

## IP Act 2014

### – Changes to UK designs law come into force

In an earlier briefing note, we summarised the main changes to UK law introduced by the Intellectual Property Act 2014. A number of these changes come into effect on 1st October 2014, including measures intended to modernise, simplify and strengthen the law relating to designs – an area of protection often overlooked by IP owners. This short article reviews some of the more significant changes to designs law brought about by provisions in the Act.

#### Criminal sanction for intentional copying of a registered design

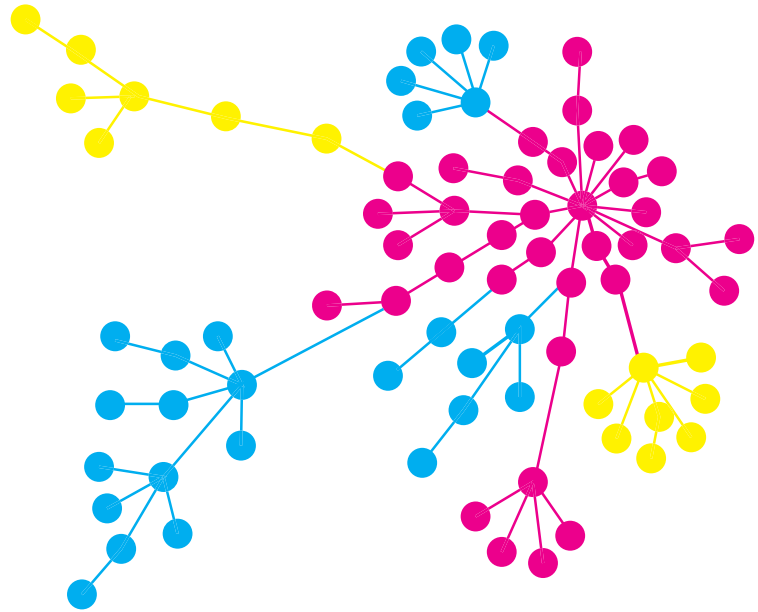
In recognition of the importance of designs to the UK economy, the Act makes infringement of a registered design a criminal offence in certain circumstances. This brings the sanctions available for owners of registered designs into line with those currently available for owners of copyright and trade marks. Those who have deliberately copied a registered design may be punishable by a fine and/or a prison sentence of up to ten years.

Safeguards have been included to ensure that the new criminal penalties extend only to those who have blatantly copied a registered design. However, innocent infringers have not escaped

the attention of the legislator and may now be pursued for an account of profits (although damages remain unavailable), bringing consistency with the remedies available for infringement of registered Community designs.

#### Ownership

The Act brings the UK position on ownership of commissioned designs into line with EU law and copyright legislation: the default owner of a design will now be its designer, not its commissioner. However, the provisions relating to employer ownership of designs created by their employees in the course of their employment remain unchanged. Businesses commissioning designers should take care to ensure that written agreements dealing with the ownership of the resultant designs are in place before work commences.



## Other changes to registered and unregistered designs

A number of other changes have been made to the UK designs law to reflect existing measures in the UK Patents Act, harmonise with EU law and provide legal certainty for businesses. These measures include the following:

- The coverage of an unregistered design right has been simplified and tightened to clarify what is protected; this should assist both designers and third parties.
- Some limited protection is now provided to third parties who, in good faith, start to use (or make effective preparations to use) a design that is subsequently registered by someone else.

Authors: [Mark Abthorpe](#) & [Chloe Grover](#)

## Need advice?

For more information, please contact [email@carpmaels.com](mailto:email@carpmaels.com).

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