

## **An explanatory note concerning the origins of the United Kingdom intellectual property legal regime**

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The Constitution of the United Kingdom is not in a single, written document, but is drawn from statutes, treaties, court judgments, parliamentary constitutional conventions, and numerous other sources. The United Kingdom is governed by a Constitution that is unwritten, uncodified or *de facto* and therefore the founding basis for either protection of private rights in general, or specifically, intellectual property rights is recognized throughout the historical development of intellectual property law. The brief history of intellectual property law presented herewith serves as a short guide to better understand the origins of intellectual property law in the UK and how it was shaped according to the practice and laws of the past in lieu of a written fundamental law.

Intellectual property law emerged under the Elizabethan era in the form of royal favours granted by the King or the lord of the land to the introducers of new techniques. Those royal favours in the form of royal charters, letters close and letters patent granted a monopoly to produce particular goods or provide particular services. However, the Crown often misused those powers and royal favours were seen as privileges generating selective monopolies. The parliaments that succeeded the reign of Queen Elizabeth perceived how such royal favours, generating monopolies, were detrimental to free trade and thus, worked to suppress them. This progress saw the development of a contemporary notion of intellectual property as a practical means to foster technological progress and protect public welfare. With mounting pressures by judicial criticism, intellectual property was regulated under common law and the Statute of Monopolies enacted in 1623 rendered illegal all monopolies except those for a defined term of years; this forms the basis of modern patent law.

Early copyright privileges, prior to the licensing regime, were also granted as monopolies in the form of letters patent. Those letters patent were granted to publishers in recognition of the authors of their work. The Licensing Act 1662 established a register of licensed books to regulate book trade and protect printers against piracy. The period of common law-copyright ended when the Statute of Anne 1709 (long title *An Act for the Encouragement of Learning, by vesting the Copies of Printed Books in the Authors or purchasers of such Copies, during the Times therein mentioned*), provided statutory protection in books and other writings. The Statute of Anne 1709 is seen as the origin of copyright law since it explicitly introduced the concept of an author being the owner of the copyright. Designs and Trade marks are contemporary categories of intellectual property law and have been subject to more recent statutory protection.

Modern intellectual property law was shaped according to the practices and customs of the past. As a result of an uncodified Constitution, the basis for the protection of intellectual property rights in the United Kingdom is found amongst the fundamental statutes governing intellectual property. The Statute of Monopolies and the Statute of Anne are said to constitute the origins of modern intellectual property. However,

intellectual property law is considered to be a timeless entity with the crystallization of categories only to be a recent phenomenon. The historical evolution of intellectual property law in the United Kingdom shows that the foundational basis is not derived from one turning point but was formed by several key events.

## Sources

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