



Intellectual property bill - Overview by theme

The purpose of the Bill is to modernise certain aspects of the law in relation to intellectual property. Most measures are technical in nature and respondents to the Government's consultations were broadly in favour.

Simplifying and improving design protection to help businesses (particularly SMEs)

Clause 13 makes infringement of a registered design a criminal offence, in certain circumstances. It will:

- give creators an extra tool to help protect their designs from blatant copying
- recognise that the creativity of designs is as important to the economy as music (protected by copyright) and brands (protected by trade marks), both of which are covered by criminal sanctions.

Clause 11 introduces a voluntary, non-binding Design Opinions Service to give those involved in potential designs litigation (e.g. over infringement) an impartial view from the IPO on the strength of their case. This will:

- help parties resolve disputes over designs without costly litigation
- reduce or focus any litigation that does take place.

Clause 4 makes certain acts exempt from being an infringement of an unregistered design. These include acts done privately, for experiments or for teaching. This will:

- ensure appropriate use of others' IP in the right circumstances
- make the IP system more uniform and less complex to understand
- harmonise with the EU system and with the position on copyright infringement.

Clause 5 ensures those who use, with permission, a registered Community design (which is valid in the UK) cannot be sued for infringement of associated copyright, thus:

- reducing complexity for business and for potential disputes
- aligning the law with the position regarding use of UK registered designs.

Clause 7 allows third parties, acting in good faith, to continue to use a design that is subsequently registered by someone else. Those third parties can continue to use the design (or start to use it, if they have made serious and effective preparations to do so), without fear of later being stopped as a result of the registration. This will:

- improve certainty for business
- remove the risk that good faith investments are jeopardised.

Clause 10 does two things. First, it makes consistent the financial remedies for innocent infringement of UK registered designs and Community designs. Second, it provides an additional route to the courts for appealing an unfavourable IPO decision regarding designs. An appeal can be made to an "Appointed Person" (a legal professional appointed by the Lord Chancellor). This will:

- provide quicker and cheaper resolution of disputes
- offer appeals in a more accessible and informal setting.

Simplifying and improving patent protection to help businesses (particularly SMEs)

Clause 15 introduces an easier way for patent owners to provide public notice of their patent rights. They will be able to mark a patented product with a web address which details the relevant patent number(s). Currently patent owners have to mark their product with the specific patent number(s) in question to get the maximum protection. This will:

- reduce costs to patent holders, while maximising their rights
- make up-to-date patent information easily accessible for competitors.

Clause 16 extends the Patent Opinions Service so that the IPO can give non-binding opinions on a wider range of issues concerning patent validity; also on the validity and infringement of Supplementary Protection Certificates. The clause will also give the IPO the power to revoke a clearly invalid patent in certain cases. This will:

- help parties resolve a wider range of disputes over patents
- reduce or focus any litigation that takes place.
- help ensure only valid patents are in force in the UK
- remove, from affected businesses, some of the burden of tackling invalid patents

Clarifying the IP legal framework

Clause 1 amends the definition of unregistered design right to help reduce uncertainty over the law and to limit the protection for trivial features of designs.

Clauses 2 and 6 align the rules on UK design ownership with those of the EU. For commissioned designs, the designer (not the commissioner) will be the owner in all cases.

Clause 3 extends (and simplifies) the law on who may own a UK unregistered design right, to give protection to anyone of any nationality provided that, broadly speaking, they live or are economically active in the EU.

Clause 19 and Schedule 1 correct a number of minor aspects of the patents legislation to provide clarity and legal certainty to users of the patent system.

Clause 22 improves and simplifies the process for protecting copyrighted works produced outside the UK, where the UK has an obligation to do so under international law. It will result in clearer information for users, and the UK will be able to comply more quickly with our obligations in the future as more countries sign up to the relevant treaties. This clause does not affect substantive copyright law.

Making the international and European IP system work better

Clause 8 introduces a power to enable the UK to join the Hague international design registration system in its own right (currently we are only a member by virtue of EU membership). This will mean:

- those seeking to protect their designs through the international system will be able to specify relevant EU territories, rather than an “all or nothing” approach.

Clause 17 will permit the Unified Patent Court Agreement to be brought into effect in the UK by order of the Secretary of State. Any order will be subject to approval by resolution of each House of Parliament, having first been the subject of a public consultation and necessary impact assessments.

Clause 18 will allow the IPO to share information on unpublished patent applications. This will help facilitate more work sharing between the UK and other patent offices, and help speed up international patent processing. Currently information can only usually be shared once the patent application has been published. It will:

- allow the benefits of work-sharing between offices to be maximised
- help tackle patent backlogs
- ensure confidentiality of any information shared.

Other measures

Clause 9 simplifies the requirements for registering a change in ownership of a design, and also allows the IPO to provide on-line inspection of registered design files.

Clause 12 simplifies the process by which the IPO can change statutory forms and hours of business – by means of ‘directions’ rather than via secondary legislation. This aligns with the process already in place for trade marks and patents.

Clause 20 introduces an exception under the Freedom of Information Act 2000 in relation to pre-publication research information.

Clause 21 implements Hargreaves recommendation that the Secretary of State reports annually to Parliament on the IPO’s activities and how they have contributed to the promotion of innovation and economic growth.