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Commercial

Intellectual Property Act 2014: summary

The Intellectual Property Act 2014 ('the Act') modernises the law relating to designs and patents. It was given Royal Assent in May 2014 and it is intended to be fully implemented by the end of this year.

Background

Design rights are governed by the Copyright, Designs and Patents Act 1988, the Registered Designs Act 1949 and the Community Designs Regulation. The Patents Act 1977 governs the patents system in UK. The Act amends a number of provisions in these acts to harmonise the law of intellectual property with European standards and to update a number of provisions to bring it in line with recent developments in the field.

Unified Patent Court

In February 2013, the UK government, along with other EU governments, signed the Agreement on a Unified Patent Court. This means that it will be possible to apply to the European Patent Office for a single Patent which will be effective in all EU member states, except Italy and Spain. The Act gives this agreement effect in the UK.

Hague Agreement

The Act puts in place provisions to allow the UK to implement the Geneva Act of the Hague Agreement. Once the UK has joined the Hague system in its own right, UK designers will be able to specify relevant EU territories, rather than an 'all or nothing' approach.

The main provisions of the Act

The Act is separated into four parts: Part 1 - designs, Part 2 - patents, Part 3 - miscellaneous and Part 4 - consequential and transitional provisions.

Part 1 - designs

The Act amends the definition of unregistered design right with the aim of helping to reduce uncertainty over the scope of protection and to limit the protection for trivial features of designs. It also changes the rule that the commissioner of an unregistered design right is the first owner, so that it will instead be the designer. The same amendment is made to registered designs. Amendments are made to the qualification criteria for unregistered designs, with the intention of simplifying criteria under which individuals or businesses may be eligible for unregistered design rights. There are also new exceptions to infringement of unregistered design rights, with the introduction of protection from infringement for private acts, experiments and teaching.

A limited defence where a third party acts in good faith in the use of a design that is subsequently registered by another has been introduced. This will allow third parties to continue using the design according to preparations they have already made, without fear of someone being able to stop them at a later date and jeopardising their investment. This protection only applies to the use that they have already made of the design.

A new provision introduced by the Act makes the deliberate copying of a UK or Community registered design a criminal offence. The copying must be intentional and the infringing product must be either made exactly to the design, or have features that differ only in immaterial details. There is also a defence where a person charged with this offence reasonably believed that he or she was not infringing.

Part 2 – patents

The Patent Act requires the patent holder to mark an article with the patent number in order to put an infringer of the patent on notice. The Act will amend this to provide patent owners with an alternative way of providing notice of their patent rights - they will now be able to mark their products with either a specific patent number or a relevant internet link which takes the user to a website or page which contains the patent number.

The Act will allow the Intellectual Property Office to share information on unpublished patent applications with other national and regional patent offices. This is intended to improve international co-operation and reduce backlogs.

To discuss the impact of the Intellectual Property Act 2014 on your business' intellectual property rights, please contact 3HR.

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