

EIP

Updated Guidance for UK Registered Design Applications

The UK Intellectual Property Office (UK IPO) recently issued a Designs Practice Notice (DPN) 1/16 to provide users with updated guidance on registered design practice in the UK. The DPN, which is available [here](#), primarily relates to the different ways in which a design can be represented in a registered design application

This DPN, the first the UK IPO has issued since 2009, comes after the Supreme Court's [decision](#) in the case of PMS v Magmatic relating to the Trunki ride-on suitcase. EIP's report of the Supreme Court's decision is available [here](#).

The scope of protection provided by a registered design is determined almost exclusively by the "representation" of the design that is shown in the registered design. The DPN makes several important points in relation to this:

- Applicants are in general free to choose whatever form of representation of their design they like.
- Registered designs representing a design using line drawings will typically provide the broadest scope of protection. On the other hand, those using CAD drawings or photographs will typically provide a narrower scope of protection. It needs to be borne in mind that although broader registered designs are more likely to cover competing products, they are also more likely to encompass similar earlier designs too. The latter affects the validity of the registration. In for example a crowded field of similar designs, it may be necessary to show details in order for the registered design to be valid.
- Lack of ornamentation can be a design feature in itself, e.g. for minimalist designs. Steps can be taken when the application is filed to clarify whether registered

design protection is sought only for the shape of the product, i.e. irrespective of any ornamentation, or specifically for a “minimalist” design, if this might otherwise be ambiguous.

- Several registered design applications with different versions of the design could be filed to obtain registered designs of different scope. For example, one application could represent the design using line drawings and another could represent the design using a photograph. Some intellectual property offices, including the UK IPO and the EU IPO, offer cost savings where several registered designs are filed at the same time in a so-called ‘multiple design’ application.

In summary, a design needs to be represented appropriately in a registered design application to obtain the best or optimum scope of protection. Your usual EIP contact will be able to advise on how best to represent your product for a registered design application.

The above comments relate specifically to UK registered designs. Different considerations may apply in other territories.

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