



INTELLECTUAL
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Design Economics, Chapter three: design right case studies

This is an independent report commissioned by the Intellectual Property Office (IPO).

Dr James Moultrie, Finbarr Livesey

Intellectual Property Office is an operating name of the Patent Office

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Design Economics Introduction

The design industry continues to make a significant contribution to the UK's growth and innovation. A conservative estimate of £23 billion¹ on spending in design, equating to 1.6% of GDP, demonstrates the value that it brings to the economy. However, we believe that this is not the true picture and if all design activity was included it would be much higher. Various entities define what is included in the "design industry" in different ways, for the purpose of this report the design industry is defined in Table 1 of Chapter 1. To maintain and build on this success, policy makers need to better understand how the Intellectual Property (IP) framework supports this dynamic sector. Policy makers need to know:

- How has the UK built up such a successful design sector with such a low level of registered rights?
- Is the design sector successful because it does not register rights?
- Is the intellectual property work framework too complex?
- Why is the number of domestic design rights issued each year about a quarter of the number of patents or trademarks?

The propensity for UK businesses to register designs rights both domestically and through Office for Harmonization of Internal Markets (OHIM) seems to be significantly lower than its EU counterparts. Yet the Government has no evidence to explain this. One of the barriers to understanding this is that gauging the aggregate number of unregistered design rights is difficult, as by their nature they are not on any official registry. It is very possible that many businesses are consciously protecting their designs using an unregistered intellectual property right.

The current Intellectual Property Right (IPR) framework for design is perceived to be something of a patchwork, with many different options for protecting designs in the UK. An overview of the routes available and how they differ is provided in the table of rights below. Each user will value every option differently, depending upon their makeup. Each right covers different dimensions including time, geographical area and the features of a design it will protect, as well as being priced differently. Most bodies who issue registered design rights do not examine for prior art or novelty, this includes the UK Intellectual Property Office (IPO) and OHIM.

The Hargreaves Review of Intellectual Property and Growth and the subsequent Government Response identifies a gap in the knowledge base and calls for more research in this area to ensure that government policies to support UK design are based on evidence. As a first step towards answering these questions the IPO and the Design Council have commissioned Imperial College and BOP Consulting to research specific areas and create this report.

This research has been commissioned in four chapters, which can be read individually or together:

- ▶ **Chapter One provides a map of where design activity takes place in the UK, how it is purchased (bought externally or created internally) and how registered rights are used.**
- ▶ **Chapter Two analyses the impact registered design rights have on business performance, given a UK or EU design registration.**
- ▶ **Chapter Three is a survey looking at the reasons for the behaviour of firms when interacting within the IP framework for design.**
- ▶ **Chapter Four is an international comparison of design systems in the UK, France and Germany.**

The IPO and Design Council would like to thank all of the researchers involved in the project for their hard work in creating this report. We would also like to thank the Trade Mark and Design Rights Expert Advisory Group, and its chair Phillip Johnson, for their input to the research.

Intellectual Property Office, 2011

Table of rights available to design entities in the UK

Name of right	Right Provider	Cover	Term	What's covered?	Cost ¹
Registered Design	UK Intellectual Property Office	UK	25 years (subject to renewal fees)	The overall appearance of a novel design which has individual character (excluding features dictated by function and designs contrary to public policy). No requirement of copying.	1 design: £60 4 designs £180 100 designs: £4,060
Design Right	UK law (unregistered) Some private initiatives such as ACID provide private registries.	UK	15 years from made or, if earlier, 10 years from making available. Last five years subject to licence of right.	An original (and not commonplace) design any aspect of the shape or configuration (whether internal or external) of the whole or part of an article. Excludes must fit, must match and surface decoration). Protection only extends to copying.	Free as copyright, private registries may charge.
Registered Community Design	OHIM	EU	25 years (subject to renewal fees)	The overall appearance of a novel design which has individual character (excluding features dictated by function and designs contrary to public policy). No requirement of copying.	1 design: €350 4 designs €875 100 designs €9125
Unregistered Community Design	EU regulation (unregistered)	EU	3 years	The overall appearance of a novel design which has individual character (excluding features dictated by function and designs contrary to public policy). Protection only extends to copying.	Free as copyright, private registries may charge.
The Hague Industrial design	The World Intellectual Property Organisation	Can designate up to 58 signatories including the EU	Between 15-25 years depending on jurisdiction	The protection depends on the national laws in the respective members of the Hague system.	1 design and all states covered: Sfr ² 3753 1 design just in the EU: Sfr 503 4 designs and all states covered: Sfr 6912 4 designs just in the EU: Sfr 878 100 designs and all states covered: Sfr 106272 100 designs in just the EU: Sfr 12878

Name of right	Right Provider	Cover	Term	What's covered?	Cost ¹
Copyright (in relation to artistic works – copyright extends much further)	National laws in each country	In every country in the WTO or member of the Berne Convention (artistic works)	At least the life of the author plus 50 years (25 years for industrial articles).	Original artistic works (or works of artistic craftsmanship).	Free
Trade Mark	UK Intellectual Property Office	UK	No limit	Any sign capable of being represented graphically which is capable of distinguishing goods or services of one undertaking from those of other undertakings. A trade mark may, in particular, consist of words (including personal names), designs, letters, numerals or the shape of goods or their packaging (numerous exclusions, in particular functional trade marks are not permitted).	1 registration £170 4 registrations £680 100 registrations £17,000 (plus renewal fees, and extra charges for additional classes)
Community Trade Mark	OHIM	EU	No limit	Any sign capable of being represented graphically which is capable of distinguishing goods or services of one undertaking from those of other undertakings. A trade mark may, in particular, consist of words (including personal names), designs, letters, numerals or the shape of goods or their packaging (numerous exclusions, in particular functional trade marks are not permitted).	€900 for one registration (covers three classes) 4 registrations €3600 100 registrations €90,000 (plus renewal fees, and extra charges for additional classes)

- 1 The costs can vary in various regions due to the nature of the application for a number of reasons, e.g. number of words in the description, area it covers (for the Hague). Four designs is the average number of rights held by firms. This comparison does not take account of renewal fees. This table is a rough guide to give a broad comparison of the costs involved in protecting a design, they are subject to change.
- 2 Swiss Francs – these figures were compiled using the WIPO fee calculator.

Design Economics, Chapter three: design right case studies

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3.1 Executive summary

Design rights cover a set of intellectual property protecting the two and three dimensional forms of a product or service. They can be either registered or claimed as an unregistered right. Designs can be registered in the UK, EU, internationally (through the World Intellectual Property Organisation (WIPO)) or in another nation. The level of protection offered, and the cost and the ability of designers to defend their design varies according to the registration route chosen. In general, however, all the systems demand that the design is new and possesses individual character.

This study seeks to understand how design rights (and specifically registered designs) are used, and what benefits firms gain from owning them. This is a pilot study, drawing on a sample of 32 companies and ten design agencies. One of our key aims was to trial the questionnaire for potential use in a larger scale survey; as a result, we collected insights into the awareness, activity and perceptions towards design registrations.

There was a very strong feeling amongst all respondents that the design of the product *does* help to differentiate against competitors. So, design registrations can affect commercial success. However, despite this perceived importance of design to competition, relatively few firms (41%) own a registered design. In technology-based firms, registration is especially low (11%).

Respondents know about the existence of design rights (registered and unregistered), but this awareness does not translate into knowledge about what is protected and for how long, or the process and cost of protection. Knowledge and awareness is higher amongst 'design-intensive' firms than 'technology-based firms'. Surprisingly, there appears to be generally low awareness and usage of design registrations in the design consultancy sector.

A very high proportion of respondents had personal experience of designs being copied (59%), but only a few of these were more likely to register a design as a result (only four firms, or 21% of those that had been copied).

There is strong evidence from the firms, and specifically 'design-intensive' firms that registered designs are difficult to defend. Very few of the firms that had experienced designs being copied took successful action in defending against this copying.

Amongst 'technology-based' firms, the main reason for not protecting their designs is that they 'just have not considered it'. procedural issues such as cost, time or complexity of registration as strong disincentives against registering a design. Some firms note that it is increasingly sensible to register through the EU, for the immediate benefits of wider coverage, despite a marginally higher cost. Given this trend, the UK Intellectual Property Office (IPO) could provide a portal to enable international registration as an alternative or addition to its domestic service.

There is some anecdotal evidence that firms are a little confused by the range of options available for protecting their designs. This includes the UK, EU and International options

for registering designs, as well as the UK and EU non-registered rights. But, significantly, protection might also be provided under other modes of intellectual property (trade marks and patents). Given this complexity, the specific benefits of registering a design are not sufficiently transparent, and companies need help to navigate the range of alternative routes.

For design-intensive firms, where designs change frequently, trademarks (brands) often provide a more effective mode of protection. In technology-based firms, patents (perhaps unsurprisingly) are the dominant mode of protection. Alongside the perception that design rights are difficult to defend, firms also believe that they have low value as a tradable asset. By contrast, trade marks, which help differentiate products or services, might be traded commercially while patents, with the potential for future revenue, may have a clear market value. Where intellectual property is tradable, it is possible to assign a market value to them. Design rights are seen as being an asset of lower value than trade marks or patents.

3.2 Specific recommendations

As a result of this study, the key recommendations are:

- Firms are increasingly turning to the EU. Given this trend, the UK IPO could provide a portal to enable registration internationally as an alternative or an addition to its domestic service.
- Companies appear to be confused by the plethora of options for protecting designs. A simple 'question and answer' tool (asking questions such as: Do you export to the EU? Do you export internationally? Do you produce overseas?) to help companies navigate these options and identify the most appropriate route for them could reduce this confusion.
- A pilot survey has been trialled and a revised survey protocol is proposed. This could be used as a basis for a national survey, or specific questions might be recommended for adoption in other surveys, such as the Community Innovation Survey, to develop an EU-wide picture of the use of design rights.

3.3 Introduction

Over the last ten years, there has been a steady reduction in the number of designs registered in the UK. In 2000, approximately 9,300 designs were registered in the UK, compared to just 3,900 in 2009. In contrast, there are ten times as many designs registered in Germany and nearly 20 times as many in France.

Firms also have a wide range of choices for the route to registering designs, including:

- Through the UK Intellectual Property Office, providing protection in the UK alone.
-

- A registered community design which is valid in the EU as a whole, under the Office of Harmonisation for the Internal Market (OHIM) agreement. Applicants may specify specific nations for protection.¹
- Internationally, under the Hague agreement. This provides coverage in 37 countries (from Feb 2010) with one set of fees and is administered through WIPO.²
- In specific national countries where protection is sought.

This report is part of a wider study exploring the role and value of design registrations. This chapter seeks to develop a picture of the patterns of use of registered design rights in UK firms, with a view to understanding these trends better. Specifically, we aim to address the following questions:

- How are design rights used and what role do they play in commercialisation of products/services?
- What incentives/disincentives are there for the use of design rights?
- What changes to the design rights system might be of benefit to firms?

To explore these questions, this study will focus on a range of sectors, including industries which are highly 'design-intensive', and those which are more 'technology-based'. Sectors which are classed as 'design-intensive' are those where form, appearance, style and aesthetics play an important role in the differentiation of products. As a result, it might be expected that designs would be registered as a competitive strategy. Sectors which class as 'technology-based' include energy, medical devices and sensors, ones, where technical performance plays a key role in differentiation. In these companies, it might be expected that designs would be less likely to be registered as a competitive strategy.

3.4 Background

There is little previous research into the perceptions of industry towards intellectual property or design-related IP.

Of the few studies there have been, Dickson and Coles³ investigated issues towards protecting designs in small textile firms. They noted that there "is a tension between professional and commercial perspectives over design copying. For professional designers, copying is unethical. .. However, from a commercial standpoint, changing another pattern sufficiently to keep within the law is acceptable since following market trends is intrinsic to business." For designs, it is this tension that provides many firms with

1 <http://oami.europa.eu/ows/rw/pages/RCD/communityDesign.en.do>

2 <http://www.wipo.int/hague/en/>

3 Dickson K, Coles A M, (1998), Design protection and copyright issues for small textile firms, Design Studies, Vol. 19 pp203-215

a real challenge when determining whether there is value in design-related intellectual property. Designs protected as an asset are of greater value if the forms protected are evidently original and not just a small change to prior art.

Dickson and Coles also noted that “design registration is somewhat unpopular ... as it tends to overlap with copyright, which is free and automatic. Many firms launch hundreds of new designs a year, and registering them all would be prohibitively expensive.” Where firms produce many designs, each of which is a small change on a previous design, protection becomes difficult, as each new design cannot easily be defended as ‘original’.

For many firms, the overall landscape of protection alternatives is somewhat confusing. The plethora of choices can be very complex for managers in industry, especially where the costs, duration of protection, scope of protection and ability to defend each option are considered.

However, the protection landscape is more complicated still, as many designs might also be protectable using other forms of intellectual property. For example, in the USA, a design patent was filed in August 2005 for the iPod Nano, preceding a later trade mark design registration in July 2006, which was almost identical. The design patent filing (before product release) allowed Apple to make an early claim for rights, without publicly releasing information on the design. The later trade mark claim offered an additional layer of protection with potentially longer duration.⁴ This use of a trade mark to protect visual aspects of a product design in the USA is commonly referred to as ‘trade dress rights’.

For many firms, copyright, trade marks, unregistered and registered designs provide overlapping tools. Crouch² notes that (in the USA), “suing ‘copiers’ on unregistered trade dress rights is often a more typical approach than using registered design patents (p24).”

In 2001, Arundel⁵ examined the relative merits and usage of different modes of intellectual property through data collected in the Community Innovation Survey. Interestingly, design registration is used as a form of protection in less than four per cent of product-innovating firms. In a similar piece of analysis in 2004, Mercer confirmed this low use of design registration, especially amongst small firms.⁶ In the most recent piece of analysis, from the 2007 UK Innovation Survey, six per cent of firms rated design registration as being of ‘high importance’ suggesting a very small increase in their use.⁷ Interestingly, however, this indicated a similar level of usage as both patents and trade marks (table 3.1). Unregistered design rights are not considered in this study.

4 Crouch D, (2010), A trade mark justification for design patent rights, Legal studies research paper series, University of Missouri School of Law, Research Paper No 2010-17

5 Arundel A, (2001), The relative effectiveness of patents and secrecy for appropriation, Research Policy, Vol.30, pp611-624

6 Mercer S, (2004), Detailed results of the third UK Community Innovation Survey, Department of Trade and Industry

7 Robson S, Haigh G, (2008), First findings from the UK Innovation survey 2007, Economic and Labour Market Review, Vol. 2 No. 4, April

Table 3.1: Enterprises rating different methods (percentages) for protecting innovation as of high importance (Robson & Haigh, 2008)

	10-250 employees	>250 employees	All
Confidentiality	12	26	13
Trade marks	8	19	8
Copyright	8	14	8
Patents	6	15	6
Registration of design	5	14	6
Lead time advantage	10	17	10
Secrecy	8	17	9
Complexity of designs	4	9	5

In 2007, a panel of intellectual property rights (IPRs) experts reported to the EU on how small and medium sized enterprises (SMEs) might be encouraged to make better use of IPRs.⁸ Panel studies were conducted in seven sectors (aerospace, automotive, biotechnology, ICT, eco-innovation, energy and textiles). In this report, trade marks and designs are seen as falling within the remit of marketing and sales. They suggest that firms do not register designs for five equally important reasons:

- they will not benefit;
- the lifespan of designs is short;
- the costs are high;
- designs are often not sufficiently 'innovative';
- and it is not profitable.

A surprisingly high proportion (59%) of the companies surveyed said they had protected designs by registering them. The primary reason for protecting designs was to prevent copying, with it being 'company policy' in second place. They also noted that in some sectors, such as fashion, where many small design changes are introduced to the market, the protection offered is limited, particularly if the application process is lengthy.

One of the most important issues for design registrations is the extent to which they offer defensible protection. Derclaye (2010) has explored the extent to which designers are protected, particularly in the fashion sector.⁹ She notes that the degree of protection offered in the EU differs greatly in scope, as EU design law is regulated by national laws

8 IPR Expert Group, (2007), A memorandum on removing barriers for a better use of IPR by SMEs, Report for the Directorate General for Enterprise and Industry, Pro-Inno Europe, June 2007

9 Derclaye E, (2010), Are fashion designers better protected in Continental Europe than in the UK? A comparative analysis of recent case law in France, Italy and the UK, *The Journal of World Intellectual Property*, Vol. 13 No. 3, pp315-365

on copyright and unfair competition. For firms, this provides an additional level of uncertainty about how defensible a registered design actually is in different territories.

Derclaye has also compared unregistered design rights in the UK and EU.¹⁰ She notes that although the length of protection offered is not the same, the UK unregistered design right might potentially be absorbed by the EU system, as the differences between the two systems are minor, but the benefits of wider coverage provided by the EU system are significant.

Given the comparative lack of data on awareness and use of design registrations in industry, this study seeks to understand better how they are used in practice, providing evidence for policy recommendations.

3.5 Methods

The aim of this study is to provide a snapshot of perceptions towards design registrations in UK companies, specifically comparing sectors that can be described as 'design-intensive' with those that are more technology-based. The study is to be seen as a pilot of a wider survey that might capture these perceptions nationally. A key output is a survey protocol for such a study that has been refined through this pilot study.

Specific sectors targeted for our study include; furniture, fashion, medical devices and new technology-based firms. The furniture and fashion sectors are both viewed as 'design-intensive'. In contrast, medical devices and technology-based firms might be viewed as 'technology-based'. By gaining responses across this spectrum, it is hoped that sectoral differences in the use of design rights might be explored.

3.5.1 Questionnaire design

We compiled and tested a draft questionnaire in four interviews (either face to face or over the telephone) with industrialists, representing a cross section of industry. As a result of feedback from respondents, the questionnaire was modified for use in our pilot survey with industrialists in the sectors noted above.

The questionnaire is split into seven main sections:

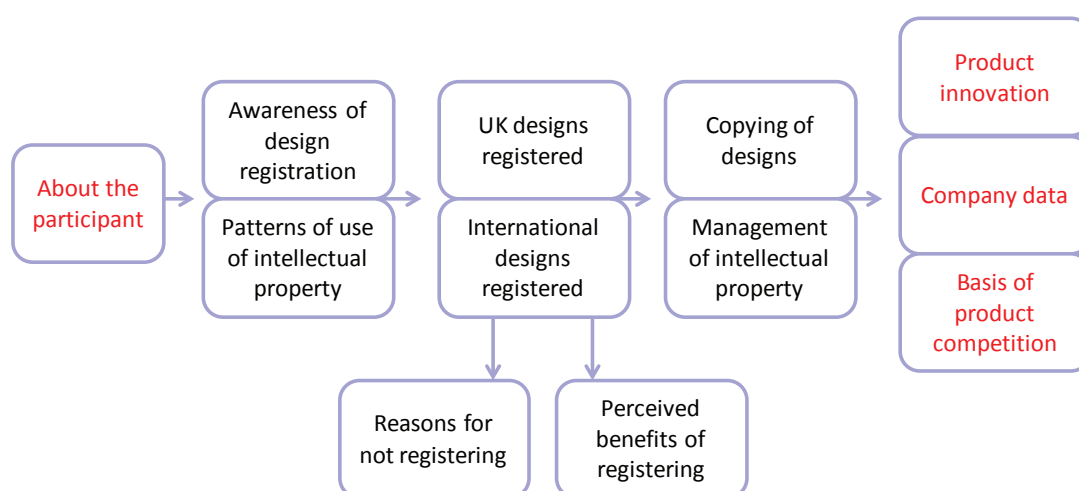
- **Knowledge or awareness of design registrations:** including the existence of design registrations; knowledge of the process, cost and time to register a design; and differences between registered and non-registered designs.
- **Patterns of use of Intellectual Property rights:** to compare usage of design registration against other modes of intellectual property protection. This was based on similar questions asked in the Community Innovation Survey.
- **Registration of designs in the UK and overseas:** to capture activity in

¹⁰ Derclaye E, (2004), The British unregistered design right: will it survive its new community counterpart to influence future European case law?, Columbia Journal of European Law, Spring

registering designs. In addition to capturing whether designs are being registered, participants were asked to comment on their reasons, the process and potential improvements.

- **Reasons for not registering designs:** this question presents a list of potential reasons for not registering, and asks candidates to score each on a 1-5 scale. The potential reasons were drawn from the pilot interviews, literature where relevant and experience of the researchers. Respondents were asked to note any other reasons.
- **Perceived benefits in registering a design:** this question aimed to understand the different benefits that might be gained by owning a design registration. Participants were again presented with a simple list and asked to score each item. They were also asked to note any benefits not listed.
- **Copying of designs:** this question sought to understand the extent to which firms believe that their designs have previously been copied, and whether this has an impact on their propensity to register new designs.
- **Management of designs:** this question aimed to explore whether designs are managed formally (e.g. through operating procedures) and who in the firm might be responsible.

Figure 3.1: Structure of the survey instrument



In addition, contextual questions are asked, including: innovation activity; the basis of competition; company sector, size, turnover and exports; and the respondent's personal details. These questions are included so that, in a larger survey, relationships between these variables and the use or awareness of design registration might be explored. The structure of the survey instrument is illustrated in figure 3.1.

The final survey instrument is included in Appendix B.

3.5.2 Sample

As this is a pilot study, we set a target of around 30 responses, representing the industries noted above.

To gain these responses, we used a range of tactics, as described below:

- **Linked-in and personal contacts:** existing contacts of either design directors or technical directors (or equivalent) in the key industries were approached. In addition, the social networking site Linked-in was used to identify 'design directors' in the researcher's extended network, including group membership. Groups such as "Design Management", "Design Management Europe", and "Cambridge Network" were used in this search. Where suitable candidates (by job title and sector) were identified outside the researcher's network, they were contacted with an invitation to participate. This yielded 18 usable responses, from a total of 95 individuals contacted, a response rate of approximately 19%.
- **Purchased database 1:** Two small databases of contacts were purchased. The first was for "directors" and "design managers" within the fashion and furniture sectors. Of 123 contacts purchased, 28 were not valid, 87 did not respond and eight completed the survey. Each contact was emailed with an initial survey, and emailed a follow-up reminder a week later. This represents a response rate of approximately seven per cent.
- **Purchased database 2:** The second purchased database was for "technical directors" (or equivalent), in this case without these contacts being associated with specific sectors. Here, 63 contacts were purchased, of whom 15 were not valid, 40 did not respond and eight completed the survey. Again, all contacts were sent a reminder after one week. This represents a response rate of approximately 13%.

Overall, to achieve the target of 30 responses, with a roughly even split between 'design-intensive' and 'technology-intensive' firms, the total number of companies contacted was 281, with a total response rate of approximately 12%.

A table summarising the respondents, their industrial sector and main products is provided in Appendix A.

3.5.3 Feedback from design agencies

In addition to sampling views from industry, a number of product designers in design agencies were also approached. Design agencies provide a service to a wide range of clients, across all industries. They are uniquely placed to be working on the aspects of the design that are most protectable through design registration.

A simplified version of the survey was produced, which aimed to capture: awareness and knowledge of design registrations; whether design agencies have experience of registering designs overseas; how aware they perceive their clients to be; perceptions on the benefits of registering designs. They were also asked to note the industries in which design registration might be most relevant.

A copy of this questionnaire is reproduced in Appendix C.

3.6 Use of design registrations in UK industry

Our analysis aims to compare a group of firms that might be judged to be 'design-intensive' (e.g. fashion, furniture) and firms that could be described as 'technology-based' (e.g. medical devices). A summary of the firms in each group is provided in Appendix A.

3.6.1 Activity in registering designs

Respondents are asked whether they own a UK-registered design or a design registered internationally, including in the EU and in other nations. Results are presented in table 3.2.

Table 3.2: Ownership of registered designs

	Number of firms	Own a UK Registered Design	Own a design registered in EU or internationally	Own a UK AND an internationally registered design	Do not own any design registrations
Design-intensive	14	8	5	5	6
Technology-based	18	2	2	1	15
TOTALS	32	13	7	6	21

Of the design-intensive firms, just over half own a UK design, and about a third owns a design overseas. The latter group is also likely to own a UK design. Roughly a third of the firms do not own any registered designs. A commonly stated reason for not registering in fashion companies is the rate of change of designs.

In the technology sector, only two firms own registered designs in the UK, and two own registered designs internationally.

For the whole sample, the majority of firms do not own a registered design, either in the UK or overseas.

Anecdotally, there appears to be a trend to move away from registering in the UK. One respondent noted that “we did it a while ago [register in the UK] and wouldn’t do it again”. Another noted that design registrations are “a cost-effective means to protect our consumables and cabinet designs. We will go to the EU in future”. A third said that “typically we do not register in the UK as we go for registered community designs. The four [UK registered designs] are old, out-of-date designs that will be dropped at next renewal.” But, where the UK is the company’s dominant market, some companies still choose to register in the UK: “we felt [the design] was likely to be copied so we wanted quicker protection than available with unregistered design rights – The UK is our core market and represents 85% of our sales.”

Several respondents note time pressure (to achieve protection before a trade show, for example) as a rationale for registering in the UK; “we were under the gun to get 15 patents and seven designs in on the day before the tradeshow started.”

For companies registering overseas, a number of reasons are given. Commonly, companies recognise that EU registration provides wider coverage (including the UK) and thus better value than registering through the UK alone:

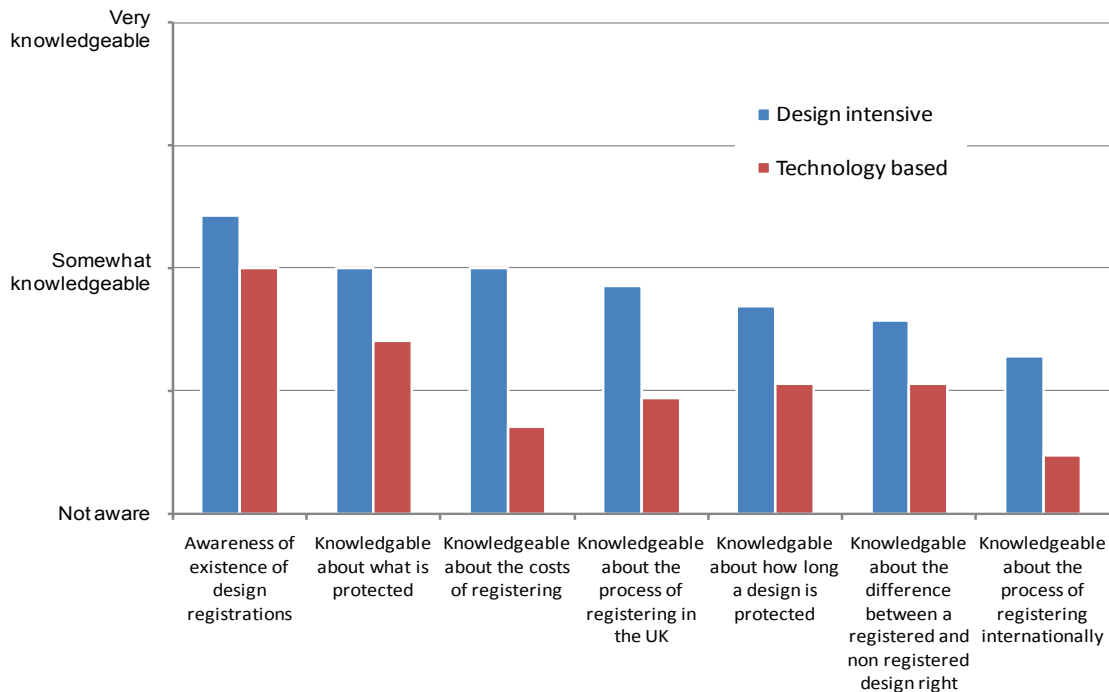
“EU [offers] protection in a large number of countries for relatively low cost, especially as discount for multiple filings. Also covers UK, which is primary market. US - good scope of protection for unique designs in our secondary market in a very competitive environment. Others - occasional filing Australia, Japan, China, Thailand when there was a specific threat, e.g. known copiers, or requirement for specific product protection.”

For the whole sample, 24 of the companies (11 design and 13 technology) provided data on the proportion of turnover associated with exports. Thus, we can compare the propensity to register designs internationally against their export orientation. Nine of these firms have exports of less than ten per cent of turnover, while 15 have exports greater than ten per cent of turnover. Only two of the non-exporting firms own designs registered internationally, and only three of the exporting firms own designs registered internationally. From this, we might conclude that firms with high exports are *not* more likely to register designs internationally compared with firms with low exports. Thus, we might infer that lack of registration cannot be attributed to any perceived problems in the UK system, and that for these firms, designs are not considered sufficiently important.

3.6.2 Awareness of design registrations

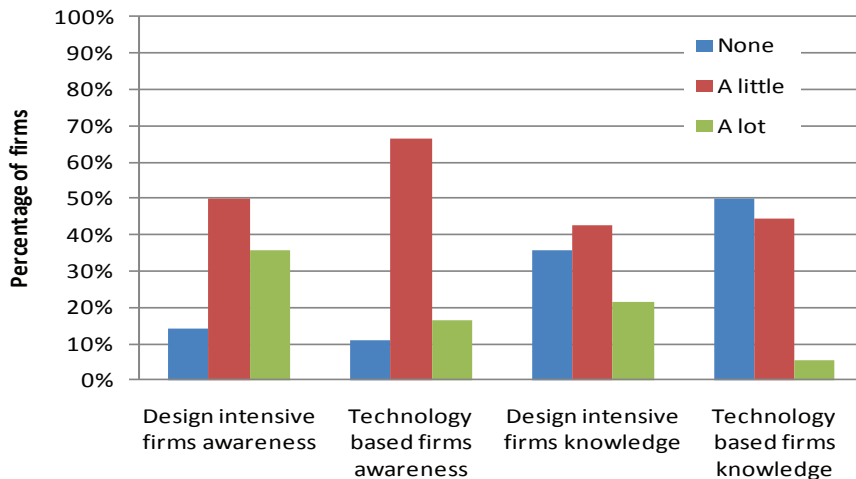
Respondents were asked the extent to which they knew about the existence of design registrations, what is protected and for how long, and the processes of registering a design, both in the UK and internationally. Figure 3.2 presents their responses, for each type of firm. Responses from design-intensive and technology-based firms have been averaged, to provide an indication of the overall awareness or knowledge of each group.

Figure 3.2: Awareness and knowledge of design registrations



In figure 3.3, the scores for knowledge have been aggregated into a single score, and here, we see a comparison of (overall) knowledge and awareness for both design-intensive and technology-based firms. Interestingly, while technology-based firms claim a little overall awareness of design registrations, they know less in practice about registered designs than design-intensive firms.

Figure 3.3: Awareness and knowledge of design registrations



Overall, firms appear to be at least somewhat knowledgeable about the existence of design registrations as a mode of intellectual property. However, this awareness does not necessarily translate into knowledge of what is protected and how to gain protection.

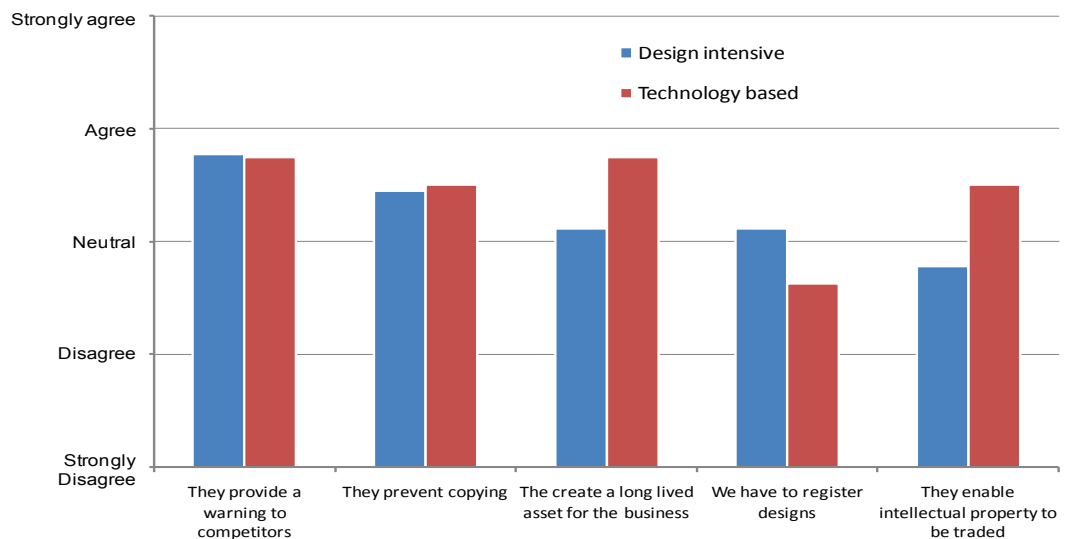
Technology-based firms know least, with most respondents reporting very poor knowledge of the costs of registering, the process of registering, the duration of protection and the differences between a registered and non-registered right. They know even less about the process of protecting a design internationally. One respondent noted that “as a company, we should be more fully aware”, and another that “[I] have been on a seminar to learn some of the basics, but would need to refresh my memory, or consult an expert”. A respondent who claimed to be ‘mostly knowledgeable’ about design registrations noted that “[we] rely largely on our legal partners to assist with registrations, licensing, IP and trade marking”.

Knowledge and awareness in design-intensive firms is somewhat higher, although the pattern is similar. In this sector, more respondents are aware of the existence of design registrations, but are still not confident that they fully understand the difference between non-registered and registered design rights. But, views were also a little more polarised, with some respondents claiming a lot of knowledge or awareness and others claiming very little knowledge.

3.6.3 Perceived benefits of design registrations

Respondents, particularly those with experience of registering designs, were asked to indicate the potential benefits to their business of registering a design. Figure 3.4 presents the responses for each type of firm.

Figure 3.4: Perceived benefits of registering designs



Respondents from all sectors view design registrations as a mechanism potentially to prevent copying or to provide a warning against it.

Design-intensive firms are less confident in the value of design registrations as an asset to the business than those from the technology sector. This may reflect a greater awareness among technology-based firms of the value of intellectual property as an asset to be traded rather than any specific experience of design registrations. One design firm noted

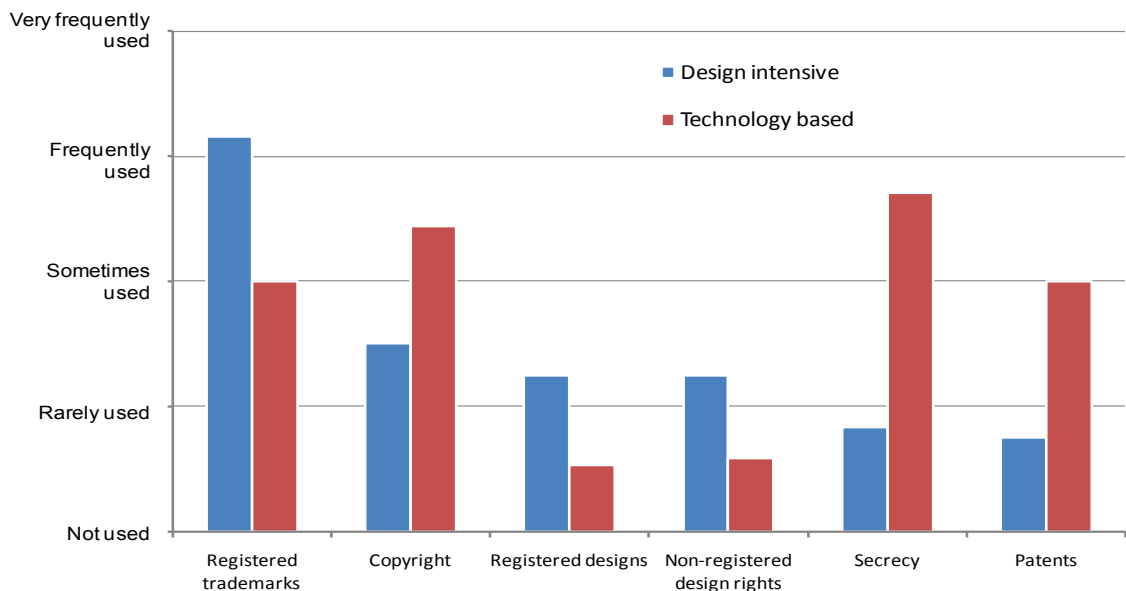
“where we believe there is a very strong chance that the design will be copied we register it so that it is easier to deal with the copying legally rather than relying on unregistered rights where the other company can start a lengthy & costly legal process of disputing the originality of the design”

Design agencies seem most positive about the potential benefits of design registrations, specifically their potential to warn against copying. They recognise that the registration indicates that the company intends to defend the design if copied.

3.6.4 Patterns of usage of design registrations and other modes of Intellectual Property Rights

In order to better understand the perceived importance of design registrations to the firms, they were asked to indicate which modes of protection of intellectual property they currently use. They were also asked to indicate whether they currently own any UK or internationally registered designs. Figure 3.5 provides their responses.

Figure 3.5: Patterns of use of Intellectual Property rights



There is a very clear difference in the types of intellectual property used between design-intensive and technology-based businesses.

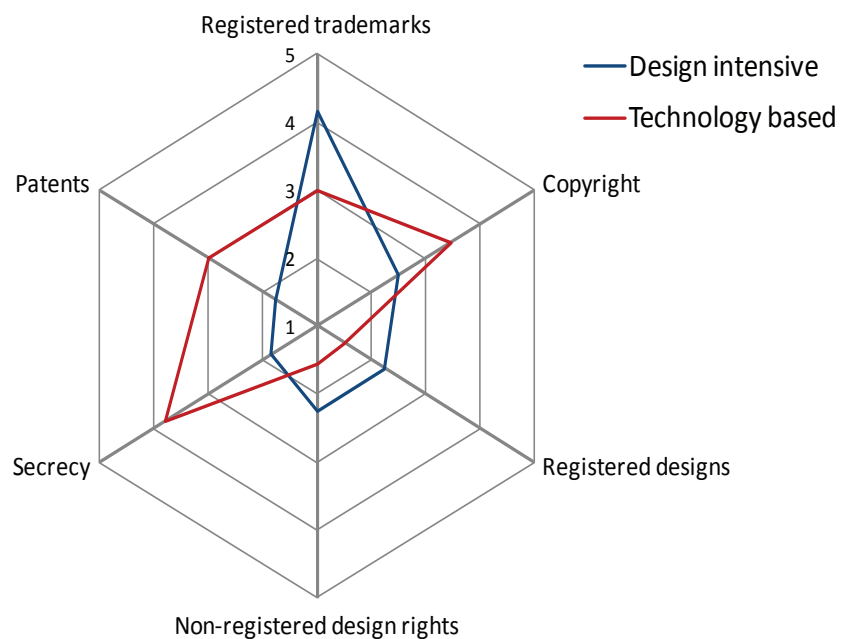
In design-intensive firms, trade marks are the dominant form of intellectual property. Respondents feel that, where designs change rapidly, as in the fashion sector, trade marks (brands) provide a longer lasting and more durable mode of protection. Registered and unregistered designs are both used 'rarely', but with slightly more frequency than patents. Secrecy is not often used either, perhaps unsurprisingly, as it does not easily protect aspects of form or shape.

In technology-based firms, there is a much greater reliance on secrecy, copyright and patents. Overall, there is very little protection of 'designs'.

Exploring the data from respondents from different industrial sectors suggests some interesting patterns, although the number of responses is not sufficient to make strong claims. In fashion, there appears to be a clear tendency to use registered trade marks, with some use of design registrations and little use of patents. In contrast, medical device companies and new technology-based firms are much more active in patenting.

An alternative presentation of this data (figure 3.6) perhaps shows the difference between design-intensive and technology-based firms more clearly.

Figure 3.6: Patterns of use of Intellectual Property rights in different sectors



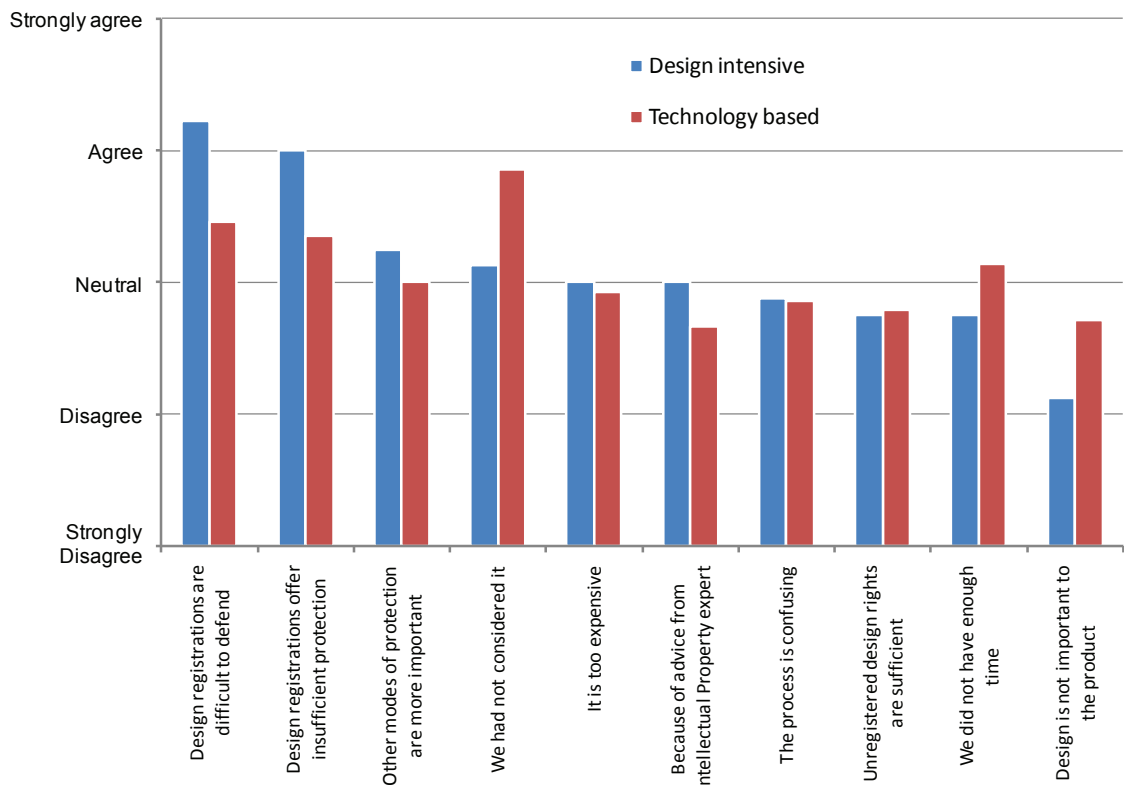
The answers from both sectors suggest a lack of understanding that non-registered rights, such as copyright and non-registered designs, are automatic rights, although they are more defensible if the origin of the designs is clearly dated and recorded.

3.6.5 Reasons for not registering designs

All respondents were asked to comment on the potential reasons for not registering designs. The question proposed a number of suggested 'reasons', and allowed respondents to comment either if these were not relevant or if they felt that any explanations were missing.

Figure 3.7 presents the result of this question, for design-intensive firms and technology-based firms.

Figure 3.7: Perceived reasons for not registering designs



Overall, the results show that respondents are mostly 'neutral' regarding the process and cost of registering a design. There are no strong feelings about the advantages of unregistered designs and it is not perceived to involve a large time commitment.

In design-intensive firms, respondents confirm that design is important to competition, and is thus a reason *for* registering. But, there is a lot of scepticism about the ability of firms to defend against copying; most responding companies feel that a design registration provides insufficient protection. One respondent commented: "We do own designs but are reluctant to register further due to [the difficulty in defending against copying]". One respondent also noted:

"We used to register far more designs 4-5 yrs ago but we found the cost of £800 a time outweighed the fact that you could still sue for infringement and get similar rights of protection under EU unregistered design rights. In fact before the UK and EU were brought into line we used the EU unregistered design to sue for breaches of surface decoration, shapes, lines and textures. This then made the UK registering pretty pointless"

In design-intensive firms, a common theme is the rate of change of designs. One respondent noted that "In the fashion business, everything changes frequently, so there is not much worth in the extra costs of protecting your design for just twelve months." Another commented:

“We don’t use design registration that often except when we believe we have a strong product that could be easily copied. We develop so many new products each year that the cost/benefit would be untenable.”

To mitigate this rate of change, a number of design-intensive firms suggest that brand is ultimately a more defensible asset, and a registered trade mark retains value even if the individual designs change frequently.

In technology-based firms, the pattern of response is generally similar, but with some important differences. Firstly, inability to defend is not seen as such a major issue. This might suggest that technology-based firms have less experience in actually defending against copying, or that they have been more successful in defending against copying of other forms of intellectual property. Secondly, the most notable difference is that many respondents have ‘not considered’ design registrations as a form of intellectual property that might be relevant to them. The cost of registering a design is not viewed as prohibitive, though one respondent noted that the “cost of defending an infringement is believed to be higher than business can afford.”

One respondent eloquently described how design rights are less appropriate in his sector than either trade marks or patents:

“I’ve used design rights previously, but in this market [medical devices] they’re nowhere near as applicable as trade mark protection or patents, so they are just not the right tool for the job. In other sectors I’m sure they have a purpose protecting a brand, but I have to say I know of no company in this area that utilises them. That said, I can think of a situation where they could have been useful, but I think they reverted to the “passing off” legislation to resolve that particular circumstance.”

3.6.6 Copying of designs

With this question, we were seeking to find out whether firms have experience of designs being copied, and if so, what action they took. We were also keen to understand if this action resulted in a successful outcome and whether as a result the firm was more or less likely to register a design.

Table 3.3 summarises responses to this question.

Table 3.3: Copying of designs

	Total number of firms	Number of firms who have had designs copied	Number of firms that took action	Number indicating the action was successful	Number of firms more likely to register a design as a result
Design-intensive	14	11	7	4	4
Technology-based	18	9	4	3	0
OVERALL	32	19	10	6	4

Over 80% of the design-intensive firms claim to have experienced their designs being copied. In contrast, less than half of the technology-based firms have had a similar experience. In both cases, however, it is clear that copying of designs is a real issue to firms in all sectors.

Of those that have had designs copied, action to stop this copying is generally unsuccessful, with less success in high-tech firms than in design-intensive ones. Significantly, firms are less likely to register designs in the future as a result. Notably, not a single technology-based firm would be more likely to register a design as a result of copying.

“I have always found design registration rather a bore - but I have also been caught out, too many times to mention, with IPR rip-offs which the culprits have got away with because our designs were not registered.”

In the design-intensive sectors, the actions taken by firms varied. One fashion firm said their response was to “keep ahead, as we can’t compete with China”. Of the companies that had experienced copying, the general response is to take no action, as “copying is difficult to prove”. One respondent noted that after unsuccessfully defending a copied product, the “perception is now that [registered] designs do not give a broad scope of protection, so we will spend money on designs more cautiously.” In some design-intensive sectors (such as fashion), there is a grey area between copying and referring to other people’s work for inspiration. One respondent suggested that “copying is about taking inspiration from someone else’s work and then producing your own things.”

Perhaps surprisingly, nearly half of the technology-based firms claim to have had designs copied. Like the design-intensive firms, few have taken successful action. Indeed, only two of the eight firms that indicated their designs had been copied were successful in defending their design. The overall attitude is that legal action is expensive “[our] company could not afford to lose a major court case” and unlikely to result in a positive outcome:

“In the past we have prosecuted, [but] in some territories e.g. Far East and Africa where our products are sold it has not been worthwhile. We compete there by branding, trade mark and good customer relations.”

Firms in both the technology and design-intensive sectors view the building of a strong brand as a more effective way to defend against copying.

3.6.7 Management of design registrations

With this question, we were seeking a better understanding of how designs are being managed in firms. This included both whether design registrations are noted formally in any operating procedures, and also the job role in the business that has responsibility for both registering and managing a portfolio of intellectual property. This information would provide necessary contextual evidence to help explain why designs are registered or not.

Table 3.4 summarises the responses related to job function. We have grouped the varied responses in three categories: ‘managing director’, ‘technical director’ and ‘marketing director’. For example, ‘general manager’ is coded as ‘managing director’ and ‘global brand and marketing director’ as ‘marketing director’.

Amongst design-intensive firms, responsibility for managing design registrations generally appears to fall within the remit of the managing director. The MD is also responsible for other modes of intellectual property, including trade marks and patents. In three firms, ‘no-one’ had clear responsibility for design registrations.

Table 3.4: Responsibility for intellectual property

		Managing Director	Technical Director	Marketing Director	Other	No-one
Design-intensive	Design registrations	6	1	0	2	3
	Patents	5	1	0	2	4
	Trade marks	5	1	0	2	2
Technology-based	Design registrations	4	2	1	2	9
	Patents	5	5	1	2	5
	Trade marks	4	2	6	1	4

In contrast, in technology-based firms, responsibility for design registration is less clear, with ‘no-one’ responsible in half the firms, though patents and trade marks tend more clearly to be the responsibility of the technical director or marketing director. This is significant, as unlike both trade marks and patents, it means there is often nobody in these companies who has a clear and explicit responsibility for designs.

Tables 3.5 summarises responses to whether design registration appears in any operating procedures in the firm. The question was asked in two parts. Firstly, firms were asked whether they have procedures explicitly for registering a design. They were then asked whether design registration is noted (in any form) in the product development process. To enable comparison, companies were asked whether they had introduced a new product in the previous three years.

Table 3.5: Management of design registrations

	Number of firms	Number of firms that have introduced a new product in the last 3 years?	Number of firms with operating procedure for registering designs	Number of firms that note design registration in their product development process
Design-intensive	14	11	2	1
Technology-based	18	18	1	1
TOTALS	32	29	3	2

The majority of firms responding said they had released a new product to the market in the previous three years. However, very few of these firms recognise design registration in their operating procedures, including their product development process. Three firms have operating procedures which note design registrations and all three own both UK and internationally registered designs.

Thus, unlike patents and trade marks, there appears to be less clarity over who is responsible for designs and less formality in the recognition of designs in company procedures.

3.7 Perceptions of the design consultancy sector

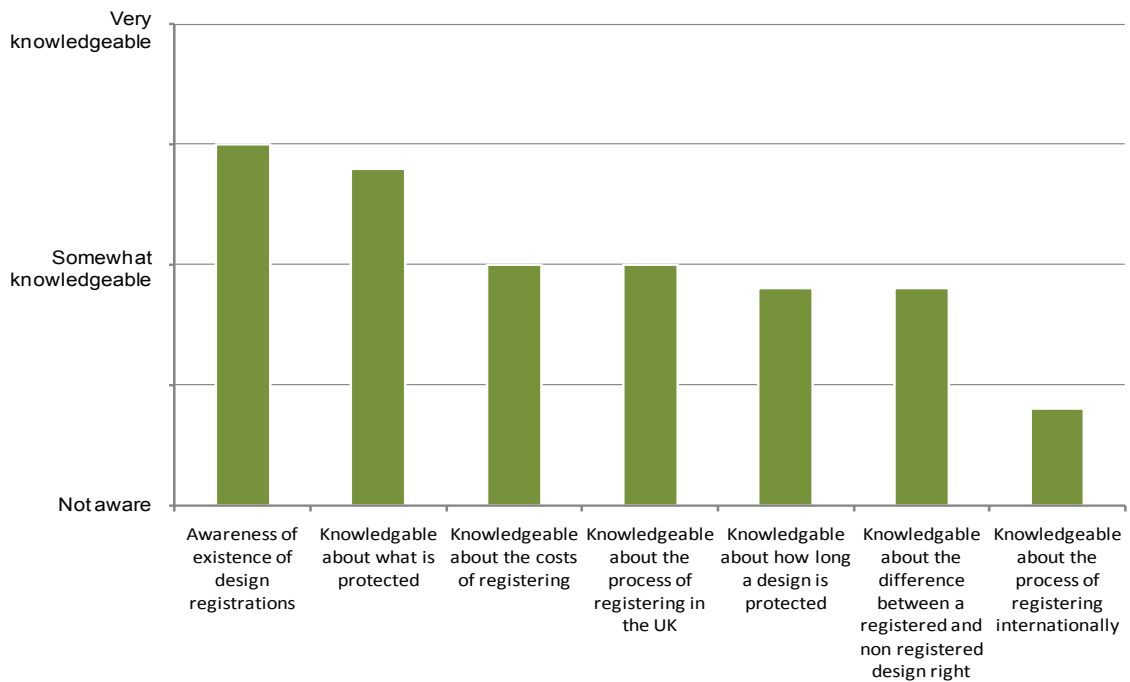
In addition to sampling the perceptions of industry, we also sought insights into the perceptions of the design consultancy sector about design rights.

A short questionnaire (appendix C) was sent to senior staff in thirty design consultancies, drawn from the researcher's own network. Ten responses were collected, from designers in major design agencies, who have individually a lot of experience in this sector.

3.7.1 Awareness of design registrations

Amongst design agencies, respondents claim to be knowledgeable about what is protected, but to have less knowledge about the duration, costs and processes of protection (figure 3.8).

Figure 3.8: Awareness/knowledge of design registration in design agencies



As with industrialists, there is a comparatively high general awareness of the existence of design registrations as a mode of intellectual property. Respondents claim to be ‘somewhat knowledgeable’ about the process and costs of registering a design, but are less likely to know the difference between a registered and unregistered design right. Respondents know the least about the registration of designs internationally.

3.7.2 Experience of registering designs

Within the ten design agencies, there is comparatively little experience of registering a design. In total, only three respondents have registered a design in the UK, and just one in the EU. None have done so outside the EU (Table 3.6).

Table 3.6: Experience of registering designs in design agencies

	Number of firms	Have you experience of registering in the UK?	Have you experience of registering a design in the EU?	Have you experience of registering a design outside of the EU?
Design agencies	10	3	1	0

Just one agency claimed to be highly active, registering “20-30 designs a year for our clients [and providing] support for design registration and design patent processes for all global markets.” This level of activity appears to be the exception.

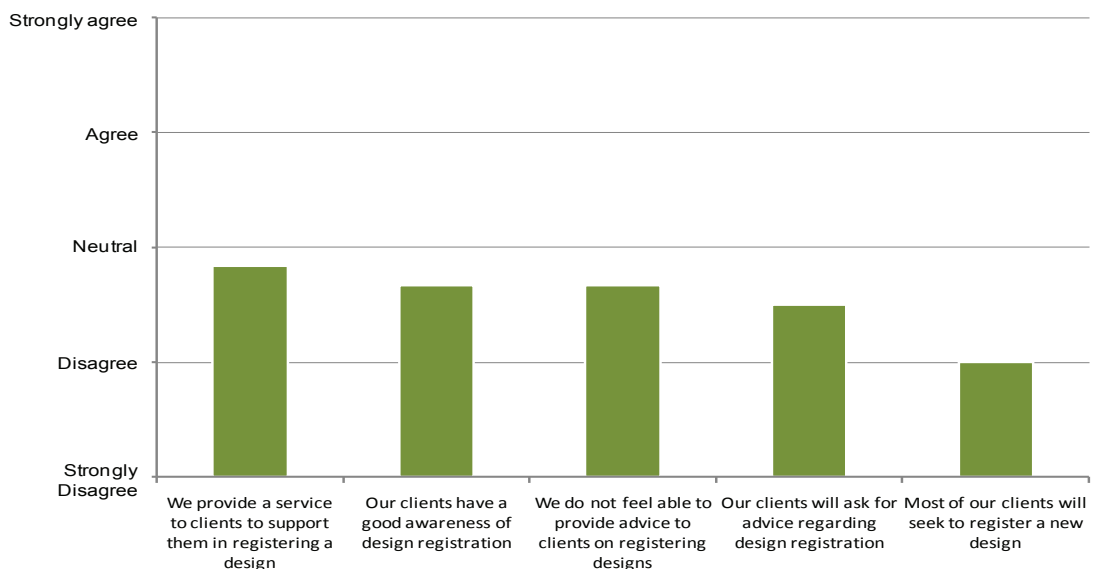
Actual experience of the registration process compares interestingly with the respondents’ stated knowledge about the process, and confirms why knowledge about international registrations is so low.

3.7.3 Client support

Design agencies, in general, believe that their clients are not seeking to register the design work that they are commissioning. Few of the agencies believe that their clients have a good awareness of design registration (figure 3.9).

Similarly, only a minority of the agencies provide a service to their clients to aid them in the registering of designs. Just one (large) agency explicitly provides support to clients in protecting designs, although they themselves had little experience in registering designs.

Figure 3.9: Client support for registering designs in design agencies

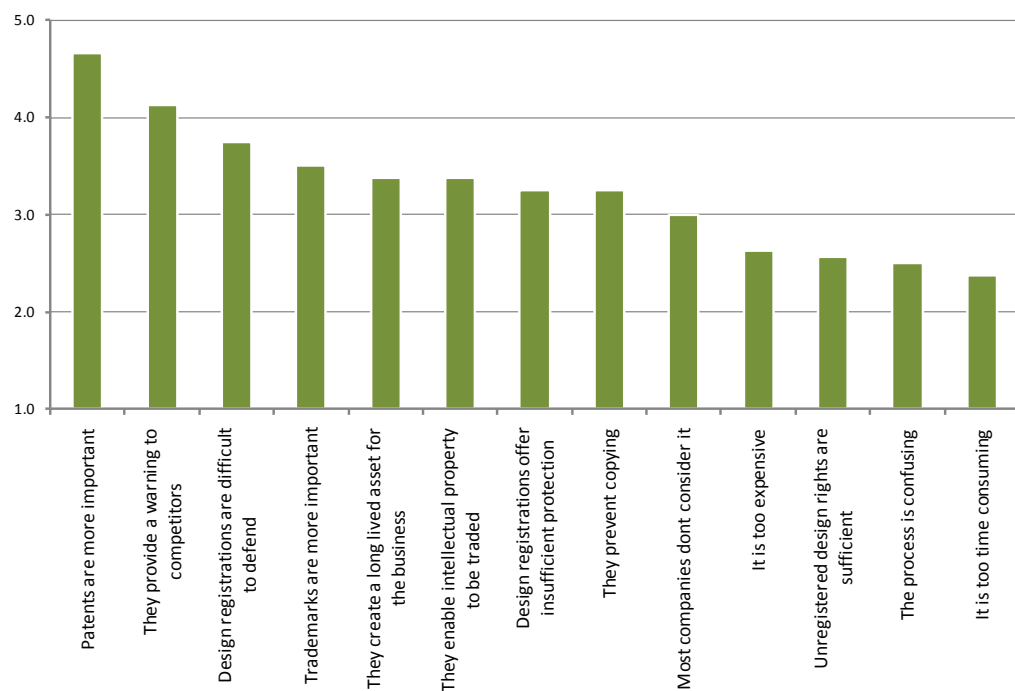


3.7.4 Perceptions of design registration

Amongst the design companies responding, there is a general recognition that the process of registering is simple, and the costs are not prohibitive. However, there is a very strong consensus that other modes of protection, including patents and trade marks are more important (figure 3.10).

Interestingly, the design agencies do not agree that unregistered design rights are sufficient but are in broad agreement that registered designs are difficult to defend.

Figure 3.10: Perception towards registered designs from design agencies



3.8 Discussion and implications

This pilot study has begun to highlight some interesting insights into the knowledge, awareness, use and perceived benefits of registered designs as a mode of intellectual property.

Respondents appear to be aware of the existence of design rights (registered and unregistered). But, this awareness does not translate into knowledge about what is protected, for how long and the process or costs of protection. It might be because few firms responding have direct experience in registering a design, whether within the UK, EU or internationally. Knowledge and awareness is higher amongst 'design-intensive' firms than 'technology-based firms'. Indeed, in the latter category, knowledge is generally very low. A campaign to improve their knowledge could be beneficial.

Given this low level of general awareness and detailed knowledge, it is interesting to reflect that a very high proportion of respondents have personal experience of designs being copied (59%). What is significant is that very few of these (only four) are more likely to register a design as a result, and only six took successful action in defending against this copying.

One might have expected that experience of copying would increase, rather than decrease, the likelihood of registering a design. There is some evidence for why firms do not see design registrations as a solution. There is a very strong feeling amongst all respondents that the design of the product *does* matter for differentiation against competitors. But, there is equally strong evidence from the 'design-intensive' firms that registered designs are difficult to defend. Amongst 'technology-based' firms, their main reason for not protecting their designs is that they 'just have not considered it'. Indeed, two of the respondents later commented conversationally that answering the survey had made them realise that they should perhaps be thinking more about it.

Interestingly, procedural issues such as cost, time or complexity of registration are not strong disincentives against registering a design amongst any of the firms. Some firms do note that it is increasingly sensible to register through the EU, for the immediate benefits of wider coverage, despite a marginally higher cost. There is clear evidence that firms increasingly look to register designs in the EU ahead of the UK. This is especially the case where firms are planning to export. Some firms seek to register internationally, often to provide protection where manufacturing is located. Given this trend, the UK IPO could provide a portal to enable registration internationally as an alternative or addition to providing a domestic service.

There is some anecdotal evidence that firms are a little confused by the range of options available for protecting their designs. After all, they can access UK, EU and International options for registering designs, as well as the UK and EU non-registered rights, as well as trade marks and patents. Given this complexity, in conjunction with the perceived difficulty of defending design registrations, the specific benefits of registering a design are not sufficiently transparent.

In addition to the perception that design rights are difficult to defend, firms also appear to believe that they have low value as an asset that might be tradable. There may potentially be a relationship between defendability and tradability, as illustrated in Figure 3.11.

Figure 3.11: Defendability vs. asset value

Highly defendable	Copyright	Patents, trade marks
Difficult to defend	Design rights	
	Low asset value (not tradable)	High asset value (very tradable)

Here, we can see that in this sample, the majority of firms perceive registered designs as being difficult to defend and also having low value as an asset. To change this situation, two actions are possible:

- Improve the perception of 'defensibility': Perception of defensibility may not equate to the reality. If so, more examples of designs which have been successfully defended are needed. This might help firms better understand the limitations of design rights and which of their designs might be successfully protected.
- Improve the perception of design registrations as an asset: Unlike trade marks and patents, design rights have low perceived value as an asset. Examples from sectors in which design rights have been treated as an asset to be traded might help change this perception. For design-intensive firms, where designs change frequently, trade marks (brand) provide a more effective mode of protection. In technology-based firms, patents (perhaps unsurprisingly) are the dominant mode of protection. Design rights appear to fall between the two, and are very much viewed as a secondary option. The low awareness and usage of design registrations in the design consultancy sector is surprising. Such agencies could provide a key role in raising the awareness and uptake of design rights in industry if effectively informed.

These findings are tentative, as the sample in this pilot study was (by design) small. A key outcome is the development of a survey protocol that might be applied to stronger national evidence regarding the use of design registrations. A modified survey is included in Appendix D, which could be the basis of such a study.

Appendix A: Industrial respondents

Design / Tech	Sector	Products	
Design-intensive firms	Fashion	Suits	
		Clothing	
		Footwear	
		Footwear	
		Clothing	
		Ladies wear	
	Furniture	Men's clothing	
		Branded clothing	
		Bespoke goods	
		Home wares	
		Shelving	
		Lighting	
Technology-based firms	Consumer goods	Baby products	
		Toys	
		Medical devices	Hearing aids
			Filtration
			Decontamination
	Medical devices		
	Health and others		
	New technology-based firms	Sensors	Sensors
			Lighting
			Sensors
Solar heating			
Laser technology			
General technologies		Financial services	
		Fluid power	
		Inkjet printing	
		Refrigeration	
		Industrial spraying	
		Optics	
		Grass cutting	
		Food service	

Appendix B: Questionnaire used for industrial respondents

Use of design related intellectual property in the UK

We are aiming to understand how of firms use design registrations. This project is supported by The University of Cambridge, The UK Design Council, and The Intellectual Property Office. All data provided will be treated as strictly confidential and in accordance with the Data Protection Act and the professional standards of the Market Research Society. Neither you nor your company will be named in any public reports produced from this work.

About You and your company

Your name	
Job Title	
Company Name	
Company's main products/services	

Knowledge of design registration

With this question, we are seeking to understand what you and your company know about design registration and the processes of registering a design. Please add a 'Y' to the most relevant box

	No knowledge	Somewhat knowledgeable	Very knowledgeable
Are you aware of the existence of design registrations as a form of intellectual property?			
Are you knowledgeable about what is protected by a UK design registration?			
Are you knowledgeable about the length of time a design registered in the UK offers protection?			
Are you knowledgeable about the costs of registering a design in the UK?			
Are you knowledgeable about the process of registering a design in the UK?			

Are you knowledgeable about the process of registering a design outside of the UK?			
Are you knowledgeable about the difference between a registered design and a non-registered design right?			
Any additional comments:			

Patterns of use of intellectual property:

With this question, we are seeking to understand what forms of intellectual property you use. Please indicate the relative importance to your business of the following methods of protecting designs and innovations

	Not used	Rarely used	Sometimes used	Frequently used	Very frequently used
Registration of designs					
Registration of trade marks					
Registration of patents					
Use of copyright					
Use of non-registered design rights					
Secrecy or know-how					

UK Designs registered

With this question, we are seeking to understand whether you currently own any UK registered designs, your reasons for registering in the UK, and your views on the registration process

Do you currently own any registered-designs that were registered in the UK	Yes	No	
If yes, how many UK registered-designs do you own?	Enter number		
If yes, could you please explain why you chose to register the design in the UK?	Enter text		
If yes, did you seek advice from an Intellectual Property expert or Intellectual Property lawyer	Yes	No	
If yes, was the registration process simple? Please explain your answer as appropriate.	Yes	No	Explanation
If yes, what improvements could be made to the registration process?	Enter text		

Designs registered outside of the UK

With this question, we are seeking to understand whether you currently own any internationally (EU + outside the EIU) registered designs, your reasons for registering outside the UK

Do you currently own any designs that are registered outside of the UK? (e.g. through the EU or outside of the EU)	Yes	No
If yes, how many designs registered outside of the UK do you own?	Enter number	
If yes, did you seek advice from an Intellectual Property expert or Intellectual Property lawyer	Yes	No
If yes, which country(ies) or region(s) did you register your design in?		
If yes, could you please explain why you chose to register outside of the UK?	Enter text	

If you do not own any registered-designs:

If you do not own any registered designs, with this question, we are seeking to understand why that is. Could you please indicate whether you agree or disagree with the following statements

We have not registered any designs because ...	Strongly agree	Agree	Neutral	Disagree	Strongly disagree
... other modes of protection are more important (e.g. patents, trade marks)					
... design not important to the product					
... unregistered design rights are sufficient					
... we had not considered it					
... it is too expensive					
... the process is confusing					
... we did not have enough time					
... it offers insufficient protection					
... it is difficult to defend					
... because of advice from an intellectual property lawyer or expert indicated that we should not					
If you have not registered any designs for reasons other than those listed above, then could you please explain:	Explanation				

Perceived benefits of owning a registered design:

If you own any design registrations (UK or overseas), we are seeking to understand what benefits you gain. Could you please indicate whether you agree or disagree with the following statements

The benefits we gain from owning design registrations are ...	Strongly agree	Agree	Neutral	Disagree	Strongly disagree
... they create a long lived 'asset' for the business					
... they enable the intellectual property to be traded					
... they prevent copying					
... they provide a 'warning' to competitors not to copy					
... because we 'have to'					
If you gain benefits other than those listed above, please explain:	Explanation				

Copying of designs

With this question, we are seeking to understand whether you have previously had any designs copied, and what action you took as a result

To the best of your knowledge, have any of your 'designs' ever been copied by one of your competitors?	Yes	No	
If Yes could you please explain the action that you took	Explanation		
If Yes , and you took action, was the action successful? Please explain as needed	Yes	No	Explanation
If Yes , has this made you more likely to register a design? Please explain as needed	Yes	No	Explanation

How are design registrations managed in your firm

With this question, we are seeking to understand who in your firm is responsible for registering and managing designs

Which 'function' or 'job role' in the firm is responsible for registering designs and managing the portfolio of registered designs? (e.g. marketing director)		
Which 'function' or 'job role' in the firm is responsible for registering patents and managing the portfolio of patents? (e.g. marketing director)		
Which 'function' or 'job role' in the firm is responsible for registering trade marks and managing the portfolio of registered trade marks? (e.g. marketing director)		
Do you have a specific operating procedure that deals with registering designs?	Yes	No
Is design registration noted in your product development process documentation?	Yes	No

Product (goods or services) innovation

With this question, we are seeking to understand whether you view your design to be innovative, so that we can determine whether there are any relationships between innovation and the registration of designs

Over the last 3 years (2007-2010), did your company introduce new or significantly improved goods or services	Yes	No			
When did your company last introduce a significantly new product to the market?	Year:				
In your industry, what is the typical life of a product before a new product is introduced that will replace it?	< 1 year	1-2 years	3-4 years	5-9 years	>10 years

About your company

With this question, we wish to collect basic company information, so that we can analyse whether there are relationships between the type of company and the registration of designs. We understand if you would rather not include financial data, but would like to reassure you that all data will be treated confidentially

SIC Code (if known)	SIC No.				
Turnover in the last financial year	£		0	0	0
Percentage of turnover from exports	%				
Number of employees	No.				
Which of the following best describes the main customers for your company's goods and/or services (please tick the most appropriate box)	Other businesses	Public sector	Consumers		

How your products compete

With this question, we are seeking to understand how your products compete in the market place, so that we can analyse whether the nature of differentiation influences the registration of designs

Which of the following best describes how you compete against other products ...	Strongly agree	Agree	Neutral	Disagree	Strongly disagree
Our products are technically superior to the competition					
We manufacture for lower costs than the competition					
Our delivery is more reliable than our competitors					
We have more effective customer relations than our competitors					
Our products are more stylish/attractive/appealing than competitive products					
Our products have better brand awareness than competitive products					
Our products have better user interfaces/ergonomics than competitive products					
Our products have greater reliability and robustness than competitive products					
If your products competed on a different basis, then please explain	Explanation				

Would you be willing to talk to the project sponsors about this work?

Yes No Email _____ Telephone _____

Thank you for completing the questionnaire. If you have any questions about this questionnaire please contact Dr. James Moultrie at the University of Cambridge. Telephone 01223 764830, E-mail jm329@eng.cam.ac.uk

This project is sponsored by the Intellectual Property Office and the UK Design Council.

Appendix C: Questionnaire used for respondents from design agencies

Use of design related intellectual property in the UK

We are aiming to understand how of firms use and perceive design registrations. This project is supported by The University of Cambridge, The UK Design Council, and The Intellectual Property Office. All data provided will be treated as strictly confidential and in accordance with the Data Protection Act and the professional standards of the Market Research Society. Neither you nor your company will be named in any public reports produced from this work.

About You and your company

Your name	
Job Title	
Company name	

Your knowledge of design registration

With this question, we are seeking to understand what you and your company (not your clients) know about design registration and the processes of registering a design. Please add a 'Y' to the most relevant box.

	No knowledge	Somewhat knowledgeable	Very knowledgeable
Are you aware of the existence of design registrations as a form of intellectual property?			
Are you knowledgeable about what is protected by a UK design registration?			
Are you knowledgeable about the length of time a design registered in the UK offers protection?			
Are you knowledgeable about the costs of registering a design in the UK?			
Are you knowledgeable about the process of registering a design in the UK?			
Are you knowledgeable about the process of registering a design outside of the UK?			

Are you knowledgeable about the difference between a registered design and a non-registered design right?			
---	--	--	--

Please add any additional comments that help to explain your answers here:

The process of registering a design

With this question, we are seeking to understand how the process of registering a design might be improved?

Have you been involved in registering a design in the UK	Yes			No		
If yes, was the registration process simple?	Very simple	Somewhat simple	Neither	Somewhat complex	Very complex	
If yes, what improvements to the registration process would you suggest?						
Have you been involved in registering a design in the EU	Yes			No		
If yes, was the registration process simple?	Very simple	Somewhat simple	Neither	Somewhat complex	Very complex	
If yes, what improvements to the registration process would you suggest?						
Have you been involved in registering a design outside of the EU	Yes			No		
If yes, was the registration process simple?	Very simple	Somewhat simple	Neither	Somewhat complex	Very complex	
If yes, what improvements to the registration process would you suggest?						

Your CLIENT'S awareness and use of registered designs

With this question, we are seeking to understand how your clients (**in general**) use design registrations:

	Strongly agree	Agree	Neutral	Disagree	Strongly disagree
In general, our clients have a good awareness of design registration					
Most of our clients will seek to register a new design					
Our clients generally ask us for advice or help regarding design registrations					
We provide a service to clients to support them in registering designs					
We do not feel able to provide advice on registering designs to our clients					

Your views on the benefits of design registrations

with this question, we are seeking to understand to what extent you agree or disagree with the following statements regarding the strengths or weaknesses of owning (either yourself or your clients) a registered design.

	Strongly agree	Agree	Neutral	Disagree	Strongly disagree
Trade marks are likely to be viewed as more important than design registrations					
Patents are likely to be viewed as more important than design registrations					
<i>Unregistered</i> design rights provide sufficient protection against copying					
Most companies (clients) do not consider that they either could or should register a design					
It is too expensive register designs					
The process of registering a design is too confusing or complex					
The process of registering a design is too time consuming					
A registered design offers insufficient protection against copying					
It is difficult to defend a registered design against copying					
A registered design provides a long lived 'asset' for the business					

A registered design provides intellectual property that can be traded					
Owning a registered design will prevent copying					
Owning a design registration provides a 'warning' to competitors not to copy					

Sectors

With this question, we are seeking to understand if there are specific sectors where design registrations might be more important than others

In your view, are there any sectors in which design registrations are particularly important (e.g. clothing or medical devices etc)	
In your view, are there any sectors in which design registrations are NOT important (e.g. clothing or medical devices etc)	

About your company

With this question, we wish to collect basic company information, so that we can analyse whether there are relationships between the type of company and the registration of designs. We understand if you would rather not include financial data, but would like to reassure you that all data will be treated confidentially

Turnover in the last financial year	£	0	0	0
Percentage of turnover from exports	%			
Number of employees	No.			

Would you be willing to talk to the project sponsors about this work?

Yes No Email _____ Telephone _____

Thank you for completing the questionnaire.

If you have any questions about this questionnaire please contact Dr. James Moultrie at the University of Cambridge. Telephone 01223 764830, E-mail jm329@eng.cam.ac.uk

This project is sponsored by the Intellectual Property Office and the UK Design Council.

Appendix D: Revised questionnaire for a potential wider survey

This proposed questionnaire is modified from the one used in this survey, based on insights gained during this study. The questions have been simplified, and the more descriptive questions removed. In places, subtle modifications have been made to the language used in the questions to reduce ambiguity.

Use of design related intellectual property in the UK

We are aiming to understand how of firms use design registrations. All data provided will be treated as strictly confidential and in accordance with the Data Protection Act and the professional standards of the Market Research Society. Neither you nor your company will be named in any public reports produced from this work.

About You and your company

Your name	
Job Title	
Company Name	
Company's main products/services	

Knowledge of design registration

With this question, we are seeking to understand what you and your company know about design registration and the processes of registering a design. Please add a 'Y' to the most relevant box

	No knowledge	Very basic knowledge	Somewhat knowledgeable	Quite knowledgeable	Very knowledgeable
Are you aware of the existence of design registrations as a form of intellectual property?					
Are you knowledgeable about what is protected by a UK design registration?					
Are you knowledgeable about the length of time a design registered in the UK offers protection?					

Are you knowledgeable about the costs of registering a design in the UK?					
Are you knowledgeable about the process of registering a design in the UK?					
Are you knowledgeable about the process of registering a design outside of the UK?					
Are you knowledgeable about the difference between a registered design and a non-registered design right?					

Patterns of use of intellectual property:

With this question, we are seeking to understand what forms of intellectual property you use. Please indicate the relative importance to your business of the following methods of protecting designs and innovations

	Not used	Rarely used	Sometimes used	Frequently used	Very frequently used
Registration of designs					
Registration of trade marks					
Registration of patents					
Use of copyright					
Use of non-registered design rights					
Secrecy					
Complexity of designs					
Lead time advantage on competitors (speed of innovation)					

Ownership of registered designs

With this question, we are seeking to understand whether you currently own any registered designs and if so, in which countries.

Do you currently own any registered-designs that were registered in the UK	Yes	No
Do you currently own any designs that are registered in the EU?	Yes	No
Do you currently own any designs that are registered internationally through WIPO?	Yes	No
Do you currently own any designs that are registered through the national office in another nation	Yes	No

Perceived benefits of owning a registered design:

We are seeking to understand what benefits you might gain from owning a registered design. Could you please indicate whether you agree or disagree with the following statements.

The benefits we gain from owning design registrations are ...	Strongly agree	Agree	Neutral	Disagree	Strongly disagree
... they create a long lived 'asset' for the business					
... they enable the intellectual property to be traded					
... they prevent copying					
... they provide a 'warning' to competitors not to copy					
... it is mandated in our operating procedures					
OTHER					

Reasons for not registering designs

With this question, we are seeking to understand the reasons for not registering designs. Could you please indicate whether you agree or disagree with the following statements

We have not registered any designs because ...	Strongly agree	Agree	Neutral	Disagree	Strongly disagree
... Trade marks are more important					
... Patents are more important					
... design not important to product differentiation					
... unregistered design rights are sufficient					
... we had not considered it					
... it is too expensive					
... the process is confusing					
... we did not have enough time					
... it offers insufficient protection					
... it is difficult to defend					
... because of advice from an intellectual property lawyer or expert indicated that we should not					
OTHER					

Copying of designs

With this question, we are seeking to understand whether you have previously had any designs copied, and what action you took as a result

To the best of your knowledge, have any of your 'designs' ever been copied by one of your competitors?	Yes	No
If Yes , and you took action, was the action successful?	Yes	No
If Yes , has this made you more likely to register a design?	Yes	No

Management of intellectual property

With this question, we are seeking to understand who in your firm is responsible for registering and managing designs.

	Managing Director (or equivalent)	Technical Director (or equivalent)	Marketing Director (or equivalent)	Design Director (or equivalent)	Finance Director (or equivalent)	Other (e.g. IP Lawyer)
Which 'function' or 'job role' in the firm is responsible for registering designs and managing the portfolio of registered designs?						
Which 'function' or 'job role' in the firm is responsible for registering patents and managing the portfolio of patents?						
Which 'function' or 'job role' in the firm is responsible for registering trade marks and managing the portfolio of registered trade marks?						
Do you have a specific operating procedure that deals with registering designs?	Yes			No		
Is design registration noted in your product development process documentation?	Yes			No		

Product (goods or services) innovation

With this question, we are seeking to understand whether you view your design to be innovative, so that we can determine whether there are any relationships between innovation and the registration of designs

Over the last 3 years (2007-2010), did your company introduce new or significantly improved goods or services	Yes	No
In what year did your company last introduce a significantly new product to the market?		
In your industry, what is the typical life of a product before a new product is introduced that will replace it?		

About your company

With this question, we wish to collect basic company information, so that we can analyse whether there are relationships between the type of company and the registration of designs. We understand if you would rather not include financial data, but would like to reassure you that all data will be treated confidentially

SIC Code (if known)	SIC No.			
Turnover in the last financial year	£	0	0	0
Percentage of turnover from exports	%			
Number of employees	No.			

Would you be willing to talk to the project sponsors about this work?

Yes No Email _____ Telephone _____

Thank you for completing the questionnaire. If you have any questions about this questionnaire please contact Dr. James Moultrie at the University of Cambridge. Telephone 01223 764830, E-mail jm329@eng.cam.ac.uk

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