



Patents and Designs Act 1907

1907 CHAPTER 29

PART II

DESIGNS

Registration of Designs

49 Application for registration of designs

- (1) The comptroller may, on the application made in the prescribed form and manner of any person claiming to be the proprietor of any new or original design not previously published in the United Kingdom, register the design under this Part of this Act.
- (2) The same design may be registered in more than one class, and, in case of doubt as to the class in which a design ought to be registered, the comptroller may decide the question.
- (3) The comptroller may, if he thinks fit, refuse to register any design presented to him for registration, but any person aggrieved by any such refusal may appeal to the Board of Trade, and the Board shall, after hearing the applicant and the comptroller, if so required, make an order determining whether, and subject to what conditions, if any, registration is to be permitted.
- (4) An application which, owing to any default or neglect on the part of the applicant, has not been completed so as to enable registration to be effected within the prescribed time shall be deemed to be abandoned.
- (5) A design when registered shall be registered as of the date of the application for registration.

50 Registration of designs in new classes

Where a design has been registered in one or more classes of goods the application of the proprietor of the design to register it in some one or more other classes shall not be refused, nor shall the registration thereof be invalidated—

- (a) on the ground of the design not being a new and original design, by reason only that it was so previously registered; or
- (b) on the ground of the design having been previously published in the United Kingdom, by reason only that it has been applied to goods of any class in which it was so previously registered.

51 Certificate of registration

- (1) The comptroller shall grant a certificate of registration to the proprietor of the design when registered.
- (2) The comptroller may, in case of loss of the original certificate, or in any other case in which he deems it expedient, furnish one or more copies of the certificate.

52 Register of designs

- (1) There shall be kept at the Patent Office a book called the Register of Designs wherein shall be entered the names and addresses of proprietors of registered designs, notifications of assignments and of transmissions of registered designs, and such other matters as may be prescribed.
- (2) The register of designs existing at the commencement of this Act shall be incorporated with and form part of the register of designs under this Act.
- (3) The register of designs shall be prima facie evidence of any matters by this Act directed or authorised to be entered therein.

Copyright in registered Designs

53 Copyright on registration

- (1) When a design is registered, the registered proprietor of the design shall, subject to the provisions of this Act, have copyright in the design during five years from the date of registration.
- (2) If within the prescribed time before the expiration of the said five years application for the extension of the period of copyright is made to the comptroller in the prescribed manner, the comptroller shall on payment of the prescribed fee extend the period of copyright for a second period of five years from the expiration of the original period of five years.
- (3) If within the prescribed time before the expiration of such second period of five years application for the extension of the period of copyright is made to the comptroller in the prescribed manner, the comptroller may, subject to any rules under this Act, on payment of the prescribed fee, extend the period of copyright for a third period of five years from the expiration of the second period of five years.

54 Requirements before delivery on sale

- (1) Before delivery on sale of any articles to which a registered design has been applied, the proprietor shall—
 - (a) (if exact representations or specimens were not furnished on the application for registration), furnish to the comptroller the prescribed number of exact

representations or specimens of the design ; and if he fails to do so, the comptroller may erase his name from the register, and thereupon the copyright in the design shall cease ; and

- (b) cause each such article to be marked with the prescribed mark, or with the prescribed words or figures, denoting that the design is registered ; and if he fails to do so the proprietor shall not be entitled to recover any penalty or damages in respect of any infringement of his copyright in the design, unless he shows that he took all proper steps to ensure the marking of the article, or unless he shows that the infringement took place after the person guilty thereof knew or had received notice of the existence of the copyright in the design.
- (2) Where a representation is made to the Board of Trade by or on behalf of any trade or industry that in the interests of the trade or industry it is expedient to dispense with or modify, as regards any class or description of articles, any of the requirements of this section as to marking, the Board may, if they think fit, by rule under this Act dispense with or modify such requirements as regards any such class or description of articles to such extent and subject to such conditions as they think fit.

55 Effect of disclosure on copyright

The disclosure of a design by the proprietor to any other person, in such circumstances as would make it contrary to good ' faith for that other person to use or publish the design, and the disclosure of a design in breach of good faith by any person other than the proprietor of the design, and the acceptance of a first and confidential order for goods bearing a new or original textile design intended for registration, shall not be deemed to be a publication of the design sufficient to invalidate the copyright thereof if registration thereof is obtained subsequently to the disclosure or acceptance.

56 Inspection of registered designs

- (1) During the existence of copyright in a design, or such shorter period not being less than two years from the registration of the design as may be prescribed, the design shall not be open to inspection except by the proprietor or a person authorised in writing by him, or a person authorised by the comptroller or by the court, and furnishing such information as may enable the comptroller to identify the design, and shall not be open to the inspection of any person except in the presence of the comptroller, or of an officer acting under him, and on payment of the prescribed fee; and the person making the inspection shall not be entitled to take any copy of the design, or of any part thereof:

Provided that where registration of a design is refused on the ground of identity with a design already registered, the applicant for registration shall be entitled to inspect the design so registered.

- (2) After the expiration of the copyright in a design, or such shorter period as aforesaid, the design shall be open to inspection, and copies thereof may be taken by any person on payment of the prescribed fee.
- (3) Different periods may be prescribed under this section for different classes of goods.

57 Information as to existence of copyright

On the request of any person furnishing such information as may enable the comptroller to identify the design, and on payment of the prescribed fee, the

comptroller shall inform such person whether the registration still exists in respect of the design, and, if so, in respect of what classes of goods, and shall state the date of registration, and the name and address of the registered proprietor.

58 Cancellation of registration of designs used wholly or mainly abroad

- (1) At any time after the registration of a design any person may apply to the comptroller for the cancellation of the registration on the ground that the design is used for manufacture exclusively or mainly outside the United Kingdom, and where such an application is made the provisions of this Act with respect to the revocation of patents worked outside the United Kingdom (including those relating to costs) shall apply with the necessary modifications, except that there shall be no appeal from the decision of the comptroller.
- (2) Such ground as aforesaid shall be available by way of a defence to an action for infringement of the copyright in the design.

Industrial and International Exhibitions

59 Provisions as to exhibitions

- (1) The exhibition at an industrial or international exhibition certified as such by the Board of Trade, or the exhibition elsewhere during the period of the holding of the exhibition, without the privity or consent of the proprietor, of a design, or of any article to which a design is applied, or the publication, during the holding of any such exhibition, of a description of a design, shall not prevent the design from being registered, or invalidate the registration thereof: Provided that—
 - (a) The exhibitor, before exhibiting the design or article, or publishing a description of the design, gives the comptroller the prescribed notice of his intention to do so ; and
 - (b) The application for registration is made before or within six months from the date of the opening of the exhibition.
- (2) His Majesty may, by Order in Council, apply this section to any exhibition mentioned in the Order in like manner as if it were an industrial or international exhibition certified as such by the Board of Trade, and any such Order may provide that the exhibitor shall be relieved from the condition of giving notice to the comptroller of his intention to exhibit, and shall be so relieved either absolutely or upon such terms and conditions as may be stated in the Order.

Legal Proceedings

60 Piracy of registered design

- (1) During the existence of copyright in any design it shall not be lawful for any person—
 - (a) For the purposes of sale to apply or cause to be applied to any article in any class of goods in which the design is registered the design or any fraudulent or obvious imitation thereof, except with the licence or written consent of the registered proprietor, or to do anything with a view to enable the design to be so applied ; or,

- (b) Knowing that the design or any fraudulent or obvious imitation thereof has been applied to any article without the consent of the registered proprietor, to publish or expose or cause to be published or exposed for sale that article.
- (2) If any person acts in contravention of this section he shall be liable for every contravention to pay to the registered proprietor of the design a sum not exceeding fifty pounds, recoverable as a simple contract debt, or if the proprietor elects to bring an action for the recovery of damages for such contravention, and for an injunction against the repetition thereof, he shall be liable to pay such damages as may be awarded and to be restrained by injunction accordingly :

Provided that the total sum recoverable as a simple contract debt in respect of any one design shall not exceed one hundred pounds. ,

61 Application of certain provisions of the Act as to patents to designs

The provisions of this Act with regard to certificates of the validity of a patent, and to the remedy in case of groundless threats of legal proceedings by a patentee, shall apply in the case of registered designs in like manner as they apply in the case of patents, with the substitution of references to the copyright in a design for references to a patent, and of references to the proprietor of a design for references to the patentee, and of references to the design for references to the invention.