

BUTTERWORTHS

Intellectual Property Law HANDBOOK

Tenth edition

Consultant editor
JEREMY PHILLIPS



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BUTTERWORTHS
INTELLECTUAL PROPERTY LAW
HANDBOOK

Tenth edition

Consultant Editor

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PREFACE

Welcoming users to the tenth edition of this Handbook, I am both surprised and delighted that this paper product remains not merely viable but buoyant in a world where the printed page is fast being replaced by the electronic screen. The ease with which words can be searched and accessed online by hand-held devices is remarkable, but the sheer physical pleasure of being able to stick strips of repositionable adhesive paper into the pages of one's choice and to underline a word, a phrase or an entire paragraph with a fluorescent felt-tip pen is hard to replicate with the lean, mean confines of a Kindle.

Another edition, another set of laws: some are old favourites, scarcely changed by time and apparently destined to be reproduced forever. Others are familiar but, through substantial amendment, must be re-learned. Yet more are completely fresh and may not be known to the user at all. Just as a garden contains its old oaks and elms, its shrubs and its easy-to-plant, easy-to-replace bedding plants, so too does this collection of intellectual property documents represent the sweep of legislation from the timeless to the transient.

One new entrant in this edition is the controversial Anti-Counterfeiting Trade Agreement, the dreaded "ACTA". On account of its somewhat secretive conception and early evolution, it was criticised and reviled by many people on account of the great evils which it was believed to contain, even before they had seen a word of it. Once a regular flow of leaks and eventual disclosure of its contents gave the world a chance to peruse its contents, it was criticised and reviled by many people on account of the absence of the powerful and coercive provisions which it did not contain. In the cold light of day, ACTA can now be viewed for what it really is: (i) a moderately damp squib so far as enforcement and genuine relief against intellectual property infringement is concerned, (ii) an anguished *cri de coeur* from countries that have encouraged intellectual property investment and benefited from it to the effect that the current erosion of right-holders' commercial expectations cannot continue indefinitely and (iii) an object lesson in how to alienate a large army of neutral third parties when an opportunity to educate and persuade them is lost.

Another controversial newcomer to the tenth edition is the Digital Economy Act 2010 which, like ACTA, has been attacked from both sides. In fact, it has been attacked on four sides since, apart from rights owners and unauthorised downloaders of copyright-protected materials, internet service providers also have a say. Further, there are those who are quite indifferent to the balance of power between IP owners, users and conduits but who dislike the format of the legislation itself, since it consists principally of a set of powers to make rules rather than laying down the rules themselves.

As in previous issues, there is a list of people and parties entitled to my gratitude. My friends and colleagues at Olswang LLP have provided me with much food for thought and encouragement to eat it. They have also provided me with a chance to try out some of my own ideas, if sometimes trying their patience in the process. Moving on to production, the LexisNexis team has again improved upon its superlatively efficient performance of what are, for most of us, mundane and unglamorous tasks. Finally, I must thank the users of this Handbook who have emailed me with comments and suggestions for its improvement. To all of you I owe a considerable debt.

Jeremy Phillips
High Holborn
July 2011

CONTENTS

Preface

page v

PART I PATENTS

| | |
|--|---------|
| Patents Act 1977 | [1.1] |
| Contracting Out (Functions in Relation to Applications for Patents) Order 2002, SI 2002/3052 | [1.151] |
| Patents Act 2004 (Commencement No 1 and Consequential and Transitional Provisions) Order 2004, SI 2004/2177, arts 1, 6–8 | [1.157] |
| Regulatory Reform (Patents) Order 2004, SI 2004/2357, arts 1, 20–23 | [1.161] |
| Patents Act 2004 (Commencement No 2 and Consequential, etc and Transitional Provisions) Order 2004, SI 2004/3205, arts 1, 2, 9 | [1.166] |
| Patents Act 2004 (Commencement No 3 and Transitional Provisions) Order 2005, SI 2005/2471 | [1.169] |
| Patents (Convention Countries) Order 2007, SI 2007/276 | [1.173] |
| Patents Rules 2007, SI 2007/3291 | [1.176] |
| Patents County Court (Financial Limits) Order 2011, SI 2011/1402 | [1.311] |
| Convention on the Grant of European Patents (Munich, 5 October 1973, as revised by the Act revising Article 63 EPC of 17 December 1991 and the Act revising the EPC of 29 November 2000) ('European Patent Convention') | [1.314] |
| Protocol on jurisdiction and the recognition of decisions in respect of the right to the grant of a European Patent ('Protocol on Recognition') | [1.482] |
| Protocol on privileges and immunities of the European Patent Organisation ('Protocol on Privileges and Immunities') | [1.484] |
| Protocol on the centralisation of the European Patent System and on its introduction ('Protocol on Centralisation') | [1.485] |
| Protocol on the interpretation of Article 69 of the Convention | [1.493] |
| Protocol on the Staff Complement of the European Patent Office at the Hague ('Protocol on Staff Complement') | [1.495] |
| Decision of the Administrative Council on the transitional provisions under Article 7 of the Act revising the European Patent Convention of 29 November 2000 | [1.496] |
| Patent Co-operation Treaty (June 19 1970, as amended) | [1.498] |
| Regulations under the Patent Co-operation Treaty (June 19 1970, as amended) | [1.567] |
| Patent Law Treaty (June 1 2000) | [1.685] |
| Regulations under the Patent Law Treaty (June 1 2000) | [1.712] |
| Regulation 816/2006 of the European Parliament and of the Council on compulsory licensing of patents relating to the manufacture of pharmaceutical products for export to countries with public health problems | [1.733] |
| Patents Act 1977: Patentable subject matter (2 November 2006) | [1.753] |
| Regulation 469/2009 concerning the supplementary protection certificate for medicinal products | [1.754] |

PART II COPYRIGHT

| | |
|--|---------|
| Public Lending Right Act 1979 | [2.1] |
| Copyright, Designs and Patents Act 1988 | [2.7] |
| Broadcasting Act 1990, ss 176, 201, 203, 204 | [2.403] |
| Broadcasting Act 1996, ss 137, 149, 150 | [2.407] |
| Communications Act 2003, ss 124A–124R | [2.410] |
| Digital Economy Act 2010, ss 17, 18, 47, 48 | [2.428] |
| Public Lending Right Scheme 1982 (Commencement) Order 1982, SI 1982/719 | [2.432] |

| | |
|---|---------|
| Copyright and Rights in Performances (Notice of Seizure) Order 1989, SI 1989/1006 | [2.435] |
| Copyright (Customs) Regulations 1989, SI 1989/1178 | [2.438] |
| Copyright (Librarians and Archivists) (Copying of Copyright Material) Regulations 1989, SI 1989/1212 | [2.449] |
| Copyright (Material Open to Public Inspection) (Marking of Copies of Plans and Drawings) Order 1990, SI 1990/1427 | [2.460] |
| Duration of Copyright and Rights in Performances Regulations 1995, SI 1995/3297, regs 1–4, 12–36 | [2.462] |
| Copyright and Related Rights Regulations 1996, SI 1996/2967, regs 1–4, 16–17B, 19, 25–36 | [2.491] |
| Copyright and Rights in Databases Regulations 1997, SI 1997/3032, regs 1–4, 12–30 | [2.512] |
| Copyright and Related Rights Regulations 2003, SI 2003/2498, regs 1, 30–40 .. | [2.538] |
| Artist's Resale Right Regulations 2006, SI 2006/346 | [2.550] |
| Copyright (Certification of Licensing Scheme for Educational Recording of Broadcasts) (Educational Recording Agency Limited) Order 2007, SI 2007/266 | [2.569] |
| Parliamentary Copyright (National Assembly for Wales) Order 2007, SI 2007/1116 | [2.573] |
| Copyright and Performances (Application to Other Countries) Order 2008, SI 2008/677 | [2.575] |
| Copyright Tribunal Rules 2010, SI 2010/791 | [2.583] |
| Council Directive 93/83/EEC on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission | [2.629] |
| Directive of the European Parliament and of the Council 2006/115 on rental right and lending right and on certain rights related to copyright in the field of intellectual property | [2.644] |
| Directive of the European Parliament and of the Council 2006/116/EC on the term of protection of copyright and certain related rights | [2.662] |
| Directive 2009/24 on the legal protection of computer programs (‘Software Directive’)..... | [2.678] |

PART III DESIGNS

| | |
|--|---------|
| Registered Designs Act 1949 | [3.1] |
| Copyright (Industrial Process and Excluded Articles) (No 2) Order 1989, SI 1989/1070 | [3.76] |
| Registered Designs Regulations 2001, SI 2001/3949, regs 1, 10–14 | [3.79] |
| Registered Designs Regulations 2003, SI 2003/550 | [3.85] |
| Community Designs (Designation of Community Design Courts) Regulations 2005, SI 2005/696 | [3.89] |
| Community Design Regulations 2005, SI 2005/2339 | [3.91] |
| Regulatory Reform (Registered Designs) Order 2006, SI 2006/1974, arts 1, 18, 19 | [3.102] |
| Registered Designs Rules 2006, SI 2006/1975 | [3.105] |
| Designs (Convention Countries) Order 2007, SI 2007/277 | [3.155] |
| Council Regulation 6/2002/EC on Community Designs | [3.158] |
| Commission Regulation 2245/2002/EC implementing Council Regulation 6/2002/EC on Community Designs | [3.276] |

PART IV UNREGISTERED DESIGN RIGHT

| | |
|--|--------|
| Design Right (Semiconductor Topographies) Regulations 1989, SI 1989/1100 | [4.1] |
| Design Right (Proceedings before Comptroller) Rules 1989, SI 1989/1130 | [4.12] |

PART V TRADE MARKS

| | |
|--|---------|
| Trade Marks Act 1994 | [5.1] |
| Trade Marks (Customs) Regulations 1994, SI 1994/2625 | [5.115] |

| | |
|--|---------|
| Tobacco Advertising and Promotion (Brandsharing) Regulations 2004, SI 2004/1824 | [5.122] |
| Community Trade Mark Regulations 2006, SI 2006/1027 | [5.129] |
| Trade Marks (Relative Grounds) Order 2007, SI 2007/1976 | [5.141] |
| Trade Marks Rules 2008, SI 2008/1797 | [5.146] |
| Trade Marks (International Registration) Order 2008, SI 2008/2206 | [5.230] |
| First Council Directive 89/104/EEC to approximate the laws of the Member States relating to trade marks ('Trade Marks Directive') | [5.245] |
| Council Regulation 40/94/EEC on the Community trade mark | [5.262] |
| Commission Regulation 2868/95/EC implementing Council Regulation (EC) No 40/94 on the Community trade mark | [5.429] |
| Commission Regulation 2869/95/EC on the Fees Payable to the Office for Harmonization in the Internal Market (Trade Marks and Designs) | [5.563] |
| Commission Regulation 216/96/EC laying down the rules of procedure of the Boards of Appeal of the Office for Harmonization in the Internal Market (Trade Marks and Designs) | [5.578] |
| Council Decision 2003/793/EC approving the accession of the European Community to the Protocol relating to the Madrid Agreement concerning the international registration of marks, adopted at Madrid on 27 June 1989..... | [5.596] |
| Directive 2008/95 to approximate the laws of the Member States relating to trade marks ('Trade Marks Directive') | [5.599] |
| Council Regulation 207/2009 on the Community trade mark | [5.620] |
| Madrid Agreement Concerning the International Registration of Marks (14 April 1891) | [5.789] |
| Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (adopted at Madrid on 27 June 1989) (<i>'Madrid Protocol'</i>)..... | [5.816] |
| Common Regulations under the Madrid Agreement Concerning the International Registration of Marks and the Protocol Relating to that Agreement (April 1, 2007) | [5.842] |
| Trademark Law Treaty (adopted at Geneva on October 27, 1994) | [5.889] |
| Regulations under the Trademark Law Treaty (adopted at Geneva on October 27, 1994) | [5.914] |
| The .eu Alternative Dispute Resolution Rules 2005 ('ADR Rules') | [5.922] |
| Supplemental ADR Rules of the Arbitration Court attached to the Economic Chamber of the Czech Republic and Agricultural Chamber of the Czech Republic 2005 | [5.925] |

PART VI PLANT VARIETIES PROTECTION

| | |
|---|---------|
| Plant Varieties and Seeds Act 1964 | [6.10] |
| Plant Varieties Act 1997 | [6.23] |
| Plant Varieties and Seeds Tribunal Rules 1974, SI 1974/1136 | [6.79] |
| Plant Variety Rights Office (Extension of Functions) Regulations 1995, SI 1995/2655 | [6.113] |
| Patents and Plant Variety Rights (Compulsory Licensing) Regulations 2002, SI 2002/247 | [6.115] |
| Council Regulation 2100/94/EC on Community plant variety rights | [6.142] |
| Commission Regulation 1239/95/EC of 31 May 1995 establishing implementing rules for the application of Council Regulation (EC) No 2100/94 as regards proceedings before the Community Plant Variety Office | [6.261] |
| Commission Regulation 1768/95/EC of 24 July 1995 implementing rules on the agricultural exemption provided for in Article 14 (3) of Council Regulation (EC) No 2100/94 on Community plant variety rights | [6.357] |
| International Convention for the protection of new varieties of plants ('UPOV Convention')..... | [6.376] |

PART VII MISCELLANEOUS

| | |
|--|---------|
| Human Rights Act 1998 | [7.1] |
| London Olympic Games and Paralympic Games Act 2006 | [7.29] |
| Civil Procedure Rules 1998, SI 1998/3132, Part 63 | [7.77] |
| Goods Infringing Intellectual Property Rights (Customs) Regulations 2004, SI 2004/1473 | [7.102] |
| Intellectual Property (Enforcement, etc) Regulations 2006, SI 2006/1028 | [7.109] |
| Council Regulation 3286/94/EC laying down Community procedures in the field of the common commercial policy in order to ensure the exercise of the Community's rights under international trade rules, in particular those established under the auspices of the World Trade Organization (‘Trade Barriers Regulation’)..... | [7.115] |
| Directive of the European Parliament and of the Council 2001/84/EC on the resale right for the benefit of the author of an original work of art (‘Resale Rights Directive’)..... | [7.131] |
| Directive of the European Parliament and of the Council 2004/48/EC on the enforcement of intellectual property rights (‘IP Enforcement Directive’)..... | [7.145] |
| Directive of the European Parliament and of the Council 2005/29/EC concerning unfair business-to-consumer commercial practices in the internal market (‘Unfair Commercial Practices Directive’)..... | [7.167] |

PART VIII EU MATERIALS

| | |
|--|---------|
| Directive of the European Parliament and of the Council 96/9/EC on the legal protection of databases (‘Database Directive’)..... | [8.1] |
| Directive of the European Parliament and of the Council 98/44/EC on the legal protection of biotechnological inventions (‘Biotech Directive’)..... | [8.18] |
| Directive of the European Parliament and of the Council 98/71/EC on the legal protection of designs | [8.36] |
| Directive of the European Parliament and of the Council 98/84/EC on the legal protection of services based on, or consisting of, conditional access (‘Conditional Access Directive’) | [8.59] |
| Directive of the European Parliament and the Council 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society (‘InfoSoc Directive’)..... | [8.68] |
| Council Directive 2003/49/EC on a common system of taxation applicable to interest and royalty payments made between associated companies of different Member States (‘Interest and Royalties Directive’)..... | [8.82] |
| Council Regulation 1383/2003/EC concerning customs action against goods suspected of infringing certain intellectual property rights and the measures to be taken against goods found to have infringed such rights (‘EU Customs Regulation’) | [8.94] |
| Commission Regulation 772/2004/EC on the application of Article 81(3) of the Treaty to categories of technology transfer agreements (‘Technology Transfer Block Exemption’)..... | [8.119] |
| Council Regulation 509/2006 on agricultural products and foodstuffs as traditional specialities guaranteed | [8.130] |
| Council Regulation 510/2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs | [8.154] |
| Directive of the European Parliament and of the Council 2006/114 concerning misleading and comparative advertising (‘Misleading and Comparative Advertising Directive’)..... | [8.177] |
| Commission Regulation 1898/2006/EC laying down detailed rules of implementation of Council Regulation (EC) No 510/2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs | [8.191] |
| Council Regulation 834/2007/EC on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91..... | [8.219] |
| Council Decision 2007/845/JHA concerning cooperation between Asset Recovery Offices of the Member States in the field of tracing and identification of proceeds from, or other property related to, crime..... | [8.262] |

| | |
|---|---------|
| Directive 2008/121/EC of the European Parliament and of the Council of 14 January 2009 on textile names | [8.271] |
| Commission Regulation 889/2008/EC laying down detailed rules for the implementation of Council Regulation (EC) No 834/2007 on organic production and labelling of organic products with regard to organic production, labelling and control..... | [8.298] |
| Commission Regulation 607/2009/EC laying down certain detailed rules for the implementation of Council Regulation (EC) No 479/2008 as regards protected designations of origin and geographical indications, traditional terms, labelling and presentation of certain wine sector products..... | [8.410] |
| Council of the European Union Resolution of 1 March 2010 on the enforcement of intellectual property rights in the internal market..... | [8.501] |
| Memorandum of Understanding of 4 May 2011 on Take-Down Notices..... | [8.502] |

PART IX INTERNATIONAL

| | |
|---|---------|
| Paris Convention for the Protection of Industrial Property (20 March 1883) | [9.1] |
| The Hague Agreement Concerning the International Deposit of Industrial Designs (November 6, 1925) (The Hague Act of November 28, 1960) | [9.47] |
| International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations (Rome, 26 October 1961) ('Rome Convention')..... | [9.81] |
| Locarno Agreement Establishing an International Classification for Industrial Designs (October 8, 1968) | [9.115] |
| Universal Copyright Convention (as revised at Paris on 24 July 1971) | [9.131] |
| Berne Convention for the Protection of Literary and Artistic Works (Paris Act, 24 July 1971) | [9.160] |
| Convention for the Protection of Producers of Phonograms Against Unauthorised Duplication of their Phonograms (Geneva, October 29, 1971) ('Phonograms Convention')..... | [9.213] |
| Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite (Brussels, May 21, 1974) ('Brussels Convention')..... | [9.226] |
| Agreement on Trade-related aspects of Intellectual Property Rights ('TRIPS').... | [9.238] |
| WIPO Copyright Treaty (Adopted by the Diplomatic Conference on December 20, 1996) | [9.313] |
| WIPO Performances and Phonograms Treaty (Adopted by the Diplomatic Conference on December 20, 1996) | [9.338] |
| Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs (Adopted by the Diplomatic Conference on 2 July, 1999) | [9.371] |
| Regulations under the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs (2 July, 1999) | [9.405] |
| Agreed Statements by the Diplomatic Conference Regarding the Geneva Act and the Regulations Under the Geneva Act | [9.442] |
| Convention on Biological Diversity (Rio, June 1992) | [9.443] |
| Uniform Domain Name Dispute Resolution Policy (ICANN) (October 24, 1999) | [9.488] |
| Rules for Uniform Domain Name Dispute Resolution Policy (ICANN) (amended October 30, 2009) | [9.489] |
| Convention for the Safeguarding of the Intangible Cultural Heritage (UNESCO) (Paris, 17 October 2003) | [9.490] |
| Convention on the Protection and Promotion of the Diversity of Cultural Expressions (UNESCO) (Paris, 20 October 2005) | [9.530] |
| Singapore Treaty on the Law of Trademarks (27 March 2006) | [9.538] |
| Regulations under the Singapore Treaty on the Law of Trademarks | [9.570] |
| Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable sharing of Benefits Arising from their Utilisation to the Convention on Biological Diversity (29 October 2010)..... | [9.580] |
| Anti-Counterfeiting Trade Agreement (3 December 2010) ('ACTA')..... | [9.617] |

ALPHABETICAL LIST OF CONTENTS

| | |
|---|---------|
| ADR Rules (The .eu Alternative Dispute Resolution Rules 2005) | [5.922] |
| Agreed Statements by the Diplomatic Conference Regarding the Geneva Act and the Regulations Under the Geneva Act | [9.442] |
| Agreement on Trade-related aspects of Intellectual Property Rights ('TRIPS')..... | [9.238] |
| Anti-Counterfeiting Trade Agreement (3 December 2010) ('ACTA')..... | [9.617] |
| Artist's Resale Right Regulations 2006, SI 2006/346 | [2.550] |
| Berne Convention for the Protection of Literary and Artistic Works (Paris Act, 24 July 1971) | [9.160] |
| Biotech Directive (Directive of the European Parliament and of the Council 98/44/EC on the legal protection of biotechnological inventions)..... | [8.18] |
| Broadcasting Act 1990, ss 176, 201, 203, 204 | [2.403] |
| Broadcasting Act 1996, ss 137, 149, 150 | [2.407] |
| Brussels Convention (Convention Relating to the Distribution of Programme- Carrying Signals Transmitted by Satellite (Brussels, May 21, 1974))..... | [9.226] |
| Civil Procedure Rules 1998, SI 1998/3132, Part 63 | [7.77] |
| Commission Regulation 607/2009/EC laying down certain detailed rules for the implementation of Council Regulation (EC) No 479/2008 as regards protected designations of origin and geographical indications, traditional terms, labelling and presentation of certain wine sector products..... | [8.410] |
| Commission Regulation 889/2008/EC laying down detailed rules for the implementation of Council Regulation (EC) No 834/2007 on organic production and labelling of organic products with regard to organic production, labelling and control..... | [8.298] |
| Commission Regulation 1239/95/EC of 31 May 1995 establishing implementing rules for the application of Council Regulation (EC) No 2100/94 as regards proceedings before the Community Plant Variety Office | [6.261] |
| Commission Regulation 1768/95/EC of 24 July 1995 implementing rules on the agricultural exemption provided for in Article 14 (3) of Council Regulation (EC) No 2100/94 on Community plant variety rights | [6.357] |
| Commission Regulation 1898/2006/EC laying down detailed rules of implementation of Council Regulation (EC) No 510/2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs | [8.191] |
| Commission Regulation 216/96/EC laying down the rules of procedure of the Boards of Appeal of the Office for Harmonization in the Internal Market (Trade Marks and Designs) | [5.578] |
| Commission Regulation 2245/2002/EC implementing Council Regulation 6/2002/EC on Community Designs | [3.276] |
| Commission Regulation 2868/95/EC implementing Council Regulation (EC) No 40/94 on the Community trade mark | [5.429] |
| Commission Regulation 2869/95/EC on the Fees Payable to the Office for Harmonization in the Internal Market (Trade Marks and Designs) | [5.563] |
| Commission Regulation 772/2004/EC on the application of Article 81(3) of the Treaty to categories of technology transfer agreements ('Technology Transfer Block Exemption')..... | [8.119] |
| Common Regulations under the Madrid Agreement Concerning the International Registration of Marks and the Protocol Relating to that Agreement (April 1, 2007) | [5.842] |
| Communications Act 2003, ss 124A–124R..... | [2.410] |
| Community Design Regulations 2005, SI 2005/2339 | [3.91] |
| Community Designs (Designation of Community Design Courts) Regulations 2005, SI 2005/696 | [3.89] |
| Community Trade Mark Regulations 2006, SI 2006/1027 | [5.129] |
| Conditional Access Directive (Directive of the European Parliament and of the Council 98/84/EC on the legal protection of services based on, or consisting of, conditional access) | [8.59] |
| Contracting Out (Functions in Relation to Applications for Patents) Order 2002, SI 2002/3052 | [1.151] |

| | |
|--|---------|
| Convention for the Protection of Producers of Phonograms Against Unauthorised Duplication of their Phonograms (Geneva, October 29, 1971) (‘Phonograms Convention’)..... | [9.213] |
| Convention for the Safeguarding of the Intangible Cultural Heritage (UNESCO) (Paris, 17 October 2003) | [9.490] |
| Convention on Biological Diversity (Rio, June 1992) | [9.443] |
| Convention on the Grant of European Patents (‘European Patent Convention’) (Munich, 5 October 1973, as revised by the Act revising Article 63 EPC of 17 December 1991 and the Act revising the EPC of 29 November 2000) | [1.314] |
| Convention on the Protection and Promotion of the Diversity of Cultural Expressions (UNESCO) (Paris, 20 October 2005) | [9.530] |
| Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite (Brussels, May 21, 1974) (‘Brussels Convention’)..... | [9.226] |
| Copyright and Performances (Application to Other Countries) Order 2008, SI 2008/677 | [2.575] |
| Copyright and Related Rights Regulations 1996, SI 1996/2967, regs 1–4, 16–17B, 19, 25–36 | [2.491] |
| Copyright and Related Rights Regulations 2003, SI 2003/2498, regs 1, 30–40 ... | [2.538] |
| Copyright and Rights in Databases Regulations 1997, SI 1997/3032, regs 1–4, 12–30 | [2.512] |
| Copyright and Rights in Performances (Notice of Seizure) Order 1989, SI 1989/1006 | [2.435] |
| Copyright (Certification of Licensing Scheme for Educational Recording of Broadcasts) (Educational Recording Agency Limited) Order 2007, SI 2007/266 | [2.569] |
| Copyright (Customs) Regulations 1989, SI 1989/1178 | [2.438] |
| Copyright, Designs and Patents Act 1988 | [2.7] |
| Copyright (Industrial Process and Excluded Articles) (No 2) Order 1989, SI 1989/1070 | [3.76] |
| Copyright (Librarians and Archivists) (Copying of Copyright Material) Regulations 1989, SI 1989/1212 | [2.449] |
| Copyright (Material Open to Public Inspection) (Marking of Copies of Plans and Drawings) Order 1990, SI 1990/1427 | [2.460] |
| Copyright Tribunal Rules 2010, SI 2010/791 | [2.583] |
| Council Decision 2003/793/EC approving the accession of the European Community to the Protocol relating to the Madrid Agreement concerning the international registration of marks, adopted at Madrid on 27 June 1989 ... | [5.596] |
| Council Decision 2007/845/JHA concerning cooperation between Asset Recovery Offices of the Member States in the field of tracing and identification of proceeds from, or other property related to, crime..... | [8.262] |
| Council Directive 2003/49/EC on a common system of taxation applicable to interest and royalty payments made between associated companies of different Member States (‘Interest and Royalties Directive’)..... | [8.82] |
| Council Directive 93/83/EEC on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission | [2.629] |
| Council of the European Union Resolution of 1 March 2010 on the enforcement of intellectual property rights in the internal market..... | [8.501] |
| Council Regulation 834/2007/EC on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91..... | [8.219] |
| Council Regulation 1383/2003/EC concerning customs action against goods suspected of infringing certain intellectual property rights and the measures to be taken against goods found to have infringed such rights (‘EU Customs Regulation’) | [8.94] |
| Council Regulation 207/2009 on the Community trade mark | [5.620] |
| Council Regulation 2100/94/EC on Community plant variety rights | [6.142] |
| Council Regulation 3286/94/EC laying down Community procedures in the field of the common commercial policy in order to ensure the exercise of the Community’s rights under international trade rules, in particular those established under the auspices of the World Trade Organization (‘Trade Barriers Regulation’)..... | [7.115] |
| Council Regulation 40/94/EEC on the Community trade mark | [5.262] |

| | |
|---|---------|
| Council Regulation 509/2006 on agricultural products and foodstuffs as traditional specialities guaranteed | [8.130] |
| Council Regulation 510/2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs | [8.154] |
| Council Regulation 6/2002/EC on Community Designs | [3.158] |
| Database Directive (Directive of the European Parliament and of the Council 96/9/EC on the legal protection of databases)..... | [8.1] |
| Decision of the Administrative Council on the transitional provisions under Article 7 of the Act revising the European Patent Convention of 29 November 2000 | [1.496] |
| Design Right (Proceedings before Comptroller) Rules 1989, SI 1989/1130 | [4.12] |
| Design Right (Semiconductor Topographies) Regulations 1989, SI 1989/1100 | [4.1] |
| Designs (Convention Countries) Order 2007, SI 2007/277 | [3.155] |
| Digital Economy Act 2010, ss 17,18, 47, 48 | [2.428] |
| Directive 2008/121/EC of the European Parliament and of the Council of 14 January 2009 on textile names | [8.271] |
| Directive 2008/95 to approximate the laws of the Member States relating to trade marks ('Trade Marks Directive') | [5.599] |
| Directive 2009/24 on the legal protection of computer programs ('Software Directive')..... | [2.678] |
| Directive of the European Parliament and of the Council 2001/84/EC on the resale right for the benefit of the author of an original work of art ('Resale Rights Directive')..... | [7.131] |
| Directive of the European Parliament and of the Council 2004/48/EC on the enforcement of intellectual property rights ('IP Enforcement Directive')..... | [7.145] |
| Directive of the European Parliament and of the Council 2005/29/EC concerning unfair business-to-consumer commercial practices in the internal market ('Unfair Commercial Practices Directive')..... | [7.167] |
| Directive of the European Parliament and of the Council 2006/114 concerning misleading and comparative advertising ('Misleading and Comparative Advertising Directive')..... | [8.177] |
| Directive of the European Parliament and of the Council 2006/115 on rental right and lending right and on certain rights related to copyright in the field of intellectual property | [2.644] |
| Directive of the European Parliament and of the Council 2006/116/EC on the term of protection of copyright and certain related rights | [2.662] |
| Directive of the European Parliament and of the Council 96/9/EC on the legal protection of databases ('Database Directive')..... | [8.1] |
| Directive of the European Parliament and of the Council 98/44/EC on the legal protection of biotechnological inventions ('Biotech Directive')..... | [8.18] |
| Directive of the European Parliament and of the Council 98/71/EC on the legal protection of designs | [8.36] |
| Directive of the European Parliament and of the Council 98/84/EC on the legal protection of services based on, or consisting of, conditional access ('Conditional Access Directive') | [8.59] |
| Directive of the European Parliament and the Council 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society ('InfoSoc Directive')..... | [8.68] |
| Duration of Copyright and Rights in Performances Regulations 1995, SI 1995/3297, regs 1–4, 12–36 | [2.462] |
| EU Customs Regulation (Council Regulation 1383/2003/EC concerning customs action against goods suspected of infringing certain intellectual property rights and the measures to be taken against goods found to have infringed such rights) | [8.94] |
| European Patent Convention (Convention on the Grant of European Patents (Munich, 5 October 1973, as revised by the Act revising Article 63 EPC of 17 December 1991 and the Act revising the EPC of 29 November 2000)..... | [1.314] |
| First Council Directive 89/104/EEC to approximate the laws of the Member States relating to trade marks ('Trade Marks Directive')..... | [5.245] |
| Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs (Adopted by the Diplomatic Conference on 2 July, 1999) | [9.371] |

| | |
|--|---------|
| Goods Infringing Intellectual Property Rights (Customs) Regulations 2004, SI 2004/1473 | [7.102] |
| Hague Agreement Concerning the International Deposit of Industrial Designs (November 6, 1925) (The Hague Act of November 28, 1960) | [9.47] |
| Human Rights Act 1998 | [7.1] |
| IP Enforcement Directive (Directive of the European Parliament and of the Council 2004/48/EC on the enforcement of intellectual property rights)..... | [7.145] |
| InfoSoc Directive (Directive of the European Parliament and the Council 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society)..... | [8.68] |
| Intellectual Property (Enforcement, etc) Regulations 2006, SI 2006/1028 | [7.109] |
| Interest and Royalties Directive (Council Directive 2003/49/EC on a common system of taxation applicable to interest and royalty payments made between associated companies of different Member States)..... | [8.82] |
| International Convention for the protection of new varieties of plants ('UPOV Convention')..... | [6.376] |
| International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations (Rome, 26 October 1961) (‘Rome Convention’)..... | [9.81] |
| Locarno Agreement Establishing an International Classification for Industrial Designs (October 8, 1968) | [9.115] |
| London Olympic Games and Paralympic Games Act 2006 | [7.29] |
| Madrid Agreement Concerning the International Registration of Marks (14 April 1891) | [5.789] |
| Madrid Protocol (Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (adopted at Madrid on 27 June 1989))..... | [5.816] |
| Memorandum of Understanding of 4 May 2011 on Take-Down Notices..... | [8.502] |
| Misleading and Comparative Advertising Directive (Directive of the European Parliament and of the Council 2006/114 concerning misleading and comparative advertising)..... | [8.177] |
| Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable sharing of Benefits Arising from their Utilisation to the Convention on Biological Diversity (29 October 2010)..... | [9.580] |
| Paris Convention for the Protection of Industrial Property (20 March 1883) | [9.1] |
| Parliamentary Copyright (National Assembly for Wales) Order 2007, SI 2007/1116 | [2.573] |
| Patent Co-operation Treaty (June 19 1970, as amended) | [1.498] |
| Patent Law Treaty (June 1 2000) | [1.685] |
| Patents Act 1977 | [1.1] |
| Patents Act 1977: Patentable subject matter (2 November 2006) | [1.753] |
| Patents Act 2004 (Commencement No 1 and Consequential and Transitional Provisions) Order 2004, SI 2004/2177, arts 1, 6–8 | [1.157] |
| Patents Act 2004 (Commencement No 2 and Consequential, etc and Transitional Provisions) Order 2004, SI 2004/3205, arts 1, 2, 9 | [1.166] |
| Patents Act 2004 (Commencement No 3 and Transitional Provisions) Order 2005, SI 2005/2471 | [1.169] |
| Patents and Plant Variety Rights (Compulsory Licensing) Regulations 2002, SI 2002/247 | [6.115] |
| Patents (Convention Countries) Order 2007, SI 2007/276 | [1.173] |
| Patents County Court (Financial Limits) Order 2011, SI 2011/1402 | [1.311] |
| Patents Rules 2007, SI 2007/3291 | [1.176] |
| Phonograms Convention (Convention for the Protection of Producers of Phonograms Against Unauthorised Duplication of their Phonograms (Geneva, October 29, 1971))..... | [9.213] |
| Plant Varieties Act 1997 | [6.23] |
| Plant Varieties and Seeds Act 1964 | [6.10] |
| Plant Varieties and Seeds Tribunal Rules 1974, SI 1974/1136 | [6.79] |
| Plant Variety Rights Office (Extension of Functions) Regulations 1995, SI 1995/2655 | [6.113] |
| Protocol on jurisdiction and the recognition of decisions in respect of the right to the grant of a European Patent (‘Protocol on Recognition’) | [1.482] |

| | |
|--|---------|
| Protocol on privileges and immunities of the European Patent Organisation (‘Protocol on Privileges and Immunities’) | [1.484] |
| Protocol on the centralisation of the European Patent System and on its introduction (‘Protocol on Centralisation’) | [1.485] |
| Protocol on the interpretation of Article 69 of the Convention | [1.493] |
| Protocol on the Staff Complement of the European Patent Office at the Hague (‘Protocol on Staff Complement’) | [1.495] |
| Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (adopted at Madrid on 27 June 1989) (‘Madrid Protocol’)..... | [5.816] |
| Public Lending Right Act 1979 | [2.1] |
| Public Lending Right Scheme 1982 (Commencement) Order 1982, SI 1982/719 | [2.432] |
| Registered Designs Act 1949 | [3.1] |
| Registered Designs Regulations 2001, SI 2001/3949, regs 1, 10–14 | [3.79] |
| Registered Designs Regulations 2003, SI 2003/550 | [3.85] |
| Registered Designs Rules 2006, SI 2006/1975 | [3.105] |
| Regulations under the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs (2 July, 1999) | [9.405] |
| Regulations under the Patent Co-operation Treaty (June 19 1970, as amended) | [1.567] |
| Regulations under the Patent Law Treaty (June 1 2000) | [1.712] |
| Regulations under the Singapore Treaty on the Law of Trademarks | [9.570] |
| Regulations under the Trademark Law Treaty (adopted at Geneva on October 27, 1994) | [5.914] |
| Regulation 469/2009 concerning the supplementary protection certificate for medicinal products | [1.754] |
| Regulation 816/2006 of the European Parliament and of the Council on compulsory licensing of patents relating to the manufacture of pharmaceutical products for export to countries with public health problems..... | [1.733] |
| Regulatory Reform (Patents) Order 2004, SI 2004/2357, arts 1, 20–23 | [1.161] |
| Regulatory Reform (Registered Designs) Order 2006, SI 2006/1974, arts 1, 18, 19 | [3.102] |
| Resale Rights Directive (Directive of the European Parliament and of the Council 2001/84/EC on the resale right for the benefit of the author of an original work of art)..... | [7.131] |
| Rome Convention (International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations (Rome, 26 October 1961))..... | [9.81] |
| Rules for Uniform Domain Name Dispute Resolution Policy (ICANN) (amended October 30, 2009) | [9.489] |
| Singapore Treaty on the Law of Trademarks (27 March 2006) | [9.538] |
| Software Directive (Directive 2009/24 on the legal protection of computer programs)..... | [2.678] |
| Supplemental ADR Rules of the Arbitration Court attached to the Economic Chamber of the Czech Republic and Agricultural Chamber of the Czech Republic 2005 | [5.925] |
| Technology Transfer Block Exemption (Commission Regulation 772/2004/EC on the application of Article 81(3) of the Treaty to categories of technology transfer agreements)..... | [8.119] |
| The .eu Alternative Dispute Resolution Rules 2005 (‘ADR Rules’) | [5.922] |
| Tobacco Advertising and Promotion (Brandsharing) Regulations 2004, SI 2004/1824 | [5.122] |
| Trade Barriers Regulation (Council Regulation 3286/94/EC laying down Community procedures in the field of the common commercial policy in order to ensure the exercise of the Community’s rights under international trade rules, in particular those established under the auspices of the World Trade Organization)..... | [7.115] |
| Trade Marks (Customs) Regulations 1994, SI 1994/2625 | [5.115] |
| Trade Marks (International Registration) Order 2008, SI 2008/2206 | [5.230] |
| Trade Marks (Relative Grounds) Order 2007, SI 2007/1976 | [5.141] |
| Trade Marks Act 1994 | [5.1] |

| | |
|--|---------|
| Trade Marks Directive (Directive 2008/95 to approximate the laws of the Member States relating to trade marks) | [5.599] |
| Trade Marks Directive (First Council Directive 89/104/EEC to approximate the laws of the Member States relating to trade marks)..... | [5.245] |
| Trade Marks Rules 2008, SI 2008/1797 | [5.146] |
| Trademark Law Treaty (adopted at Geneva on October 27, 1994) | [5.889] |
| TRIPS (Agreement on Trade-related aspects of Intellectual Property Rights)..... | [9.238] |
| Unfair Commercial Practices Directive (Directive of the European Parliament and of the Council 2005/29/EC concerning unfair business-to-consumer commercial practices in the internal market)..... | [7.167] |
| Uniform Domain Name Dispute Resolution Policy (ICANN) (October 24, 1999) | [9.488] |
| Universal Copyright Convention (as revised at Paris on 24 July 1971) | [9.131] |
| UPOV Convention (International Convention for the protection of new varieties of plants)..... | [6.376] |
| WIPO Copyright Treaty (Adopted by the Diplomatic Conference on December 20, 1996) | [9.313] |
| WIPO Performances and Phonograms Treaty (Adopted by the Diplomatic Conference on December 20, 1996) | [9.338] |

PART 1

PATENTS