



Copyright, Designs and Patents Act 1988

1988 CHAPTER 48

PART I

COPYRIGHT

CHAPTER VI

REMEDIES FOR INFRINGEMENT

Supplementary

[^{F1}114A Forfeiture of infringing copies, etc.: England and Wales or Northern Ireland

(1) In England and Wales or Northern Ireland where there have come into the possession of any person in connection with the investigation or prosecution of a relevant offence—

- (a) infringing copies of a copyright work, or
- (b) articles specifically designed or adapted for making copies of a particular copyright work,

that person may apply under this section for an order for the forfeiture of the infringing copies or articles.

(2) For the purposes of this section “relevant offence” means—

- (a) an offence under [^{F2}section 107(1), (2) or (2A)] (criminal liability for making or dealing with infringing articles, etc.),
- (b) an offence under the Trade Descriptions Act 1968 (c. 29),
[an offence under the Business Protection from Misleading Marketing
^{F3}(ba) Regulations 2008,
- (bb) an offence under the Consumer Protection from Unfair Trading Regulations 2008, or]
- (c) an offence involving dishonesty or deception.

Changes to legislation: There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Section 114A. (See end of Document for details)

- (3) An application under this section may be made—
- (a) where proceedings have been brought in any court for a relevant offence relating to some or all of the infringing copies or articles, to that court, or
 - (b) where no application for the forfeiture of the infringing copies or articles has been made under paragraph (a), by way of complaint to a magistrates' court.
- (4) On an application under this section, the court shall make an order for the forfeiture of any infringing copies or articles only if it is satisfied that a relevant offence has been committed in relation to the infringing copies or articles.
- (5) A court may infer for the purposes of this section that such an offence has been committed in relation to any infringing copies or articles if it is satisfied that such an offence has been committed in relation to infringing copies or articles which are representative of the infringing copies or articles in question (whether by reason of being of the same design or part of the same consignment or batch or otherwise).
- (6) Any person aggrieved by an order made under this section by a magistrates' court, or by a decision of such a court not to make such an order, may appeal against that order or decision—
- (a) in England and Wales, to the Crown Court, or
 - (b) in Northern Ireland, to the county court.
- (7) An order under this section may contain such provision as appears to the court to be appropriate for delaying the coming into force of the order pending the making and determination of any appeal (including any application under section 111 of the Magistrates' Courts Act 1980 (c. 43) or Article 146 of the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)) (statement of case)).
- (8) Subject to subsection (9), where any infringing copies or articles are forfeited under this section they shall be destroyed in accordance with such directions as the court may give.
- (9) On making an order under this section the court may direct that the infringing copies or articles to which the order relates shall (instead of being destroyed) be forfeited to the owner of the copyright in question or dealt with in such other way as the court considers appropriate.]

Textual Amendments

- F1** Ss. 114A, 114B inserted (20.11.2002) by [2002 c. 25, s. 3](#); [S.I. 2002/2749, art. 2](#)
- F2** Words in s. 114A(2)(a) substituted (31.10.2003) by [The Copyright and Related Rights Regulations 2003 \(S.I. 2003/2498\), reg. 26\(2\)\(iii\)](#) (with regs. 31-40)
- F3** S. 114A(2)(ba)(bb) and word substituted (26.5.2008) for word by [The Consumer Protection from Unfair Trading Regulations 2008 \(S.I. 2008/1277\), reg. 1, Sch. 2 para. 40](#) (with reg. 28(2)(3))

Changes to legislation:

There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Section 114A.