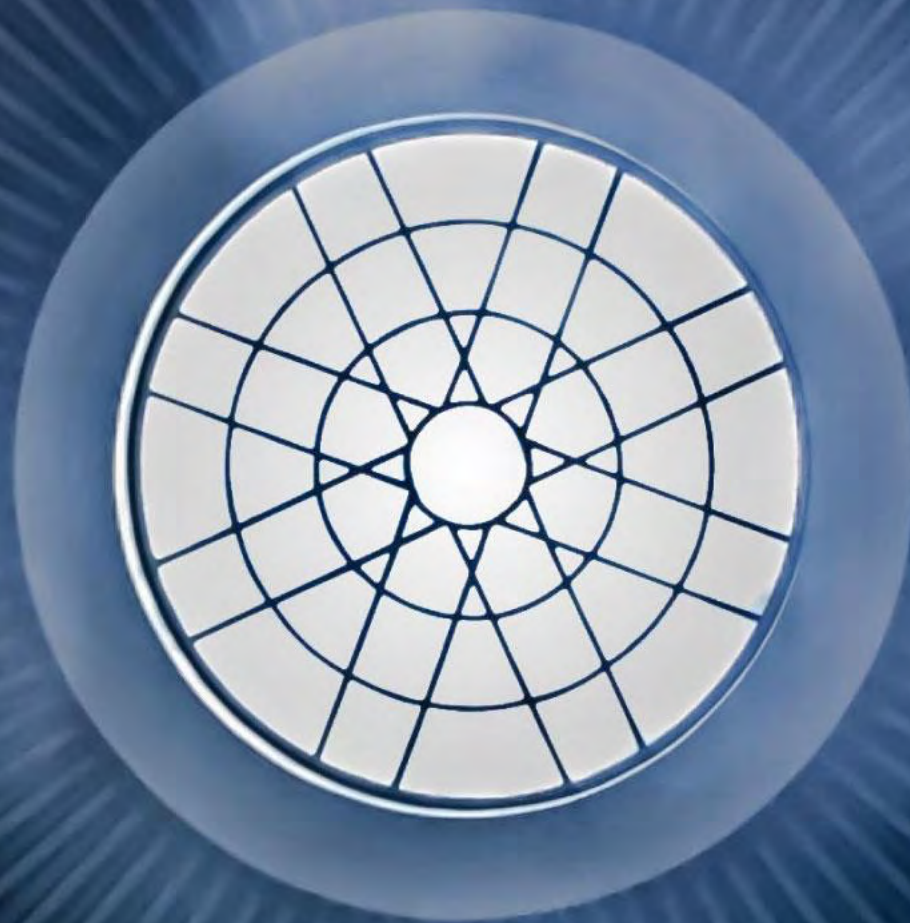


2018 Designs Conference:

The Power of Design

February 26-27, 2018
London, England

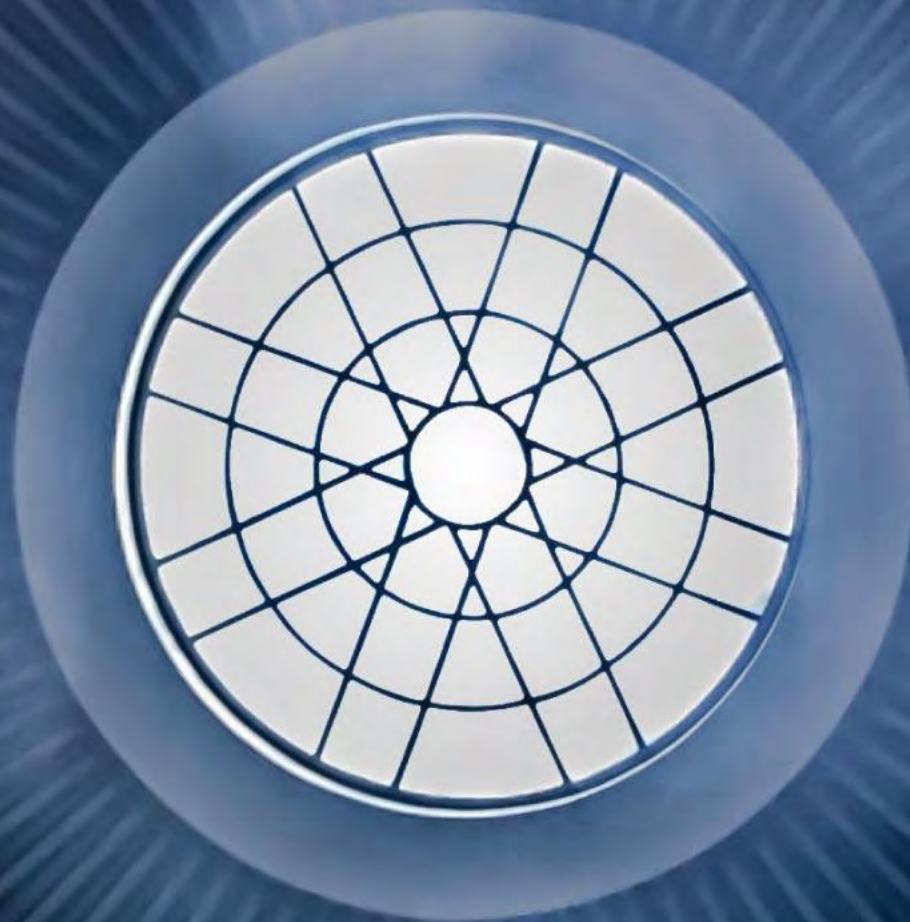


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Dids Macdonald, CEO of Anti Copying in
Design (ACID) & Vice Chair of the Alliance
for Intellectual Property



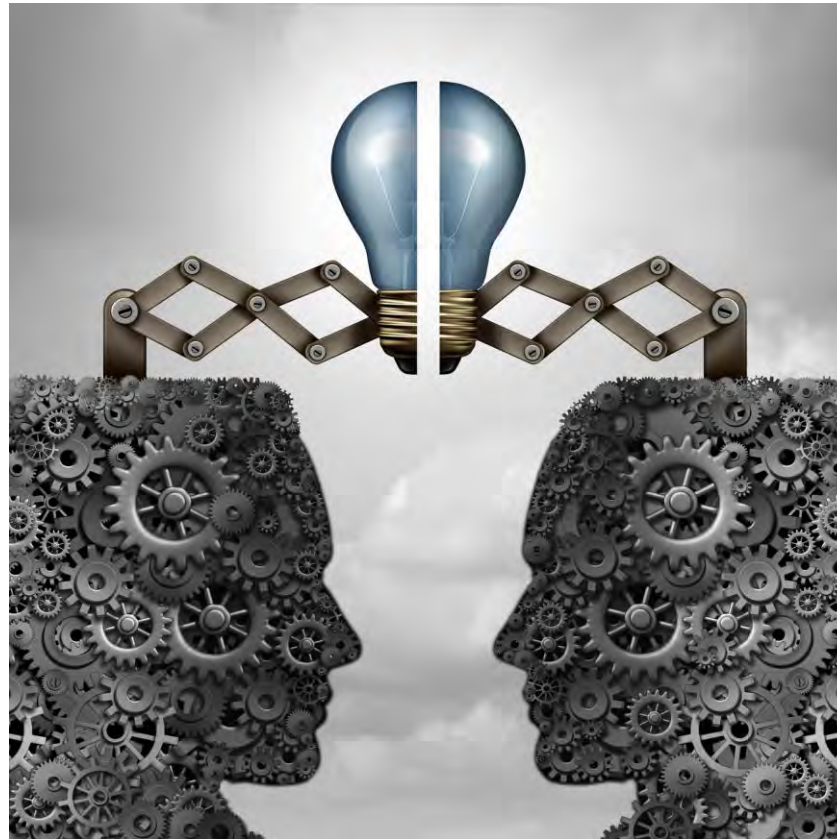
“imitation isn’t flattery if it costs you your business!”



The Power of Design



ACID represents thousands of designer members : set design (ballet, film, theatre) graphic designers, interior designers, lighting, furniture, gift, product, industrial, automotive, architects, toys designers, online platforms, government, publications, brand image creators, artists, bridal, childrens' wear, design agencies, fabrics & textiles, fashion designers, dressmakers, digital, craft – ceramic, glassmakers. Civil engineers, architects, fine art, fires & fireplaces. Floor coverings, garden products, giftware, greetings cards, interior accessories, jewellery, kitchen & Bathroom, photography, product design, etc



The Power of Design

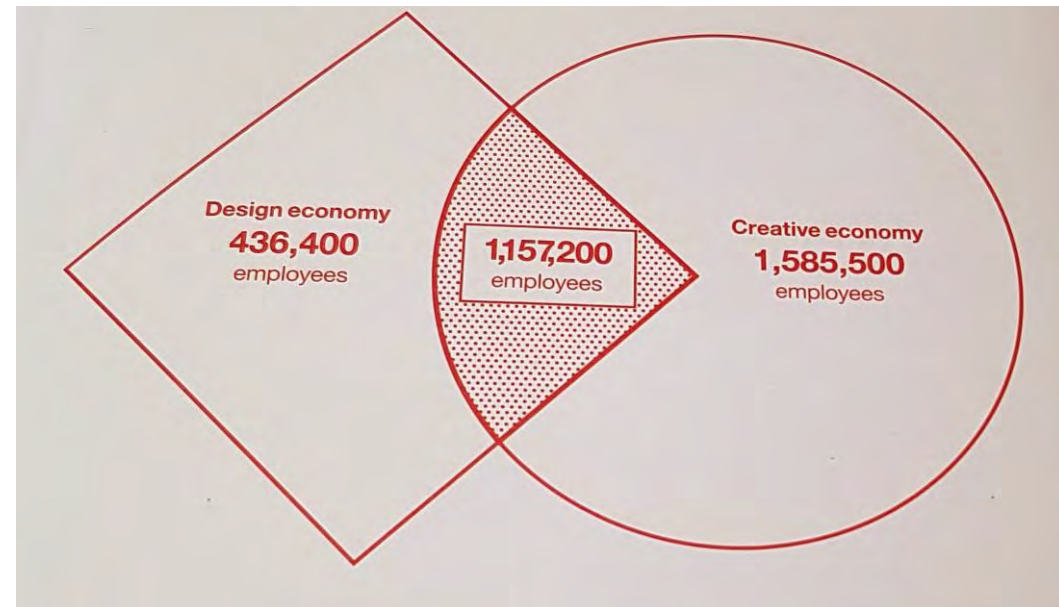


20 years ago – IP rights' language : Patents, Copyright and Trade Marks (& the Cinderella right...)

The UK Intellectual Property Office was called the Patent Office

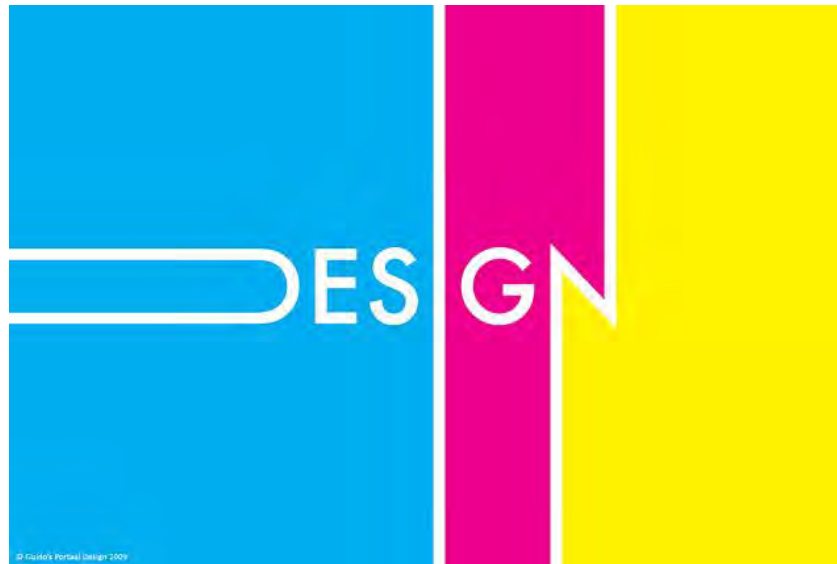


2017 - design and design skills contribute £209bn to UK's GVA and employ 1.5 million.....



21st century – design spans the economy in a unique way

Making products, services and systems more useful and some or all IP rights are a component or components of the intellectual capital underpinning this sector



The Power of Design



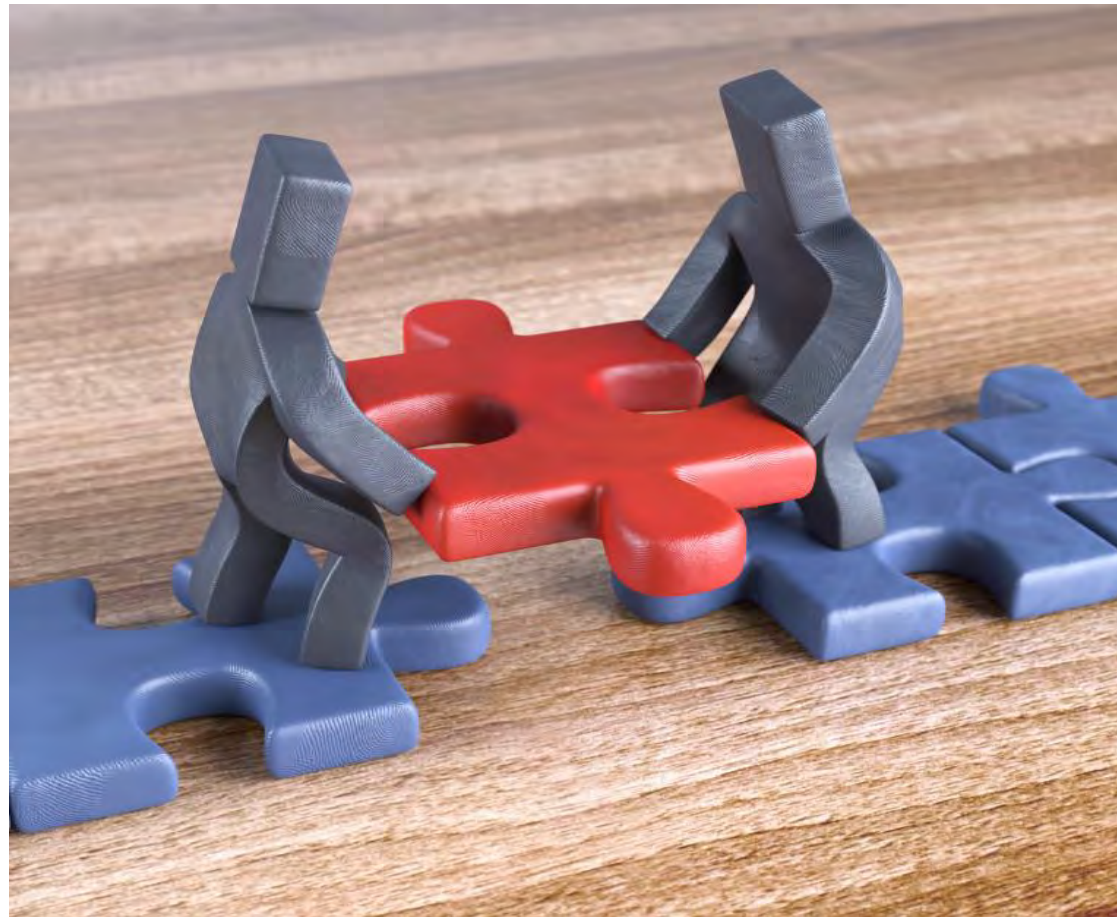
The majority of UK design businesses are lone, micro and SME. 80% have less than 10 employees and 67% have less than 4 employees



Design and Intellectual Property? one size doesn't fit all needs



But there are common themes.....



The Power of Design



“creating
graphic design
is how I earn my
living”

“my illustrations & writing skills are
not just my **brand**, they represent
me as a person”

“**designing** and making
new products is how
my workers earn and
how we develop our
business”

“my income includes royalties on the
sales of my licensed designs which are
being sold unlawfully online”

“when we **pitch**, our
innovative ideas &
approach win the day!”

“our **know how** and
trade secrets are what
makes us unique to our
customers



How important is **IP** to your business?

“I need to understand and identify what IP I own relevant to my business , how I can leverage it to better to achieve growth and how I can protect it effectively”



How important is **IP to your business?**

The Power of Design



E.g., Licensing. Penguin had the vision to see the potential, the designer had creative thought and business acumen to make this happen



[illegible]

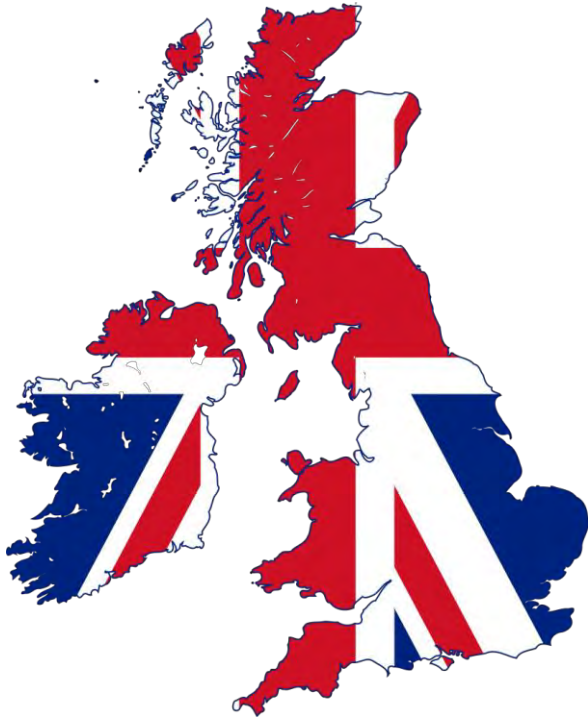
The majority of UK and EU designers rely on unregistered design rights – but where is the proof?



UK Design Registrations 2017 – 8000+
EU Design Registrations 2017 (85,000 annually) -
average across 28 member states 3000+ per country



ACID IP Database (designs and copyright) **Average 25,000 lodgements per year**



Why do so few designers register their designs in the UK? (and EU)

- Although registration costs have been reduced substantially an SME needs budget to seek advice on validity and accuracy of registration (what you register is what you rely on)
- Designers design prolifically
- UK erosion of confidence in design registration following the Trunki case (£1m and lost in Supreme Court on legal technicality)
- Lone, micro and SME's still have to enforce their rights.few have the budget
- Often it is

David v Goliath



David v Goliath (strategy) stonewall challenge and perpetuate litigation



The Power of Design



Post the Supreme Court decision - clarity is required on what is and what isn't acceptable to rely on in a registered design case .



The Power of Design




Post the Supreme Court decision - clarity is required on what is and what isn't acceptable to rely on in a registered design case .

The aim of this guidance is to help designers when registering designs


OBTAIN THE BROADEST POSSIBLE PROTECTION





When selecting representations ensure they **ACCURATELY** reflect what the design is intended to protect and ask...
"How might the design be exploited by others and does the application cover this design?"


If filing a UK design and you want to protect the **SHAPE** either file in cad or, preferably, line-drawing and don't forget to use the **DISCLAIMER OPTION** to disclaim ornamentation & surface decoration.
The key is **WHAT AM I TRYING TO PROTECT?**





Consider making **MULTIPLE APPLICATIONS** when filing for UK registered design right protection, so file applications in **CAD** (using a disclaimer), **LINE DRAWINGS** and in the various design **COLOURS** of the intended product range

Find the **BEST WAY** to protect the shape of a product when registering your design
By filing **LINE DRAWINGS**
To represent the **SHAPE OF YOUR DESIGN**



ENSURE CERTAINTY & CLARITY WHEN SUBMITTING REGISTERED DESIGN APPLICATIONS

Following the recent disappointing supreme court decision in the Magmatic Limited v PMS International Group plc judgment, concerning the iconic Trunki ride-on suitcase and the **uncertainty** that ensued, the Intellectual Property Office (IPO) has issued a practice notice <https://www.gov.uk/government/publications/designs-practice-notice-dpn-316> however, in an ACID survey 95% felt they would still need to consult a lawyer to register so acid has provided these ACID tips and advice for guidance on the use of representations of designs when applying for UK registered designs. They are not intended as legal guidance and you should always refer to the intellectual property practice notice.


"What you submit is what you rely on, so you've got to make sure it's right."
Dids Macdonald, ACID CEO.




ACID

TRUNKI LESSONS LEARNED


To the right is a line-drawing #1 followed by a grey scale drawing (cad) #2
If you file using either **REMEMBER** to disclaim ornamentation & surface decoration #3



#1 SHOW A DESIGN IN LINE DRAWING



#2 THE DESIGN SHOULD SHOW OUTLINE IN GREY SCALE



#3 REGISTER ALL DESIGNS WITH ALL POSSIBLE SURFACE DECORATIONS IN COLOUR COMBINATIONS TO BE SAFE

Litigation is the luxury of the few and difficult for SME designers to pursue infringement because of cost and time

Average UK hourly earnings of a designer across 8 disciplines = **£16.84** per hour

Design Council, Design Economy



Estimated hourly rates for an IP lawyer between **£200 - £500+** per hour

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But now social media is providing another justice perspective, naming & shaming is emerging



The Power of Design



ACID members HALO in \$3.8 MILLION “Knowing & Wilful” IP Landmark Victory against Comptoir Des Indes. Relying on copyright in a #design case!



Basics of a proactive IP strategy (& advice to SMEs) - Know your IP rights & IP myths!



Basics of a proactive IP strategy (& advice to SMEs) the importance of trade secrets



Basics of a proactive IP strategy (& advice to SMEs) agreements – clarity of small print



Basics of a proactive IP strategy (& advice to SMEs)
Who is using your creative work without permission?
Keep watch



Basics of a proactive IP strategy (& advice to SMEs) Online SME brand enforcement service & private prosecutions



Basics of a proactive IP strategy (& advice to SMEs) if you don't want to be copied, say so!



Basics of a proactive IP strategy (& advice to SMEs) if you don't want to be copied, say so!



All copyright, design rights, and intellectual property rights existing in our designs and products and in the images, text and design of our website and marketing material are, and will remain, the property of Totseat Ltd. We treat any infringements of these rights seriously. Totseat is a member of ACID.



Basics of a proactive IP strategy (& advice to SMEs) - where are you trading, where is your support?



Basics of a proactive IP strategy (& advice to SMEs) - if you've got a good idea, keep it safe!



Basics of a proactive IP strategy (& advice to SMEs) IP ethics, respect & compliance



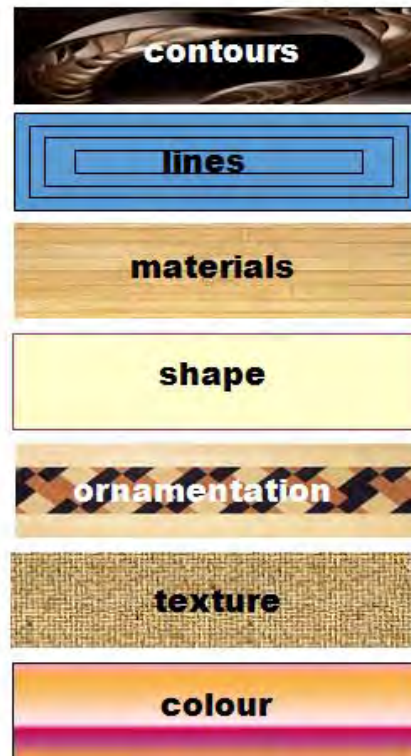
Basics of a proactive IP strategy (& advice to SMEs) “Mediate don’t Litigate” : Lawyers – a Client for Life!



Basics of a proactive IP strategy (& advice to SMEs) Register if at all possible and Brexit proof while you can!

UK monopoly right for 25 years, deterrence, you don't have to prove copying. An asset.

You have a piece of paper, a numbered certificate to say you own this design (if you meet the criteria!)



Brexit Proof – register in EU, 25 years, renewable every 5 years. Protection in 27 other member states

You have a piece of paper, a numbered certificate to say you own this design (if you meet the criteria!)

**Basics of a proactive IP strategy (& advice to SMEs)
Register your trade mark to enhance brand
protection!**



ANTI COPYING IN DESIGN

Design challenges post Brexit as majority of UK designers rely on unregistered design rights

UK & EU Unregistered Design

3 years

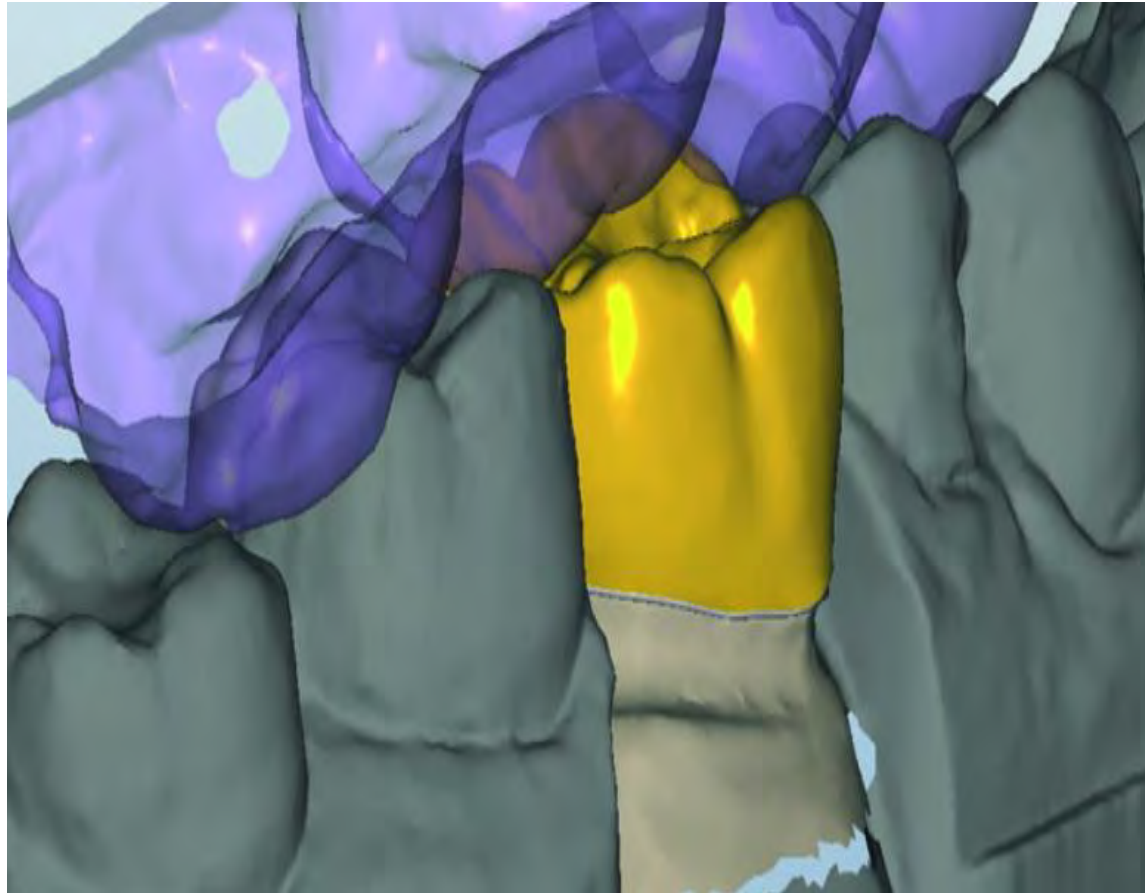
up to 15 years

EU		UK
✓	contours	✓
✓	lines	✗
✓	materials	✗
✓	shape	✓
✓	ornamentation	✗
✓	texture	✗
✓	colour	✗

EU unregistered designs
Much broader right –
surface decoration

UK unregistered designs
shape & configuration
only

Design opportunities & challenges : 3D printing – what value will it bring to innovation & society



Design opportunities & challenges – 3D printing



Design opportunities & challenges – 3D printing



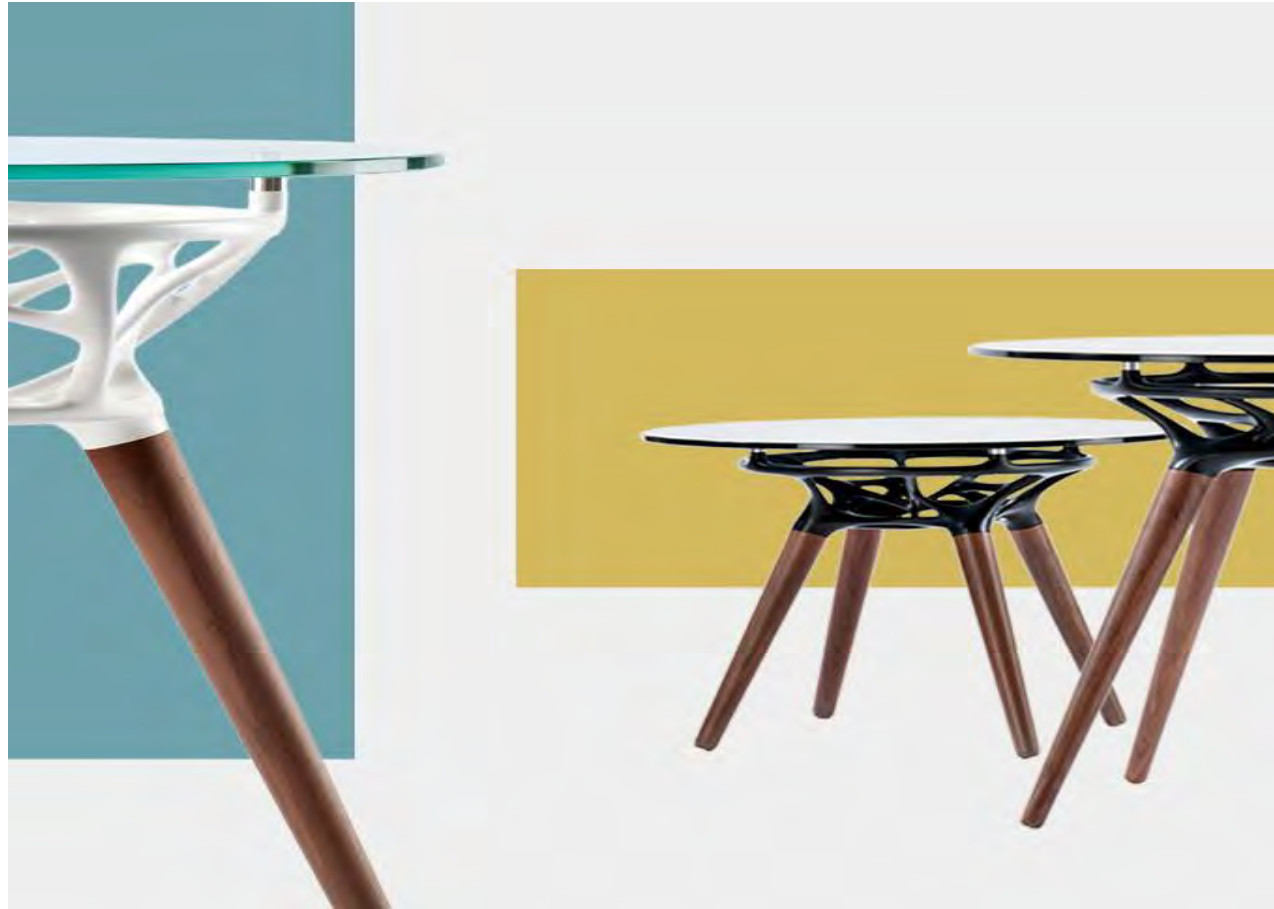
Design opportunities & challenges – 3D printing



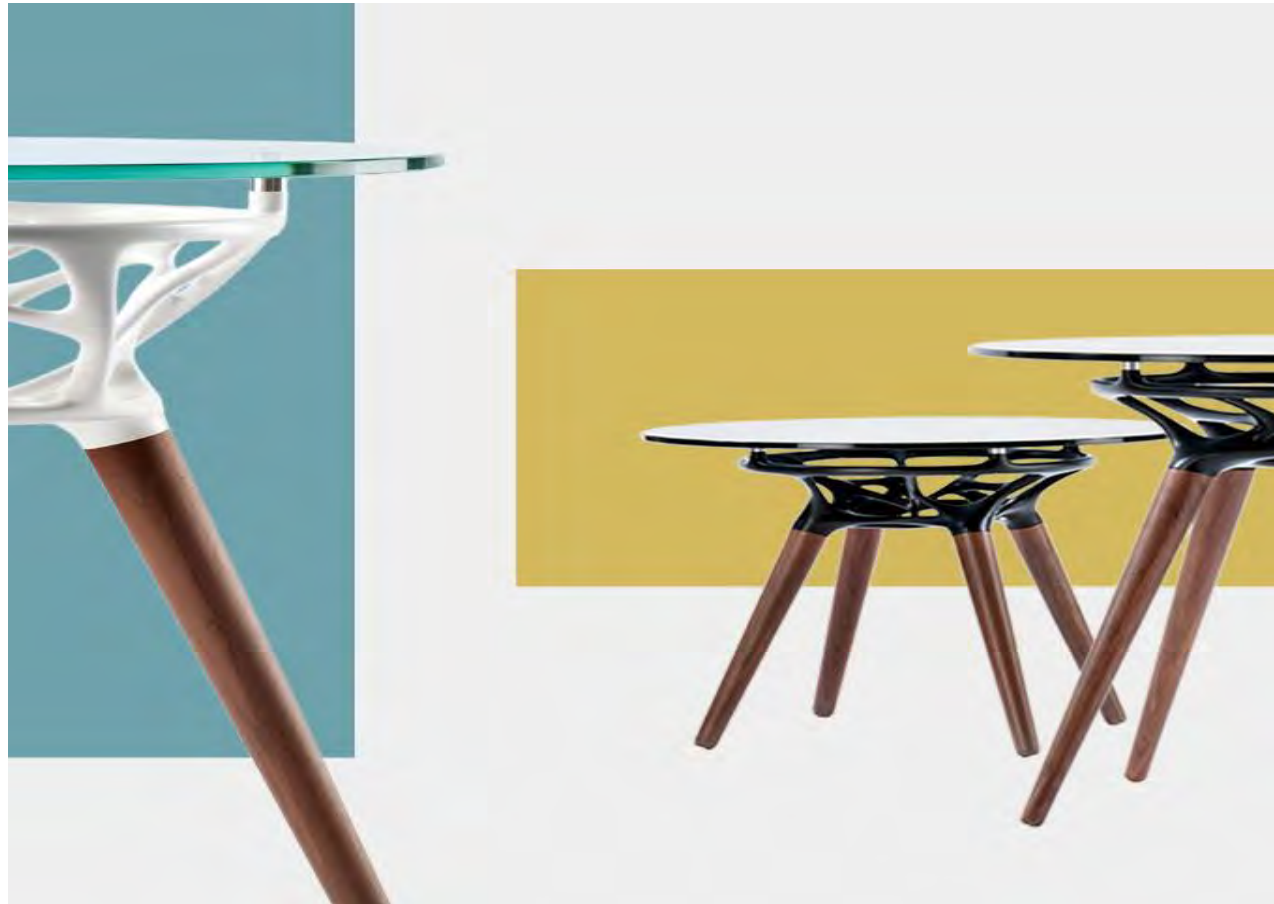
His Highness Shaikh Mohammad Bin Rashid Al Maktoum, Vice-President and Prime Minister of the UAE and Ruler of Dubai, inaugurates the world's first fully functional 3D-printed building in Dubai on Monday.

[Image: WAM, via Gulf News]

Design opportunities & challenges – 3D printing Case Study



Design opportunities & challenges – 3D printing Case Study



The majority of UK designers rely on unregistered design rights

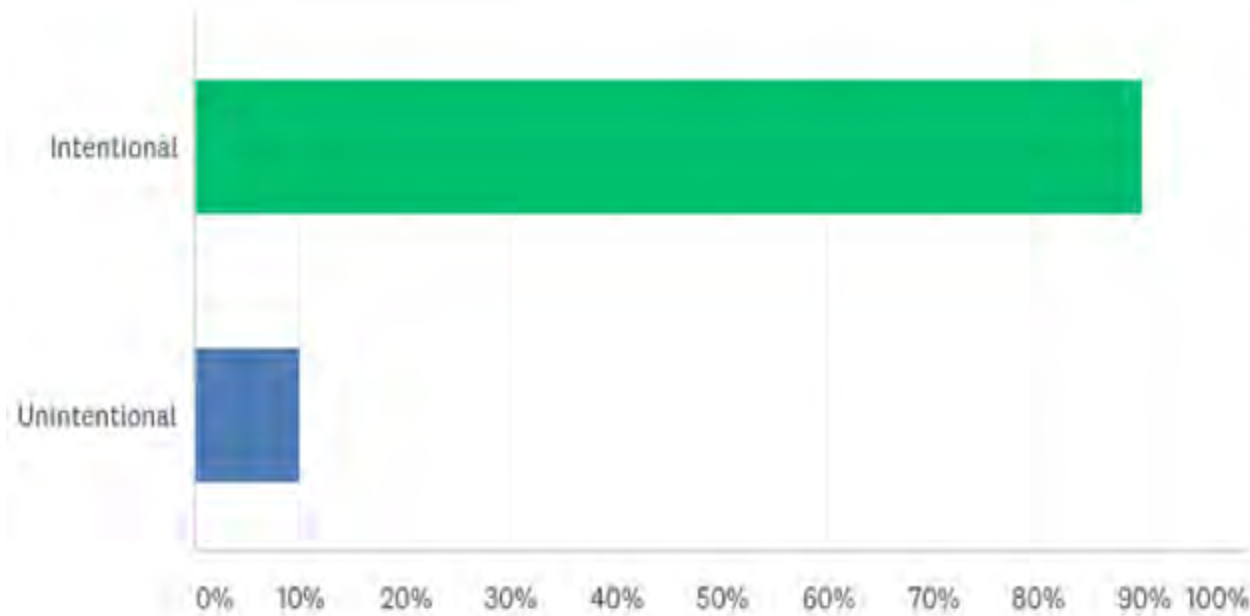
The infringement of an unregistered design right is not a crime

Design opportunities & challenges – 3D printing

At an ACID 3D printing conference in 2016 DCI Mick Dodge of the Policy Intellectual Property Crime Unit ([PIPCU](#)) said:

“with 3D printing machines readily available to consumers this is a “one stop shop” for criminal activity. But where is the legislation? I cannot act or enforce without a law to enforce – I need some legislation to work with to create an investigation strategy?”

In a recent ACID survey **90% said design infringement was intentional**



Design opportunities & challenges – 3D printing

ACID's campaign – the 2014 IP Act

The intentional infringement of a registered design is now a crime punishable by up to 10 years in prison



ACID's ongoing campaign

To ensure the intentional infringement of an unregistered design will also be a crime

Design – from iconic



The Power of Design



to everyday



**Design, is all around us. Changing our lives,
adding value**



Design matters, making us happy, knowing we are loved!



© the future!

@didsmacdonald

@acid_tweets

#designmatters

www.acid.uk.com

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THANK YOU!

