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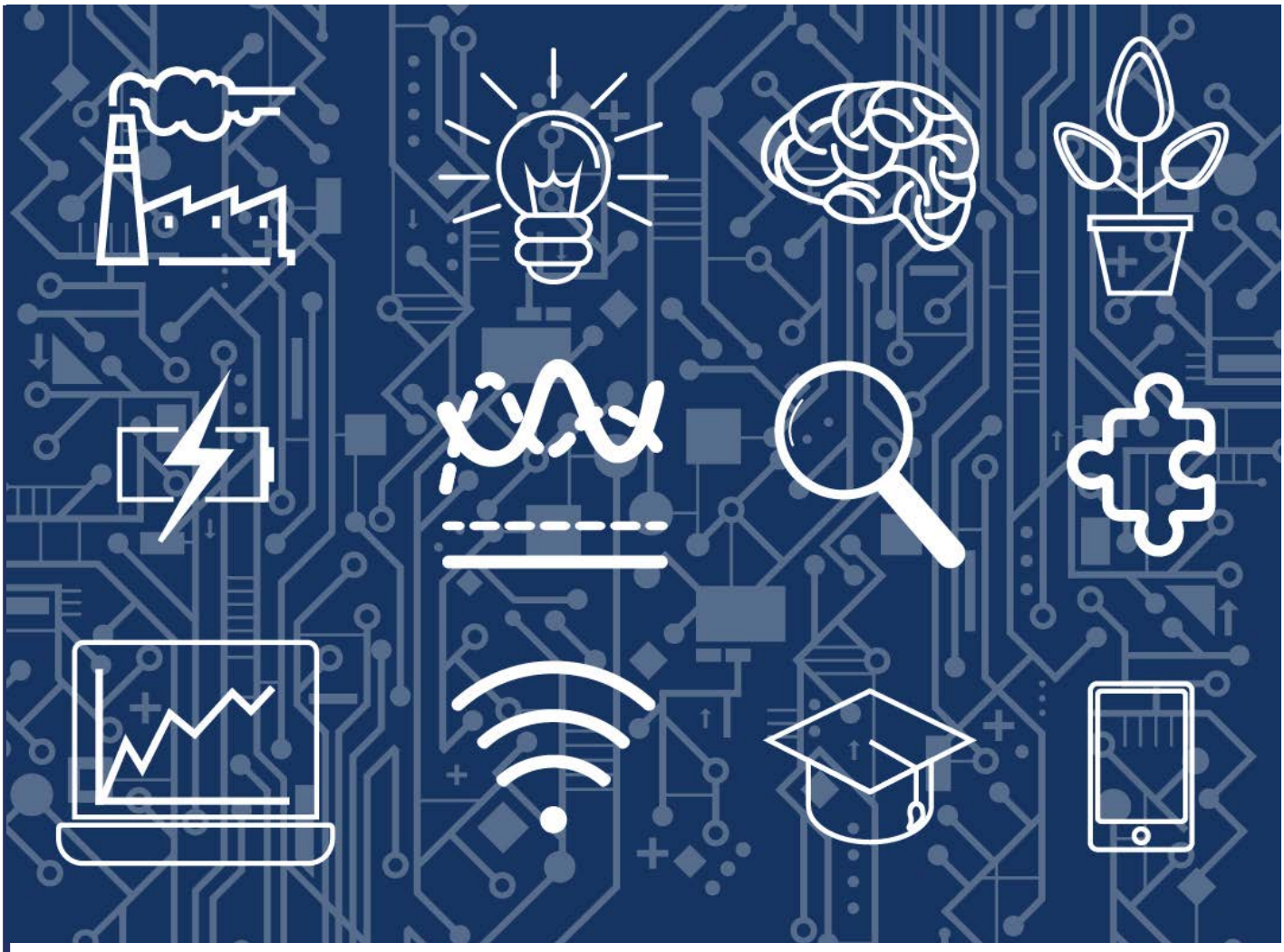
Emerging Public Perceptions of Intellectual Property in the UK Media



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Emerging Public Perceptions of Intellectual Property in the UK Media

Initial Review
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Published by
The Intellectual Property Office Feb 2024

ISBN: 978-1-915090-49-2

1 2 3 4 5 6 7 8 9 10

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This publication is available from our website at www.gov.uk/ipo

Acknowledgments

The research team wishes to extend their appreciation of and gratitude to the various Intellectual Property Rights (IPR) experts who agreed to participate in the interviews that form an essential part of this research project's findings. The quality of views from a broad range of experts including those from academia, private practice, the judiciary, and enforcement agencies along with industry trade bodies provided unique perspectives on the interface between Artificial Intelligence and different types of IPR. We also wish to thank the IPO for their support and insights from their own experts and especially the Economic Research Team and their Head of Research David Humphries.

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1. Executive Summary

This report provides an initial review into the UK news reporting of Intellectual Property (IP) rights and draws preliminary considerations on the impact of this media attention on the public perception of IP and rightsholders decisions in the management of their rights. The initial findings considered copyright, design, patent, and trade mark issues over five years, and some of the key findings can be summaries as following:

Over the last 10 years, across all UK news there was an increase in the number of articles that mentioned "intellectual property", with a particular increase from 2017-18, and a slight decrease in 2021-22. These articles touched upon a range of topics, but two key themes emerged 1) scope of rights and registration, and 2) IP disputes.

Initial results of the search for copyright in UK media demonstrated a decline in the number of times that the word "copyright" was used, over the five years. However, scanning a 10-year period revealed that there had been an increase in mentions of copyright over time. Three main topics emerged, 1) scope of copyright, 2) management of copyright and 3) infringement of copyright.

The search of patent demonstrated an increase in the number of times the word "patent" was used over the last 10 years. An increase was seen around 2013 and 2020, due to the news reporting around mobile phone patent cases and the protection of COVID-19 vaccines. Two key themes were identified, 1) the scope of patent protection in health, particularly relating to the COVID-19 vaccine and 2) patent registration and new technology, specifically whether artificial intelligence could be an inventor.

The search for trade mark news coverage revealed an increased use of the term "trade mark" across UK news, with a particular elevation between 2018 and 2021. Overall, three themes were identified for trade marks, 1) the UK's exit from the European Union, 2) disputes over trade mark rights and 3) the scope of trade mark registration.

Searching for news articles that discuss design rights proved the most challenging, because this word has many different every day meanings, and these results are therefore the least reliable and likely to include unrelated articles. Narrowing the search results to those referring to "unregistered" or "registered designs" gave accurate articles but likely over-excluded many articles where journalists did not use these technical terms. Based on these results, there appeared to be less news coverage on designs compared to other types of IP. Over the last 10 years there were slight increases and decreases in the number of articles per year, but a similar number of articles in 2012 as in 2022. The key theme ascertained from the analysis was disputes. These news articles tended to focus on 1) infringement of design rights and 2) cultural appropriation of indigenous designs.

Overall, key themes drawn out from the research highlighted trends in the use of social media as an enforcement strategy and suggested that media and social media backlash impacts the decision making of rightsholders. Furthermore, it was clear that the media emphasise stories around celebrity culture and tend to frame stories in a 'David v Goliath' context which in turn impacts public perception of IP. Likewise, consistent inaccuracy in reporting was observed, which could also impact public perception and lead to public misunderstanding around IP rights. Further research should be conducted to better understand the extent of this impact.

2. Introduction

In its corporate priorities 2022 to 2023, UK Intellectual Property Office (IPO) set out its Futures initiative, which introduced a greater capability for IPO work to consider futures issues. One of the objectives of Futures is to assess the IP issues relating to how society views IP and whether IP is building a new social contract for itself[1]. This research was commissioned as the initial steps towards meeting that objective. The purpose of this report is an initial exploration into this area in order to scope and plan broader social research on the public perceptions of IP.

Social media has provided a platform for increased public debate around monopoly rights. Increasing the pressure of public perception, these debates have not only gained traction in the mainstream media but have also led to rightsholders reconsidering the management and enforcement of their Intellectual Property (IP). For example, when Marks and Spencer initiated a claim against Aldi for infringement of its 'Colin the Caterpillar' trade mark[2], Aldi responded on social media with jokes which engaged the public in a social media #freecuthbert campaign. Later, the case settled between the parties. It is possible that the public debate was a factor in Marks and Spencer's decision not to enforce their rights through the courts. Another example involved a trade mark holder deciding to surrender their registered rights, even though they were accepted by the UK Intellectual Property Office (IPO), after receiving public backlash against the registrations of iconic Welsh language words[3]. In copyright, Beyoncé's decision to remove a sample of a musical work from her song, despite the rights having been cleared, were likely influenced by social media backlash from the performer in the sample, Kelis[4]. Similar situations contributed to the TRIPS decision on COVID-19 vaccines[5]. As such, there is a sense that public engagement in IP debates is having an impact on enforcement, management and considerations around the appropriate scope of IP rights.

Whilst rightsholders have always been aware that public perception matters, there appears to be a new social contract developing in view of social media discourse around rights management. The management of IP rights has become of increased interest to the public, and this is reflected in the increased reporting of IP related disputes, sales, and decisions in the UK news.

The overall aim of the research on public perception of IP by the IPO is to understand the issues around this more broadly. This report forms the first stages of that research by providing an initial review into the social discourse around IP issues, in order to enable the scoping of broader social research into public perceptions of IP. To do this, it explores the frequency and framing of newspaper press reports on IP issues, on the basis that these sources are able to engage with the general public debate and that public perception will be swayed by the views expressed in these publications. In addition, journalists respond to and report on social media discourse around IP related issues, and this therefore provides an indication of general public perception.

1 https://www.gov.uk/government/publications/intellectual-property-office-corporate-priorities-2022-to-2023/intellectual-property-office-corporate-priorities-2022-to-2023#futures

2 COLIN THE CATERPILLAR UK IPO registered trade mark number UK00002499694. See also: Ben Evans, Caterpillar warfare: forum shopping in a social media age (2021) Computers & Law, 34-36.

3 Discussed in more detail in the trade mark section, see also; Hayleigh Bosher, Iconic Welsh Word Trade Marks Surrendered After Public Backlash (17 August 2022, The IPKat) https://ipkitten.blogspot.com/2022/08/iconic-welsh-word-trade-marks.html

4 Hayleigh Bosher, Beyoncé is Cutting a Sample of Milkshake Out of Her New song – But Not Because she 'stole' it (4 August 2022, The Conversation) https://theconversation.com/beyonce-is-cutting-a-sample-of-milkshake-out-of-her-new-song-but-not-because-she-stole-it-188187

5 World Trade Organisation, Ministerial Decision on The Trips Agreement (22 June 2022) WT/MIN(22)/30.

This report therefore provides an initial review into the UK news reporting of IP rights and draws preliminary considerations on the impact of this media attention on the public perception of IP and rightsholders decisions in the management of their rights. The review is conducted through analysis of UK news reporting of copyright, design, patent, and trade mark issues over the last five years.

3. Methodology

This research analyses the repetition of UK news reporting on IP related matters in the last five years. It identifies and discusses case study examples in each area of IP where the Press attention may have impacted the decision making of the rightsholder.

Using a database, Nexis Advance UK, a search was run on 'intellectual property', 'copyright', 'design', 'trade mark' and 'patent' to reveal the news coverage including these terms. The searches were narrowed by location to the United Kingdom and category of result to news. Each area revealed its own challenges such as including other results, the particulars of dealing with each of these is explain in detail within each section.

First, the search was conducted over a 10-year period to demonstrate overall levels of news coverage (31 October 2012 – 1 November 2022). These results are demonstrated by tables and graphs in each section.

Second, the search was narrowed to a five-year period (31 October 2017 – 1 November 2022) to ascertain broad key themes which are demonstrated by word clouds of most companies and most people mentioned in each section.

Third, results were narrowed to 14 UK based media outlets (including their print and online versions) listed below. The results demonstrating the number of articles published by each of these outlets can be seen in table 1 below. The researcher used this data set to read articles to ascertain common themes which are explored in each section, together with quotes and case study examples.

1. Daily Mail
2. The Telegraph
3. The Independent
4. The Times
5. The Sunday Times
6. Daily Mirror
7. The Sun
8. Daily Express
9. Metro
10. Financial Times
11. Guardian
12. Observer
13. The Daily Star
14. Evening Standard

From the search results, key themes and topics were identified from which case study examples were drawn for each key area of IP.

3.1 Limitations

As mentioned, this research is an initial scoping review and based on the timescale and purpose of this step there are limitations to the research scope and the data. This initial research does not include a detailed literature review as its focus was on scoping initial trends in news media.

The news outlets selected for review are limited to newspapers (online and print), the Lexis search tool does not provide data on BBC news or Sky News for example, which are both in the top 10 most popular news outlets in the UK[6]. The readership of these newspapers is broad, often reaching half of the UK population, but not inclusive of all demographics consuming news. According to data from Statista, television and social media are amongst the top three ways that the UK population consumes news (the internet in general cited as the second most common)[7]. This changes depending on the age group of the person consuming news, as Ofcom reported: *"different age groups consume news very differently; younger age groups are much more likely to use the internet and social media for news, whereas their older counterparts favour print, radio and TV."*[8]

The Ofcom report goes on to state that the reach of print/online newspapers has seen a decrease from 2020 (47%) to 2022 (38%). The decrease is driven by decreases in print (online newspaper reach remains steady) which have likely been exacerbated by the pandemic. This report takes newspapers (print and online) as an initial starting point for this research that provides an indication of the public perception of IP. However, it is acknowledged that the readership of these news outlets is not primarily younger generations and therefore future research will need to broaden the scope of the news sample outlets to capture the perception younger generations through forums such as Reddit and social media videos such as on TikTok.

Whilst the data is indicative and able to demonstrate re-occurring themes in the news reporting, the statistics on the number of news reports for each IP right is not wholly reliable. This is because news articles which are not referring to IP may be captured by the use of search term; this was more of an issue for designs and patents than it was for copyright and trade marks. Furthermore, there are likely to be duplicated news reports captured due to the nature of several news outlets publishing the same articles, which is common practice across multiple outlets with the same parent company, and with articles initially written under a creative commons licence such as for The Conversation.

Lastly, this research is conducted on the journalistic output of the news, which at times mentions social media backlash or consumer reactions in its reporting but does not directly engage with the general public debate around the topic, for example by looking at reader comments or public tweets regarding the issue. Future research could consider the comments made by readers, forums such as Reddit, and directly engaging with the public through larger surveys to better understand their perceptions.

6 https://pressgazette.co.uk/media-audience-and-business-data/media_metrics/most-popular-websites-news-uk-monthly-2/
7 https://www.statista.com/statistics/278519/platforms-used-for-news-in-the-united-kingdom-uk/#:~:text=Television%20was%20by%20far%20the,by%20social%20media%20and%20radio.
8 Ofcom, News Consumption in the UK: 2022 (21 July 2022).

4. Intellectual property in the UK News

This section provides an overview of the data gathered relating to the mention of ‘intellectual property’ in UK news. General themes are identified and discussed in more detail within each part of the report relating to specific types of IP.

Intellectual property search results in UK news

Date	Intellectual property Coverage
2012	2013
2013	15537
2014	16033
2015	17266
2016	18430
2017	18971
2018	25962
2019	25586
2020	25435
2021	22902
2022	21399

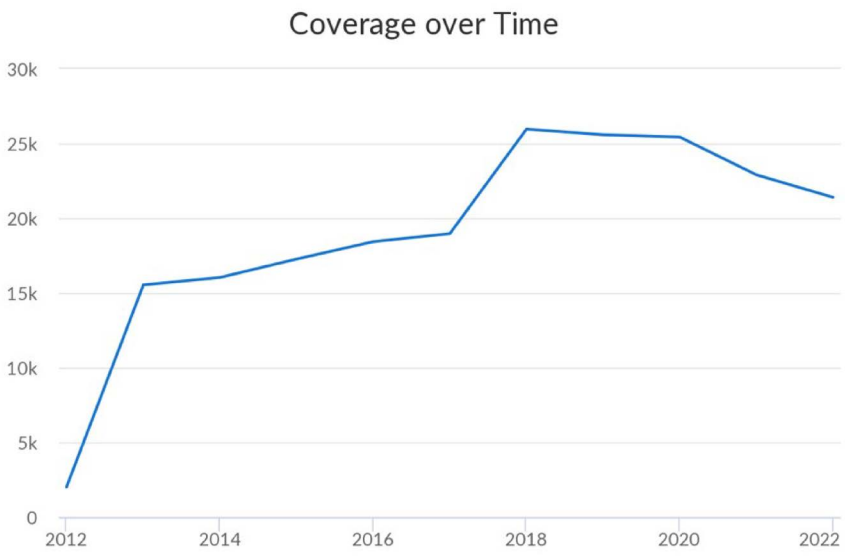


Figure 1: Intellectual Property mentions in news Oct 2012 - Nov 22

An initial search of UK news articles that included the term ‘intellectual property’ in the last ten years across all UK news revealed a sharp increase around 2018, and an overall increase over time. Further investigation is required to better understand the nature of the increases, but the initial results indicate that Brexit and the COVID-19 pandemic resulted in a dramatic increase in the IP issues relevant to the UK media coverage.

Table 1: number of mentions of IP terms in 12 UK Newspapers

New. 31 Oct 17 - 1 Nov 22	Daily Mail, Mail on Sunday, Scottish Daily Mail, Mail online	The Telegraph, Sunday Telegraph London, Belfast Telegraph online	The Independent online, i-print	The Times, Sunday Times, Times online	Daily Mirror, Mirror online	The Sun, Sun online	Daily Express, Express online, Scottish Express	Metro	Financial Times	The Guardian, The Observer	The Daily Star, Daily Star online	Evening Standard
Intellectual Property	1402	1006	1192	3864	404	618	158	69	4817	1213	53	220
Copyright	2105	1052	1342	3245	842	1515	1264	106	1197	1400	397	381
Copyright + Intellectual Property	62	53	105	227	52	89	10	2	160	102	8	15
Plagiarism (exclude Copyright)	371	277	244	451	30	114	111	11	242	286	31	36
Patent	8546	3307	2530	6376	1370	1562	2492	207	5784	1911	641	1119
Patent + Intellectual Property	218	104	180	465	13	42	5	7	884	215	3	17
Patent (exclude leather, “letters Patent”, Patent shoes, heels, patent black)	4362, 813, 766, 159	1123, 272, 90	2173, 356	3240, 1495, 852	588, 564	806, 759	357, 158, 126	207	3,995	1727, 184	165	615
Trade Mark	11,104	2993	3141	3776	2723	4256	2660	638	2686	2841	2225	1349
Trade Mark + Intellectual Property	18	5	5	28	6	6	4	0	15	4	0	0
Design										36,431		
“Design Right”	17	20	21	33	5	17	11	1	26	12	4	9
“Design Rights”	372	418	312	532	142	210	180	39	385	160	50	169
“Unregistered Design”	0	0	0	4	0	0	0	0	4	0	0	0
“Registered Design”	1	1	2	9	0	1	2	0	0	1	0	0
“Design” “Intellectual Property”	349	200	127	639	35	51	17	4	806	289	9	37

Narrowing the search to the 12 newspapers selected in the methodology revealed a range of IP related topics covered by the UK news, as seen in Table 1. Themes of topics appear to cover the following two areas: 1) scope of rights and 2) IP disputes.

4.1 Scope of IP Rights in the News

The news articles that discuss the scope of rights refer to circumstances and issues around the scope of IP protection, meaning whether a creation or innovation should or should not be protected, and to what extent. This included applied for, accepted, and rejected registrations of registered rights. These news articles tended to focus on the social, cultural, and moral considerations, rather than the legal threshold for registration or scope of protection, meaning that the articles did not discuss the legal reasons, but focused on the moral reasons instead. This is explained further in the specific case study examples which are provided in parts 5-7 of this report.

4.2 IP Disputes in the News

The news articles that refer to disputes include stories of disputes, disagreements, and litigation over rights. Often the dispute related to infringement or ownership of rights. Coverage included disputes relating to national and international rights. Generally, there was no indication that the legal regime for IP differs between jurisdictions. Specific case study examples are provided in parts 5-7 of this report.

5. Copyright Stories in the UK News

This section analyses the results of searches on UK newspaper publications that mention the word ‘copyright’. First, an overview is provided of copyright mentions within the last 10 years, as well as the use of the word ‘plagiarism’ as explained below. This is followed with a discussion on case study examples taken from the results of the five-year period.

Date	Copyright Coverage
2012	684
2013	3984
2014	4128
2015	5013
2016	6405
2017	6548
2018	14876
2019	3623
2020	4623
2021	5356
2022	4018

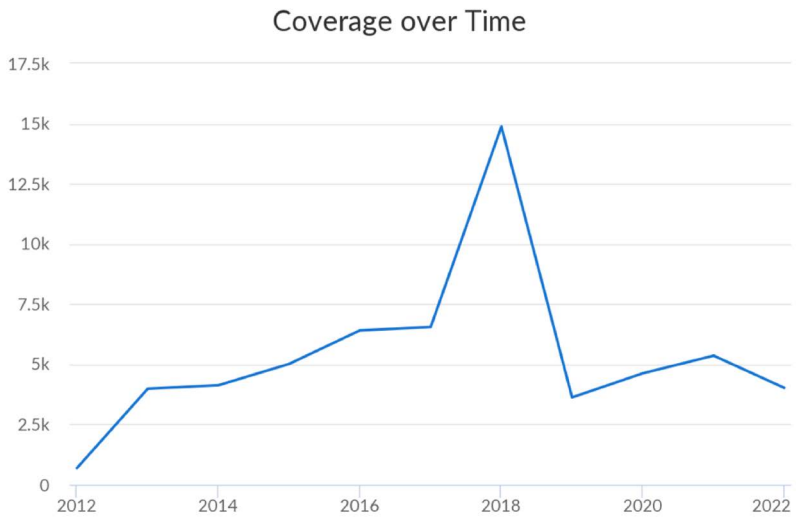


Figure 2: Copyright mentions in news Oct 2012 - Nov 22

Initial results of the search for copyright in UK news yielded extremely high results, this was narrowed for the purpose of the above diagrams to ‘newspapers’ as opposed to all news. This revealed that there had been an increase in mentions of copyright over time, including steep increases from around 2013, and again in 2018. Searching within the results in 2013, revealed news reporting on the copyright reforms proposed by the Hargreaves review. Searching within 2018 produced many articles on the EU Copyright Directive, which was in discussion and development at the time. This suggests that the news reporting of copyright increases at times of copyright reform.

Below are two word-clouds demonstrating key names of people and companies in the news mentioning copyright during the five-year period.

Word clouds of the most mentioned companies and people during the five-year period

For more detailed and relevant analysis, results were restricted to the 12 identified news outlets. From this narrower search, the three main topics emerged as being covered by UK news, 1) scope of copyright, 2) management of copyright and 3) infringement of copyright.

5.1 Scope of Copyright

The news articles that discuss the scope of copyright refer to whether a creation or innovation is, or ought to be, copyright protected or not. For example, in news articles reporting on Lewis Hamilton designing the steering wheel of a racing car, the article is unclear on the scope of copyright, the difference between copyright and design rights, and that there is a process for which an idea can be 'copyrighted':

> *"…his failure to copyright his steering wheel design which has since been copied by fellow rivals on the grid."*
>
> ***Lewis Hamilton Should Have Copyrighted' Idea Pinched by Red Bull and Other F1 Rivals. 18 October 2022, The Express***

Another example relating to the scope of copyright, was the reporting of the case Shazam v Only Fools The Dining Experience and Others [2022] EWHC 1379 (IPEC), which raised questions about whether a character from a TV sitcom could be protected by copyright. In general, the reporting engaged with concepts of copyright such as the scope of literary and artistic works, as well as infringement and parody or pastiche.

> *"The case being heard over three days at the high court this week hinges on who owns the copyright to the characters from a fictional work, and whether it is possible to in effect produce new Only Fools And Horses material without permission from the author of the original scripts."*
>
> ***Only Fools and Horses Firm Sues Creators of 'Cushty' Dining Events, 1 March 2022, The Guardian***

At the outcome of the judgment, reporting focused on the justification for the protection, and emphasised the fairness and justice that had been done.

> *"Jim Sullivan, John Sullivan's son and a director of Shazam, said: "My dad always believed in fairness and standing up for what's right…We are so very pleased with the court ruling today which makes it clear that copyright does actually mean something…This case was about protecting John Sullivan's legacy and the integrity of his work…It took my dad decades of personal experience, skill and hard graft to create and develop an imaginary world rich in memorable characters, dialogue, jokes, plots and history"*
>
> ***'Cushty' Dining Show Loses Only Fools And Horses Copyright Battle, 8 June 2022, The Evening Standard***

5.2 Management of Copyright

The news articles that refer to management of copyright discussed managing or selling rights such as music artists selling song catalogues. They also covered the re-use of works entering the public domain such as Winnie the Pooh and Mickey Mouse.

An example of media coverage of copyright management was Taylor Swift re-recording her music sound recordings after, in summary, her catalogue was sold as part of a company sale which she didn't approve of. The reporting did not tend to use the word copyright or indicate that there are two copyrights in a song (musical work and sound recording) or explain the legal underpinning. They did, however, mention "rights to the music" and that she had "signed the rights away."

> *"Swift can mobilise a crowd. The hashtag WeStandWithTaylor is trending on Twitter and her fans are unfollowing Braun on Instagram…Owning your masters is all the more lucrative. And Taylor answers to no one."*
>
> ***Taylor Swift vs Scooter Braun: Is the singer's latest feud a feminist fightback or power play? 3 July 2019, The Evening Standard***

The impact of Taylor Swift re-recording her masters, and the reporting of it, lead to wider discussions about rights management and fair remuneration for the music artists, particularly relating to contracts and female acts. Even in a circumstance that related to a hugely successful artist such as Taylor Swift, the reporting emphasised the power imbalance between the singer and the record label at the time she signed the contract.

> *"Hold the cynicism, because there's more to Swift's battle than turning over a mega-profit. For years, the singer has spoken out to ensure musicians are fairly remunerated in the streaming era. From 2014 to 2017, she pulled her back catalogue from Spotify over concerns about their royalties package…*
>
> *…In reclaiming her masters, and drawing attention to the saga surrounding it, she has made a dramatic statement about the importance of artists owning their work and refusing to let others capitalise on their creativity…*
>
> *…Singer Sky Ferreira said that she too "signed contracts when I was 15 [and] I'm still paying the consequences for it. Every contract I have ever signed has always been set up to take advantage of me/ my work in some way". Fellow musician Halsey, meanwhile, suggested that industry bosses "are protected because they inspire complicity with fear." This saga has served to underline the inevitable power imbalance of a world where older men pull the strings of even supposedly empowered female acts."*
>
> ***How Taylor Swift is changing the music industry one re-record at a time, 8 July 2021, The Evening Standard***

It is not technically accurate that Taylor Swift 'reclaimed her masters.' She re-recorded her sound recordings, referred to as masters here, and therefore reclaimed the ability to earn royalties from the sound recordings by replacing the originals.

5.3 Infringement of Copyright

The news articles that referred to infringement of copyright included topics such as online copyright infringement (termed "piracy") such as taking down illegal football streaming services; copyright infringement such as relating to film (Top Gun), music (Ed Sheeran, Mariah Carey, Katy Perry, Taylor Swift, Dua Lipa, Beyonce), photographs (social media, Snapchat) and literature (The Secrets We Keep, The Little Mermaid).

In the Beyonce and Kelis disagreement, Kelis complained that her song Milkshake had been used without her permission. The copyright in the Milkshake song does not belong to Kelis, and Beyonce had legally sampled the track with a licence from the rightsholders. Nevertheless, Kelis shared her views on social media, and the incident was reported by the UK newspapers.

> *"Beyoncé removed Kelis' sample from her new album Renaissance earlier this week, after Kelis claimed she was sampled on the "Break My Soul" singer's new album without permission."*
>
> ***Kelis responds to Beyoncé removing 'Milkshake' interpolation sample: 'I won'. 5 August 2022, The Independent***

A knock-on effect can be seen, where other claims of a similar nature against the same artists were then made and reported on, demonstrating broader implications to be considered in IP management decisions:

> *"It's not the first time Beyonce's Renaissance has been hit with controversy…Last month Kelis hit out at the Single Ladies hit-maker for using her 2003 smash Milkshake in album track Energy without consulting her…Kelis' ranted: "My mind is blown too because the level of disrespect and utter ignorance of all three parties…"*
>
> ***Beyonce slammed as 'arrogant' by Right Said Fred, who say she didn't ask to sample I'm Too Sexy on Alien Superstar, 4 October 2022, The Sun***

Another example of an infringement allegation that appears to have begun as a social media post, and then escalated with newspaper coverage related to the publication of a cookbook. The book was published by a well-known chef, who was accused of copying a lesser-known food writer. As a result, the publisher withdrew the book, without any litigation. This example also demonstrates common themes of the disputes being between lesser-known individuals and larger organisation, celebrities or public figures.

> *"A former MasterChef contestant endorsed by Nigella Lawson has had her cookbook withdrawn after an accusation of plagiarism by another food writer (John Reynolds writes) … However, the food writer Sharon Wee claims that multiple recipes and anecdotes in Makan were taken from her book Growing up in a Nonya Kitchen, published in 2012. She said on social media that she was "distressed" to discover that 15 recipes and reminiscences had been "copied" or paraphrased without her consent. "I brought this matter to the attention of the book's publisher, Bloomsbury Absolute," she said. The firm, she added, responded by withdrawing the book, references to which have also been removed from Bloomsbury's website.*
>
> ***Chef Accused Over a Pinch of Plagiarism. 12 October 2021, The Times***

This news article refers to the infringement as 'plagiarism,' a trend seen throughout the 'copyright' research. This is expanded upon in the next section.

5.3.1 Plagiarism Stories in the UK News

The search revealed that some news articles discussing disputes and cases of copyright infringement do so without mentioning the word 'copyright.' Therefore, an alternative search was undertaken for the word 'plagiarism', excluding the word 'copyright' to avoid duplication.

Date	Plagiarism Coverage
2012	66
2013	471
2014	409
2015	449
2016	735
2017	372
2018	369
2019	485
2020	300
2021	457
2022	429

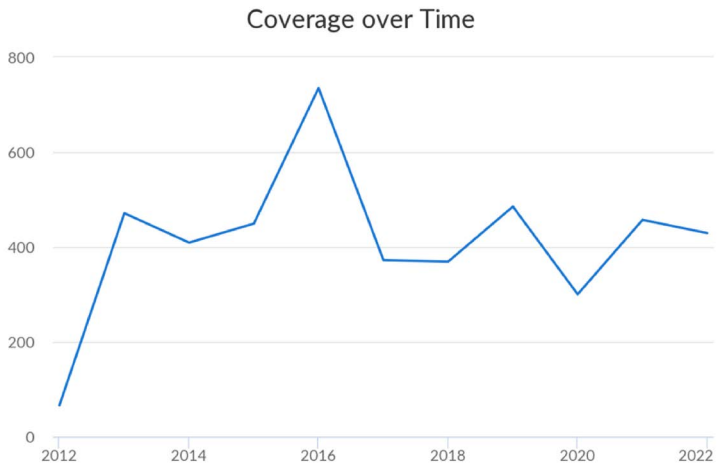


Figure 3: Plagiarism mentions in news Oct 2012 - Nov 22

There was an increased use of the word 'plagiarism' over 10 years. The peaks in increases of the word plagiarism do not necessarily appear to align with the peaks of the copyright mentions.

An example of a reported copyright infringement cases that only refers to the term plagiarism and not copyright infringement, related to a literary work. Nowhere in the article is the word copyright or infringement mentioned, although it does allude to the test for copyright infringement with use of words such as "substantial." In the judgment, the case is about copyright infringement and the term plagiarism is not used to describe the circumstances.[9]

> *"The American novelist being sued by Boris Pasternak's great-niece over plagiarism claims…in the High Court in London, Prescott accused Pasternak of having "copied and pasted" sections of earlier books for her own work."*
>
> ***Zhivago Row Sours Writer's Bestseller, The Times (Scotland), 14 July 2022***

9 Anna Pasternak Claimant And Lara Prescott [2022] EWHC 2695 (Ch).

6. Patent Stories in the UK News

This section analyses the results of searches on UK news publications that mention the word ‘patent’. First, an overview is provided which is followed with a discussion on case study examples taken from the results.

Searching for news that mentioned ‘patent’ revealed many unrelated articles such as relating to patent leather materials in fashion garments. Therefore, common terms were excluded from the search in an attempt to narrow down more relevant data and information. This was useful to a degree and reduced the number of results returned, but the overall number of articles was still considerably higher than other areas of IP and likely still contain many irrelevant articles. Reducing the search results to newspapers yielded the following results.

Date	Patent Coverage
2012	1324
2013	8471
2014	7086
2015	7163
2016	7512
2017	6198
2018	7100
2019	7519
2020	6607
2021	7913
2022	5516

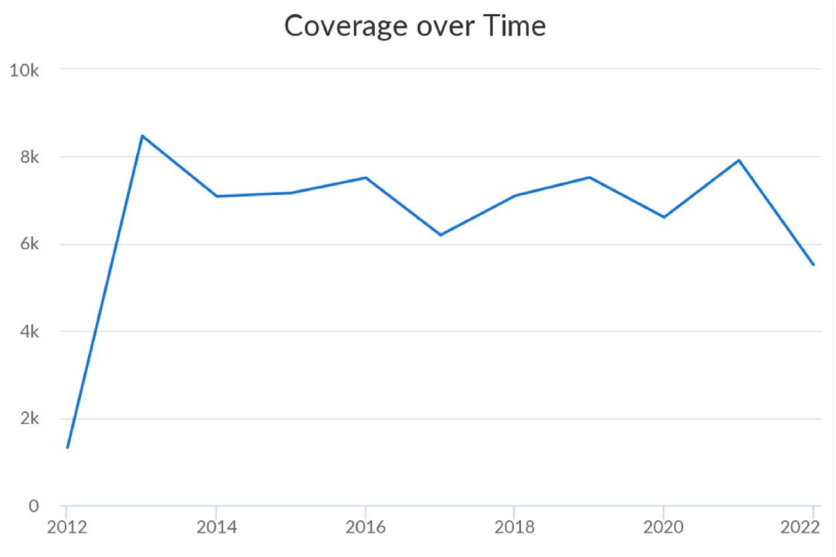


Figure 4: Patent mentions in news 2012-22

Patent mentions - excluding leather, ‘letters patent’, ‘patent shoes’, heels, ‘black patent’ - in all UK newspapers demonstrated an increase in the number of times the word ‘patent’ was used over time. A dramatic increase was seen in 2013 and 2020. Results in 2013 suggest focus on mobile phone ‘patent wars’ between companies such as Apple, Samsung, Microsoft, BT and Google. Results in 2020 indicate that this was as a result of the pandemic and news around the protection of COVID-19 vaccines.

Word clouds of the most mentioned companies and people during the five-year period

Narrowing down the search to the 12 newspapers selected for deeper analysis, revealed that patents were discussed in relation to drug treatments although often in passing. Although, in comparison to the other types of IP, patent reporting appears to be the most legally competent in articles where patent is correctly identified as the relevant type of IP. Patents were also discussed in relation to new inventions, particularly gadgets for example, a new nappy gadget, scrunchie, and razor, and when a patent was sold, particularly for a notably or surprisingly high price, such as the sale of the Crocs patent for $20 million.

Two key themes were identified in these search results, 1) the scope of patent protection in health, particularly relating to the COVID-19 vaccine and 2) patent registration and new technology, specifically whether artificial intelligence could be an inventor.

6.1 Scope of Patent Protection in Health: COVID-19 Vaccine.

News articles discussing the scope of patents referred to the COVID-19 vaccine and the debate around whether there should be a TRIPS waiver to allow for production of the vaccine without a patent licence for low-income countries.[10] UK news articles engaged with the debate, tending to follow the view of the UK Government that the IP rights system has played a "positive role" in generating innovative vaccines against COVID-19 and providing an incentive for further work to address new variants of concern.[11]

> *"Some WTO members, including Britain and the European Union, have rightly argued that forced suspension of intellectual property rights would discourage the pharmaceutical sector from future vaccine innovation."*
>
> ***Patent Emergency; Suspending Intellectual Property Rights Will Not Speed The Global Supply of Vaccines. 7 May 2021, The Times***

Throughout this research, it was clear that the media uses celebrity culture as a key hook for stories around IP. This research discovered that the Royal Family, The Duke and Duchess of Sussex (Prince Harry and Meghan Markle) in particular, were ubiquitously referenced throughout news articles about IP related matters. In this example, the couple had actively engaged in the debate, and at other times the royal family are mentioned in passing, for example as customers of the IP rightsholder. Those with public facing roles, such as celebrities, politicians and members of the Royal Family, were often used as a hook in the narrative of the IP story.

> *"Prince Harry and Meghan Markle penned an open letter to vaccine makers urging them to suspend the patent protections to help developing countries gain access to the shots."*
>
> *Emmanuel Macron accuses 'Anglo-Saxons' of hoarding vaccines in new swipe at the UK and says France is ready to discuss waiving patents after demands from Biden, Harry and Meghan that could cost firms billions, 7 May 2021, Mail Online*
>
> *"The plan is intended to make it easier for poorer countries to manufacture the shots. Pfizer's CEO has hit out at the plan, calling it 'so wrong' and saying he is 'not at all' in support of patent waiver…Experts say that the waiver is unlikely to help countries in desperate need of vaccine doses get them any time soon."*
>
> ***U.S. push to waive vaccine patents will NOT increase the supply for poorer countries and could compromise the safety of the shots, Pfizer CEO says, 7 May 2021, MailOnline***

> *"SHARES in some of the world's biggest Covid vaccine makers plummeted yesterday as the US government's surprise decision to support a move by the World Trade Organisation to temporarily waive patents on vaccines spooked investors…The proposal from the WTO is meant to increase global vaccines production and make the jabs more affordable for poor countries. But it has been met with criticised by pharma firms, which argue that it will not increase manufacturing and could actually have the opposite effect by disrupting supply chains."*
>
> ***Pharma Shares Plummet After Vaccine Patents Waived. 7 May 2021, The Daily Telegraph***

10 Philip Loft, Waiving intellectual property rights for Covid-19 vaccines, (House of Commons, July 2022) Research Briefing 9417, 2.
11 Ibid.

Notably, this example demonstrates a strong view in favour of the vaccine waiver, distinguishing from the previous examples above in this perspective and as an opinion piece rather than news reporting. This report therefore suggests reflecting the view of the public rather than that of the Government.

> *"More companies could manufacture these life-saving vaccines if the patent protections on intellectual property and manufacturing know-how were to be waived. Indeed, over 100 firms across Africa, Asia and Latin America have been identified as capable of producing mRNA vaccines if technology were transferred to them…Sadly, despite the UK's proud commitment to delivering vaccines, the government remains one of just a few opposed to this."*
>
> ***Boris Johnson Says He Wants Global Britain - Then Stop Blocking Access to Covid Vaccines for Poorer Countries. 13 January 2022, The Independent (Opinion)***

> *"The World Trade Organization has struck deals on a partial patent waiver for Covid-19 vaccines, and made agreements in several other fields of global contention…The waiver of the WTO's "Trips" agreement that governs intellectual property was opposed until Thursday by the UK, which said it would undermine pharmaceutical research. But the deal will let governments compel companies to share their vaccine recipes for the next five years…The agreement fell short of a demand by India and South Africa to exempt all Covid-related vaccines, treatments and diagnostics, though there will be a review in six months. Instead, governments can issue compulsory licences to domestic manufacturers but must compensate the patent holders."*
>
> ***WTO Agrees Partial Patent Waiver for Covid-19 Vaccines. 17 June 2022, The Financial Times***

6.2 Patents and Developing Technology: AI as an Inventor?

News articles discussing the patentability of new technologies focused on artificial intelligence (AI) and engaged in the debate around whether or not AI could be an inventor for the purposes of a patent application. In this news article, the journalist is reporting on two separate issues relating to AI but does not clearly indicate the differing areas of IP, the impact of either legal issue or decision.

> *"The UK government has announced that artificial intelligence algorithms that come up with new technologies will not be able to patent their inventions…*
>
> *The decision to not allow AI to patent inventions comes after a ruling at the Court of Appeal last year that said an artificial intelligence system should not be recognised as an inventor.*
>
> *…"Only a person can have rights – a machine cannot," Lady Justice Laing wrote in her judgement. "A patent is a statutory right and it can only be granted to a person."*
>
> ***UK Rules That AI Cannot Patent Inventions. 29 June 2022, The Independent***

As mentioned, patent news reports tended to engage more with legal terminology than articles on the other IP rights, such as in this example below.

> *"The patent granted last week to a law professor based in Britain was, in most respects, not unusual. It was for interlocking food containers that are easy for robots to grasp and stack, and the creator is listed as Dabus. The difference is that Dabus is not human. Intellectual property officials in South Africa have become the first in the world to award a patent that names an artificial intelligence as the inventor of a product… Under most laws in most jurisdictions, only humans can be listed as inventors on patents, as things cannot create other things, and even companies cannot be inventors, although they can be the owner of the patent… The European Patent Office, the UK Intellectual Property Office and the US Patent and Trademark Office have all previously rejected Abbott's applications on the grounds that only humans can be inventors. The UK's Patents Act 1977 requires an inventor to be a person."*
>
> ***Patently brilliant... AI listed as inventor for first time. 28 July 2021, The Times***

7. Trade Mark Stories in the UK News

This section analyses the results of searches on UK newspaper publications that mention the words 'trade mark' between 31 October 2017 to 1 November 2022. First, an overview is provided which is followed with a discussion on case study examples taken from the results.

Trade Mark search results in UK news

Date	Trade Mark Coverage
2012	136
2013	947
2014	789
2015	889
2016	1140
2017	772
2018	730
2019	637
2020	479
2021	513
2022	424

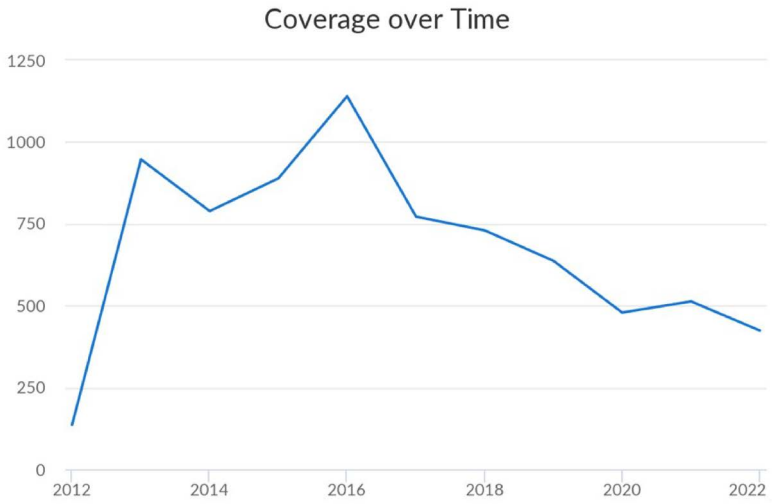


Figure 4: Trade mark mentions in news Oct 2012 - Nov 22

The initial search revealed an increased use of the term 'trade mark'[12] across UK news in the overtime, with a particular elevation in 2013 and 2016 as demonstrated in the table and graph above. Within the past five-years, there was a peak in 2018 and another elevation in 2021. To understand this more, the search was narrowed to 2018-2021, which yielded 803 results. Searching within these results, the terms 'Brexit' revealed 81 results, and 'European Union' showed 104. Excluding these terms from the results left 669 news items, which tended to cover stories relating to trade mark disputes and trade mark registrations or attempted registrations. Below are two word-clouds demonstrating key names of people and companies in the news mentioning trade mark during the five year period.

12 It is a common mistake that articles use the US spelling of trade mark as one word 'trademark' but these results showed up in the 'trade mark' search in any event.

Word clouds of the most mentioned companies and people during the five-year period

Reviewing the results of UK news articles from the 12 selected outlets during the five-year period revealed news coverage of topics including management of trade marks; trade mark disputes in particular relating to celebrity and royal marks, football and fashion brands, trade mark infringements; registrations and attempted registrations; and the impact of the UK leaving the European Union on trade marks. Overall, three themes were identified for trade marks: 1) the UK's exit from the European Union, 2) disputes over trade mark rights and 3) the scope of trade mark registration.

7.1 UK Exit From European Union

As mentioned between 81 and 104 news articles included the words ‘trade mark’ together with ‘Brexit’ or ‘European Union.’ These articles focused on the impact of Brexit on trade mark protection and registration, as shown in the examples below.

> *“LONDON Fashion Week is under serious threat from Brexit, legal experts revealed today… The annual showcase of top designers could lose its status as an event where new clothing creations are unveiled. The threat arises because laws that protect European fashion houses from unauthorised copying may no longer apply in London when Britain leaves the European Union next year… Ms Teatum said: “We have gone to the trouble of registering certain IP rights, such as UK and community trade marks. But we have so many original clothes and fabric designs that the cost of registering everything is simply not viable. So we rely on the protection afforded by unregistered community design rights.”*
>
> ***Brexit threat to Fashion Week as design showcase. 23 February 2018, The Evening Standard***

> *“Trademark application disputes have surged to record levels since Brexit, according to research by a law firm of official figures… Disputes over trademarks, known as trademark oppositions, occur when a business files an application with the office and another person or business tries to block it. The office then will determine whether it should be refused on the basis of an earlier right or other grounds, such as bad faith…Harry Rowe, managing associate at Mathys & Squire, said: “It is likely that this is no short-term spike in disputes, this is what trademark protection in the UK is now going to look like. Brexit has opened up a whole new battlefield for businesses with valuable brands to protect. Prior to Brexit, trademark owners could protect their trademark across all the EU member states in one application. Now that the UK is no longer covered in an EU trademark, trademark owners must file two separate applications in order to achieve the same protection.”*
>
> ***Brexit increases battles over trademarks. 23 May 2022, The Times***

7.2 Disputes Over Trade Mark Rights

Trade mark disputes appeared to be the most common theme amongst the trade mark articles. These news pieces focused on disputes and infringement claims between rightsholders, with an emphasis on circumstances where a claim was made by a large corporation against a smaller organisation or individual. Errors in legal language were present, as was typical throughout all the research.

In this example, a small business owner took to social media to share her frustrations of a trade mark Letter Before Claim she received from a large international retail company. The narratives around this story framed the smaller business as an independent, boutique who found herself the victim of the over-zealous retail giant.

> *"A small business owner is locked in a trademark dispute with the international retail giant Zara. Amber Kotrri launched House of Zana, a sustainable clothing company, in Darlington, Co Durham, in 2019 but soon found herself embroiled in a legal battle with the Spanish fashion brand. Zara claims that Kotrri's boutique, which sells sustainable clothing and locally sourced artisan products, is "conceptually identical" to its own and "confusingly similar" for customers. The word zana means fairy in her husband's country of birth, Albania, says Kotrri, and her products are handmade by seamstresses."*
>
> ***Fashion giant Zara in trademark battle with one-woman business. 30 May 2022, The Times***

The press coverage did not deter Zara from proceeding with their opposition to the application to register 'House of Zana', suggesting that there was limited impact of the public debate on the decision making of the rightsholder in this situation. However, the opposition was unsuccessful and, Kotrri's trade mark application was able to proceed to registration.[13]

> *"A boutique owner who took on the world's largest fashion retailer and won is urging other independent stores to stand up to big business…She shared her story on social media and that emboldened her further. "It was so much easier going to court," she said. "I felt like I had everyone behind me, people were saying 'this is ridiculous'."*
>
> ***House of Zana Boutique Owner Celebrates Trademark Win Against Zara. 31 August 2022, The Guardian***

Likewise, one trade mark dispute that received a larger amount of media coverage occurred when Marks and Spencer brought a claim against Aldi for copying it's Colin the Caterpillar cake. The dispute also received a lot of attention from the public across social media platforms, particularly after Aldi took to Twitter with #freecuthbert. The matter later settled out of court, with Aldi tweeting: "Getting out early on good behaviour, keep an eye out for Cuthy B this Spring 👀 x #FreeCuthbert." It is possible that the public debate had an impact on the rightsholder's decision to settle, but this needs further investigation.

> *"Who would have thought that intellectual property law could captivate a nation? Since Marks & Spencer filed a claim in the High Court against rival supermarket Aldi, claiming that Aldi's Cuthbert the Caterpillar cake was riding on the coat-tails of M&S's more expensive Colin the Caterpillar cake we've been hotly debating oddly blurred world of supermarket similarities and the murky depths of cheap, lookalike dupes."*
>
> ***Shopping is Not a Piece of Cake With These Lookalikes. 28 April 2021, i-Independent***

13 Decision O/658/22.

7.3 The Scope of Trade Mark Registration

The example above of Zara and House of Zana was framed in the UK media as a trade mark infringement claim, even though it was technically an opposition to registration. However, other news articles directly discussed trade mark registrations, focusing on the scope of what could or should be registered. These reports tended to focus on the moral, ethical, or social reasons for the registration being registered or not, rather than the legal definition of a mark that is protectable as a trade mark.

For example, in these two examples below, the news reports consider the detrimental effect that the registration would have on the relevant community and other businesses. In the first example this is the city of Oxford and Oxford based businesses. In the second example this is the Welsh "language, heritage" and "culture," and Welsh businesses.

> *"OXFORD UNIVERSITY has applied to trademark the name 'Oxford' ahead of Brexit - meaning hundreds of businesses could face a bill if they use it… City councillor Roz Smith said: 'Oxford is not just "gown", it's town and, in our case, city, and I don't want to see a divide. What will this do for the Oxford Mail? For Oxford Brookes University?' OUP submitted its application for more than 100 products in March but due to a change to the online application it was re-filed on Monday."*
>
> ***Uni Dreams of Bagging the Oxford Name as Trademark. 18 October 2018, Metro (Scotland)***

This example also highlights the impact of the backlash on the rightsholders decision to withdraw the mark despite the fact that the UK IPO confirmed that the application was accepted.

> *"A CANDLE-MAKING shop is at the centre of a row after it was allowed to trademark the Welsh word for "love". Fizzy Foam, which is based in Bridgend, South Wales, registered "cariad", which translates as "love" in Welsh, for their products. The Intellectual Property Office (IPO) had approved the application but the company has since surrendered the trademark following a backlash... Amanda James, a rival candlemaker, said the IPO's decision could have had a "significant impact" for her brand…I don't think anybody has got the right to say that they own these words, these words are unique to our language, to our heritage, to our culture."*
>
> ***Candle shop burns plan to trademark 'love'. 13 August 2022, The Daily Telegraph***

Other UK news reporting on the scope of trade mark registration focused on what can and cannot be registered, with a particular emphasis on the evolution from traditional to non-traditional types of marks in line with modern marketing practices.

> *"AN Irish-owned drinks company has lost a bid to trademark the sound of a fizzy drink can opening. Ardagh Metal Beverage Holdings had applied to the European Union Intellectual Property Office (EUIPO) to patent a so-called sound sign…The audio file has the sound of a drinks can being opened, followed by a one-second silence and a fizzing sound of nine seconds…But in the first ruling of its kind at the General Court of the EU, it was found the sound was not distinctive enough."*
>
> ***Court Bid Loses Fizz. 8 July 2021, Daily Mirror Ireland***

"FOR more than 140 years, businesses, brands and even rock bands have put pen to paper in the hope of creating a distinctive trade mark that captures the public's imagination. Since then, millions of companies from around the world have claimed exclusive rights to unique 2D logos, words and specific shades of colour to help promote their activities. But this year, the Intellectual Property Office, the government body that oversees trade marks, has embraced the digital age by accepting moving multimedia designs, holograms and sounds."

Trade marks on the move as branding goes multimedia, 30 June 2019, The Sunday Telegraph

8. Designs Stories in the UK News

This section analyses the results of searches on UK newspaper publications that mention the word 'design'. First, an overview is provided which is followed with a discussion on case study examples taken from the results.

Searching for news articles that discuss design rights proved the most challenging. As this word has a different every day meaning. The table 1 results demonstrate that searching 'design' is too broad and encompasses irrelevant articles. Even when narrowing down to 'design right' results included articles that read 'get the design right' referring to organising a kitchen or bathroom. Searching 'registered design', 'unregistered design' or 'design' together with 'intellectual property' produced the most accurate results of articles covering design rights. However, the research has demonstrated in general that journalists do not use these technical terms and therefore this search certainly excludes articles that discuss design rights using non-technical language.

Date	Un/registered design Coverage
2012	18
2013	75
2014	118
2015	87
2016	92
2017	82
2018	114
2019	48
2020	34
2021	87
2022	15

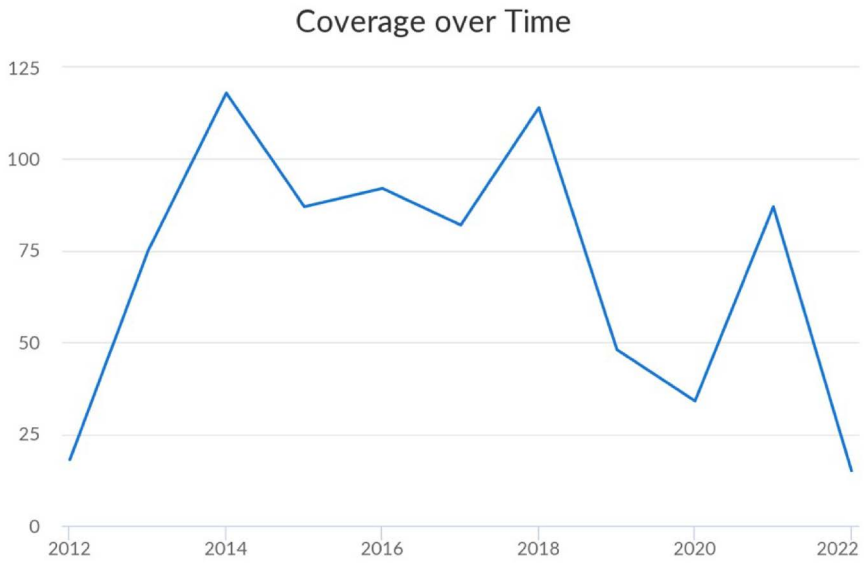
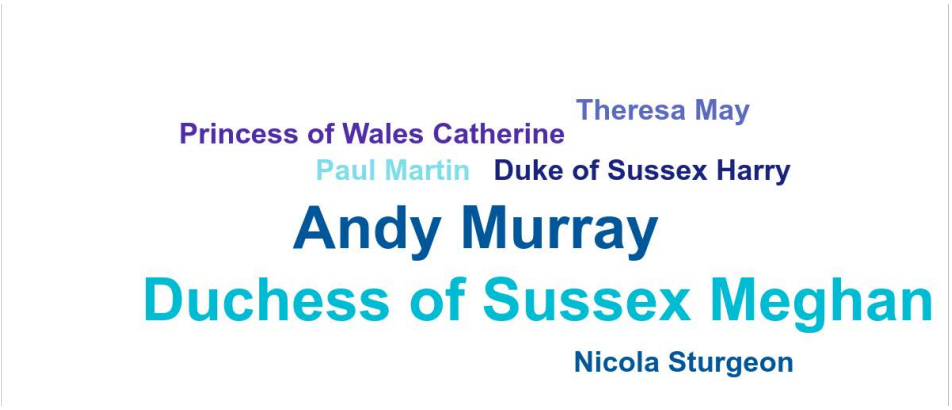


Figure 5: unregistered/registered design mentions in news Oct 2012 - Nov 22

Based on the very narrow search of unregistered and registered design, there was a peak of news reporting in 2014 and 2018. Upon further investigation, the reasons for these peaks were difficult to ascertain due to the overall lower numbers of articles compared to the other areas of IP considered in this study.

Word clouds of the most mentioned companies and people during the five-year period



Analysing the narrow select of results revealed topics including design infringement, ownership, management of rights and the scope of design right protection, particularly relating to fashion or celebrity culture. As with other areas of IP, the impact of Brexit on design rights was also discussed. The key theme ascertained from the analysis was disputes. These news articles tended to focus on 1) infringement of design rights and 2) cultural appropriation of indigenous designs.

8.1 Infringement of Design Right

As with trade mark disputes, design infringement emphasised the power relationship between the parties. Likewise, the impact of social media being utilised by the accused is present.

> *"Waitrose is battling allegations of chocolate plagiarism in a hot-tempered dispute between rival factions of posh chocolatiers. "When a larger retailer copies it or does something very similar, people think that we've copied them…*
>
> *Quoting Tweet - Imitation is the sincerest form of flattery' apparently but hey @waitrose this crosses the line!! As well as breaching our Registered Design Mark, designed to protect innovation- Angus Thirlwell (@AngusThirlwell) May 10, 2018*
>
> *…"We didn't raise our concerns at the time because we're a supplier to Waitrose and I was too chicken."*
>
> ***Chocolate wars: Waitrose faces copycat claim from Hotel Chocolat; Chocolatier's bosses write to supermarket over range of bars they say bear an uncanny resemblance to their own. 11 May 2018, The Guardian***

The media coverage of the Colin the Caterpillar dispute may have contributed to M&S's decision to settle. However, they still pursued Aldi in a registered design infringement shortly afterwards, demonstrating that they were not deterred from continuing to enforce their rights. The UK Press linked the two disputes in their reporting of the second.

> *"Marks & Spencer is suing Aldi for allegedly copying its Light Up gin just months after the supermarket rivals faced off over Colin the Caterpillar. M&S has filed court papers which say that Aldis gold flake blackberry and clementine gin liqueurs are strikingly similar to the Light Up gin it sells at Christmas and for which it holds a registered design.It is seeking a High Court injunction restraining Aldi from further alleged infringement of its protected designs, an order for Aldi to destroy or hand over anything constituting a potential breach of the injunction and an inquiry into damages arising from the alleged infringement. The court papers include the registered design images of M&S Light Up gin. A list of features M&S says are protected include the shape of the bottle, an integrated light feature, gold leaf flakes and a winter forest graphic."*
>
> ***M&S accuses Aldi of copying light-up Christmas gin in new lawsuit. 17 December 2021, The Mail***

8.2 Cultural Appropriation of Designs

News articles referring to cultural appropriation of designs emphasised the ethical and immoral copying of indigenous or marginalised people, whether the designs were legally protected or not.

The first two examples discuss the exploitation of indigenous designs by large fashion houses and luxury brands who are deemed not to have been fairly compensated or attributed their designs.

> *“Ralph Lauren has apologized after the wife of Mexico's president accused the luxury US clothes brand of plagiarizing indigenous designs, which she described as an appropriation of the work of the country's pre-Hispanic cultures…copying these designs you are committing plagiarism, which is illegal and immoral,' added Gutierrez…The U.S. fashion retailer has pledged that all new products using indigenous designs following its summer 2023 season will be created under a model of 'credit and collaboration'.*
>
> ***Ralph Lauren apologizes after wife of Mexico's president accuses US fashion giant of 'plagiarism' by appropriating Indigenous designs from country's pre-Hispanic cultures. 21 October 2022, MailOnline***

> *“The Maasai of Kenya and Tanzania embody one of the most powerful images of tribal Africa - but it’s a guise that’s becoming increasingly imitated… The key issue here is that the Maasai people aren’t compensated for anything sold under these luxury brands’ names despite having helped them sell billions of dollars worth of goods worldwide… ust as Burberry has the right to copyright and trademark its signature check, so too the Maasai should be able to protect its traditional designs. But, for some reason, while the rest of the fashion industry progresses, it continues to struggle to maintain an ethical business model.”*
>
> ***Maasai Launch Fight Against Cultural Appropriation by Luxury Fashion Labels. 8 February 2017, The Independent***

This final example emphasises the immoral copying of a large luxury fashion brand copying an independent Blac-owned business, it focuses on the ethical, social and cultural importance of the design and the public backlash towards this behaviour.

> *“The fashion brand Guess has been accused of stealing a handbag design from the independent black-owned company Telfar. Telfar's vegan leather gender-neutral bag, called "the shopping bag", which won the Design Museum's 2020 fashion design award, has been praised for highlighting the importance of black style, as well as joining the dots between luxury goods and accessibility. Celebrity fans include Oprah Winfrey and Alexandria Ocasio-Cortez, while Dazed and Confused magazine called the bag "the decade's most important accessory"…*
>
> *…Commentators online have pointed out the structural imbalances of Guess allegedly plagiarising Telfar, which has in the past collaborated with the Black Lives Matter movement to produce a limited edition range of T-shirts. "Stop stealing from black creatives," wrote one in the comment section of the Diet Prada website. "Overhyped fashion brands stealing from innovative PoC designers, are we surprised?" wrote another. "Not only did they completely rip Telfar's design, they completely disregarded a black queer man," tweeted another in reference to the label's founder, Telfar Clemens. "Rather than enter into a design deal they just stole."…*
>
> *…Eleonora Rosati, a professor of intellectual property law, believes that social media calling out plagiarism could help stamp it out. Public backlash may also contribute to triggering a change in fashion houses' approaches and strategies," she said. "As well as increasing the broader understanding of the importance of respecting others' creative work and in the case of cultural appropriation, cultural history."*
>
> ***Guess Accused of Stealing Handbag Design From Black-Owned Label. 29 March 2021, The Guardian***

9. Discussion: Identifying Key Themes

This section brings together the findings of the scoping report and draws overall general insights based on the initial review of news articles searched and the context of the research.

This initial scoping review demonstrates that there has been an increase in UK news reporting of matters relating to intellectual property over time and in particular in the last five years. It suggests that there has been increased public engagement with IP related matters over time and that the public can take strong views on the scope and management of IP rights. However, it also demonstrates that journalists, and the public by extension, do not accurately understand the different IP rights. Given the realities of the impact of social media backlash and 'cancel culture' they may be a benefit in the IPO investing in the education of journalist on IP rights.

That said, IP rights and IP issues are typically not news in and of themselves, the press reporting is often hooked to other common ground for their readership such as celebrity culture, or other current affairs. Moreover, the news reporting also appears to be engaging with emotive strategy that frames the story in a particular way in order to evoke a response from the readership, for example the 'David v Goliath' narrative discussed further below. Unpicking the moral, ethical, and emotive complexities of these undercurrents is important in better understanding the extent of the current social dynamic.

Whilst rightsholders have always been aware of the impact of public perception on their brand, increased public engagement particularly through social media sees rightsholders navigating something more akin to social regulation of the scope and management of their IP. This is something the IPO should consider more deeply and in conjunction with education recommendations. This does not suggest that if the public were more educated about IP that they would never question the scope or management of rights based on moral or ethical considerations, but at times the lack of understanding does appear to lead to misdirected social backlash. However, some of the themes drawn out in this research demonstrate that moral and ethical concerns drive this social regulation, and the IPO should consider whether their rules and guidance should align more closely with societal expectation.

In addition, the 'David v Goliath' narrative also indicates that the general public care about the underdog, the individual creator or inventor, or generally those with less power in a scenario. The IPO should consider how this aligns with its support for individual creators and inventors, particularly those from marginalised communities, and those more vulnerable to being exploited or taken advantage of as a result of the power context.

Likewise, there is a growing number of rightsholders who are seeking relief from sharing their story on social media, for example calling out appropriation instead of asserting their rights through the legal system[14]. This should be investigated further to explore why this approach is taken, and if it is considered more appealing than the legal system, are there ways that the legal system can adapt to better fulfil its purpose?

14 See for example, Amy Adler and Jeanne C. Fromer, Taking Intellectual Property into Their Own Hands, (2019) 107 California Law Review, 1455.

9.1 UK News Articles do not Accurately Report IP Terminology

Exploring the results of the data collection more deeply revealed that these results can only be indications of news reporting on IP related matters. This is because reports on IP matters were found where none of those words were used. Likewise, the words are frequently used incorrectly to identify the type of IP that the article intends to discuss, for example authors writing 'copyright infringement' when referring to case about trade mark or designs, and vice versa.

Looking at the 12 categorised newspaper outlets, shows that 'broadsheet' newspapers use the words 'intellectual property', 'copyright', 'design' and 'patent' more frequently than 'tabloid' newspapers.

Therefore, it is clear from this initial review that there are pronounced inaccuracies in the reporting on IP related matters in the UK Press. Likewise, coverage of disputes relating to national and international rights did not indicate that the legal regime differs between jurisdictions, therefore potentially over-emphasising the impact of the matter on the UK rightsholders.

The Independent Press Organisation (IPSO) Editors' Code of Practice states that "the Press must take care not to publish inaccurate, misleading or distorted information or images, including headlines not supported by the text."[15] Likewise, for the broader implications of this research Ofcom states that, news, in whatever form, must be reported with "due accuracy".[16]

The inaccuracy of reporting on IP related matters in the UK press may be due to a lack of understanding of the distinct differences between the types of IP, or a disregard for the importance between distinguishing between them. Further investigation would be required in order to ascertain the cause and extent of this issue, as well as the impact on intellectual property rights as understood by the public as a result.

15 Clause 1 https://www.ipso.co.uk/editors-code-of-practice/#Accuracy
16 Ofcom Broadcasting Code. Section five: Due impartiality and due accuracy, 5.1.

9.2 The Impact of Backlash on the Management and Scope of Rights

The initial research demonstrates an increased interest in UK news around IP issues, and a key theme identified throughout the results was public backlash. Social media is utilised as a means of defence and enforcement by parties on either side of a dispute. Public backlash appears to focus on social and ethical issues arising from IP issues, such as in the example of the public pushing back on a trade mark registration deemed undesirable to a local community or highlighting immoral exploitation of marginalised groups.

It could be argued that backlash can occur "based largely on a misconstruction of the nature and essence of trademark law and what constitutes cultural appropriation."[17] This is supported by the inaccuracies in the news reporting. However, it could also be argued that IP law should align with societal, ethical and moral standards, such as in the examples of cultural appropriation or sampling without the performer's permission mentioned above. In these situations, even if the public did understand the legal concepts involved, they might still push back on principle. The research indicates that this may be a relevant consideration in particular where the backlash related to the impact of the IP issue on the local community, culture, and marginalised groups. Further investigation into social media and public backlash should be undertaken to ascertain the motivations and underpinnings of these reactions.

Where news coverage discussed IP related disputes a common 'David v Goliath' theme can be observed, meaning that the reports emphasised the size or power of one party over the other, and tended to lean in favour of the smaller, independent, or less-powerful party. The perceived weaker party received a support bias even where that party was still objectively powerful or reasonably large. For example, in the Colin the Caterpillar dispute, Aldi played the role of David, even though it is a profiting international supermarket, and M&S was portrayed as the more expensive and up-market oppressor. This dynamic is about relative power related to the perception of the brand's consumer market, due to the differing price brackets of the products. Trevor Cook argued back in 2001 "perceived excesses have the greatest risk of bringing backlash in their wake"[18]. This research supports this assertion and indicates that 'excesses' are determined in the circumstances but may be influenced by 'David v Goliath' narratives such as a large company litigating against and independent company.

Speculative impact of this narrative can be observed in rightsholders decision making such as settling or terminating a legal action, ceasing their use of protected, or unprotected, materials or voluntarily removing protected IP from registration. As mentioned in the limitations, this is an initial review of the landscape and further research into the decision-making process of these and similar incidents needs to be undertaken to confirm this speculation and ascertain the extent of the impact of UK news reporting of IP matters.

17 Referring to the backlash against the registration of the word 'Yoruba' in England, Olasupo Owoeye, Indigenous Knowledge, Trademarks and Cultural Appropriation - a Reflection on Timbuktu Global Yoruba Trademark, (2022) 44(8) E.I.P.R., 495-499, 499.

18 Trevor Cook, Putting a Public Face on Rights Ownership (2001) 10 Euro. Law. 62-63, 62.

9.3 Future Research

This study identifies several areas of further research. As mentioned in the limitations of the methodology, this research would benefit from wider and deeper analysis through engagement with a broader scope of sources, particularly in view of the data on the types of news outlets that are used by different generations. A literature review should also be conducted to include a thorough contextualisation of the history of these developments and to better understand the behaviours highlighted in this report, for example whether it is due to popularism and majoritarianism or a social contract.

The public perception and social regulation of IP needs further investigation by directly engaging with members of the public to ascertain their views and how the news impacts their perception. This can be done by analysing comments on news, including on social media and in forums, as well as through primary data collection in the form of a survey and/or roundtables. The impact of the inaccuracies reported on public perception of IP needs to be considered more deeply. Likewise, whether the extent of these inaccuracies engage with other rights such as defamation.

Whilst previous research has shown that rightsholders have always been aware of the impact of public perception on their brand, this new report has demonstrated that in recent years there has been an increase in public engagement and therefore this decision-making factor has been intensified. The key literature on this phenomenon pre-dates social media as we know it, which has enabled the mass sharing and mobilisation of social regulation and amplified the potential impact of perception.[19] This research has indicated that some rightsholders are amending their management strategy (e.g., removing registration of rights, or changing enforcement approaches) in view of social media backlash. Further research should be conducted to investigate the decision-making processes of rightsholders in these circumstances, for instance through interviews, to better understand the impact of social regulation on IP management.

It may also be of interest to consider the jurisdictional factors of the public perception of intellectual property, for instance the location of the disputes in which there is UK based public debate.

As such, these further research suggestions are recommended in order to better map the public perception of IP and the impact of the themes highlighted in this report on attitudes towards IP, particularly how that varies across the UK population.

19 E.g., Elizabeth L., Rosenblatt, Fear and Loathing: Shame, Shaming, and Intellectual Property, (2013) 63 DePaul Law Review 1.

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Published: February 2024
CP2301104

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