

# UK and EU Registered Designs





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## What can be protected by a registered design right?

A registered design can protect the appearance of the whole or part of a product resulting from the features, in particular the lines, contours, colours, shape, texture and/or materials, of the product itself and/or its ornamentation. Protection is available provided that the design is new and possesses “individual character”. To possess individual character, the impression the design produces on an informed user must differ from the impression produced on that user by any other design already in the public domain.

In practice, registered designs are used to protect everything from handbags to fonts, air fresheners to suitcases. Registered designs offer a great addition to those that create new products as well as packaging, graphic symbols and other elements of branding.

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## What rights does a registered design give?

In a nutshell, a registered design is a “monopoly right”. It grants its owner the exclusive right to use the design (or any other design giving the same overall impression as the registered design), including by making, offering, marketing, importing, exporting or stocking products incorporating the design. Owners of design rights have legally enforceable rights, subject to certain limitations and defences, to prevent third parties using the design.

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## What is the advantage of a registered design over an unregistered design?

Unregistered design rights can arise automatically, without the need to register anything. At the time of writing, the UK unregistered design right provides less protection, protecting only the design or shape of a physical article excluding any surface ornamentation and for a shorter period. The unregistered Community design right only lasts for 3 years from the date it was made public and are only infringed by actual copying of the original design. Unregistered designs are also less visible to potential competitors as they are not on a searchable database, meaning that the likelihood of inadvertent copying and therefore dispute is increased.

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## Where to file?

Registered designs are territorial. An application should be filed in each territory where protection is required. In the case of designs registered at the EU Intellectual Property Office (“Registered Community Designs”), a registration is obtained for the whole of the EU. Designs registered with the UK Intellectual Property Office (“UK Registered Designs”) cover the UK only.

Unless there is a valid registration in a country, third parties may be able to use the design. Registered design protection should therefore be sought in all those countries in which it is intended to market or manufacture the design, provided it is commercially feasible and sensible to do, or at least in the core territories if budgeting is an issue.

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## How to obtain a registered design

Registered designs are obtained by filing an application to the relevant UK or European Intellectual Property Office. In practice, in both the UK and Europe, design applications are subject to only minimal examination and almost all applications proceed to registration.

In order to file an application for a UK Registered Design or a Registered Community design, we would require drawings and/or photographs that show all aspects of the design. We would guide you through the process for obtaining the best possible scope of protection, including by deciding on what types of representations of the design will give the best scope of protection. In 2016, the owner of the designs for the famous “Trunki” suitcase lost its claim against a copycat as its registered designs did not give broad enough protection, showing the importance of choosing the representation of the design carefully. For three-dimensional designs it is often appropriate to have several different views of the design.

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## How long does it take?

As the examination of a design application is limited it is normally possible to obtain a registered design within a few weeks of filing the application. Indeed, Registered Community Designs are sometimes granted in less than a week (making them the quickest registered intellectual property rights available anywhere in the world).

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## Priority applications

Applications for UK Registered Designs and Registered Community Designs are able to claim priority (i.e. be backdated) to the filing date of an earlier national design application filed in the previous six months.

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## Prior Disclosure

The requirement that a design be “new” and have “individual character” can be a trip hazard for designers. If, before applying to register a design, the designer makes it available to the public (e.g. by exhibiting their new design at a public event) the design will not be “new” at the time it is filed.

The provisions governing UK Registered Designs and Registered Community Designs provide a grace period of 12 months for disclosure of the design by the designer. This means that designers can register their designs any time up to 12 months following first making it public.

It is still advisable, however, that any disclosure of the design made by the designer is made under an express obligation of confidence. Indeed, we would advise a designer to always file an application for a design before making any disclosure of the design, especially considering how straightforward the procedure for doing so is.

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## Duration

Registered design protection in both the UK and EU lasts for a maximum period of 25 years from the filing date of the application for registration, provided it is renewed every five years. For UK registered designs, this date



is calculated from the anniversary of the filing date. Registered Community Designs, are calculated from the end of the month containing the filing date.

## What about Brexit?

As things stand, any pan-EU registered rights are expected to be translated into equivalent UK rights. This means that designers can continue to file

for EU designs (and, for that matter, trade marks) up until the point Brexit takes effect. If the UK does eventually leave the EU, rightsholders should be left with two registered rights; one covering the UK and the other covering the EU.

## Costs

Our fees are set out in the following tables:

### United Kingdom Registered Designs

Action	Disbursements	Service	Total
Filing Application	£60	£200	£260
Claiming priority	£0	£50	£50
Obtaining professional design drawings	Dependent on complexity of drawings	£50	>£50
Obtaining certified copy	£22	£50	£72
Renewal application at 5 years	£70	£200	£270
Renewal application at 10 years	£90	£200	£290
Renewal application at 15 years	£110	£200	£310
Renewal application at 20 years	£140	£200	£340

### (EU) Registered Community Designs

Action	Disbursements	Service	Total
Registration fee (single design)	€230	£350	£550
Registration fee (per design for two to ten designs in a multiple application)	€115	£50	£150
Registration fee (Per Design for 11+ Designs in a multiple application)	€50	£50	£95
Publication Fee (Single Design)	€120	£50	£155
Publication Fee (Per Design for 2-10 Designs in a multiple application)	€60	£50	£105
Publication Fee (Per Design for 11+ Designs in a multiple application)	€30	£50	£80
Deferment Fee (Single Design)	€40	£50	£85
Deferment Fee (Per Design for 2-10 Designs in a multiple application)	€20	£50	£70
Deferment Fee (Per Design for 11+ Designs in a multiple application)	€10	£50	£60
Obtaining professional drawings	Dependent on complexity of drawings	£50	> £50
Renewal application at 5 years	€90	£300	£380
Renewal application at 10 years	€120	£300	£405
Renewal application at 15 years	€150	£300	£430
Renewal application at 20 years	€180	£300	£455

These fees are correct as of 1 August 2019. All costs exclude any applicable VAT. All amounts are subject to change anytime without notice.

For further information on this subject please contact:



**Dominic Farnsworth**  
Partner

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+44 (0) 20 7074 8088  
[dominic.farnsworth@lewissilkin.com](mailto:dominic.farnsworth@lewissilkin.com)



**Steven Jennings**  
Trade Mark Counsel

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+44 (0) 20 7074 8203  
[steven.jennings@lewissilkin.com](mailto:steven.jennings@lewissilkin.com)