

Designers Guidelines for Intellectual Property

Disclaimer

This document is intended for information only and does not constitute legal advice.

Overview

The issue of copying or “knock-offs” in Furniture design is a long standing issue, and there are many legal complexities surrounding the area. However there are several myths at large that can be dispelled.

“Furniture can be copyrighted”

Copyright only applies to works of art, such as sculpture in the 3d form. Functional items, such as furniture would not be granted a copyright. However, a specific embellishment that was considered creative may be granted copyright, and the trading name of a company may be trademarked – elements that could successfully be protected in the case of an identical copy being manufactured.

“Changing 5 elements of a design automatically means there is no infringement.”

The test that a court would apply is whether a reasonably knowledgeable person would struggle to differentiate.

“If I copy a 1930’s classic and am the first to do it for a long time, I can assert Design Rights”

If it’s a copy, it’s a copy – and anybody else would be free to duplicate it also even if you have put significant funds into marketing the item.

“I can Trademark elements of my design”

Trademark only applies to Logos and symbols, not three dimensional furniture.

Protection	Notes	Duration
Copyright	For works of Art, in 3d – sculpture. Rarely applicable to Furniture	70 years from the death of the creator
Patent	Has to be inventive – such as a innovative solution for function or manufacture	Up to 20 years
Design Right (Registered)	Applies to the shape of a product. Applies to UK Only.	Up to 25 years
Design Right (Unregistered)	No need to apply, does not cover textile or wallpaper design	Exclusive for 5 years after marketing, then License of Right available
Trade Marks	Symbols such as logos only	Indefinite