Intellectual Property Act 2014

2014 CHAPTER 18

PART 1

DESIGN

Unregistered design right

1 Meaning of “design” and “original”

(1) In section 213(2) of the Copyright, Designs and Patents Act 1988 (unregistered design right: meaning of “design”), in subsection (2), omit “any aspect of”.

(2) In section 51 of that Act (copyright infringement: exception for certain designs), in subsection (3), in the definition of “design”, omit “any aspect of”.

(3) In section 213(4) of that Act (unregistered design right: meaning of “original”)—
   (a) after “commonplace” insert “in a qualifying country”, and
   (b) at the end insert “; and “qualifying country” has the meaning given in section 217(3)”.

(4) Subsection (3) applies only to designs created after the commencement of that subsection.

2 Ownership of design

(1) In section 215 of the Copyright, Designs and Patents Act 1988 (ownership of unregistered design right)—
   (a) in subsection (1), omit “in pursuance of a commission or”,
   (b) omit subsection (2), and
   (c) in subsection (3), omit “, in a case not falling within subsection (2)”.

(2) In consequence of subsection (1)—
(a) in section 213(5)(a) of that Act (person by reference to whom design qualifies for design right), for “the design was commissioned or the designer employed” substitute “the designer was employed”;

(b) in section 218 of that Act (design qualifies for design right by reference to designer), in subsection (1), omit “in pursuance of a commission or”;

(c) in section 219 of that Act (the title to which becomes “Qualification by reference to employer”), in subsection (1), for “in pursuance of a commission from, or in the course of employment with,” substitute “in the course of employment with”;

(d) in subsection (2) of that section, omit “a joint commission or” and “commissioners or”;

(e) in subsection (3) of that section, omit “jointly commissioned or”, “commissioners or” and “commissioner or”;

(f) in that subsection, for “215(2) or (3)” substitute “215(3)”;

(g) in section 220 of that Act (qualification by reference to first marketing), in subsection (1), omit “, commissioner”;

(h) in subsection (4)(a) of that section, omit “, commissioner of the design”;

(i) in section 263 of that Act (definitions), in subsection (1), in the definition of “British design”, omit “the design is commissioned or”;

(j) in that subsection, omit the definition of “commission”, and

(k) in section 264 of that Act (index of defined expressions), omit the entry for “commission”.

(3) This section does not apply to—

(a) any design created before the commencement of this section, or

(b) any design created after the commencement of this section in pursuance of a commission (irrespective of whether the design was commissioned before or after that commencement) provided that—

(i) the designer and the commissioner of the design have entered into a contract relating to the commission of the design, and

(ii) the contract was entered into before that commencement.

3 Qualification criteria

(1) In section 217 of that Act (qualifying individuals and qualifying persons), in subsection (1)—

(a) omit the definition of “qualifying individual”, and

(b) for the definition of “qualifying person” substitute—

““qualifying person” means—

(a) an individual habitually resident in a qualifying country, or

(b) a body corporate or other body having legal personality which—

(i) is formed under the law of a part of the United Kingdom or another qualifying country, and

(ii) has in any qualifying country a place of business at which substantial business activity is carried on.”

(2) In that section, omit subsection (4).

(3) In section 218 of that Act (qualification by reference to designer)—
(a) in subsection (2), omit “a qualifying individual or, in the case of a computer-generated design,”
(b) in subsection (3), omit “a qualifying individual or, as the case may be,”, and
(c) in subsection (4), omit “qualifying individuals or”.

(4) In section 220 of that Act (qualification by reference to first marketing)—
(a) in subsection (1)(a), omit “who is exclusively authorised to put such articles on the market in the United Kingdom”,
(b) in subsection (2), for “requirements” substitute “requirement”,
(c) in subsection (3), for “those requirements” substitute “that requirement”, and
(d) omit subsection (4).

(5) In section 264 of that Act (index of defined expressions), in the Table, omit the entry for “qualifying individual”.

(6) This section applies only to designs created after the commencement of this section.

4 Infringement: exceptions

After section 244 of the Copyright, Designs and Patents Act 1988 (but before the following cross-heading) insert—

“Miscellaneous

244A Exception for private acts, experiments and teaching

Design right is not infringed by—
(a) an act which is done privately and for purposes which are not commercial;
(b) an act which is done for experimental purposes; or
(c) an act of reproduction for teaching purposes or for the purpose of making citations provided that—
   (i) the act of reproduction is compatible with fair trade practice and does not unduly prejudice the normal exploitation of the design, and
   (ii) mention is made of the source.

244B Exception for overseas ships and aircraft

Design right is not infringed by—
(a) the use of equipment on ships or aircraft which are registered in another country but which are temporarily in the United Kingdom;
(b) the importation into the United Kingdom of spare parts or accessories for the purpose of repairing such ships or aircraft; or
(c) the carrying out of repairs on such ships or aircraft.”