising funding/investment or exit strategies.
Trade Secrets/Employees	Ensure there are restrictions in contracts of employment. There is nothing worse than finding out that an ex employee has run off with all your valuable trade secrets to arm a competitor with a fast track to your know-how. A company's individual "trade secrets" refers to confidential business information to which only a limited amount of people within a business have access to such as your customer list, the methods you use to make your product specific to design, manufacturing or industrial processes. In short, anything that gives you a competitive advantage.
Confidentiality	Guard your trade secrets carefully. Ensure that there is a confidentiality protocol in place to ensure that the confidentiality of your business is not compromised. Create confidentiality agreements for sensitive information between you and employees privy to this information.
Agreements	Clarity of IP ownership is essential. Agreements underpin most commercial relationships; it's good to know you have the small print to rely on if things go wrong. ACID has various generic industry standard agreements which can be drafted with bespoke clauses.

WHAT ARE THE ESSENTIAL ELEMENTS OF AN IP STRATEGY? (continued)

Insurance	IP insurance is expensive but worth considering if continuing infringement is a significant issue. ACID is launching its own IP insurance with COBRA very shortly for registered and unregistered designs.
ADR/Mediation	It's good to talk! Consider Alternative Dispute Resolution/Mediation as an alternative to litigations.
Patents County Court	In the last two years there has been a significant improvement in the process and costs element of enforcing your rights at Court. There is also a Small Claims Track for low value IP claims under £10,000. The Patents County Court is now called the Intellectual Property Enterprise Court (IPEC).
Got a good idea?	Keep it safe! Never underestimate the risks of sharing a good idea unless you know there are safeguards. If the safeguards are in place then the idea can turn into positive design collaboration for mutual advantage and joint success.
Register for protection	Register new designs wherever possible and budget for enforcement. ACID has a Design Data Bank for unregistered designs and it's FREE to ACID members. This does not add to IPRs but nevertheless serves as compelling evidence of third party confirmation of when new designs are received by ACID. Alternatively, contact the Intellectual Property Office www.ipo.gov.uk or the Office of Harmonization in the Internal Market www.oami.europa.eu
Invest in the right IP advice	With IP professionals and business advisors who know and understand your business and your marketplace. Those with demonstrable experience within the furniture sector will serve you well.
Arm yourself with IP knowledge	Be IP aware! Watch competitors closely, watch the marketplace.
Respect the rights of others	Essential within your own corporate social responsibility.
Know the risk factors	Who is copying you? Keep watch!
A dedicated IP member of staff	In a small company this can be added to one particular person's role as a key area of expertise and management. In larger companies the recruitment of an IP Officer to learn how to manage brand protection, document/registration protocols and the management of licensing and royalties is recommended.
IP Audit	ACID Corporate members are entitled to a free IP Audit. This involves a pre-visit questionnaire assessing your IP assets, a 3 hour site visit to speak to your design department and senior management and the creation of a bespoke report offering recommendations.

WHAT TO DO IF YOU ARE COPIED

If you discover what looks like a copy, identify a quantifiable loss and consider your objectives. What do you want to achieve?

- 🌿 An undertaking that further copy products will not be sold?
- 🌿 Damages to reflect quantifiable loss?
- 🌿 An admission of liability? Publicity?
- 🌿 Payment of your costs (or some of them?)
- 🌿 Always ask your solicitor if your objectives are realistic or reasonable.
- 🌿 If you have an IP dispute worth less than £10,000? (Except for patents, registered designs and plant varieties), then you can access a Small Claims Track within the Intellectual Property Enterprise Court. This is a speedier and more cost effective process for resolving IP disputes involving copyright, trade mark and unregistered design rights. SMEs who believe their IP has been infringed can access an informal hearing by writing directly to the Judge and clearly recording all the facts of the case through a streamlined process. Access will now be made clearer by the introduction of guidelines created by the Ministry of Justice. Also take a look at ACID's guide to the Small Claims Track. For issue and claim form enquiries telephone the court on 020 7947 7783 or email chancery.issue@hmcts.gsi.gov.uk
- 🌿 Other claims can be heard in the new and improved Intellectual Property Enterprise Court which restricts claims for costs up to £50,000 if you lose. The aim of the new Intellectual Property Enterprise Court (formerly PCC) - is to meet the needs of small and medium sized businesses and individual inventors by reducing costs, improving access to justice and bringing the UK in line with other European courts such as Germany. The aim is for it to be cheaper, speedier, easier and more informal than High Court.
- 🌿 Court cases for longer, more complex dispute are held in the High Court.

WHAT ARE THE ASSOCIATED RISKS IF YOU ARE ACCUSED OF COPYING?

It is unlawful to use someone else's design without permission

Any original product will be protected against copying by at least one legal right in the UK (known as IP rights). For example, copyright will protect any original two-dimensional design, including photographs, illustrations, textile designs etc, and works of artistic craftsmanship. Design right will protect any original three-dimensional design, provided that it was not commonplace in the relevant design field at the time it was created. There is also a new European-wide unregistered Community design which protects most two-dimensional and three-dimensional designs against copying.

Furthermore, if a design is registered at the UK Intellectual Property Office or at OHIM (The Office for Harmonisation in the Internal Market), then the owner of the Registered Design owns a monopoly in the design and can prevent anyone from using or selling that design or any design which gives the same overall impression. The key difference between registered and unregistered rights is that there is no need to prove copying in order to enforce a Registered Design.

If a retailer knows or has reason to believe that what they are selling is a copy, then the designer can obtain an order from the Court requiring them to deliver up all their remaining stock of the offending items. The retailer can also be liable to pay damages to the designer to compensate them for any sales made by the retailer, together with the designer's legal costs. The retailer can also be required to disclose information relating to the name of its supplier, the number of items which it bought and sold and the profit it made on those sales. In respect of a Registered Design, the retailer can still be liable even if they did not know that what they were selling was an infringement. If a retailer proves they did not know they were infringing an unregistered right, then generally the owner will not be entitled to damages against them but can still pursue other remedies.

WHAT ARE THE ASSOCIATED RISKS IF YOU ARE ACCUSED OF COPYING? (continued)

What happens if you instruct someone else to copy designs?

A design buyer, purchasing or procurement staff member may also be liable if they authorise someone else to make a copy of a design. There have been a number of cases for members of ACID where design buyers have sent copies of their designs to manufacturers in the Far East to source cheap copies of those designs. Very often, the design buyer has been selling the designer's original designs for a number of years and has appreciated how successful the designs have been. They have then decided to cut out the designer and source the product direct. One company discovered this was happening to them when a supplier to a major hotel owner sent a photograph of the designer's own design to a manufacturer in the Far East asking them to quote for manufacturing copies of the item. In fact, the manufacturer was the design company's own manufacturer and immediately notified the design company.

It is advisable to use reputable suppliers and ask for indemnities and check the design's audit trail

It is clearly in design buyers' best interests to use only reputable suppliers who do not produce copies of designs. Since a design buyer can be liable for selling an infringing design, it is sensible to seek an indemnity from your suppliers including a statement that they have not copied the design from someone else, and giving an indemnity to the effect that they will reimburse for any sums which you may have to pay in damages and legal costs as a result of selling an infringing design.

It is therefore good practice for all within the design buying and procurement function to put in place procedures aimed at minimising the risk of selling an infringing product. For example, it is possible to undertake a search of the UK Intellectual Property Office to check whether a particular product has been registered as a registered design.

Don't try to skirt around existing laws

There are some design buyers who have been known to sell designs which come as close as possible to infringing existing design laws, whilst leaving no guarantee of success if a designer took action against them. However, UK design laws have been strengthened considerably in the last twelve months so that there are now very few loopholes remaining for retailers to exploit.

Do employ designers to produce original designs, and educate your buyers on the existing laws

All too often we hear of stories that design buyers invite companies to tender for product placement, the samples are then taken apart and examined closely with a view to producing a new version of that design. Very rarely is feedback given to those that respond to tender with the reasons for being unsuccessful.

A company is liable for the acts of each of its employees. Very often, it only takes one buyer in a large organisation to cause considerable damage to the reputation and business of that organisation.

WHAT ARE THE ASSOCIATED RISKS IF YOU ARE ACCUSED OF COPYING? (continued)

Don't defend legal cases just for the sake of it.

If you do become the subject of a legal action for selling a copy of an infringing design, resist the temptation to instruct lawyers to try to defend the action on technical points. The longer a legal action goes on, the higher the legal costs will be and, unless you succeed in your defence, you will not only have to pay your own legal costs, but also the other side's legal costs together with any compensation awarded by the Court. In the three largest settlements obtained by ACID members last year, the amount paid to the other side in respect of legal costs was over twice the amount paid to the designer in respect of compensation.

Don't argue that designers can't afford to sue you.

ACID was originally formed because companies were complaining that whenever they challenged design buyers who were selling copies of their designs, they were told that the designer couldn't afford to sue them, and so these design companies were doing nothing to enforce their rights. ACID was therefore created to enable design companies to take effective action to protect and enforce the rights in their designs. Some of the largest settlements obtained by ACID members have been taken by individual designers against major PLC's. For example, a sole trader ACID member who designs and manufactures handmade vases, obtained a payment from Next of £77,000 in respect of their sales of a vase design which he believed had been copied from his design.

BEST PRACTICE STATEMENT OF INTENT

This **Code of Conduct** contains a framework of values, with the intention of providing the public with assurances as to the integrity of the designs and conduct of all members of GIMA.

Principles of Conduct

GIMA Members shall promote and maintain ethical standards of conduct and at all times deal fairly and honestly with the public and with the business community.

-  Members shall at all times act in a professional manner and shall not engage in practices which would bring the design and garden products industry into disrepute.
-  Members shall ensure that their designs and products conform to all relevant laws and regulations and that their employees and agents are fully aware of all such laws and regulations.
-  Members will not deliberately or knowingly copy the designs, products, name or trading style of another company or business.
-  Members will not engage in any practice or activity which unfairly competes with the business or is detrimental to the goodwill or reputation of another company or business.

THE INTELLECTUAL PROPERTY ACT

Design and IP law is complex and can be confusing, even for IP specialists. The IP Act, which received Queen's Assent on 14 May 2014, includes, most notably, criminal provisions for intentional registered design infringement. So what does it all mean and how will the changes affect designers, strengthen or reduce design protection and improve enforcement? The IPO say that the new Act will come into force from October 2014, with all measures implemented by late 2015. The IPO have recently published helpful guidelines.

Introduction of a criminal offence for intentional design infringement

If you have a registered design and someone intentionally copies it without consent they could be found guilty of a criminal offence and liable to up to 10 years in prison. The act gives Trading Standards officers similar powers of enforcement for design offences as those already available to them in respect of copyright and trade marks. Prior to this, as design infringement was not a crime (unlike copyright), there was no ability to seek the help of Trading Standards officers. Those whose unregistered designs are infringed may still pursue enforcement through the civil courts (The Intellectual Property Enterprise Court IPEC or Small Claims Track). In the majority of cases taking legal action does not mean progressing to Court, the majority of ACID settlements have been based on unregistered design rights and have often been resolved by a simple Letter before Action or Cease & Desist.

Commissioning designs – who owns them?

Unless there is a specific contract to the contrary (or you are an employer whose designer produces designs as part of their employment contract) the designer will now own the design not the commissioner.

Scope of an unregistered design reduced

The scope of an unregistered design (UDR) has been narrowed and the IP Act removes the "any aspect of". Currently UDR covers any aspect of the shape or configuration of the whole or part of a design. The IPO say that this will simplify the law as it should make it clearer for designers and third parties to establish what is covered by the unregistered design right.

ACID members can benefit from a free Design Databank which has been developed into ACID Marketplace offering an independent record of the designs existence on the date they are received and two further options of inviting design buyers to view or open viewing supported by an IP tracking system. Marketplace is a safer online platform where design buyers can register online for free to view the newest and latest designs created by ACID members and forge new business relationships. ACID Marketplace is supported by an enhanced ACID Design Databank and tracking system developed from ACID's IP Tracker. This is an exciting new benefit to our members – a fantastic, safer online platform = a positive conduit between designers and design buyers where prospective design buyers can register to view and interact with designers! Marketplace provides a personal online exhibition zone, but at a fraction of the price of an exhibition stand – **AND YOU CONTROL WHO VISITS THE STAND!**

THE INTELLECTUAL PROPERTY ACT (continued)

The introduction of a Designs Opinions Service

To help you resolve a potential design dispute, The IPO's new Designs Opinions Service will offer a non-binding and impartial view on the merits of design disputes which is intended to help designers take an informed view on further litigious decision making. It will cost £200. ACID members have benefited for many years from such a service from our Legal Affiliates during the initial free advice period on offer. The only difference to the advice given is that the ACID service is free.

The Hague System

Currently it is possible to register designs nationally, and in the EU through OHIM (covering 28 member states) or individually in different countries. When the UK becomes a signatory of the Hague Agreement it will be possible, with one registration, to register in all those territories (62) which have signed the World Intellectual Property Organisation's Hague Treaty.

Summary

In accordance with the Impact Assessment objectives the introduction of criminal provisions for intentional registered design infringement is intended to:

- To reduce the scale of registered design infringement by acting as a deterrent.**
- To increase protection for the holders of registered designs.**
- To better punish perpetrators of blatant registered design infringement.**

ACID has worked collaboratively with McDaniel & Co to produce these guidelines. For further information contact ACID www.acid.uk.com, help@acid.uk.com or www.macdnaielslaw.com or Kelly Hudson, kh@mcdanielslaw.com.

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