

Original or copy?
Can you tell the
difference?

**It's about time to become
IP "savvy!" 10 November 2020**

Intellectual Property protection for
surface pattern and 2D designers
(the basics and/or a refresher!)

Dids Macdonald, OBE., CEO of Anti Copying in
Design (ACID)

Niall Head Rapson, Director McDaniel & Co, IP
specialist lawyer and ACID Legal Affiliate

Marks & Spencer and Rachael Taylor

What is Intellectual Property (IP) and why is it important?

How can I protect my designs?

What are the basics of a proactive intellectual property strategy

Rules about using images

Including IP in Agreements


IP infringement, what can I do?

What are the myths surrounding IP

IP clinic - what are YOUR questions?



Rachael Taylor © - Make it in Design
www.rachaeltaylordesigns.co.uk



What is Intellectual Property (IP)?



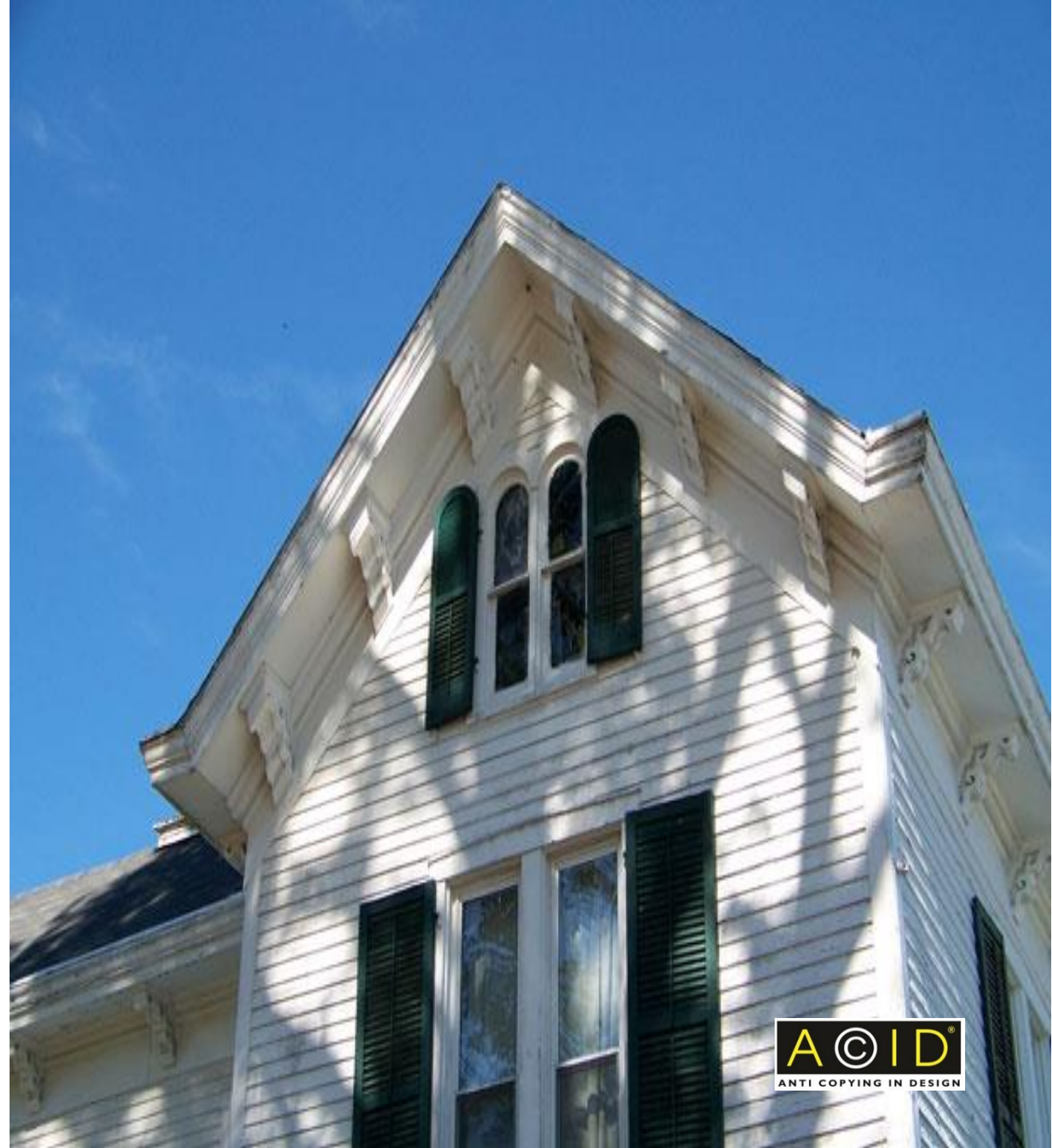
Asta Barrington ©



What is Intellectual Property (IP)?

Intellectual property is a **property** right - lease, sale, sub-letting, rent, share you don't want...**squatting?**

IP is about ownership and permission to use it.



What is Intellectual Property (IP)?

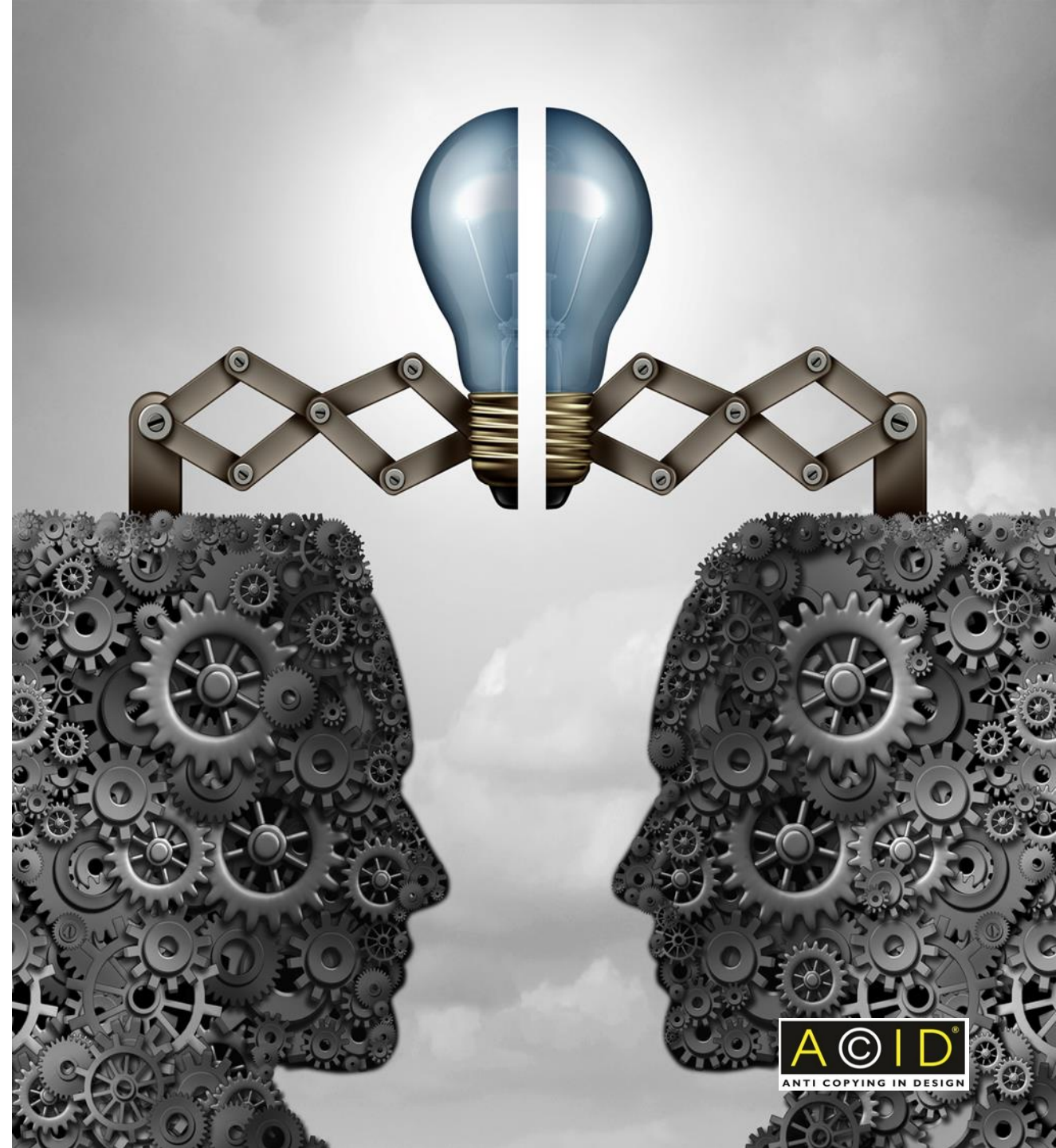
Trade Marks - unitary right - life

Design Rights - Registered 25 years,
Unregistered 3-15.

Copyright (life plus 70 years) automatic

Patents - inventions - 20 years

Trade Secrets (know how) forever!





Why IP matters?

- To Rachael Taylor of Make it in Design



ACID FEMALE DESIGN CHAMPION AWARD RUNNER UP
WORLD INTELLECTUAL PROPERTY DAY 26TH APRIL 2018



RACHAEL TAYLOR - Rachael Taylor Studio



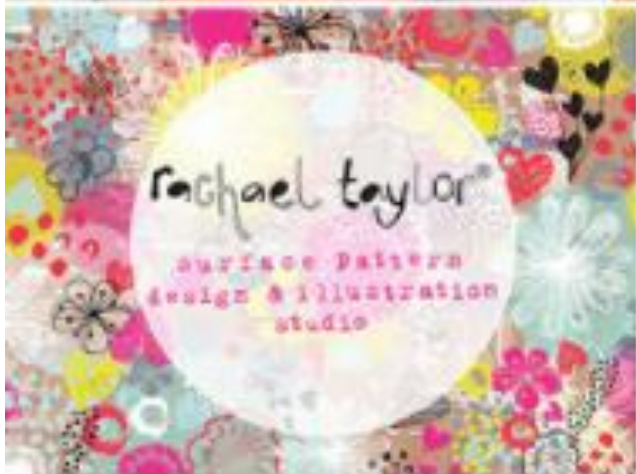
Rachael Taylor is a renowned surface pattern designer, stylist and instructor with over a decade of industry experience. In addition to running a successful design studio, Rachael has taught and supported nearly 10,000 creatives through co-founding the global online design school, Make it in Design.

Having faced her own cases of infringement, including a high-profile case with retail giant Marks and Spencer, Rachael is passionate about educating the design community on their IP rights and protections. Her ongoing guidance covers best practices for documenting artwork, in-depth teaching on various design contracts, steps for protecting digital artwork, and even ways to avoid IP theft on social media.

With numerous international licensing deals, creative collaborations, magazine features, and even TV appearances under her belt, Rachael's global audience continues to grow. Combined with a seat on the ACID Advisory Council, Rachael's platform allows her to continually educate and empower thousands of creatives on how to stand up for what is rightfully theirs.



www.rachaeltaylordesigns



Case Study – Sandra Vick™

Copyright - designs (artistic craftsmanship), website, software, images, copy on website, technical details, terms and conditions of business, marketing material

Trade Marks - relies on an unregistered trade mark

Design Rights - rely on unregistered design rights (sends to ACID IP Databank)

Patents - none (to the best of our knowledge)

Trade Secrets, know how - invaluable! experience with different skills, techniques &, her unique artist's talent to bring artwork, inspired by a love of nature, into the homes of many.



Case Study – Sandra Vick™

IP VALUE is about skill, techniques, know-how and trade secrets – all sit under Sandra Vick’s name/brand

“I wanted to bring my love for nature and our local birds to a wider audience. So, I thought I’d produce things that had my art on them but didn’t cost so much. I started with a few mugs, and it grew from there. Now I have lots of designs and products including various styles of mugs, wash bags, tableware, and tea towels”.

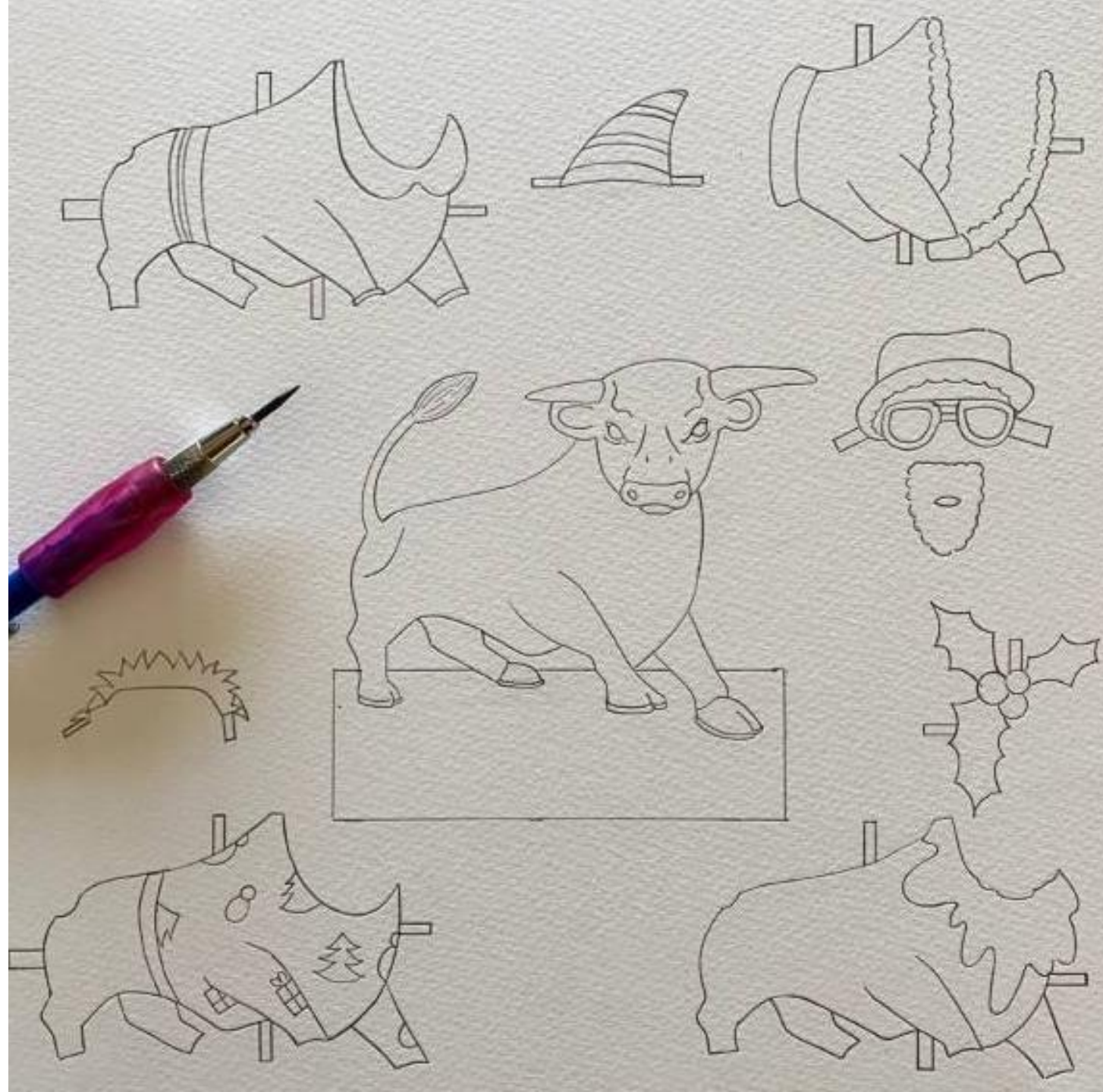




Use of drawings commercially

Can the artist print her drawing of the Birmingham Bull to create as her own Christmas Bull?

Someone has said to her over social media that she shouldn't be drawing monuments, or statues as she doesn't have permission or the IP to do so. Do you need permission to take photos or draw a monument or statue?



Section 62 CPDA Representation of certain artistic works on public display.

1) **This section applies to—**

(a) buildings, and

(b) sculptures, models for buildings and works of artistic craftsmanship, if permanently situated in a public place or in premises open to the public.

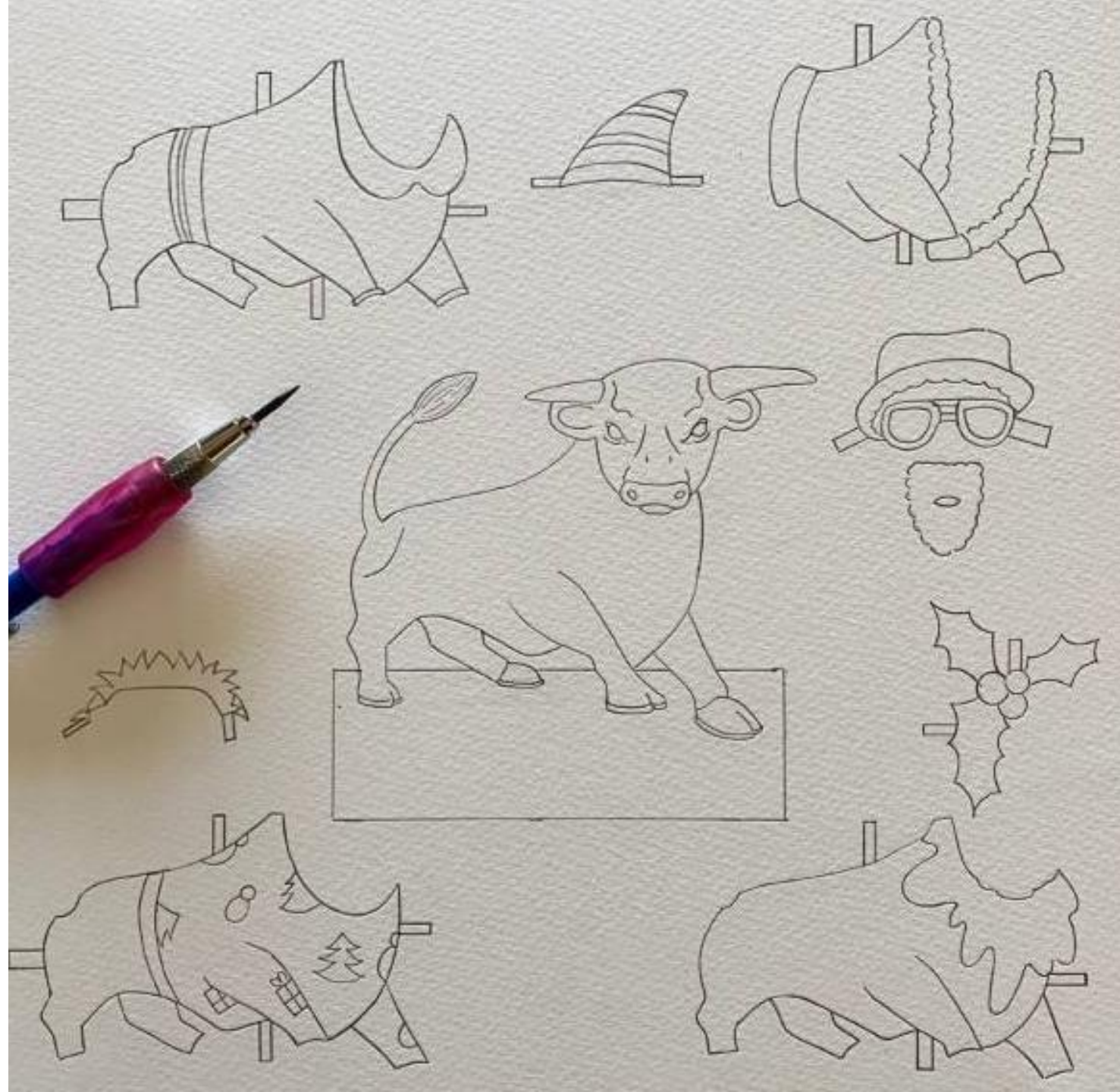
(2) **The copyright in such a work is not infringed by—**

(a) making a graphic work representing it,

(b) making a photograph or film of it, or

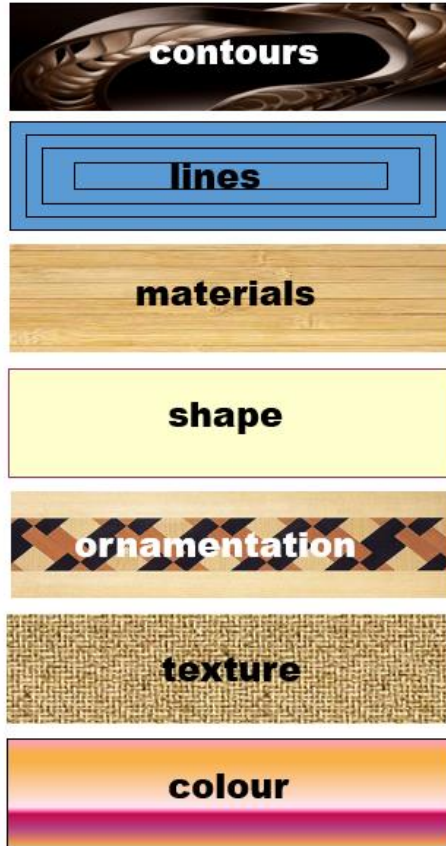
(c) **[F1]** making a broadcast of] a visual image of it.

(3) **Nor is the copyright infringed by the issue to the public of copies, or the [F2 communication to the public], of anything whose making was, by virtue of this section, not an infringement of the copyright.**



What is protected by design right?

Case study - Tigerlily Makes





How can I
protect my
designs?

Caroline Gardner Designs

Evidence - Signed and dated records – idea to market place – photographs, signed drawings at key stages – keep evidence of the design’s evolution

ACID IP Databank

Register your designs with the IPO

When showing to 3rd parties – confidentiality agreements

Guard know-how!

Warning! Don't Copy!

Subliminal message printed on back of each card. All intellectual property rights in our designs belong to “XYZ”. Any infringement will be pursued seriously ©
November 2020

You're so sweet...



HAPPY VALENTINE'S DAY

Evidence - Signed and dated records – idea to market place – photographs, signed drawings at key stages – keep evidence of the design’s evolution

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Back of card

Valentine Day Cards designed by 'John Smith' © November 2020

All intellectual property rights in our designs belong to 'John Smith Cards'. Any infringement will be pursued seriously. All our designs are lodged with the ACID IP Databank





Typical IP clinic questions...

What images can I use in/on my designs?

Can I take images from social media?

Does a freelance photographer own the IP in photographs of my designs?

What if I can't locate the copyright owner of images, can I still use them?

Case Studies

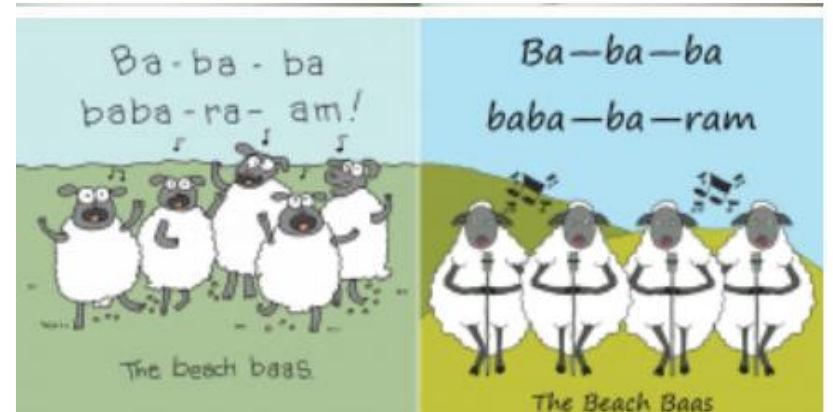
Don't argue that designers can't afford to take legal action or resort to social media

ACID's policy is to name and shame and to use social media with caution

Why? Groundless threats and potential of defamation



Alice Tams & M & S
Colin Thompson & Northern Photography



What are the basics of a proactive intellectual property strategy



What are the basics of a proactive intellectual property strategy

1. Create One

2. Become IP savvy!

3. Know your IP rights

4. Territories - where do you trade?

5 .Trade secrets - know how

6. Lock up your IP

7. Manage risks

8. Proof of IP ownership

**“If you don’t want to be
copied say so!”**

COPYCAT CULTURE

IP infringement - what can I do?

Case Study - Etsy



ACID Case Study – Etsy Em Royston – Chasing threads

- Infringing items removed overnight
- Report through online IP report
- Evidence of long-standing listing
- Also listed designs were held on ACID IP Databank
 - Unique number
 - Certificate
 - Independent evidence when sent to ACID



Case Study

Fiesta Collectables - creating artwork on tiles and ceramics



IP infringement, what can you do?

- “Self-help”
 - Where rights are unregistered, keep design/copy trail
 - Collect evidence (screen-captures)
 - Take-down notices – third-party sites like eBay, Amazon etc., Facebook etc. Can provide a cost-effective remedy, but can be like cutting head off the hydra.
 - Stay vigilant
- Legal remedies (subject to territorial rights)
 - Injunction / web-blocking
 - Damages/account of profits
 - Customs enforcement
- Domain Name Dispute
 - Must have a ‘prior right’ and show abusive registration



What are some of the myths or wrong assumptions about intellectual property....





How do I register my copyright?

Asta Barrington ©



A few wrong assumptions about intellectual property....

I have protected the name of my business because I have registered the name at Companies House

ThisisNessie 07882601

(not the same as a trade mark)



A few wrong assumptions about intellectual property....

If I do not include the ©2020 (name) notice on my work I will not benefit from copyright protection





Original

Copy?

Original

A few wrong assumptions about intellectual property....

If I make 7 changes or a % to my design, it becomes a new design

Questions please!
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