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trading standards law explained

Intellectual property

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In this guide, the words 'must' or 'must not' are used where there is a legal requirement to do (or not do) something. The word 'should' is used where there is established legal guidance or best practice that is likely to help you avoid breaking the law.

This guidance is for England, Scotland and Wales

Intellectual property (IP) can be a valuable asset to any business, be it large or small, new or long-established.

IP consists of four key elements: trade marks, copyright, designs and patents. The different forms of IP

exist for different lengths of time, or 'term'. Business confidentiality, or trade secrets, are often called IP's 'fifth element'.

It is also important to be aware of 'geographical indications' (GI), which are a separate and specialised form of protection for food and drink.

Copyright is an automatic (or unregistered) right.

Designs and trade marks are initially automatic or unregistered rights; they can be registered for greater protection.

Patents must be registered to exist (see right-specific explanations below).

Trade marks, copyright, designs and patents are property rights owned by the original creator, or subsequent owner, of the particular IP right. The rights owner can prevent others from unfairly using their rights for trade purposes without permission. Unauthorised use of another's IP is known as infringement.

A rights owner or business can grant licences to third parties, which allow those third parties to use the business's protected IP in exchange for a fee. Licensing is a controlled and effective way for rights owners and businesses to generate wealth from their IP.

If a business uses another's IP without permission, it is an infringement of those rights, which could result in the business being taken to court. In addition, copyright, registered designs and registered trade marks are also protected by criminal law. Therefore, infringement in these areas may also constitute a criminal offence.

Intellectual property framework

Intellectual property rights (IPRs) are territorial in nature, and UK rights have effect in the UK. However, these territorial rights sit within the wider international IP framework. For UK businesses trading internationally, it is important to be aware of the international framework in order to maximise IP rights protection and for the ability to prosper in the global marketplace.

The international IP framework is administered by three bodies:

- World Intellectual Property Organisation (WIPO)
- European Union Intellectual Property Office (EUIPO)
- Intellectual Property Office (IPO). This is the operating name for The Patent Office, which is the Government body responsible for IP rights in the UK

The international framework is derived from a series of international treaties and agreements. The UK is a signatory to each of these treaties and is part of the international framework. The main relevant treaties are:

- Trade marks: Madrid Agreement and Protocol
- Copyright: Berne Convention
- Designs: Hague Agreement
- Patents: Patent Cooperation Treaty (PCT)

UK businesses trading in the European Union (EU) may wish to apply for IP protection in those areas. UK businesses wishing to obtain trade mark or design protection in the EU have two main options. They can either apply to the EUIPO to register new 'EU registered trade marks' (EUTMs) and 'registered design at EU

level' (EUDs or REUDs*) to protect any new rights in the EU.

[*Previously known as 'registered Community designs' (RCDs).]

Alternatively, a UK business could make an application to the WIPO for an international registered trade mark or an international registered design, designating the EU as a protected territory, which would also give protection to the right within the EU. An international registered design is known as a 'Hague designation'. Businesses should give careful consideration to which level of protection is most beneficial to protect their IP rights.

Trade marks

Trade marks protect brand identity, trade names and distinctive logos. A trade mark is a badge of trade origin.

If a business uses its own trade mark or trade name, and establishes a trade reputation and goodwill, then the business will own an unregistered trade mark. This can be protected in civil law against unauthorised third party use by an action for misrepresentation (also known as 'passing off').

The GOV.UK website covers trade mark licensing and has further information on trade marks, including how to register, manage and enforce your trade mark rights.

UK rights

Trade marks can also be registered at the IPO. Registration is proof of ownership and strengthens a business's trade mark rights by providing enhanced protection against infringement.

A (registered) 'trade mark' is defined as follows:

"... any sign which is capable:

a) of being represented in the register in a manner which enables the registrar and other competent authorities and the public to determine the clear and precise subject matter of the protection afforded to the proprietor, and
b) capable of distinguishing goods or services of one undertaking from those of other undertakings.

"A trade mark may, in particular, consist of words (including personal names), designs, letters, numerals, colours, sounds or the shape of goods or their packaging."

The definition also covers collective marks and certification marks.

If you wish to register a trade mark, you can apply online to the IPO.

Trade mark registration protects a trade mark for 10 years from the date of registration and is renewable every subsequent 10 years; therefore, a registered trade mark may be protected in perpetuity, if it continues to be renewed.

Trade marks must be registered in at least one classification category. There are a number of classification categories: 1 to 34 for goods and 35 to 45 for services. There is a UK classification system for goods and/or

services, and businesses should consider which classifications are appropriate for them to register their trade mark in. You should only register a trade mark in a classification category where there is a genuine intention to use the trade mark. A trade mark can also be revoked for non-use if it isn't used for five years after registration.

The UK's classification system is based upon WIPO's Nice Classification system (NCL) and the classes are similar.

It is an infringement to use someone else's registered trade mark without permission. Unauthorised use could result in civil action being taken against the infringing business in court. If you wish to use someone else's trade mark, you should contact the rights owner and seek permission or a licence to use the protected trade mark.

It is also a criminal offence to:

- Use without permission a sign identical to, or likely to be mistaken for, a registered trade mark in relation to goods, packaging, advertising materials or business papers with a view to gain or the intent to cause loss
- Misuse the title 'registered trade mark agent'
- Making a false entry into the trade marks register
- Use of the royal coat of arms and other state emblems without authorisation

You can search the trade mark register on the GOV.UK website to find out if a mark is already registered.

EU rights

EUIPO administers the EU registration system for trade marks.

UK businesses seeking to protect their trade marks in the EU can apply for a 'European Union trade mark' (EUTM) by applying to the EUIPO.

EUTMs only provide protection within EU Member States; they no longer provide protection within the UK. This has been the case since 1 January 2021.

To ensure no loss of protection for existing EUTMs, the UK recognised all existing EUTMs by creating comparable UK trade mark rights, which were granted automatically and free of charge.

There was a transition period where EUTM applications included an option to also apply for UK protection to retain the same filing date as their EUTM, but this ended in September 2021. New EUTM applications do not provide protection of the trade mark in the UK. Therefore, businesses should file a UK trade mark application with the IPO or an international registration via WIPO, ensuring that the UK is designated in the application. You can find out more about the international registration process further on in this guidance.

The new comparable trade marks have been allocated a new number, which is the last eight digits of the EUTM number, prefixed with 'UK009'.

Further advice on comparable UK trade marks and how to renew them is available on the GOV.UK website.

International rights

WIPO administers the international registration system for trade marks, which applies to all signatories of the Madrid Protocol.

UK businesses seeking to protect their trade marks internationally can apply for an international registered trade mark by applying to WIPO. By making one single application, a business can apply for protection in up to 132 countries.

The 132 countries include the UK and EU Member States, so one single application could provide protection in both territories. The system operates on a 'pick and mix' basis and businesses can choose protection in the territories where they intend to carry on business. The application fees are charged on a pro rata basis.

An international application must be based on an existing trade mark application or registration in one of the member countries. Therefore, if you have an existing UK trade mark application or registration, or a EUTM application or registration, your international application can be based on that right. You can choose to apply for your international application through the IPO at the same time as you apply for your UK trade mark, but the international application must be identical to the UK trade mark application.

You can apply for an international trade mark on the WIPO website. The IPO has published further advice on registering a trade mark abroad and the requirements that need to be met.

International registered trade marks designating the EU as a protected territory only provide protection within EU Member States; they no longer provide protection within the UK.

Copyright

Copyright protects original creative works. It provides protection for literary, dramatic, musical and artistic works such as books, plays, songs, photographs, films, broadcasts, and computer software and programs.

Copyright is an automatic right that protects original works from the moment of first creation when the work is fixed in a material form. There is no copyright registration system in the UK. Any original works created by a business are automatically protected as copyright works and become the property of the business. For example, a business that creates written material, photographs or makes its own website has created its own copyright material. These creations are automatically protected under copyright law.

Copyright exists (the legal term is 'subsists') for a limited period of time, known as 'the term' of protection (also known as the duration of copyright protection). Therefore, copyright protection lives and dies. Literary, dramatic, musical and artistic works are protected for the author's lifetime plus 70 years. The period of 70 years runs from the end of the calendar year of the death of the author. Other classes of copyright work have shorter terms of protection (see sections 12 to 15 of the Copyright, Designs and Patents Act 1988 via the link in 'Key legislation' below).

It is an infringement to copy someone else's copyright material without permission if the use does not fall under one of the exceptions and limitations that are set out in sections 28 to 76 of the Copyright, Designs and Patents Act 1988. Unauthorised use could result in civil action being taking against the infringing business in court.

The permitted uses of copyright works include:

- Fair dealing exceptions, such as:

    - Fair use of copyright works for non-commercial research and private study
    - Reporting current events
    - Illustration for instruction
- Other exemptions, such as:
    - Use in public administration
    - Making accessible copies for disabled persons

It is also a criminal offence to:

- Make or knowingly deal in infringing articles
- Possess infringing copies in the course of a business
- Import infringing copies
- Manufacture devices designed to facilitate infringement
- Make, deal with or use illicit recordings
- Circumvent technological protection measures - for example by enabling people to access content that they would normally require a subscription service to access
- Communicate copyright works to the public online, knowing or having a reason to believe that copyright is infringed and intending to make a gain or cause a loss to the owner of the copyright
- Fraudulently receive programmes
- Make false claims about copyright ownership
- Carry out the criminal actions listed in the Act relating to authorised decoders

If you wish to use someone else's copyright work for business purposes, you should seek permission and obtain a licence from the copyright owner. Businesses should also give careful consideration to their position regarding ownership of copyright and other IP rights in AI-assisted or AI-generated content.

Licensing bodies and collective management organisations (CMOs, also known as collecting societies) can agree licences with users on behalf of owners and collect any royalties that the owners are owed. More information on collective management organisations is available on the GOV.UK website.

See also copyright and copyright licensing on GOV.UK for more information.

Copyright is largely harmonised internationally by a number of treaties, primarily by the Berne Convention. For that reason, most UK and EU copyright works will continue to be reciprocally protected in the UK and the EU.

The IPO has provided detailed guidance in areas of copyright law where there were changes after leaving the EU. The guidance includes:

- Copyright clearance in satellite broadcasting
- *Sui generis* database rights
- Portability of online content services
- Orphan works copyright exception
- Accessible format copies of copyright works
- Collective rights management
- Artists' resale right
- Cable re-transmissions of works
- Qualification for copyright
- Copyright duration
- Use of EU satellite decoders

The IPO guidance on protecting copyright in the UK and EU is available on the GOV.UK website.

Designs

Designs protect the appearance of an article; they protect the unique look of parts or whole articles. Designs can be 2D (such as prints or patterns applied to items) or 3D articles (such as furniture, household items or clothing, or component parts of larger items).

The 'UK unregistered design right' (UK UDR) is an automatic right that protects the article from first creation (like copyright) and provides protection for up to 15 years. The UK UDR protects designs such as 3D shapes and configuration of the whole or part of an article, but it does not cover designs such as surface decoration and 2D designs.

The 'supplementary unregistered design right' (SUDR) was introduced after the UK left the EU; it replaced the 'unregistered EU design' (UEUD)* protections in the UK. More information about these rights can be found further on in this guidance. The SUDR covers areas such as 2D designs, and provides protection for three years.

[*Previously known as 'unregistered Community design' (UCD).]

More information about designs protections can be found on the GOV.UK website.

UK rights

Designs can also be registered at the IPO for greater protection. Design registration is available for both 2D and 3D designs, and can last for up to 25 years. An initial registration lasts for five years; it can be subsequently renewed in multiples of five years for a second, third, fourth and fifth time, giving a maximum of 25 years' protection.

The principle of 'first marketing' applies to applications to register a design. This principle has the effect of creating a 12-month grace period for an application. A business can choose between:

- Applying to register a design prior to going to market or to coincide with a product launch
- Going to market and, if a product becomes popular, registering the design at a later date

This means that a business can market a product and still apply to register the design within the first 12 months after first marketing. This grace period allows a business to launch a product and test the market before seeking to make an application to register a design.

Note: the 'grace period' for design registration should be contrasted to patent registration where any 'prior disclosure' is fatal to an application to register a patent.

If you wish to apply to register a design you can apply to the IPO online.

Like copyright, an unregistered design is automatically protected and unauthorised use of someone else's unregistered design is an infringement and could result in civil action being taken against the business in a court. There can also be infringements resulting in civil action relating to registered designs. If you wish to use someone else's registered design, you should contact the rights owner and seek permission or a licence to use the protected design.

There are also criminal offences relating to registered designs, which include:

- Unauthorised copying of a design in the course of a business, knowing or having reason to believe

that design is registered and without the consent of the registered design owner
- Disclosing certain types of designs deemed secret for national security reasons
- False entries and claims, such as falsifying the register and making false claims about a design's registration.

You can search the designs register online to find out if a design is already registered. More information about licensing or marketing a design right can be found in the IPO's guidance.

EU rights

EUIPO administers the EU registration system for designs.

UK businesses seeking to protect their designs in the EU can apply for an EUD to the EUIPO. EUDs only provide protection within EU Member States; they no longer provide protection within the UK.

To ensure no loss of protection for existing EU registered designs, the UK recognised all existing EUDs by creating equivalent UK design rights, which were granted automatically and free of charge. The equivalent UK registered designs have been allocated a number, which is the existing number of the EUD, prefixed with a number '9'.

There was a transition period where EUD applications included an option to also apply for UK protection to retain the same filing date as their EUD, but this ended in September 2021. New EUD applications do not provide protection of the design right in the UK. Therefore, businesses should file a UK registered design application with the IPO or an international registration via WIPO, ensuring that the UK is designated in the application. You can find out more about the international registration process below.

Further advice on UK-equivalent design rights is available on the GOV.UK website.

International rights

WIPO administers the international registration system for designs.

UK businesses seeking to protect their designs internationally can apply for an international registration by applying to WIPO.

A business can apply for protection of up to 100 designs, in up to 99 countries, by making a single application.

The contracting parties include both the UK and the EU. Designating the EU can provide protection in participating EU Member States, while designating the UK provides protection within the UK. A single application could therefore provide protection in both the UK and the EU. The system operates on a 'pick and mix' basis and businesses can choose protection in the territories where they intend to carry on business, the application fees are charged on a pro rata basis.

Applications for international design registrations can be made on the WIPO website.

International registered designs, designating the EU as a protected territory, only provide protection within EU Member States; they no longer provide protection within the UK.

To ensure no loss of protection for existing international UK designations, the UK created equivalent UK design rights, which were granted automatically and free of charge. These new equivalent UK registered designs have been allocated a new number, which is the existing design number prefixed with a number '8'.

You can find out more information in the IPO guidance on international EU protected designs.

Unregistered design rights

The UEUD is no longer valid in the UK; these rights were immediately and automatically replaced by new UK rights so there was no loss of protection.

Existing UEUDs at the time the UK left the EU were replaced by a new 'continuing unregistered design right' (CUDR), which subsisted for the balance of the right's term. However, CUDRs were a temporary measure, and they expired on 31 December 2023, if not before.

Since leaving the EU, the UK law has introduced a 'supplementary unregistered design right' (SUDR), which protects 2D and 3D designs; it is an automatic right and subsists for three years from manufacture, disclosure or first marketing. Businesses should take care to consider where they first disclose their design and how this is done. By disclosing a design, it may destroy the novelty in that design.

IP design protection therefore has:

- Two unregistered design rights:
    - UK UDR
    - SUDR
- Registered design rights
- Overlapping protection through copyright law

The IPO has published further guidance on the changes to unregistered designs and a recent report reviewing the design protections in the UK and making suggestions for further reforms.

Patents

Patents protect inventions; they protect the function of new products and industrial processes.

A patent must be new, have an inventive step and be capable of industrial application.

Patents are territorial in nature and must be registered in the individual country or region of use - in other words, they must be registered where protection is sought.

UK patent protection subsists in England, Wales, Scotland and Northern Ireland. A UK business seeking patent protection outside the UK must apply to the relevant national or regional body.

For information about patent licensing and patents in general, visit the GOV.UK website.

UK rights

Patents must be registered at the IPO to obtain protection. To qualify for patent protection, a product or process must be new, have an inventive step and be capable of industrial application. The idea must be new and must have been kept secret prior to the application for registration; if it wasn't, the application will be invalid and the patent will not be protectable.

You can apply to register a UK patent online. In 2025, the IPO launched its One IPO Patents Service.

Patent registration lasts for up to a maximum of 20 years. Initial registration protects the product or process for four years from the application date. The registration can then be renewed on an annual basis up to the 19th year.

It is an infringement to use someone else's patent without permission, and unauthorised use could result in civil action in a court for infringement. If you wish to use someone else's patent you should contact the rights owner and seek permission or a licence to use the patent.

European patents and EU unitary patent

The European framework of patent protection is administered by the European Patent Organisation (EPOrg), which was established by the European Patent Convention (EPC) in 1977. The EPOrg is an international organisation and is an independent, non-EU body.

UK businesses can apply for European patent protection through the EPOrg, as the UK is still a member. The UK's membership was not affected by the Brexit process and the UK remains a full member of the EPOrg.

The EPOrg is the umbrella organisation that oversees the operation of the European Patent Office (EPO) along with the Administrative Council of the European Patent Organisation.

There are 39 countries that are signatories to the EPC and are members of the EPOrg. A single European patent application can be used to seek protection in the EPC Member States. If granted, the European patent takes effect as a bundle of national patents in the designated states.

You can search for patents using the EPO Espacenet system.

You can apply to register a European patent on the EPO website.

The European Patent Office (EPO) has a dual role; it administers the new EU unitary patent system in parallel with the European patent system.

The unitary patent system was launched in 2023 and makes it possible to get patent protection in up to 18 EU Member States by submitting one application to the EPO.

International rights

WIPO administers the international registration system for patents, under the Patent Cooperation Treaty (PCT). There are 158 'contracting states' to the PCT, including the UK.
By filing one international patent application, business can seek patent protection in multiple contracting

states. The PCT application acts as the preliminary process of search and publication, with the option of a non-binding preliminary examination. Patent protection can then be pursued through the relevant national or regional patent office.

The IPO has published advice on registering a patent abroad on the GOV.UK website.

You can search the patent register online to find out if a patent is already registered and in protection. If a patent has expired, the information in the patent is in the public domain.

Business confidentiality, trade secrets and non-disclosure

A business can protect secret or confidential information by the use of legally binding agreements that define the nature of the particular rights and restrict third-party use. These types of agreements are vital when developing patents, but can also be used to protect any form of IP and enable businesses to share commercially sensitive information in a controlled way. A breach of such an agreement could result in civil action for breach of contract and damages.

Article 39 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) requires World Trade Organisation (WTO) member countries to provide protection and remedies for undisclosed information, trade secrets or business know-how. In the UK, the Trade Secrets (Enforcement, etc) Regulations 2018 states: "the acquisition, use or disclosure of a trade secret is unlawful where the acquisition, use or disclosure constitutes a breach of confidence in confidential information"; the Regulations create a right of action and remedies for breaches of confidence.

Trade secrets may also be protected through common law actions for breach of confidence and contractual confidentiality obligations.

The GOV.UK website has guidance on how to protect your intellectual property.

Protected food and drink names (geographical indications)

'Geographical indications' (GI) are a separate and specialised form of protection for food and drink. These protect the names of products that have qualities, characteristics or a reputation linked to a specific geographical area and help consumers identify authentic regional products and prevent misuse of protected names.

For more information, see the link to the GOV.UK website at the beginning of this section and the 'Protected food and drink names (geographical indications)' guide.

Further assistance

The IPO's IP for business tools "can help you create value from your ideas, turning inspiration into sustainable business success". The free online tools include an IP 'health check' for businesses.

British Library business and IP centres

The British Library, in partnership with the IPO, provides a national network of business and IP centres. These centres "support over 40,000 people every year to start and grow their business".

Trading Standards

For more information on the work of Trading Standards Services and the possible consequences of not abiding by the law, please see 'Trading Standards: powers, enforcement and penalties'.

In this update

General detail added.

Last reviewed / updated: October 2026

Key legislation

- Registered Designs Act 1949
- Intellectual Property Act 2014
- Patents Act 1977
- Copyright, Designs and Patents Act 1988
- Trade Marks Act 1994
- Patents Rules 2007
- Patents (Fees) Rules 2007
- Trade Marks Rules 2008
- Trade Marks Regulations 2018
- Trade Secrets (Enforcement, etc) Regulations 2018

Please note

This information is intended for guidance; only the courts can give an authoritative interpretation of the law.

The guide's 'Key legislation' links go to the legislation.gov.uk website. The site usually updates the legislation to include any amendments made to it. However, this is not always the case. Information on all changes made to legislation can be found by following the above links and clicking on the 'More Resources' tab.

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