



# Copyright, Designs and Patents Act 1988

## 1988 CHAPTER 48

### PART III

#### DESIGN RIGHT

#### CHAPTER V

#### MISCELLANEOUS AND GENERAL

#### *Miscellaneous*

#### **253 Remedy for groundless threats of infringement proceedings.**

- (1) Where a person threatens another person with proceedings for infringement of design right, a person aggrieved by the threats may bring an action against him claiming—
  - (a) a declaration to the effect that the threats are unjustifiable;
  - (b) an injunction against the continuance of the threats;
  - (c) damages in respect of any loss which he has sustained by the threats.
- (2) If the plaintiff proves that the threats were made and that he is a person aggrieved by them, he is entitled to the relief claimed unless the defendant shows that the acts in respect of which proceedings were threatened did constitute, or if done would have constituted, an infringement of the design right concerned.
- (3) Proceedings may not be brought under this section in respect of a threat to bring proceedings for an infringement alleged to consist of making or importing anything.
- (4) Mere notification that a design is protected by design right does not constitute a threat of proceedings for the purposes of this section.

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*Status: Point in time view as at 20/09/1995.*

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

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**254 Licensee under licence of right not to claim connection with design right owner.**

- (1) A person who has a licence in respect of a design by virtue of section 237 or 238 (licences of right) shall not, without the consent of the design right owner—
- (a) apply to goods which he is marketing, or proposes to market, in reliance on that licence a trade description indicating that he is the licensee of the design right owner, or
  - (b) use any such trade description in an advertisement in relation to such goods.
- (2) A contravention of subsection (1) is actionable by the design right owner.
- (3) In this section “trade description”, the reference to applying a trade description to goods and “advertisement” have the same meaning as in the <sup>M1</sup>Trade Descriptions Act 1968.

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**Marginal Citations**

**M1** 1968 c. 29.

**Status:**

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