

Intellectual property (IP) predictions for 2025

27 January 2025  Faye McConnell

As we look back on the landscape of intellectual property (IP) in 2024, it's clear that the year was marked by decisions on ongoing themes that will shape the field for years to come.

2025 looks set to continue to develop on many of these themes, preparing for another year of legal evolution in the IP sector.

Intellectual property: 2024 highlights

2024 was a busy year in the world of IP.

1. Sky v Skykick

The Supreme Court's ruling confirmed that overly broad trade mark specifications can amount to bad faith, urging trade mark owners to really consider justifiable specifications.

2. Lifestyle Equities

Lifestyle Equities had another busy year in the UK courts. In Lifestyle Equities v Ahmed, the court raised the bar for claimants attempting to show joint liability of directors for strict liability torts such as trade mark infringement, by introducing a new requirement of knowledge.

In another action, it was successful in its claim that Amazon's .com website was targeting UK and EU consumers – a welcome re-iteration of the law for brand owners struggling to enforce their trade mark rights on online platforms.

3. Copyright subsistence

The ongoing question of whether UK law is compatible with EU law on copyright subsistence was brought to the fore in WaterRower v Liking Ltd. The High Court ruled that the claimant's wooden rowing machine did not qualify for copyright protection as a work of artistic craftsmanship – in line with the UK's historic stance of limiting copyright protection for functional works, and in contrast to the EU's approach of recent years.

4. Unified Patent Court (UPC) decisions

The UPC issued its first decisions, spanning infringement, validity, and FRAND licensing. It has received over 500 cases since it opened in July 2023, and we expect its popularity to increase 2025, with its potential ratification in Ireland and as its evolving case law offers more certainty to businesses.

5. FRAND licensing

The Court of Appeal's landmark ruling that Panasonic's refusal to grant Xiaomi an interim license to use its standard essential patents, pending the final determination of the FRAND license, was in bad faith.

6. AI and patents

The Court of Appeal also dealt with questions concerning patentability of AI inventions in Comptroller v General of Patents v Emotional Perception AI – in this case, it was held that Emotional Perception's neural network based tool (ANN) which recommends music was a

computer programme, did not offer a technical contribution (judged on the basis of ANN's function, rather than features), and was therefore not patentable.

Intellectual property: What to expect in 2025

We will see many of the same themes in 2025, with various ongoing appeals and a focus on updating law, regulation and processes to keep up with changing technology.

1. Trade mark infringement: Thatchers v Aldi

Already in 2025 we have seen the Court of Appeal's decision in Thatchers v Aldi – overturning the first instance judge to find that the Aldi product does infringe the Thatchers cloudy lemon cider. A welcome decision for brands who have been trying to find new ways to prevent copycat and dupe products for some time.

2. Trade mark infringement: Iconix v Dream Pairs

We should see Dream Pair's appeal to the Supreme Court, challenging a ruling that its logo infringed Umbro's iconic double diamond logo, on the basis of post-sale confusion.

3. Copyright and functional work: AGA Rangemaster v UK Innovations

The relationship between copyright and functional works will be explored again – this time by the Court of Appeal – as AGA Rangemaster has appealed last year's decision that copyright does not subsist in its AGA range cooker's control panel.

4. Design system UK consultation

It is hoped that the government's 2025 two-part consultation on the design system in the UK will help shape a more robust design system – the current one is too easily abused and devalues this right.

5. Emotional Perception AI appeal

Emotional Perception may be revisited, after it was granted permission to appeal to the Supreme Court.

6. Copyright and AI reform

Of course the legal implications of AI will continue to develop - the government's consultation on its proposals for copyright and AI reform - the outcome is eagerly awaited and will focus on data scraping and text and data mining.

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