

Enforcing Intellectual Property Rights

A Concise Guide for Businesses, Innovative
and Creative Individuals

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Glossary of Intellectual Property Terms

Berne Convention	Berne Convention for the Protection of Literary and Artistic Works: international agreement establishing Berne Union and providing for copyright protection of artistic and literary works of contracting parties' nationals on a reciprocal basis.
Brand	The sign by which a product or service is recognized in the market.
Chancery County Court	The Central London County Court or a county court that is attached to a chancery district registry (e.g. Birmingham, Bristol, Caernarfon, Cardiff, Leeds, Liverpool, Manchester, Mold, Newcastle upon Tyne and Preston County Courts).
Community Design ('CD')	A design that is protected under the Community Design Regulation. It may be registered Community design or an unregistered Community design.
Community Design Regulation	Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs (OJ EC No L 3 of 5.1.2002, p. 1). The legislation that provides for Community designs.
Community Trade Mark ('CTM')	A trade mark that is registered with OHIM under the provisions of the Community Trade Mark Regulation.
Community Trade Mark Regulation	Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark. The legislation that establishes OHIM and provides for the registration of trade marks as Community trade marks.
Confidence	A duty not to disclose or use secret technical, commercial or otherwise sensitive information that is entrusted to another ('the confidante') expressly in confidence (i.e. when the confidante signs a confidentiality or non-disclosure agreement) or in circumstances giving rise to an obligation of confidence (i.e. discussing an invention with a patent agent).
Convention	Treaty or other international agreement between sovereign governments. Includes Berne, Paris and Rome Conventions, Washington Treaty, European Patent Convention, Patent Co-operation Treaty, Madrid Protocol and Hague Agreement.
Copyright	Exclusive right to copy, issue copies to the public, lend, rent, perform, communicate to the public or adapt original artistic, dramatic, literary or musical works, broadcasts, films, sound recordings or typographical arrangements of published works. These are 'economic rights'. Some authors also have moral rights in respect of their works.
Creative Work	Work of art or literature. Works of art include plastic arts such as collages, drawings, etchings, engravings, graphics, images on a computer, paintings, sculptures, media such as animations, films, sound recordings and videos, musical works such as a score and performing arts such as ballet, drama, singing and other musical performances. Works of literature include not just novels and poems but also compilations of data, mathematical tables, street directories, traders' catalogues and computer software.

Design	The shape or configuration of an article or part of an article. The topic really breaks into functional designs and ornamental designs.
Design Right	The right conferred by an unregistered design right. Not to be confused with unregistered Community designs or registered designs.
Designs Directive	Directive 98/71/EC of the European Parliament and of the Council of 13 October 1998 on the legal protection of designs OJ L 289, 28.10.1998, p. 28–35: Council directive harmonizing national registered design law. Implemented in the UK by The Registered Designs Regulations 2001 which amended the Registered Designs Act 1949 of the member states.
Economic Rights	Rights relating to the exploitation of copyright or right in performance as opposed to a moral right. They include reproduction, publication, renting, lending, performing, communicating the public and adapting.
European Patent Convention ('EPC')	Agreement between over 30 European countries establishing the European Patent Office and providing for the grant of European patents that stand alongside national patents in each of the contracting states,
European patent	Patent granted by the European Patent Office for one or more countries that are party to the European Patent Convention on behalf of the contracting government(s).
European Patent Office ('EPO')	Intergovernmental agency established by the European Patent Convention to grant European patents on behalf of the governments(s) of one or more of the contracting parties to that Convention to take effect alongside national patents.
Functional Design	The design of a mechanism, electrical circuit or other functional object.
Hague Agreement	The Hague Agreement Concerning the International Deposit of Industrial Designs: international agreement to facilitate registered design protection by facilitating applications to multiple design registrations forma single filing. The EU is party to this agreement but the UK is not as yet.
Infringement	Violation of an intellectual property right as in infringement of a patent, copyright or trade mark. It is, however, permissible to refer to a 'breach of confidence'.
Intellectual Asset	Investment in brands, design, technology or creative work.
Intellectual Property ('IP')	Collective name for the bundle of rights that protect intellectual assets at law. They include patents, trade marks, copyrights, and rights in performances, registered and unregistered designs.
Intellectual Property Right ('IPR')	Legal protection of an intellectual asset: i.e. patent, trade mark, copyright, registered design, right to bring an action for passing of breach of confidence.
Madrid Protocol	Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks: international agreement to facilitate trade mark registration permitting applications to trade mark registries in several contracting countries form a single filing.
Moral Right	Right to preserve the dignity and integrity if a copyright work or performance and the reputation of the author or performer such as the right to be identified, the right not to have work treated derogatively and right not to have other work attributed to the author.
OHIM (Office for Harmonization in the Internal Market)	European Community trade mark and designs registry established by the Community Trade Mark Regulation and the Community Design Regulation.

Ornamental Design	The appearance of the whole or a part of a product resulting from the features of, in particular, the lines, contours, colours, shape, texture and/or materials of the product itself and/or its ornamentation.
Paris Convention	Paris Convention for the Protection of Industrial Property: international agreement establishing the Paris Union and providing for the legal protection of the inventions, trade marks and designs of contracting parties on a reciprocal basis and the suppression of unfair competition.
Passing Off	Common law action (occasionally called 'palming off' in USA) and closely related to unfair competition whereby a trader who uses a name, mark or get-up that is similar to that of an established trader can be liable for any damage that he or she causes by the use of that sign.
Patent	A monopoly granted by a state of the manufacture, distribution, importation use of a new product, the use of a new product or the distribution, importation or use of products made form such process.
Patent Agent	In the UK and most other countries, an interchangeable and less misleading term for patent attorney. In the USA, a professional who is not a lawyer who applies for patents, other registered rights, advises on intellectual property and does most of the work of a patent attorney.
Patent Attorney	In the USA, a lawyer specializing in patent and other intellectual property work. In the UK and some other countries a professional with some specialist legal knowledge who applies for patents and other registered IP rights, advises on the law, represents clients in the UK-IPO, EPO and OHIM and sometimes appears in the Patents and Patent County Courts, Chancery Division and Chancery County Courts. Patent agents have recently started to use the term 'patent attorney' because they feared that they were perceived as somehow inferior to US patent lawyers.
Patent Co-operation Treaty ('PCT')	International agreement to facilitate patent applications permitting applications to patent offices in several contracting countries from a single filing.
Patents County Court	A county court designated by the Lord Chancellor for patents and designs litigation. The Central London County Court s the only county court that is so designated.
Patents Court	Judges of the Chancery Division specializing in patents, registered and registered Community design and semiconductor topography litigation.
Performance	A performance by an actor, dancer, singer, musician or other performing artiste.
Publication Right	Right of a publisher of a previously unpublished work that is out of copyright at the time of publication to prevent copying, further publication, renting, lending or adapting the work.
Registered Community Design	A new design having individual character which is registered with OHIM under the Community Design Regulation.
Registered Design	A new design having individual character which is registered with the UK Intellectual Property Office under the Registered Designs Act 1949 as amended. Designs registered with OHIM under the Community Design Regulation are known as registered Community Designs.
Right in a Performance	The right of an actor, dancer, musician, singer or other artiste not to have his or her performance broadcast, filmed or taped without his or her consent. Also, the right of a broadcaster, film or recording studio who has contracted with the performer to broadcast film or tape the performance to object to anyone else's broadcasting, filming or taping the performance. These are economic rights. Performers now also have moral rights in relation to their performances.

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Rome Convention	Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations: international agreement providing for protection of broadcasts, live performances and films and tapes of such performances of nationals and residents of contracting states on a mutual basis.
Semiconductor Topography	The design of the layout of a semiconductor chip which is protected in the UK as unregistered design rights by The Design Right (Semiconductor Topographies) Regulations 1989. See also The Washington Treaty.
Trade Mark	A sign capable of being represented graphically, consisting of words, including personal names, designs, letters, numerals, the shape of goods or of their packaging, that is capable of distinguishing the goods or services of one supplier from those of others. NB. 'Trade mark' is spelt as two words in the UK and as one in the USA.
Trade Mark Agent	In the UK and most other countries, an interchangeable and less misleading term for trade mark attorney. In the USA, a professional who is not a lawyer who applies for trade marks advises on intellectual property and does most of the work of a trade mark attorney.
Trade Mark Attorney	In the USA, a lawyer specializing in trade mark work. In the UK and some other countries a professional with some specialist legal knowledge who applies for trade marks and designs, advises on the law, represents clients in the UK-IPO and OHIM and sometimes appears in the Chancery Division and Chancery County Courts. Trade mark agents have recently started to use the term 'patent attorney' because they feared that they were perceived as somehow inferior to US trade mark lawyers.
Trade Marks Directive	First Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trade marks: Council directive harmonizing the trade mark laws of the member states. Implemented in the UK by the Trade Marks Act 1994.
TRIPs (Agreement on Trade-Related Aspects of Intellectual Property Rights)	Annex 1C to the WTO Agreement. An agreement for WTO member states to provide minimum legal protection for intellectual assets, to comply with the Berne, Paris and Rome Conventions and the Washington Treaty and to provide civil remedies and criminal penalties for infringement.
UDRP (Uniform Domain Name Dispute Resolution Policy)	Form of alternative dispute resolution for disputes over generic top level domain names (those ending in .com, .org, .net, .info et cetera) incorporated by reference into every contract for the registration of such a domain name.
UK Intellectual Property Office ('UK-IPO')	New name for the Patent Office. Executive agency established to examine and grant patents, trade marks and registered designs for the UK under the Patents Act 1977, Trade Marks Act 1994 and the Registered Designs Act 1989.
Unregistered Community design	Automatic 3-year EU wide protection from copying of a design that could have been registered as a registered Community design or as a registered design in the UK.
Utility Models	Short term protection for new inventions similar to a patent but usually granted on less rigorous examination available in most of Europe including Ireland where they are called 'short term patents' but not yet in the UK. Also known as 'innovation patents' in Australia. The UK protects many inventions that would qualify for utility model protection by design rights.
Washington Treaty	Washington Treaty on Intellectual Property in Respect of Integrated Circuits: treaty providing for mutual protection of semiconductor circuit designs of residents and nationals of contracting parties. Not yet in force but implemented by several governments including HMG.

WIPO	World Intellectual Property Organization: UN specialist agency for intellectual property, custodian of most of the IP Conventions and important domain name dispute resolution service provider. NB The initials are pronounced separately 'W', 'I', 'P', 'O' – never as 'wipe-oh' as though it were a brand of window cleaner.
The World Trade Organization ('the WTO')	A multilateral international organization consisting of most of the world's developed and developing nations regulating trade and development.
WTO Agreement	Marrakesh Agreement establishing the World Trade Organization ('the WTO') and regulating trade between WTO members.