



Intellectual Property Office

Serving the Bailiwick of Guernsey

Intellectual Property

An Introduction



Cutting Edge Technology with Historic Integrity



States of Guernsey
Office of the Registrar

Introduction

Many individual businesses and companies may have intellectual property that they are not aware of. This guidance note aims to make people more aware of what Intellectual Property (IP) is and what IP you may already have. This guidance will focus on the following areas.

- The different areas of IP in Guernsey
- The differences between the various types of IP
- The benefits of registering—including the protection gained.

For more information on the registration process and how to register please see the Intellectual Property Office website: www.guernseyregistry.com/ipo or contact the Registry on tel 01481 743800 or email enquiries@guernseyregistry.com

Different Types of IP

The table below shows the main types of IP in Guernsey and examples of what may be protected under them. *N.B These are examples, and not an exhaustive list. Some products may be able to be protected under more than one type of IP legislation. Often rights overlap and a number of IP rights may be registered.*

Product	Trade Marks	Design Rights	Patents	Image Rights	Copyright
Name	X			X	
Strap or Tag line	X				
Logo	X	X			
Flyer or Leaflet					X
T Shirt design		X			X
Photograph				X	X
Machine Parts			X		
Personality				X	
Website Content					X
Computer Program					X
Song					X
Book, Poem, writing etc					X
Play/ Dramatical piece					X

Who owns the Intellectual Property?

If you create a product, whether it is a logo, invention or piece of writing you will generally own the rights. However there are certain circumstances where the creator does not necessarily own the rights.

Work created by an employee

If the work is produced during the ordinary course of your employment your employer would own the rights. For example if you are a scientist employed to develop a new formula, your employer would own the IP surrounding the formula. However if you were an office worker and in your spare time you created and composed music, then you would own the rights.

N.B. This is the basic rule about who owns the rights, employee contracts should state which party owns the intellectual property rights of work created during employment.

Commissioned Works

Generally, the owner of the work is the creator unless agreed otherwise in the contract. You will have to assign the right if you want someone else to own it in the future.

Trade Marks

What is a trade mark?

Trade marks are used to protect a business or person's branding. They can be a word, logo, sound, shape or colour. The Trade Marks (Bailiwick of Guernsey) Ordinance, 2006 requires that a trade mark can be represented graphically, either by text or image and that it is capable of being distinctive.

Trade marks can include:

Company or business names

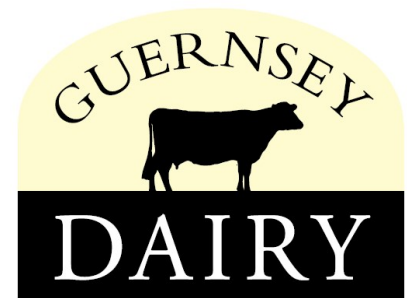
If you are an organisation, a sole trader, have a business or you have incorporated a company, the name can be registered as a trade mark.

An example of this would be 'Rocquaine Regatta' (Trade Mark GGGT7750).

Please note that if you have incorporated a limited company the name is not automatically protected. Incorporation only stops other companies with the same name being incorporated, it does not protect against the name being used by others in the course of trade. However if you trade mark the name then this gives you protection against others using the name.

Logos

If you have a logo that you use for your business, perhaps on signs, business cards, vehicles etc, then that logo can be registered. For example the Guernsey Dairy has registered their logo shown here (Trade Mark GGGT8054).



Straplines

Do you use a strapline or one liner to encourage people to use your business? You can gain protection and stop others using your strap line by registering it as a trade mark. An example of this is the Guernsey Dairy's Trade Mark 'THE ORIGINAL & BEST' which is trade mark number GGGT8055.

Benefits of registering a trade mark

Whilst unregistered rights exist under common law, the main benefit of registering a trade mark is that it deters people from using your trade mark without your permission. If someone does use your trade mark without your permission it is much easier for you to take legal action against the offenders.

If you have spent time and money developing your brand, registering your trademark will protect it and stop others from using the brand that you have put effort into creating.

If you have registered your trade mark and others wish to use it, you can then licence it to them and charge a fee for use.

Protection Gained

The registration gives the owner protection in the Bailiwick, the protection can then be extended to other jurisdictions by registering trade mark applications in different countries.

A trademark registration generally lasts for 10 years and can potentially be renewed every 10 years for an indefinite period.

For more information on trade marks and the registration process, and the protection gained by registering, please contact the Guernsey Registry team who will be able to give you more information.

Copyright

What is Copyright?

Copyright is an automatic right, so unlike trade marks, design rights, image rights or patents there is not an official register. The protection begins as soon as the material is recorded either by writing, sound recording or other such method. Copyright prevents others from copying, adapting, distributing, broadcasting, renting copies to the public or performing the material in public.

What can be protected under copyright?

There is a wide range of material that can be protected under copyright, some examples are:

- Literary, dramatic, musical and artistic works
- Sound Recordings
- Films and broadcasts
- Computer programs and code
- Internet content

What cannot be protected under copyright?

There are several areas that **cannot** be protected under copyright, these include names, titles, industrial articles and ideas. For example a piece of music can be recorded and protected under copyright but the idea of a sound or piece of music cannot be protected, it is only once it has been recorded or written down that copyright applies.

Like other types of IP copyright can be licenced to other parties for use for a fee. It can also be sold and transferred to other parties. Unlike other types of IP the material does not need to be novel, as long as it is a result of independent intellectual effort then it is protected under copyright.

Using copyright material and protection gain from registering

Use of all copyright material requires permission from the copyright owner. There are some organisations which offer blanket licences, for example the Phonographic Performance Limited (PPL) and the Performing Rights Society (PRS) Licences, to be able to play music in public places. Links to the PPL and PRS website are shown below:

www.prsformusic.com

www.ppluk.com

If you have bought an item that is protected by copyright for example a CD or DVD, purchasing it does not give you permission to copy them or play or show them in public without the copyright owner's permission.

Different material is protected under copyright for different lengths of time:

Literary, dramatic, musical or artistic work lasts until 70 years after the death of the author.

Copyright in films lasts until 70 years after the death of the last survivor of either the principal director, authors of the screen play or composer of the music.

Sound recordings and broadcasts are protected for 50 years after recording. Published editions are protected for 25 years.

Guernsey is a signatory to the Berne Convention. This enables copyright owners to enforce their rights in other countries that are signed up to this agreement. For more information on copyright please contact the Guernsey Registry and the team will be able to help.

Patents

What is a Patent?

A patent protects inventions or the way something works. If you have invented anything that could be commercially successful, then by registering a patent, you could prevent others manufacturing, selling or using it in their products without your permission. Patents cover a range of areas, including how something works, how it is made or the material that the product is made of.

What does a Patent need to be?

To be able to be registered the invention must be new. If it is already known to the public prior to the date that the application for registration is made then it cannot be registered.

A patent application must be for something that is inventive, not just an improvement on an existing patent.

It must also be capable of industrial application and be capable of being manufactured. An application to patent a machine which is not physically possible to be made, or work would be refused.

An example of a patent is inventor David Chamberlain's patent (number GG-GP332) for an Animal Access System shown here. The patent is for an animal access system that uses microchips in the animal to unlock the flap to allow the animal to enter.

What cannot be registered

There are certain ideas which cannot be registered, for example:

- Methods of medical treatment or schemes.
- Rules or methods for performing a mental process, doing business or playing a game.
- Literary, musical, dramatic or artistic works (These are protected under copyright).

Benefits of registering a patent and protection gained

If you have spent time and money on an invention, by registering it you can gain protection against anyone stealing and making the invention without your permission.

Registering a patent also allows you to licence your idea to others to allow them to make or use the invention for an agreed fee.

A patent registration needs to be renewed every year and, if renewed, lasts for a maximum of 20 years. The inventor agrees to make the information regarding the invention public in exchange for a 20 year monopoly right. To register a patent in Guernsey it must be registered in another jurisdiction first. It can then be re-registered in Guernsey, thereby extending the protection to the Bailiwick of Guernsey.

If you have an invention that you wish to patent or would like more information on patents and the registration process then please contact the Guernsey Registry and the team can give you more information.

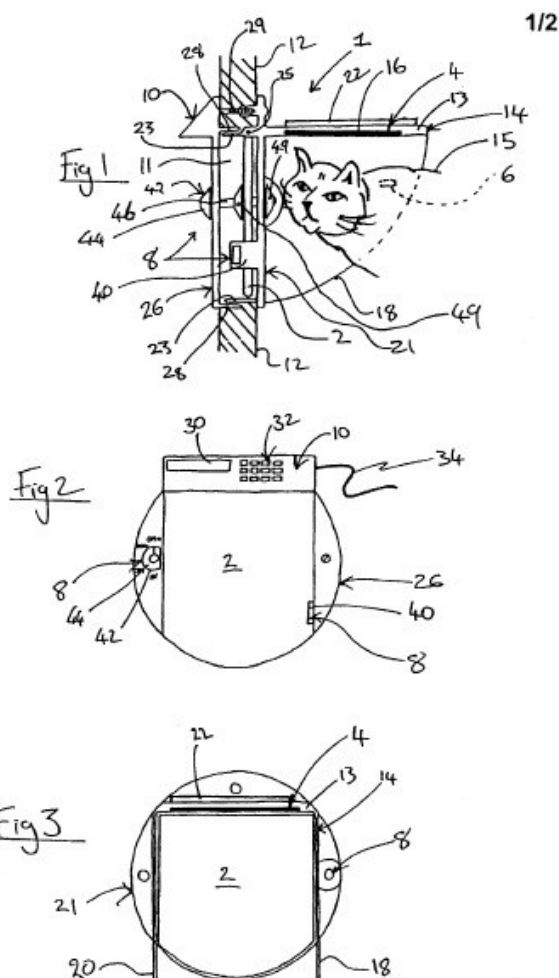


Image Rights

What is an Image Right?

Image rights are the Island's newest IP product and unique to Guernsey. It allows for anyone of a defined category, called 'personnage', to register their personality as a distinct and unique right and then register images associated with that personality right.

Who can register their image rights?

Anyone can register their image rights. Under section 1 of the Image Rights (Bailiwick of Guernsey) Ordinance 2012 a personality can be either a:

- Natural single person (for example a celebrity)
- Joint Personality (for example a comedy duo)
- Group (for example band or football team)
- Legal person (for example a Company or Charity)
- Fictional Character (for example a cartoon character)

An example of a registration is Buz White (GG-IR010). Buz has registered himself and an image of his boat.



Images

The Ordinance states that any of the following can be registered as personal attributes of the personality or "images".

- | | | |
|--------------|--------------|-----------------------------------|
| • Voice | • Silhouette | • Any distinctive characteristics |
| • Signature | • Features | • Verbal or facial expressions |
| • Likeness | • Gestures | |
| • Appearance | • Mannerisms | |

These can be recorded and registered using photographs, illustrations, images, pictures, moving images, sound clips or any other representation. For example if you had a certain walk, catchphrase etc that was not associated with anybody else you could register it as your image.

Benefits of Registering Image Rights and protection gained

By registering your image rights you gain protection against others stealing, copying or using your image without your permission. Also, like other IP, it can be licenced to other parties so that they can use it for a fee.

A personality registration lasts for 10 years before it has to be renewed and it can then be renewed every ten years thereafter for an indefinite period. Image registrations associated with a registered personality last for three years and then can be renewed every three years thereafter for an indefinite period.

The registration gives the owner protection in the Bailiwick of Guernsey. Under certain circumstances enforcement of these rights may allow the owner to take action against infringement outside of the Island.

For more information on image rights and the registration process, please contact the Guernsey Registry and the team will be able to provide more information.

Design Rights

What is a Design Right?

A design right protects the visual appearance of a product. This can be either 3D or 2D. A design cannot be registered if the design is key to the function of the device. For example the design of a gear box in a car is key to its function so would not be capable of registration. There are many different areas that can be protected using Design Rights, these include:

Clothing

If you have designed a t shirt and wish to sell it, you can register the design and protect it so that others cannot sell or re create the t shirt without your permission.

Similarly jewellery can be protected under design rights. If you have spent time creating a line of bracelets that you wish to sell you can register the designs and protect them from being recreated and sold by others.

Logos

A logo can be registered both as a trade mark and a design.

Packaging

If, for example, you have designed packaging for a drinks or liquids bottle then the labelling on the bottle and the shape of the bottle itself can be registered as a design right. Here is an example of a registered design right of a lubricants container (GDR007 registered by Shell Brands International AG). Some packaging may be capable of trade mark and patent protection.

Furniture

If you have created furniture you can register the design and look of the furniture. For example the look and style of a chair could be registered as a design.

A design right only protects the appearance, so you could register a car as a design right but it would only be the look and shape of the car that was protected not the mechanics (this could be protected using patents). The design also has to be able to be represented as an image. You cannot register a concept or idea as a design right. The design also has to be novel, so if a product is already being sold by someone with a certain design you cannot register it. However if you create a new product with a different design then that can be registered.

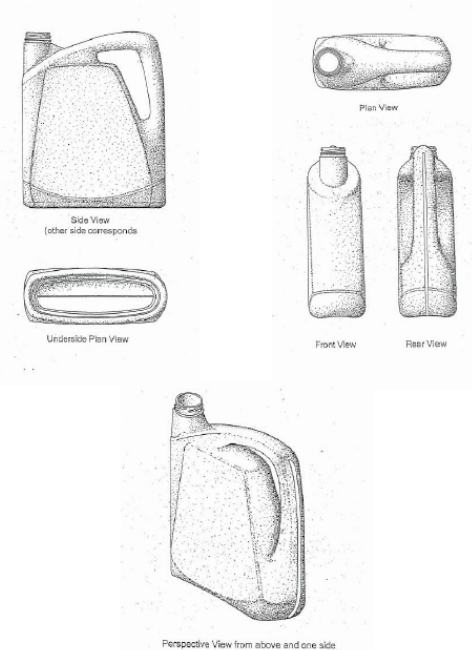
Benefits of registering a Design and protection gained

By registering a design you can gain protection and prevent others from copying your design. If you have spent time and money developing and creating your design then by registering it you can make sure that others cannot sell or recreate the design without your permission.

A design is also like any other Intellectual property whereby you can licence others to use it for a fee.

To register a design in Guernsey it must be registered in another jurisdiction first and then re registered in Guernsey. The registration extends the owner's protection to the Bailiwick of Guernsey, lasting for 5 years and then can be renewed every 5 years up to a total of 25 years.

For more information please contact the Guernsey Registry where the team will be able to give you more information on design rights and the registration process.



What happens if you do not register?

When you register your IP in Guernsey you gain protection which is recognised and can be used to prevent people from using that IP. If you do not register and someone uses your IP without your permission, it will be much more difficult to enforce those rights under common law.

It is much harder to clarify the subject of the IP rights if they are not registered.

The remedies available under common law are also different to the remedies available if someone uses your registered IP rights without your permission.

Please remember that you may need to register in other jurisdictions to gain protection there, in addition to protection in Guernsey.

What do you need to do once you have registered your IP?

Once you have registered your IP in Guernsey it is your responsibility to monitor its use. If you have protected your IP in other jurisdictions then you must monitor its use in these jurisdictions as well.

You may wish to consider using an IP agent to monitor this for you.

Disclaimer

This document does not include an exhaustive list of IP products or services. It is not legal advice and is not intended to be so.

Please note: Any protection is limited to the extent specified in the relevant legislation. Where there is any uncertainty, independent legal advice is recommended.