

CONTENTS

<i>Preface</i>	v
----------------------	---

COPYRIGHT, DESIGNS AND RELATED RIGHTS

UK

Statutes

Copyright, Designs and Patents Act 1988	1
Registered Designs Act 1949	139

Statutory instruments

Copyright (Industrial Process and Excluded Articles) (No. 2) Order 1989	161
Duration of Copyright and Rights in Performances Regulations 1995	161
Copyright and Related Rights Regulations 1996	168

EU

Council Directive 91/250 (legal protection of computer programs)	172
Council Directive 96/9 (legal protection of databases)	176
Council Directive 98/71 (legal protection of designs)	183
Council Directive 2001/29 (copyright and related rights in the information society)	189
Council Directive 2001/84 (resale right)	200
Council Directive 2004/48 (enforcement of intellectual property rights)	205
Council Directive 2006/115 (rental right and lending right and certain rights related to copyright)	213
Council Directive 2006/116 (term of protection of copyright and certain related rights)	219
Council Regulation 6/2002 (Community designs)	223

INTERNATIONAL

Berne Convention for the Protection of Literary and Artistic Works 1886	241
WIPO Copyright Treaty 1996	248

PATENTS

UK

Statute

Patents Act 1977	250
------------------------	-----

EU

Council Regulation 1768/92 (supplementary protection certificates)	299
European Patent Convention 2000	302
Protocol on the Interpretation of Article 69 of the European Patent Convention	315

TRADE MARKS, GEOGRAPHICAL NAMES AND UNFAIR COMPETITION

UK

Statute

Trade Marks Act 1994	315
----------------------------	-----

Statutory instruments

Consumer Protection from Unfair Trading Regulations 2008	349
--	-----

EU

Council Directive 2008/95 (trade marks)	359
Council Regulation 510/2006 (geographical indications and designations of origin)	365
Council Regulation 207/2009 (Community trade mark)	372

INTERNATIONAL

Paris Union and WIPO Joint Recommendations concerning Provisions on the Protection of Well Known Marks 1999	390
Paris Union and WIPO Joint Recommendations concerning Provisions on the Protection of Marks and other Industrial Property Rights in Signs on the Internet 2001	394

INTELLECTUAL PROPERTY ON THE INTERNET**UK**

Dispute Resolution Service Policy 2008	398
Dispute Resolution Service Procedure 2008	403
Electronic Commerce (EC Directive) Regulations 2002	406

INTERNATIONAL

Rules for the Uniform Domain Name Dispute Resolution Policy 1999	410
Uniform Domain Name Dispute Resolution Policy 1999	413

MULTI-DISCIPLINARY AGREEMENTS AND TREATIES

Paris Convention for the Protection of Industrial Property 1883	417
Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) 1994	425
<i>Index</i>	445

COPYRIGHT, DESIGNS AND PATENTS ACT 1988

(c. 48)

PART I COPYRIGHT

CHAPTER I SUBSISTENCE, OWNERSHIP AND DURATION OF COPYRIGHT

Introductory

1 Copyright and copyright works

- (1) Copyright is a property right which subsists in accordance with this Part in the following descriptions of work—
 - (a) original literary, dramatic, musical or artistic works,
 - (b) sound recordings, films or broadcasts, and
 - (c) the typographical arrangement of published editions.
- (2) In this Part “copyright work” means a work of any of those descriptions in which copyright subsists.
- (3) Copyright does not subsist in a work unless the requirements of this Part with respect to qualification for copyright protection are met (see section 153 and the provisions referred to there).

2 Rights subsisting in copyright works

- (1) The owner of the copyright in a work of any description has the exclusive right to do the acts specified in Chapter II as the acts restricted by the copyright in a work of that description.
- (2) In relation to certain descriptions of copyright work the following rights conferred by Chapter IV (moral rights) subsist in favour of the author, director or commissioner of the work, whether or not he is the owner of the copyright—
 - (a) section 77 (right to be identified as author or director),
 - (b) section 80 (right to object to derogatory treatment of work), and
 - (c) section 85 (right to privacy of certain photographs and films).

Descriptions of work and related provisions

3 Literary, dramatic and musical works

- (1) In this Part—

“literary work” means any work, other than a dramatic or musical work, which is written, spoken or sung, and accordingly includes—

 - (a) a table or compilation, other than a database,
 - (b) a computer program,
 - (c) preparatory design material for a computer program, and
 - (d) a database;

“dramatic work” includes a work of dance or mime; and

“musical work” means a work consisting of music, exclusive of any words or action intended to be sung, spoken or performed with the music.
- (2) Copyright does not subsist in a literary, dramatic or musical work unless and until it is recorded, in writing or otherwise; and references in this Part to the time at which such a work is made are to the time at which it is so recorded.
- (3) It is immaterial for the purposes of subsection (2) whether the work is recorded by or with the permission of the author; and where it is not recorded by the author, nothing in that subsection affects the question whether copyright subsists in the record as distinct from the work recorded.

3A Databases

- (1) In this Part “database” means a collection of independent works, data or other materials which—
 - (a) are arranged in a systematic or methodical way, and
 - (b) are individually accessible by electronic or other means.

- (2) For the purposes of this Part a literary work consisting of a database is original if, and only if, by reason of the selection or arrangement of the contents of the database the database constitutes the author's own intellectual creation.

4 Artistic works

- (1) In this Part "artistic work" means—
- (a) a graphic work, photograph, sculpture or collage, irrespective of artistic quality,
 - (b) a work of architecture being a building or a model for a building, or
 - (c) a work of artistic craftsmanship.
- (2) In this Part—
- "building" includes any fixed structure, and a part of a building or fixed structure;
- "graphic work" includes—
- (a) any painting, drawing, diagram, map, chart or plan, and
 - (b) any engraving, etching, lithograph, woodcut or similar work;
- "photograph" means a recording of light or other radiation on any medium on which an image is produced or from which an image may by any means be produced, and which is not part of a film;
- "sculpture" includes a cast or model made for purposes of sculpture.

5A Sound recordings

- (1) In this Part "sound recording" means—
- (a) a recording of sounds, from which the sounds may be reproduced, or
 - (b) a recording of the whole or any part of a literary, dramatic or musical work, from which sounds reproducing the work or part may be produced, regardless of the medium on which the recording is made or the method by which the sounds are reproduced or produced.
- (2) Copyright does not subsist in a sound recording which is, or to the extent that it is, a copy taken from a previous sound recording.

5B Films

- (1) In this Part "film" means a recording on any medium from which a moving image may by any means be produced.
- (2) The sound track accompanying a film shall be treated as part of the film for the purposes of this Part.
- (3) Without prejudice to the generality of subsection (2), where that subsection applies—
- (a) references in this Part to showing a film include playing the film sound track to accompany the film,
 - (b) references in this Part to playing a sound recording, or to communicating a sound recording to the public, do not include playing or communicating the film sound track to accompany the film,
 - (c) references in this Part to copying a work, so far as they apply to a sound recording, do not include copying the film sound track to accompany the film, and
 - (d) references in this Part to the issuing, rental or lending of copies of a work, so far as they apply to a sound recording, do not include the issuing, rental or lending of copies of the sound track to accompany the film.
- (4) Copyright does not subsist in a film which is, or to the extent that it is, a copy taken from a previous film.
- (5) Nothing in this section affects any copyright subsisting in a film sound track as a sound recording.

6 Broadcasts

- (1) In this Part a "broadcast" means an electronic transmission of visual images, sounds or other information which—
- (a) is transmitted for simultaneous reception by members of the public and is capable of being lawfully received by them, or
 - (b) is transmitted at a time determined solely by the person making the transmission for presentation to members of the public,
- and which is not excepted by subsection (1A); and references to broadcasting shall be construed accordingly.
- (1A) Excepted from the definition of "broadcast" is any internet transmission unless it is—
- (a) a transmission taking place simultaneously on the internet and by other means,

- (b) a concurrent transmission of a live event, or
 - (c) a transmission of recorded moving images or sounds forming part of a programme service offered by the person responsible for making the transmission, being a service in which programmes are transmitted at scheduled times determined by that person.
- (2) An encrypted transmission shall be regarded as capable of being lawfully received by members of the public only if decoding equipment has been made available to members of the public by or with the authority of the person making the transmission or the person providing the contents of the transmission.
- (3) References in this Part to the person making a broadcast or a transmission which is a broadcast are—
- (a) to the person transmitting the programme, if he has responsibility to any extent for its contents, and
 - (b) to any person providing the programme who makes with the person transmitting it the arrangements necessary for its transmission;
- and references in this Part to a programme, in the context of broadcasting, are to any item included in a broadcast.
- (4) For the purposes of this Part, the place from which a wireless broadcast is made is the place where, under the control and responsibility of the person making the broadcast, the programme-carrying signals are introduced into an uninterrupted chain of communication (including, in the case of a satellite transmission, the chain leading to the satellite and down towards the earth).
- (4A) Subsections (3) and (4) have effect subject to section 6A (safeguards in case of certain satellite broadcasts).
- (5) References in this Part to the reception of a broadcast include reception of a broadcast relayed by means of a telecommunications system.
- (5A) The relaying of a broadcast by reception and immediate re-transmission shall be regarded for the purposes of this Part as a separate act of broadcasting from the making of the broadcast which is so re-transmitted.
- (6) Copyright does not subsist in a broadcast which infringes, or to the extent that it infringes, the copyright in another broadcast

6A Safeguards in relation to certain satellite broadcasts

- (1) This section applies where the place from which a broadcast by way of satellite transmission is made is located in a country other than an EEA State and the law of that country fails to provide at least the following level of protection—
- (a) exclusive rights in relation to wireless broadcasting equivalent to those conferred by section 20 (infringement by communication to the public) on the authors of literary, dramatic, musical and artistic works, films and broadcasts;
 - (b) a right in relation to live wireless broadcasting equivalent to that conferred on a performer by section 182(1)(b) (consent required for live broadcast of performance); and
 - (c) a right for authors of sound recordings and performers to share in a single equitable remuneration in respect of the wireless broadcasting of sound recordings.
- (2) Where the place from which the programme-carrying signals are transmitted to the satellite (“the uplink station”) is located in an EEA State—
- (a) that place shall be treated as the place from which the broadcast is made, and
 - (b) the person operating the uplink station shall be treated as the person making the broadcast.
- (3) Where the uplink station is not located in an EEA State but a person who is established in an EEA State has commissioned the making of the broadcast—
- (a) that person shall be treated as the person making the broadcast, and
 - (b) the place in which he has his principal establishment in the European Economic Area shall be treated as the place from which the broadcast is made.

8 Published editions

- (1) In this Part “published edition”, in the context of copyright in the typographical arrangement of a published edition, means a published edition of the whole or any part of one or more literary, dramatic or musical works.

- (2) Copyright does not subsist in the typographical arrangement of a published edition if, or to the extent that, it reproduces the typographical arrangement of a previous edition.

Authorship and ownership of copyright

9 Authorship of work

- (1) In this Part “author”, in relation to a work, means the person who creates it.
- (2) That person shall be taken to be—
- (aa) in the case of a sound recording, the producer;
- (ab) in the case of a film, the producer and the principal director;
- (b) in the case of a broadcast, the person making the broadcast (see section 6(3)) or, in the case of a broadcast which relays another broadcast by reception and immediate re-transmission, the person making that other broadcast;
- (c) . . .
- (d) in the case of the typographical arrangement of a published edition, the publisher.
- (3) In the case of a literary, dramatic, musical or artistic work which is computer-generated, the author shall be taken to be the person by whom the arrangements necessary for the creation of the work are undertaken.
- (4) For the purposes of this Part a work is of “unknown authorship” if the identity of the author is unknown or, in the case of a work of joint authorship, if the identity of none of the authors is known.
- (5) For the purposes of this Part the identity of an author shall be regarded as unknown if it is not possible for a person to ascertain his identity by reasonable inquiry; but if his identity is once known it shall not subsequently be regarded as unknown.

10 Works of joint authorship

- (1) In this Part a “work of joint authorship” means a work produced by the collaboration of two or more authors in which the contribution of each author is not distinct from that of the other author or authors.
- (1A) A film shall be treated as a work of joint authorship unless the producer and the principal director are the same person.
- (2) A broadcast shall be treated as a work of joint authorship in any case where more than one person is to be taken as making the broadcast (see section 6(3)).
- (3) References in this Part to the author of a work shall, except as otherwise provided, be construed in relation to a work of joint authorship as references to all the authors of the work.

11 First ownership of copyright

- (1) The author of a work is the first owner of any copyright in it, subject to the following provisions.
- (2) Where a literary, dramatic, musical or artistic work, or a film is made by an employee in the course of his employment, his employer is the first owner of any copyright in the work subject to any agreement to the contrary.
- (3) This section does not apply to Crown copyright or Parliamentary copyright (see sections 163 and 165) or to copyright which subsists by virtue of section 168 (copyright of certain international organisations).

Duration of copyright

12 Duration of copyright in literary, dramatic, musical or artistic works

- (1) The following provisions have effect with respect to the duration of copyright in a literary, dramatic, musical or artistic work.
- (2) Copyright expires at the end of the period of 70 years from the end of the calendar year in which the author dies, subject as follows.
- (3) If the work is of unknown authorship, copyright expires—
- (a) at the end of the period of 70 years from the end of the calendar year in which the work was made, or
- (b) if during that period the work is made available to the public, at the end of the period of 70 years from the end of the calendar year in which it is first so made available, subject as follows.
- (4) Subsection (2) applies if the identity of the author becomes known before the end of the period specified in paragraph (a) or (b) of subsection (3).

- (5) For the purposes of subsection (3) making available to the public includes—
- (a) in the case of a literary, dramatic or musical work—
 - (i) performance in public, or
 - (ii) communication to the public;
 - (b) in the case of an artistic work—
 - (i) exhibition in public,
 - (ii) a film including the work being shown in public, or
 - (iii) communication to the public;
- but in determining generally for the purposes of that subsection whether a work has been made available to the public no account shall be taken of any unauthorised act.
- (6) Where the country of origin of the work is not an EEA state and the author of the work is not a national of an EEA state, the duration of copyright is that to which the work is entitled in the country of origin, provided that does not exceed the period which would apply under subsections (2) to (5).
- (7) If the work is computer-generated the above provisions do not apply and copyright expires at the end of the period of 50 years from the end of the calendar year in which the work was made.
- (8) The provisions of this section are adapted as follows in relation to a work of joint authorship—
- (a) the reference in subsection (2) to the death of the author shall be construed—
 - (i) if the identity of all the authors is known, as a reference to the death of the last of them to die, and
 - (ii) if the identity of one or more of the authors is known and the identity of one or more others is not, as a reference to the death of the last whose identity is known;
 - (b) the reference in subsection (4) to the identity of the author becoming known shall be construed as a reference to the identity of any of the authors becoming known;
 - (c) the reference in subsection (6) to the author not being a national of an EEA state shall be construed as a reference to none of the authors being a national of an EEA state.
- (9) This section does not apply to Crown copyright or Parliamentary copyright (see sections 163 to 166D) or to copyright which subsists by virtue of section 168 (copyright of certain international organisations).

13A Duration of copyright in sound recordings

- (1) The following provisions have effect with respect to the duration of copyright in a sound recording.
- (2) Subject to subsections (4) and (5), copyright expires—
 - (a) at the end of the period of 50 years from the end of the calendar year in which the recording is made, or
 - (b) if during that period the recording is published, 50 years from the end of the calendar year in which it is first published, or
 - (c) if during that period the recording is not published but is made available to the public by being played in public or communicated to the public, 50 years from the end of the calendar year in which it is first so made available,

but in determining whether a sound recording has been published, played in public or communicated to the public, no account shall be taken of any unauthorised act.
- (3) . . .
- (4) Where the author of a sound recording is not a national of an EEA state, the duration of copyright is that to which the sound recording is entitled in the country of which the author is a national, provided that does not exceed the period which would apply under subsection (2).
- (5) If or to the extent that the application of subsection (4) would be at variance with an international obligation to which the United Kingdom became subject prior to 29th October 1993, the duration of copyright shall be as specified in subsection (2).

13B Duration of copyright in films

- (1) The following provisions have effect with respect to the duration of copyright in a film.
- (2) Copyright expires at the end of the period of 70 years from the end of the calendar year in which the death occurs of the last to die of the following persons—

- (a) the principal director,
 - (b) the author of the screenplay,
 - (c) the author of the dialogue, or
 - (d) the composer of music specially created for and used in the film;
- subject as follows.
- (3) If the identity of one or more of the persons referred to in subsection (2)(a) to (d) is known and the identity of one or more others is not, the reference in that subsection to the death of the last of them to die shall be construed as a reference to the death of the last whose identity is known.
 - (4) If the identity of the persons referred to in subsection (2)(a) to (d) is unknown, copyright expires at—
 - (a) the end of the period of 70 years from the end of the calendar year in which the film was made, or
 - (b) if during that period the film is made available to the public, at the end of the period of 70 years from the end of the calendar year in which it is first so made available.
 - (5) Subsections (2) and (3) apply if the identity of any of those persons becomes known before the end of the period specified in paragraph (a) or (b) of subsection (4).
 - (6) For the purposes of subsection (4) making available to the public includes—
 - (a) showing in public, or
 - (b) communicating to the public;
 but in determining generally for the purposes of that subsection whether a film has been made available to the public no account shall be taken of any unauthorised act.
 - (7) Where the country of origin is not an EEA state and the author of the film is not a national of an EEA state, the duration of copyright is that to which the work is entitled in the country of origin, provided that does not exceed the period which would apply under subsections (2) to (6).
 - (8) In relation to a film of which there are joint authors, the reference in subsection (7) to the author not being a national of an EEA state shall be construed as a reference to none of the authors being a national of an EEA state.
 - (9) If in any case there is no person falling within paragraphs (a) to (d) of subsection (2), the above provisions do not apply and copyright expires at the end of the period of 50 years from the end of the calendar year in which the film was made.
 - (10) For the purposes of this section the identity of any of the persons referred to in subsection (2)(a) to (d) shall be regarded as unknown if it is not possible for a person to ascertain his identity by reasonable inquiry; but if the identity of any such person is once known it shall not subsequently be regarded as unknown.

14 Duration of copyright in broadcasts

- (1) The following provisions have effect with respect to the duration of copyright in a broadcast.
- (2) Copyright in a broadcast expires at the end of the period of 50 years from the end of the calendar year in which the broadcast was made, subject as follows.
- (3) Where the author of the broadcast is not a national of an EEA state, the duration of copyright in the broadcast is that to which it is entitled in the country of which the author is a national, provided that does not exceed the period which would apply under subsection (2).
- (4) If or to the extent that the application of subsection (3) would be at variance with an international obligation to which the United Kingdom became subject prior to 29th October 1993, the duration of copyright shall be as specified in subsection (2).
- (5) Copyright in a repeat broadcast expires at the same time as the copyright in the original broadcast; and accordingly no copyright arises in respect of a repeat broadcast which is broadcast after the expiry of the copyright in the original broadcast.
- (6) A repeat broadcast means one which is a repeat of a broadcast previously made.

15 Duration of copyright in typographical arrangement of published editions

Copyright in the typographical arrangement of a published edition expires at the end of the period of 25 years from the end of the calendar year in which the edition was first published.

15A Meaning of country of origin

- (1) For the purposes of the provisions of this Part relating to the duration of copyright the country of origin of a work shall be determined as follows.

- (2) If the work is first published in a Berne Convention country and is not simultaneously published elsewhere, the country of origin is that country.
- (3) If the work is first published simultaneously in two or more countries only one of which is a Berne Convention country, the country of origin is that country.
- (4) If the work is first published simultaneously in two or more countries of which two or more are Berne Convention countries, then—
 - (a) if any of those countries is an EEA state, the country of origin is that country; and
 - (b) if none of those countries is an EEA state, the country of origin is the Berne Convention country which grants the shorter or shortest period of copyright protection.
- (5) If the work is unpublished or is first published in a country which is not a Berne Convention country (and is not simultaneously published in a Berne Convention country), the country of origin is—
 - (a) if the work is a film and the maker of the film has his headquarters in, or is domiciled or resident in a Berne Convention country, that country;
 - (b) if the work is—
 - (i) a work of architecture constructed in a Berne Convention country, or
 - (ii) an artistic work incorporated in a building or other structure situated in a Berne Convention country,
 that country;
 - (c) in any other case, the country of which the author of the work is a national.
- (6) In this section—
 - (a) a “Berne Convention country” means a country which is a party to any Act of the International Convention for the Protection of Literary and Artistic Works signed at Berne on 9th September 1886; and
 - (b) references to simultaneous publication are to publication within 30 days of first publication.

CHAPTER II RIGHTS OF COPYRIGHT OWNER

The acts restricted by copyright

16 The acts restricted by copyright in a work

- (1) The owner of the copyright in a work has, in accordance with the following provisions of this Chapter, the exclusive right to do the following acts in the United Kingdom—
 - (a) to copy the work (see section 17);
 - (b) to issue copies of the work to the public (see section 18);
 - (ba) to rent or lend the work to the public (see section 18A);
 - (c) to perform, show or play the work in public (see section 19);
 - (d) to communicate the work to the public (see section 20);
 - (e) to make an adaptation of the work or do any of the above in relation to an adaptation (see section 21);
 and those acts are referred to in this Part as the “acts restricted by the copyright”.
- (2) Copyright in a work is infringed by a person who without the licence of the copyright owner does, or authorises another to do, any of the acts restricted by the copyright.
- (3) References in this Part to the doing of an act restricted by the copyright in a work are to the doing of it—
 - (a) in relation to the work as a whole or any substantial part of it, and
 - (b) either directly or indirectly;
 and it is immaterial whether any intervening acts themselves infringe copyright.
- (4) This Chapter has effect subject to—
 - (a) the provisions of Chapter III (acts permitted in relation to copyright works), and
 - (b) the provisions of Chapter VII (provisions with respect to copyright licensing).

17 Infringement of copyright by copying

- (1) The copying of the work is an act restricted by the copyright in every description of copyright work; and references in this Part to copying and copies shall be construed as follows.
- (2) Copying in relation to a literary, dramatic, musical or artistic work means reproducing the work in any material form.

This includes storing the work in any medium by electronic means.

- (3) In relation to an artistic work copying includes the making of a copy in three dimensions of a two-dimensional work and the making of a copy in two dimensions of a three-dimensional work.
- (4) Copying in relation to a film or broadcast includes making a photograph of the whole or any substantial part of any image forming part of the film or broadcast.
- (5) Copying in relation to the typographical arrangement of a published edition means making a facsimile copy of the arrangement.
- (6) Copying in relation to any description of work includes the making of copies which are transient or are incidental to some other use of the work.

18 Infringement by issue of copies to the public

- (1) The issue to the public of copies of the work is an act restricted by the copyright in every description of copyright work.
- (2) References in this Part to the issue to the public of copies of a work are to—
 - (a) the act of putting into circulation in the EEA copies not previously put into circulation in the EEA by or with the consent of the copyright owner, or
 - (b) the act of putting into circulation outside the EEA copies not previously put into circulation in the EEA or elsewhere.
- (3) References in this Part to the issue to the public of copies of a work do not include—
 - (a) any subsequent distribution, sale, hiring or loan of copies previously put into circulation (but see section 18A: infringement by rental or lending), or
 - (b) any subsequent importation of such copies into the United Kingdom or another EEA state,
 except so far as paragraph (a) of subsection (2) applies to putting into circulation in the EEA copies previously put into circulation outside the EEA.
- (4) References in this Part to the issue of copies of a work include the issue of the original.

18A Infringement by rental or lending of work to the public

- (1) The rental or lending of copies of the work to the public is an act restricted by the copyright in—
 - (a) a literary, dramatic or musical work,
 - (b) an artistic work, other than—
 - (i) a work of architecture in the form of a building or a model for a building, or
 - (ii) a work of applied art, or
 - (c) a film or a sound recording.
- (2) In this Part, subject to the following provisions of this section—
 - (a) “rental” means making a copy of the work available for use, on terms that it will or may be returned, for direct or indirect economic or commercial advantage, and
 - (b) “lending” means making a copy of the work available for use, on terms that it will or may be returned, otherwise than for direct or indirect economic or commercial advantage, through an establishment which is accessible to the public.
- (3) The expressions “rental” and “lending” do not include—
 - (a) making available for the purpose of public performance, playing or showing in public or communication to the public;
 - (b) making available for the purpose of exhibition in public; or
 - (c) making available for on-the-spot reference use.
- (4) The expression “lending” does not include making available between establishments which are accessible to the public.
- (5) Where lending by an establishment accessible to the public gives rise to a payment the amount of which does not go beyond what is necessary to cover the operating costs of the establishment, there is no direct or indirect economic or commercial advantage for the purposes of this section.
- (6) References in this Part to the rental or lending of copies of a work include the rental or lending of the original.

19 Infringement by performance, showing or playing of work in public

- (1) The performance of the work in public is an act restricted by the copyright in a literary, dramatic or musical work.
- (2) In this Part “performance”, in relation to a work—
 - (a) includes delivery in the case of lectures, addresses, speeches and sermons, and

- (b) in general, includes any mode of visual or acoustic presentation, including presentation by means of a sound recording, film or broadcast of the work.
- (3) The playing or showing of the work in public is an act restricted by the copyright in a sound recording, film or broadcast.
- (4) Where copyright in a work is infringed by its being performed, played or shown in public by means of apparatus for receiving visual images or sounds conveyed by electronic means, the person by whom the visual images or sounds are sent, and in the case of a performance the performers, shall not be regarded as responsible for the infringement.

20 Infringement by communication to the public

- (1) The communication to the public of the work is an act restricted by the copyright in—
 - (a) a literary, dramatic, musical or artistic work,
 - (b) a sound recording or film, or
 - (c) a broadcast.
- (2) References in this Part to communication to the public are to communication to the public by electronic transmission, and in relation to a work include—
 - (a) the broadcasting of the work;
 - (b) the making available to the public of the work by electronic transmission in such a way that members of the public may access it from a place and at a time individually chosen by them.

21 Infringement by making adaptation or act done in relation to adaptation

- (1) The making of an adaptation of the work is an act restricted by the copyright in a literary, dramatic or musical work.
For this purpose an adaptation is made when it is recorded, in writing or otherwise.
- (2) The doing of any of the acts specified in sections 17 to 20, or subsection (1) above, in relation to an adaptation of the work is also an act restricted by the copyright in a literary, dramatic or musical work.
For this purpose it is immaterial whether the adaptation has been recorded, in writing or otherwise, at the time the act is done.
- (3) In this Part “adaptation”—
 - (a) in relation to a literary work, other than a computer program or database, or in relation to a dramatic work, means—
 - (i) a translation of the work;
 - (ii) a version of a dramatic work in which it is converted into a non-dramatic work or, as the case may be, of a non-dramatic work in which it is converted into a dramatic work;
 - (iii) a version of the work in which the story or action is conveyed wholly or mainly by means of pictures in a form suitable for reproduction in a book, or in a newspaper, magazine or similar periodical;
 - (ab) in relation to a computer program, means an arrangement or altered version of the program or a translation of it;
 - (ac) in relation to a database, means an arrangement or altered version of the database or a translation of it;
 - (b) in relation to a musical work, means an arrangement or transcription of the work.
- (4) In relation to a computer program a “translation” includes a version of the program in which it is converted into or out of a computer language or code or into a different computer language or code.
- (5) No inference shall be drawn from this section as to what does or does not amount to copying a work.

Secondary infringement of copyright

22 Secondary infringement: importing infringing copy

The copyright in a work is infringed by a person who, without the licence of the copyright owner, imports into the United Kingdom, otherwise than for his private and domestic use, an article which is, and which he knows or has reason to believe is, an infringing copy of the work.

23 Secondary infringement: possessing or dealing with infringing copy

The copyright in a work is infringed by a person who, without the licence of the copyright owner—

- (a) possesses in the course of a business,

- (b) sells or lets for hire, or offers or exposes for sale or hire,
 - (c) in the course of a business exhibits in public or distributes, or
 - (d) distributes otherwise than in the course of a business to such an extent as to affect prejudicially the owner of the copyright,
- an article which is, and which he knows or has reason to believe is, an infringing copy of the work.

24 Secondary infringement: providing means for making infringing copies

- (1) Copyright in a work is infringed by a person who, without the licence of the copyright owner—
 - (a) makes,
 - (b) imports into the United Kingdom,
 - (c) possesses in the course of a business, or
 - (d) sells or lets for hire, or offers or exposes for sale or hire,
 an article specifically designed or adapted for making copies of that work, knowing or having reason to believe that it is to be used to make infringing copies.
- (2) Copyright in a work is infringed by a person who without the licence of the copyright owner transmits the work by means of a telecommunications system (otherwise than by communication to the public), knowing or having reason to believe that infringing copies of the work will be made by means of the reception of the transmission in the United Kingdom or elsewhere.

25 Secondary infringement: permitting use of premises for infringing performance

- (1) Where the copyright in a literary, dramatic or musical work is infringed by a performance at a place of public entertainment, any person who gave permission for that place to be used for the performance is also liable for the infringement unless when he gave permission he believed on reasonable grounds that the performance would not infringe copyright.
- (2) In this section “place of public entertainment” includes premises which are occupied mainly for other purposes but are from time to time made available for hire for the purposes of public entertainment.

26 Secondary infringement: provision of apparatus for infringing performance, etc.

- (1) Where copyright in a work is infringed by a public performance of the work, or by the playing or showing of the work in public, by means of apparatus for—
 - (a) playing sound recordings,
 - (b) showing films, or
 - (c) receiving visual images or sounds conveyed by electronic means,
 the following persons are also liable for the infringement.
- (2) A person who supplied the apparatus, or any substantial part of it, is liable for the infringement if when he supplied the apparatus or part—
 - (a) he knew or had reason to believe that the apparatus was likely to be so used as to infringe copyright, or
 - (b) in the case of apparatus whose normal use involves a public performance, playing or showing, he did not believe on reasonable grounds that it would not be so used as to infringe copyright.
- (3) An occupier of premises who gave permission for the apparatus to be brought onto the premises is liable for the infringement if when he gave permission he knew or had reason to believe that the apparatus was likely to be so used as to infringe copyright.
- (4) A person who supplied a copy of a sound recording or film used to infringe copyright is liable for the infringement if when he supplied it he knew or had reason to believe that what he supplied, or a copy made directly or indirectly from it, was likely to be so used as to infringe copyright.

Infringing copies

27 Meaning of “infringing copy”

- (1) In this Part “infringing copy”, in relation to a copyright work, shall be construed in accordance with this section.

INDEX

- Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS) 1994
arts 1–73 425–443
- Berne Convention for the Protection of Literary and Artistic Works 1886
arts 1–21, 29 241–247
- Consumer Protection from Unfair Trading Regulations 2008
regs 1–29, Sch 1 349–359
- Copyright and Related Rights Regulations 1996
regs 1–4, 16–17B, 25–36 168–172
- Copyright, Designs and Patents Act 1988
ss 1–4, 5A–6A, 8–12, 13A–130, 133–145, 149, 152–157, 159–191M, 192A–240, 243–248, 253–264, 287, 296–299, 301, 304, Schs 2, 2A, 5A 1–139
- Copyright (Industrial Process and Excluded Articles) (No. 2) Order 1989
arts 1–4 161
- Directive 91/250/EEC (legal protection of computer programs)
arts 1–7, 9–11 172–175
- Directive 96/9/EC (legal protection of databases)
arts 1–17 176–183
- Directive 98/71/EC (legal protection of designs)
arts 1–21 183–188
- Directive 2001/29/EC (copyright and related rights in the information society)
arts 1–15 189–199
- Directive 2001/84/EC (resale right)
arts 1–14 200–204
- Directive 2004/48/EC (enforcement of intellectual property rights)
arts 1–22 205–213
- Directive 2006/115/EC (rental right and lending right and certain rights related to copyright)
arts 1–16, Annex I, II 213–219
- Directive 2006/116/EC (term of protection of copyright and certain related rights)
arts 1–14 219–223
- Directive 2008/95/EC (trade marks)
arts 1–15, 17 359–365
- Dispute Resolution Service Policy 2008
398–402
- Dispute Resolution Service Procedure 2008
403–406
- Duration of Copyright and Rights in Performances Regulations 1995
regs 1–4, 12–36 161–168
- Electronic Commerce (EC Directive) Regulations 2002
regs 2, 6–15, 17–22 406–410
- European Patent Convention 2000
arts 1–4a, 52–90, 92–94, 97–101, 103, 105–108, 110–115, 121–125, 127, 135, 138 302–315
- Paris Convention for the Protection of Industrial Property 1883
arts 1–13 417–425
- Paris Union and WIPO Joint Recommendation concerning Provisions on the Protection of Well Known Marks 1999
arts 1–6 390–394
- Paris Union and WIPO Joint Recommendation concerning Provisions on the Protection of Marks, and Other Industrial Property Rights in Signs, on the Internet 2001
arts 1–15 394–398
- Patents Act 1977
ss 1–34, 36–43, 46–53, 55–58, 60–79, 81, 89–89B, 100–102, 109–112, 125, 125A, 130, 132, Sch A2 250–299
- Protocol on the Interpretation of Article 69 of the European Patent Convention
arts 1, 2, 139 315
- Registered Designs Act 1949
ss 1, 1B–3D, 5, 7–8B, 11–11AB, 12–15, 17–23, 24A–24D, 24F–28, 35, 35A, 43–47A, Schs A1, 1 139–160
- Regulation (EEC) No. 1768/92 (supplementary protection certificates)
arts 1–15a 299–302
- Regulation (EC) No. 6/2002 (Community designs)
arts 1–49, 51, 52, 55–57, 59, 61, 72, 80, 81, 84–89, 92, 95, 96, 106a–106f, 110, 110a, 111 223–240

Regulation (EC) No. 510/2006 (protection of geographical indications and designations of origin for agricultural products and foodstuffs)

arts 1–8, 12–14, 20, Annexes I, II
365–372

Regulation (EC) No. 207/2009 (Community trade mark)

arts 1–9, 11–20, 22–32, 34–41, 43–59, 64–70, 72–74, 87, 99, 100–102, 105, 107, 110, 111 *372–390*

Trade Marks Act 1994

ss 1–59, 62–64, 72, 73, 75–77, 81–84, 86, 87, 89, 91–105, 107, 108, Schs 1, 2
315–348

Uniform Domain Name Dispute Resolution Policy 1999 *413–416*

Uniform Domain Name Dispute Resolution Policy Rules 1999 *410–413*

WIPO Copyright Treaty 1996

arts 1–14, 17, 18, 22 *248–250*