



# Patents Act 1977

## 1977 CHAPTER 37

### PART I

#### NEW DOMESTIC LAW

##### *Infringement*

#### **62 Restrictions on recovery of damages for infringement.**

(1) In proceedings for infringement of a patent damages shall not be awarded, and no order shall be made for an account of profits, against a defendant or defender who proves that at the date of the infringement he was not aware, and had no reasonable grounds for supposing, that the patent existed; and a person shall not be taken to have been so aware or to have had reasonable grounds for so supposing by reason only of the application to a product of the word “patent” or “patented”, or any word or words expressing or implying that a patent has been obtained for the product, unless the number of the patent [<sup>F1</sup>or a relevant internet link] accompanied the word or words in question.

[<sup>F2</sup>(1A) The reference in subsection (1) to a relevant internet link is a reference to an address of a posting on the internet—

- (a) which is accessible to the public free of charge, and
- (b) which clearly associates the product with the number of the patent.]

(2) In proceedings for infringement of a patent the court or the comptroller may, if it or he thinks fit, refuse to award any damages or make any such order in respect of an infringement committed during [<sup>F3</sup>the further period specified in] section 25(4) above, but before the payment of the renewal fee and any additional fee prescribed for the purposes of that subsection.

(3) Where an amendment of the specification of a patent has been allowed under any of the provisions of this Act, [<sup>F4</sup>the court or the comptroller shall, when awarding damages or making an order for an account of profits in proceedings for an infringement of

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*Changes to legislation: Patents Act 1977, Section 62 is up to date with all changes known to be in force on or before 05 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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the patent committed before the decision to allow the amendment, take into account the following—

- (a) whether at the date of infringement the defendant or defender knew, or had reasonable grounds to know, that he was infringing the patent;
- (b) whether the specification of the patent as published was framed in good faith and with reasonable skill and knowledge;
- (c) whether the proceedings are brought in good faith.]

#### **Textual Amendments**

- F1** Words in s. 62(1) inserted (1.10.2014) by [Intellectual Property Act 2014 \(c. 18\)](#), **ss. 15(1)**, 24(1); S.I. 2014/2330, [art. 3](#), [Sch.](#) (with [art. 5](#))
- F2** S. 62(1A) inserted (1.10.2014) by [Intellectual Property Act 2014 \(c. 18\)](#), **ss. 15(2)**, 24(1); S.I. 2014/2330, [art. 3](#), [Sch.](#)
- F3** Words in s. 62(2) substituted (1.10.2005) by [Patents Act 2004 \(c. 16\)](#), s. 17(1), **Sch. 2 para. 15**; S.I. 2005/2471, [art. 2\(g\)](#)
- F4** Words in s. 62(3) substituted (29.4.2006) by [Intellectual Property \(Enforcement, etc\) Regulations 2006 \(S.I. 2006/1028\)](#), [art. 1](#), **Sch. 2 para. 2**

**Changes to legislation:**

Patents Act 1977, Section 62 is up to date with all changes known to be in force on or before 05 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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**Changes and effects yet to be applied to :**

- s. 62(3)(a) words in s. 62(3) renumbered as s. 62(3)(a) by [2004 c. 16 s. 2\(3\)](#) (Amendment not applied to legislation.gov.uk. S. 2(3) was repealed (29.4.2006) by S.I. 2006/1028, art. 2(4), Sch. 4)
- s. 62(3)(b) and word inserted by [2004 c. 16 s. 2\(3\)](#) (Amendment not applied to legislation.gov.uk. S. 2(3) was repealed (29.4.2006) by S.I. 2006/1028, art. 2(4), Sch. 4)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 56(4)(a)(iiia) and word added by [S.I. 2006/1056 Sch. para. 2\(b\)](#) (This amendment comes into force on the day on which 2005 asp 13, s. 20 comes into force, see art. 1(2)(b))
- s. 63(3)(a) words in s. 63(3) renumbered as s. 63(3)(a) by [2004 c. 16 s. 2\(4\)](#) (Amendment not applied to legislation.gov.uk. S. 2(4) was repealed (29.4.2006) by S.I. 2006/1028, art. 2(4), Sch. 4)
- s. 63(3)(b) and word inserted by [2004 c. 16 s. 2\(4\)](#) (Amendment not applied to legislation.gov.uk. S. 2(4) was repealed (29.4.2006) by S.I. 2006/1028, art. 2(4), Sch. 4)