



## What does the Intellectual Property Bill mean for you?

Designs Edition



## Define...

### The Hague system

The Hague system is an international designs registration system that gives much more flexibility to the designer, and vastly reduces some of the costs associated with international design registrations for business.

#### What is the proposed change?

The UK will join the Hague system, making it possible for UK designers to register their designs in the UK and abroad in a single application.

#### What does it mean?

If you are a designer you would be able to register your designs across as many or as few member nations as you like with just one application and one fee. The system can significantly reduce costs for businesses by reducing the need for multiple translations and legal representation as well as currency exchange costs.

## Further Information

Please note: this guide provides a brief overview of some of the changes proposed in the IP Bill. These measures are still being debated in the Houses of Parliament and, if agreed, will be passed in early 2014. In order to gain more detailed information about the changes outlined here, and when the changes might be brought into effect, please visit the IP Bill pages on the IPO website:

[www.ipo.gov.uk/types/hargreaves-ipbill](http://www.ipo.gov.uk/types/hargreaves-ipbill)

For an explanation of the passage of a Bill please visit the Parliament website:

[www.parliament.uk/about/how/laws/passage-bill](http://www.parliament.uk/about/how/laws/passage-bill)

The IP Bill also proposes changes relating to Patents. For further information please refer to the Patents edition of this guide, which can be found on the IPO website.

### IP Healthcheck

The IPO's free IP Healthcheck can help you to find out more about the different IP rights and how they affect your business.

[www.ipo.gov.uk/iphealthcheck](http://www.ipo.gov.uk/iphealthcheck)

# Designs:

## What does the IP Bill mean for you?

Design law is often considered messy, complex and confusing, and small businesses, who don't have the time or resources to disentangle it, can lose out. The IP Bill is introducing a number of new measures, and making some changes to the existing law, in order to make design law simpler, clearer and more robust.

### What's new?

#### Design Opinions Service

##### What is the proposed change?

A new "Design Opinions Service" will be introduced to provide a low cost, non-binding and impartial view on potential design disputes, such as infringement of a design, or even ownership of a design right. This may aid decision making prior to formal legal action being pursued. This will be similar to the existing Patent Opinions Service run by the IPO.

##### What does it mean?

The service could help you resolve a potential design dispute by giving you an 'opinion'. For example, if there is uncertainty about whether your design is too close to someone else's and therefore may infringe upon it, or whether an unregistered design right exists for a product, you would be able to ask the Design Opinions Service to review the situation. Although not binding on you or anyone else, this impartial opinion will be valuable in deciding whether to take action and can help to reach a settlement.

Legal action can be costly, and an opinion may give you an indication of whether you are likely to be successful if you take further action.

#### Criminal offence for copying of registered designs

##### What is the proposed change?

The Government is proposing to strengthen the enforcement of design rights by introducing criminal penalties for deliberate copying of a registered design. This will be similar to the protection for copyright and trade marks.

##### What does it mean?

**If you are a designer:** If you have a registered design that someone deliberately copies in the course of business without your consent they could be found guilty of an offence. This will allow you to protect your registered designs more effectively.

**If you are a third party:** The measure includes certain safeguards to ensure that businesses will not be inadvertently caught by this offence. Criminal penalties will only extend to those who have blatantly copied a registered design.

#### Design Ownership

##### What is the proposed change?

The default owner of a design will be the designer not the commissioner. This change would bring UK law in line with EU law and reduce the confusion that exists at the moment.

##### What does it mean?

**If you are a designer:** You will own the rights to your design, even if someone else has commissioned you to produce it, unless a contract that states otherwise is in place.

**If you commission a design:** You will not own the rights to the design unless a contractual agreement has been set up transferring all rights to you.

**If you are an employer:** You will continue to own the rights to any design that your employees produce as part of the job and under the terms of their employment contract.

#### Access to IPO Services

##### What is the proposed change?

A package of measures in the Bill will reduce bureaucracy for you and improve access to IPO services. The changes would allow the IPO to change things like forms and operating hours more easily, in order to better meet the needs of its customers, and provide a high quality service to you. A key change would allow the IPO to publish design documents online so they can be reviewed more easily.

##### What does it mean?

Currently, if you want to review the detailed content of an existing registered design, you have to make a request to the IPO. The changes will mean it will be possible to do this online in future, saving you time and energy.

#### Private use of unregistered designs

##### What is the proposed change?

New exceptions to the law would be introduced to allow third parties to use unregistered designs for private use or experimental purposes. For example, this will let teachers use an unregistered design in the classroom. These exceptions already exist for the use of registered designs.

Commercial use of designs will still require the permission of the rights holder.

#### Scope of an unregistered design right

##### What is the proposed change?

As things stand, the protection given by the unregistered design right can be claimed to include "any aspect" of a design (i.e. a very small cropped area). This makes the scope of the right very unclear to others, so "any aspect" will be removed from the possible rights that can be claimed.

##### What does it mean?

This change would simplify the law, as it should make it clearer for designers and third parties to establish what is covered by the unregistered design right.