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**Am I too late to obtain IP rights?**

**Less than a year ago I designed a new component which has gone on to be a best seller around the world. However, I have no intellectual property rights. Is there anything I can do?**

First, the writer is incorrect in saying that he has no intellectual property (IP) rights. There are several forms of IP rights that vest at the moment of creation. Importantly, the writer is likely to have unregistered design rights which protect the shape of the whole or part of an article. There are two separate systems of protection which are relevant – UK and European unregistered design rights – which last for different lengths of time and can protect different aspects of an article. However, the rights afforded an owner under both systems are limited, so the writer should consult with a qualified patent attorney to determine what sort of protection he has.

In Europe there is also a system of registration for designs which provides much more wide-ranging protection than the unregistered rights mentioned above.

Designs can be registered in respect of the UK or the European Community. Moreover, as it is less than 12 months since the writer first publically disclosed the component, then he is not too late to file an application for registration of the design in the UK or the European Community. Despite the writer's sales of the product, the design would still be considered to be new and therefore validly registrable, subject to it meeting the substantive requirements.

In order to protect technical features of the component, filing patent application(s) would be advisable. However, given that the component is already on the market, the writer has missed the boat as regards filing a patent application in the UK or at the European Patent Office.

Nevertheless, in a few other jurisdictions, most notably the USA, there is a grace period which may allow for the valid filing of a patent application there.

Finally, the writer should consider applying for registered trade marks for any names and/or logos he uses in connection with the component in his key markets. It may also be possible that the shape of the component itself could be registered as a three-dimensional trade mark.

In general, it is always best to consider IP rights before launching a product. However, depending on the exact timeframe and the details of the component, in the writer's case it may still be possible to obtain some commercially useful registered IP rights. Hence, the writer would be wise to consult a qualified patent attorney sooner rather than later.

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