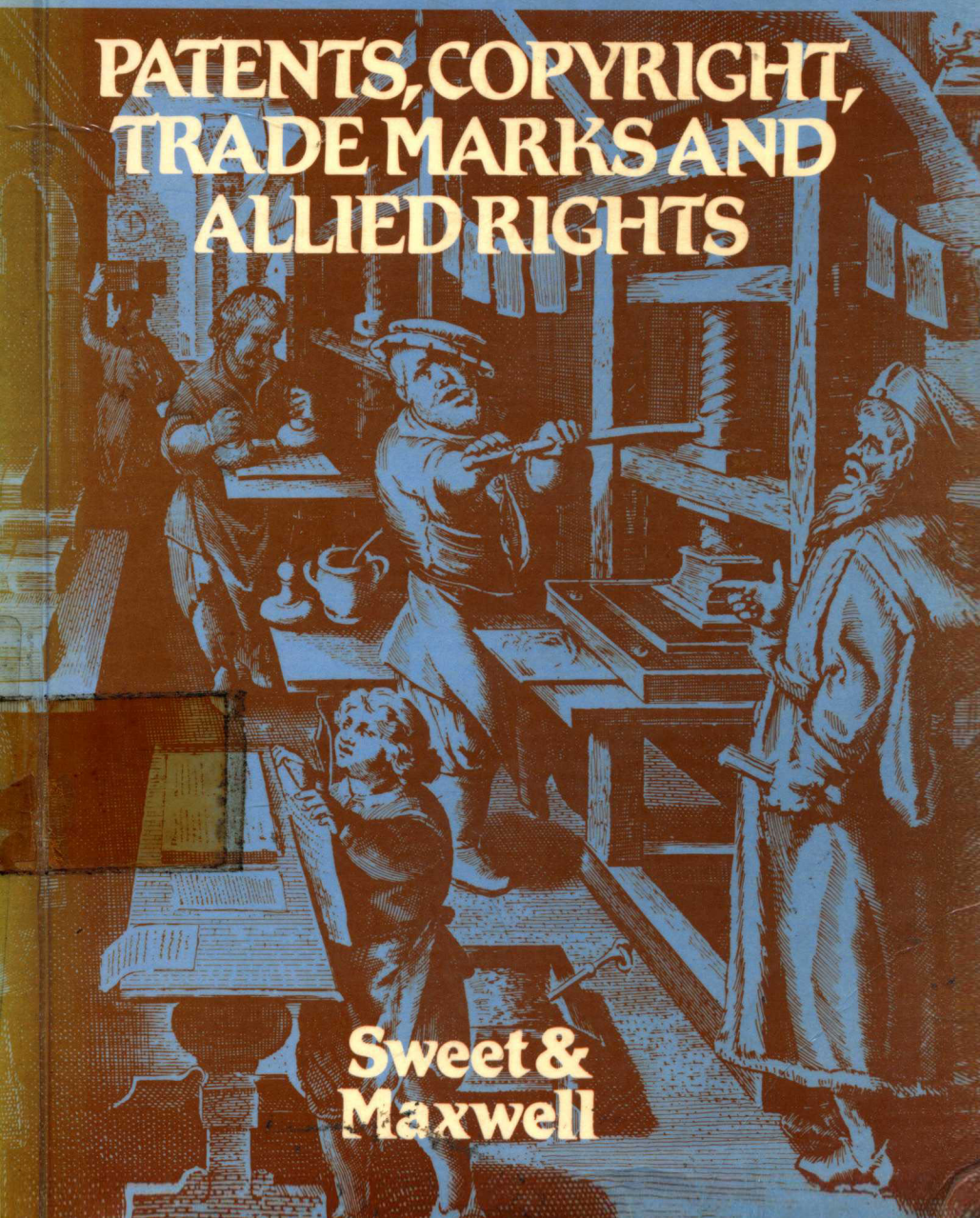


W.R. Cornish

Intellectual Property:

PATENTS, COPYRIGHT, TRADE MARKS AND ALLIED RIGHTS



Sweet &
Maxwell

INTELLECTUAL PROPERTY:
PATENTS, COPYRIGHT, TRADE MARKS
AND ALLIED RIGHTS

By

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PREFACE

The various branches of intellectual property law—patents, trade marks, registered designs, copyright, confidence and so on—confer legal exclusivity in the market-place. The right to prevent others from using ideas or information to their own commercial advantage is not easily delineated. Legal techniques of some sophistication are called for and this has until recently made intellectual property a somewhat esoteric specialism. But, particularly in industrial, free-market economies, these intangible property rights are becoming increasingly valuable in the fight to secure and retain shares of a market. A widening circle of people need some knowledge of what they involve.

This book deals with the British law of intellectual property, in the new setting provided by EEC membership and a growing encrustation of international conventions. I have not written it for the person who understands the main characteristics of the law: specialist lawyers and professional advisers, such as patent and trade mark agents, are well supplied with detailed practitioners' texts. I am seeking rather to help the relative novice who wants something more substantial than a purely introductory account of the subject.

I have, indeed, had three types of reader in mind. First, students in universities and polytechnics, whether they are studying law in general or specialising in business law or training for one of the intellectual property professions. In Britain and the Commonwealth, an increasing number of students are tackling the subject each year. For them, I have described not only the current state of British law but have sketched in the political and economic debates which always surround the subject.

Secondly, there are lawyers, business executives and civil servants who come in contact with the field in the course of their careers and need to look at its structure systematically. Thirdly, there are specialists in the subject abroad who are looking for a relatively succinct presentation of United Kingdom law. International negotiations about intellectual property proliferate; but legal protection is still at base a matter for the domestic laws of national states. As trans-national business grows so does the

expert's need to have some acquaintance with the intellectual property laws of all major industrial countries. Within the EEC, with its special market objectives and its great interest in securing Community-wide or harmonised regimes of intellectual property, there is a real need to understand the British legal position. Both the independent development of the common law and Britain's long industrial history have given the country a distinctive experience which deserves to be better understood among our continental collaborators.

Of course, there are people in other EEC states who are well aware of this, as I have had real reason to appreciate. In 1979, I received a generous grant from the Thyssen Foundation which enabled me to spend eight fruitful months at the Max Planck Institute for Foreign and Comparative Patent, Copyright and Competition Law in Munich. I was able to write a good part of this book during that time and I benefited very much from the academic and professional contacts that I made there. In particular I participated in an instructive set of seminars on comparative intellectual property law, run by the Institute's directors, Professor Dr. Friedrich-Karl Beier and Professor Dr. Gerhard Schricker. In these the other principal contributor from the common-law side was Professor Donald S. Chisum of Washington University, Seattle.

My interest in the subject began much earlier, when the Law Department at the London School of Economics asked me to put on a course for graduate students. That course, part of the London LL.M. degree, has now run for 12 years. During that time I have learned much not only from Richard Lloyd, C.P.A., Robin Jacob and Mary Victoria of the patent bar, who have helped in the teaching, but also from our students, particularly those who have come with some experience of intellectual property, domestic or foreign. A number of people deserve very real thanks for criticism and help with parts of the manuscript: in particular, David Devons, C.P.A., Professor Gerald Dworkin, Dr. Valentine Korah, Richard Lloyd and Janice Luck.

My largest debt overall is undoubtedly to Thomas Blanco White, Q.C. He has done far more than anyone else over the last 30 years to provide British intellectual property law with a worthwhile literature. His highly informative introduction to the subject is well-known; so is the perceptive criticism that informs

the various texts that he has written or edited. When I wanted to study the subject he took me as his pupil and I had a remarkably eye-opening year under his tutelage. I very much value my continuing association with the chambers that he now heads.

In getting the book to its final form my thanks go to my secretary, Angela White, and to my wife for their unending help; to the staff of Sweet & Maxwell, who made one author's relations with his publisher so unproblematic; and to Alison Real and Heather Rogers, who helped with the indices.

W. R. C.

October 1980

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TABLE OF CASES

A & M Records <i>v.</i> Audio Magnetics [1979] F.S.R. 1	505
A.B. Consolidated <i>v.</i> Europe Strength [1978] 2 N.Z.L.R. 520	275, 288
AMP Inc. <i>v.</i> Hellerman [1962] R.P.C. 55	124
AMP <i>v.</i> Utilux [1972] R.P.C. 103; [1971] F.S.R. 572	417, 608
AOIP/Beyrard [1976] 1 C.M.L.R. D14	235, 236, 239, 240
Aaron Spelling <i>v.</i> BPC Publishing (not yet reported)	347, 358, 373
"Accutron" T.M. [1966] R.P.C. 152; [1965] F.S.R. 144	487
Ackroyds <i>v.</i> Islington Plastics [1962] R.P.C. 97	267, 271
Acrow <i>v.</i> Rex Chainbelt [1971] 1 W.L.R. 1676; 115 S.J. 642; [1971] 3 All E.R. 1175	35
Adamson <i>v.</i> Kenworthy (1932) 49 R.P.C. 57	216
Adelaide Corp. <i>v.</i> Australasian PRS (1928) 40 C.L.R. 481	355
Adhesive Dry Mounting <i>v.</i> Trapp (1910) 27 R.P.C. 341	148
Ad-Lib Club <i>v.</i> Granville [1972] R.P.C. 673; [1971] 2 All E.R. 300; [1971] F.S.R. 1; (1970) 115 S.J. 74	483
Adrema <i>v.</i> Adrema-Werke [1958] R.P.C. 323	484
Advance Industries <i>v.</i> Frankfurter [1958] R.P.C. 392	240
Advocaat "Zwarte Kip" [1974] 2 C.M.L.R. D79; [1975] F.S.R. 27	578, 579
"Airco" T.M. [1977] F.S.R. 485	517
Aircraft Heating <i>v.</i> Wellington Gas [1978] N.Z. Recent Law 106	289
Albert <i>v.</i> Fletcher Construction [1974] 2 N.Z.L.R. 107; [1976] R.P.C. 615	366, 385
— <i>v.</i> Hoffnung (1922) 22 S.R. (N.S.W.) 75	359
Albert (Prince) <i>v.</i> Strange (1849) 2 De G & Sm 652; 1 Mac & G 25	267, 281
Alcott <i>v.</i> Millar's Karri (1904) 21 T.L.R. 30; 91 L.T. 722; 49 S.J. 32	9, 506
Alexander <i>v.</i> Henry (1895) 12 R.P.C. 360	52
Allen <i>v.</i> Brown Watson [1965] R.P.C. 191	395
Allmanna Elektriska <i>v.</i> Burntisland Shipbuilding (1952) 69 R.P.C. 63; (1951) 68 R.P.C. 227	153, 155, 158, 159, 161
Alsop's Patent (1907) 24 R.P.C. 733	154
Amber Size <i>v.</i> Menzel [1913] 2 Ch. 239	284
American Cyanamid <i>v.</i> Berk Pharmaceuticals [1976] R.P.C. 231; [1973] F.S.R. 487	178
— <i>v.</i> Ethicon [1975] A.C. 396; [1975] R.P.C. 513; [1975] 2 W.L.R. 316; (1975) 119 S.J. 136; [1975] 1 All E.R. 504; [1975] F.S.R. 101	46, 47, 207, 209, 286
— <i>v.</i> Ethicon [1978] R.P.C. 667; [1977] F.S.R. 593	61
— <i>v.</i> Ethicon [1979] R.P.C. 215	131, 145
American Cyanamid's (Dann) Patent [1971] R.P.C. 425; [1970] F.S.R. 443	181, 604
American Home Products <i>v.</i> Centrafarm [1978] E.C.R. 1823; [1979] 1 C.M.L.R. 326	577, 578
Anderson <i>v.</i> Liebig's Extract (1882) 45 L.T. 757	502
Anglo-Swiss Condensed Milk <i>v.</i> Metcalf (1886) 31 Ch.D. 454; (1886) 3 R.P.C. 28; (1886) 55 L.J. Ch. 463; 30 S.J. 201; 34 W.R. 345	531
Annabel's <i>v.</i> Shock [1972] R.P.C. 838; [1972] F.S.R. 261	490, 491
Ansell Rubber <i>v.</i> Allied Rubber [1967] V.R. 37; [1972] R.P.C. 811	269
Anxionnaz <i>v.</i> Rolls-Royce [1967] R.P.C. 419; [1967] F.S.R. 273	153

Apollinaris' T.M. [1891] 2 Ch. 186; (1891) 8 R.P.C. 137; (1891) 61 L.J. Ch. 625; (1891) 65 L.T. 6	538
Apple Corps. v. Lingasong [1977] F.S.R. 345; (1977) 121 S.J. 692	41
Application des Gaz S.A. v. Falks Veritas [1974] Ch. 381; [1974] 3 W.L.R. 235; 118 S.J. 363; [1974] 3 All E.R. 51; [1974] 2 C.M.L.R. 75; [1974] F.S.R. 355; [1974] 2 Lloyd's Rep. 493; [1975] R.P.C. 421	590
Ardath v. Sandorides (1925) 42 R.P.C. 50	487, 521
Argyll v. Argyll [1967] Ch. 302; [1965] 2 W.L.R. 790; [1965] 1 All E.R. 611	264, 269, 270, 273, 275
Aristoc v. Rysta [1945] A.C. 68; (1945) 62 R.P.C. 65	487, 518, 536, 537, 567
Arnold (James) v. Miafern [1980] R.P.C. 397	328
Aro Mfg. v. Convertible Top, 377 U.S. 476 (1964)	196
Asea's Applcn. [1978] F.S.R. 115	160
Ash v. Dickie [1936] Ch. 655	54, 372
— v. Hutchinson [1936] Ch. 489; [1936] 2 All E.R. 1503	373
Ashburton v. Pape [1913] 2 Ch. 469; [1911–13] All E.R. Rep. 708; 82 L.J. Ch. 527; 109 L.T. 381; 57 S.J. 644; 29 T.L.R. 623	276
Aston v. Harlee (1960) 103 C.L.R. 391; [1960] A.L.R. 605; 34 A.L.J.R. 242 ..	541
Athans v. Canadian Adventure Camps (1978) 80 D.L.R. (3d) 583	493
Athletes Foot v. Cobra Sports [1980] R.P.C. 343	48, 492
A.G. für Autogene Aluminium v. London Aluminium [1919] 2 Ch. 67	61
Att.-Gen. for the Commonwealth v. Adelaide Steamship [1913] A.C. 781 ..	12
Att.-Gen. for N.S.W. v. Brewery Employers Union (1908) 6 C.L.R. 469	518
— v. Jonathan Cape [1976] Q.B. 752; [1975] 3 W.L.R. 606; [1975] 3 All E.R. 484; 119 S.J. 696	263, 273, 274
— v. Harris [1961] 1 Q.B. 74; [1960] 3 W.L.R. 532; [1960] 3 All E.R. 207; 104 S.J. 704; 58 L.G.R. 242	41
Austin v. Columbia [1917–1923] Mac. C.C. 398; 67 S.J. 790	327
Australasian PRA v. Canterbury-Bankstown Club [1964–65] N.S.W.R. 138	355, 362
— v. Koolman [1969] N.Z.L.R. 273	355
— v. Miles [1962] N.S.W.R. 405	355
Australian Wine Importers' T.M. (1889) 41 Ch.D. 278; 6 R.P.C. 311; 58 L.J. Ch. 380; 60 L.T. 436; 37 W.R. 578	512, 513
Austria (Emperor of) v. Day. <i>See</i> Emperor of Austria v. Day.	
"Autoanalyser" T.M. [1970] R.P.C. 201	529
"Autodrome" T.M. [1969] R.P.C. 564; [1969] F.S.R. 320	568
Automatic Telephone, <i>Re</i> (1963) L.R. 3 R.P. 462	595
Aveley/Cybervox v. Boman [1975] F.S.R. 139	279
Bach v. Longman (1777) 2 Cowp. 623; 98 E.R. 1274	297
Badische Anilin v. Johnson [1898] A.C. 200; 14 R.P.C. 919; (1897) 67 L.J. Ch. 141; (1897) 77 L.T. 573; (1897) 14 T.L.R. 82; (1897) 46 W.R. 255	67, 198
— v. Usines de Rhone (1898) 15 R.P.C. 359	182
Badowski v. US, 118 U.S. P.Q. 358 (1958)	143
Bagots Hutton's Applcn. [1916] 2 A.C. 382; 33 R.P.C. 357	514, 531
Bailey v. Clark (1938) 55 R.P.C. 253	526
Bainbridge & Green's Applcn. (1940) 57 R.P.C. 248	532
Bakelite's Applcn. [1958] R.P.C. 152	156
Baker's (Albert) Applcn. [1908] 2 Ch. 86; 77 L.J. Ch. 473; 98 L.T. 721; 24 T.L.R. 467; 25 R.P.C. 513	514
Baker v. Gibbons [1972] 2 All E.R. 759; [1972] 1 W.L.R. 693; 116 S.J. 313 ...	278

Balden <i>v.</i> Shorter [1933] Ch. 427	502
"Bali" T.M. [1969] R.P.C. 472; [1969] F.S.R. 288; [1969] 1 W.L.R. 1306; 113 S.J. 720; [1969] 2 All E.R. 812; [1966] R.P.C. 387	531, 547
— (No. 2) [1978] F.S.R. 193	532, 533
Ballantine <i>v.</i> Dixon [1975] R.P.C. 111; [1974] 1 W.L.R. 1125; [1974] 2 All E.R. 503; 118 S.J. 566; [1974] F.S.R. 415	61
Banham <i>v.</i> Reddaway (1927) 44 R.P.C. 27; [1927] A.C. 406; 136 L.T. 485; 43 T.L.R. 138; 71 S.J. 34	516
Bank of America's T.M. [1977] F.S.R. 7	517
Barker <i>v.</i> Braham (1773) 3 Wils. 368	36
— <i>v.</i> Stickney [1919] 1 K.B. 121; [1918–19] All E.R. Rep. Ext. 1363; 88 L.J.K.B. 315; 120 L.T. 172	389
Barnardo's (Dr.) <i>v.</i> Barnardo Amalgamated (1949) 66 R.P.C. 103	492
Barnett <i>v.</i> Cape Town Foreshore Board, 1960 (4) S.A. 439; [1978] F.S.R. 176	383, 395
Bass Ratcliffe & Gretton's T.M. [1902] 2 Ch. 579; 19 R.P.C. 529; 71 L.J. Ch. 779; 87 L.T. 408; 51 W.R. 86; 18 T.L.R. 785; 46 S.J. 684	520
Batty <i>v.</i> Hill (1863) 1 H & M 264; 8 L.T. (N.S.) 791; 2 New Rep. 265; 27 J.P. 628; 11 W.R. 745; 71 E.R. 115	496
Bauman <i>v.</i> Fussell (1953) [1978] R.P.C. 485	329, 350, 357
Baume <i>v.</i> Moore [1958] R.P.C. 226; [1958] Ch. 907; [1958] 2 W.L.R. 797; 102 S.J. 329; [1958] 2 All E.R. 113; [1957] R.P.C. 459	479, 565
Beal <i>v.</i> Graves, <i>ex p.</i> Beal (1868) L.R. 3 Q.B. 387; 37 L.J.Q.B. 161; 32 J.P. 628; 9 B. & S. 395; 18 L.T. 285; 16 W.R. 852	346
Beck <i>v.</i> Montana Constructions [1964–5] N.S.W.R. 229	383
Beckett <i>v.</i> Kingston [1970] 1 K.B. 606	620
Beecham <i>v.</i> International Products [1968] R.P.C. 129	199
Beecham's (Amoxycillin) Appln. [1980] R.P.C. 261	154, 162, 175
Beecham Group's Appln. [1977] F.S.R. 565	195
Beecham Group <i>v.</i> B.M. Group [1977] R.P.C. 220	47
— <i>v.</i> Bristol Laboratories [1967] R.P.C. 406; 111 S.J. 600; [1967] F.S.R. 283	47
— <i>v.</i> Bristol Laboratories [1978] R.P.C. 153; [1977] F.S.R. 215 ... 153, 194, 195, 198, 199	
Beeton, <i>Re</i> [1913] 2 Ch. 279	376
Belegging <i>v.</i> Witten [1979] F.S.R. 59	201
Belfast Ropeworks <i>v.</i> Pixdane [1976] F.S.R. 337	47, 48, 49, 208
Belgische Radio <i>v.</i> SABAM [1974] 1 E.C.R. 51, 313; [1974] 2 C.M.L.R. 238	403, 592
Beloff <i>v.</i> Pressdram [1973] 1 All E.R. 241; [1973] R.P.C. 765; [1973] F.S.R. 33;	266, 273, 289, 363, 364, 368, 370, 377, 425
Benchairs <i>v.</i> Chair Centre [1974] R.P.C. 429; [1973] F.S.R. 123	612
Benmax <i>v.</i> Austin [1955] A.C. 370; [1955] 2 W.L.R. 418; 99 S.J. 129; [1955] 1 All E.R. 326; (1955) 72 R.P.C. 39	73
Bentley <i>v.</i> Lagonda (1947) 64 R.P.C. 33; [1945] 2 All E.R. 211	479, 562, 565
Bents Brewery <i>v.</i> Hogan [1945] 2 All E.R. 570	280
Berkley & Young <i>v.</i> Stillwell (1940) 57 R.P.C. 291	73
Berkeley Hotel <i>v.</i> Berkeley International [1972] R.P.C. 237; [1971] F.S.R. 300	483
Berlei <i>v.</i> Bali [1970] R.P.C. 469	565
Bernardin (Alain) <i>v.</i> Pavilion Properties [1967] R.P.C. 581; [1967] F.S.R. 341	482, 491, 492
Bessell's Design [1964] R.P.C. 125	609

Best <i>v.</i> Woolworth [1964] R.P.C. 226	611
Bestworth <i>v.</i> Wearwell [1979] F.S.R. 320	57
Betts <i>v.</i> Willmott (1871) L.R. 6 Ch. 239	199
Biba Group <i>v.</i> Biba Boutique [1980] R.P.C. 413	479
Bile Bean Mfg. <i>v.</i> Davidson (1906) 23 R.P.C. 725; (1905) 22 R.P.C. 553	566
Birkett <i>v.</i> James [1978] A.C. 297; [1977] 3 W.L.R. 38; [1977] 2 All E.R. 801; 121 S.J. 444;	63
Birmingham Sound Reproducers <i>v.</i> Collaro [1956] R.P.C. 232	191
Bismag <i>v.</i> Amblins [1940] Ch. 667; 57 R.P.C. 209; 109 L.J. Ch. 305; 163 L.T. 127; 56 T.L.R. 721; 84 S.J. 381; [1940] 2 All E.R. 608	558, 566, 567
Black <i>v.</i> Stacey [1929] 1 Ch. 177; 98 L.J. Ch. 131; 140 L.T. 402; 44 T.L.R. 347	334
Blackie <i>v.</i> Lothian (1921) 29 C.L.R. 396	352
Blacklock <i>v.</i> Pearson [1915] 2 Ch. 376; 84 L.J. Ch. 785; 113 L.T. 775; 31 T.L.R. 526	324, 325
Blair <i>v.</i> Osborne & Tomkins [1971] 2 Q.B. 78; [1971] 2 W.L.R. 503; [1971] 1 All E.R. 468; 114 S.J. 865	383
Blake <i>v.</i> Warren [1928–1935] Mac. C.C. 268	329
Blanchard <i>v.</i> Hill (1742) 2 Atk. 485	461
Blendax-Werke's Appln. [1980] R.P.C. 491	176
Blofeld <i>v.</i> Payne (1833) 4 B. & Ad. 410; 2 L.J.K.B. 68; 1 Nev. & M.K.B. 353; 110 E.R. 509	461
"Blue Paraffin" T.M. [1977] R.P.C. 473	561
Boardman <i>v.</i> Phipps [1967] 2 A.C. 46; [1966] 3 W.L.R. 1009; 110 S.J. 853; [1966] 3 All E.R. 721	290
Bodley Head <i>v.</i> Flegon [1972] 1 W.L.R. 680	339
Bollinger <i>v.</i> Costa Brava Wine [1960] Ch. 262; [1960] R.P.C. 16; [1959] 3 W.L.R. 966; [1959] 3 All E.R. 800; 103 S.J. 1028	41, 463, 481
— [1961] R.P.C. 116; [1961] 1 All E.R. 561; 105 S.J. 180	496, 499
Bonnard <i>v.</i> Perryman [1891] 2 Ch. 269	286
Boord <i>v.</i> Bagots Hutton. <i>See</i> Bagots Hutton's Appln.	
Boosey <i>v.</i> Whight (No. 2) (1899) 81 L.T. 265	372
Boot's T.M. (1937) 54 R.P.C. 161, 327	522, 525, 537
Boots <i>v.</i> Centrafarm [1979] F.S.R. 613; [1978] 2 C.M.L.R. 497	577
Borthwick <i>v.</i> Evening Post (1888) 37 Ch.D. 449; 57 L.J. Ch. 406; 58 L.T. 252; 36 W.R. 434; 4 T.L.R. 234	487, 489
Bostitch <i>v.</i> McGarry [1964] R.P.C. 173	473, 540
"Bostitch" T.M. [1963] R.P.C. 183	557
Boult's Patent (1909) 26 R.P.C. 383	256
Boulton <i>v.</i> Bull (1795) 2 H.Bl. 463; 126 E.R. 651; Davies P.C. 162; 8 T.R. 95	81
Bourjois <i>v.</i> British Home Stores (1951) 68 R.P.C. 280	46
Bowden Wine <i>v.</i> Bowden Brake Co. (1914) 31 R.P.C. 385	557, 558
Boyd <i>v.</i> Horrocks (1892) 9 R.P.C. 77	131
Boys <i>v.</i> Chaplin [1971] A.C. 356; [1969] 3 W.L.R. 322; [1969] 2 All E.R. 1085; (1969) 113 S.J. 608	69
Bradbury, Agnew <i>v.</i> Day (1916) 32 T.L.R. 349; [1916] W.N. 114	358, 413
Brasserie de Haecht <i>v.</i> Wilkin (No. 2) [1973] E.C.R. 77 [1973] C.M.L.R. 287	592
Brecks Sporting Goods <i>v.</i> Magder (1975) 17 C.P.R. (2d) 201	554
Bremer's Patent, <i>ex p.</i> Braulik [1909] 2 Ch. 217; 26 R.P.C. 449; 78 L.J. Ch. 550; 101 L.T. 21; 25 L.T.R. 610	255
Brenner <i>v.</i> Manson, 383 U.S. 519 (1966)	169
Brestian <i>v.</i> Try [1958] R.P.C. 161	491

Brinsmead <i>v.</i> Brinsmead (1913) 30 R.P.C. 137, 493; 29 T.L.R. 706; 57 S.J. 716	479
Bristol Myers' (Johnson) Applcn. <i>See</i> Bristol Myers <i>v.</i> Beecham Group.	
Bristol Myers <i>v.</i> Beecham Group [1974] A.C. 646; [1975] R.P.C. 127; [1974] F.S.R. 43; [1974] 2 W.L.R. 79; [1974] 1 All E.R. 333; 118 S.J. 65	140
— <i>v.</i> Beecham [1978] F.S.R. 553	65, 66
British American Glass <i>v.</i> Winton [1962] R.P.C. 230	476
British Celanese <i>v.</i> Courtaulds (1935) 52 R.P.C. 171; (1935) 152 L.T. 537 ...	131
— <i>v.</i> Moncrieff [1948] Ch. 564; 65 R.P.C. 165; [1948] 2 All E.R. 44; [1948] L.J.R. 1871; 92 S.J. 349	267
British Dynamite <i>v.</i> Krebs (1896) 13 R.P.C. 190	131, 182
British Industrial Plastics <i>v.</i> Ferguson [1940] 1 All E.R. 479	267
British Legion <i>v.</i> British Legion Club (1931) 48 R.P.C. 555	492
British Leyland <i>v.</i> Wyatt [1979] 1 C.M.L.R. 395; [1979] F.S.R. 39	58
— <i>v.</i> T.I. Silencers [1979] F.S.R. 591	58
British Medical Association (B.M.A.) <i>v.</i> Marsh (1931) 48 R.P.C. 565	492, 493
British Motor <i>v.</i> Taylor [1901] 1 Ch. 122; 17 R.P.C. 723; 70 L.J. Ch. 201; 83 L.T. 419; 17 T.L.R. 17; 49 W.R. 183	197
British Northrop <i>v.</i> Texteam [1974] R.P.C. 57; [1973] F.S.R. 241	338, 339, 418, 419, 568
British Oxygen <i>v.</i> Liquid Air [1925] Ch. 383; 95 L.J. Ch. 81; 133 L.T. 282	364, 425
British Petroleum <i>v.</i> European Petroleum [1968] R.P.C. 54; [1967] F.S.R. 469; 117 New L.J. 732	487, 521, 557, 560
British Reinforced Concrete <i>v.</i> Lind (1917) 34 R.P.C. 101; 86 L.J. Ch. 486; 116 L.T. 243; 33 T.L.R. 170	216
British Steel <i>v.</i> Granada, <i>The Times</i> , November 9, 1980	60, 273
British Syphon Co. <i>v.</i> Homewood [1956] R.P.C. 225, 330; [1956] 1 W.L.R. 1190; [1956] 2 All E.R. 897; 100 S.J. 633	217
British Thompson-Houston <i>v.</i> Corona (1922) 39 R.P.C. 49	186
— <i>v.</i> Duram (1918) 35 R.P.C. 161	153
— <i>v.</i> Naamloose (1923) 40 R.P.C. 119	52
— <i>v.</i> Stonebridge (1916) 33 R.P.C. 166	158
British United Shoe <i>v.</i> Collier (1910) 27 R.P.C. 567	197
— <i>v.</i> Fussell (1908) 25 R.P.C. 631	84, 155
— <i>v.</i> Somervell (1906) 95 L.T. 711	12
British Vacuum <i>v.</i> L.S.W.R. (1912) 29 R.P.C. 309	155
British Westinghouse <i>v.</i> Braulik (1910) 27 R.P.C. 209	83, 159
British Xylonite <i>v.</i> Fibrenyle [1959] R.P.C. 252	62
Broad <i>v.</i> Graham (No. 1) [1969] R.P.C. 286; [1969] F.S.R. 153	567
Broadhead's Applcn. (1950) 67 R.P.C. 209	516
Bronbemaling <i>v.</i> Heidemaatschappij Beheer [1975] 2 C.M.L.R. D67	235, 236, 237, 245, 591
Brooks <i>v.</i> Steel (1897) 14 R.P.C. 46	131
Brownie Wireless' Applcn. (1929) 46 R.P.C. 457; 45 T.L.R. 584	226, 254
Brown Shoe's Applcn. [1959] R.P.C. 29	541
Brulotte <i>v.</i> Thys, 379 U.S. 29 (1964)	240
Buchanan (James) <i>v.</i> Babco Forwarding [1978] A.C. 141; [1977] 3 W.L.R. 907; (1977) 121 S.J. 811; [1977] 3 All E.R. 1048; [1978] R.T.R. 59; [1978] 1 Lloyd's Rep. 119; [1978] 1 C.M.L.R. 156	16, 104
Bugges Insecticide <i>v.</i> Herbon [1972] R.P.C. 197; [1971] F.S.R. 281	111
"Buler" T.M. [1966] R.P.C. 141	522
Bullivant <i>v.</i> Wright (1897) 13 T.L.R. 201	496, 503

Bulmer (H. P.) <i>v.</i> Bollinger [1978] R.P.C. 79; [1977] 2 C.M.L.R. 625 ..	64, 71, 477, 496, 618
Burberrys <i>v.</i> Cording (1909) 26 R.P.C. 693	473
Burford's Appln. [1919] 2 Ch. 28; 36 R.P.C. 139; 88 L.J. Ch. 186; 120 L.T. 591; 35 T.L.R. 319; 63 S.J. 409	526
Burgess <i>v.</i> Burgess (1853) 3 De G.M. & G. 896; 22 L.J. Ch. 675; 21 L.T. (o.s.) 53; 17 Jur. 292; [1843-60] All E.R. Rep. 90; 42 E.R. 351	479
Burke <i>v.</i> Spicers Dress Designs [1936] 1 Ch. 400; [1936] 1 All E.R. 99; 105 L.J. Ch. 157; 154 L.T. 561; 52 T.L.R. 242; 80 S.J. 147	331
Burland's T.M. (1889) 41 Ch.D. 542; 6 R.P.C. 482; 58 L.J. Ch. 618; 38 W.R. 89; 5 T.L.R. 433	67
Burnett <i>v.</i> Chetwood (1720) 2 Mer. 441	295
— <i>v.</i> Tak (1882) 45 L.T. 743	502
Burroughs' (Perkins) Appln. [1974] R.P.C. 147; [1973] F.S.R. 439	173
Burroughs/Delplanque Agreement [1972] C.M.L.R. D67	235
Burroughs/Geha Agreement [1972] C.M.L.R. D72	235
Butler <i>v.</i> Board of Trade [1971] Ch. 680; [1970] 3 W.L.R. 822; [1970] 3 All E.R. 593; 114 S.J. 604	273, 276, 280
Byrne <i>v.</i> Statist Co. [1914] 1 K.B. 622; 83 L.J.K.B. 625; 110 L.T. 510; 30 T.L.R. 254; 58 S.J. 340	54, 324, 345, 377
C's Appln. (1920) 37 R.P.C. 247	170
C & A Modes <i>v.</i> C & A (Waterford) [1978] F.S.R. 126; [1976] I.R. 148	482, 492
CBS United Kingdom <i>v.</i> Charmdale Record Distributors [1980] 3 W.L.R. 476; 124 S.J. 74; [1980] 2 All E.R. 807; [1980] F.S.R. 289	385
Cadbury's Appln. [1915] 2 Ch. 307; 32 R.P.C. 456; 84 L.J. Ch. 827; 113 L.T. 813; 31 T.L.R. 523; 59 S.J. 598	514
Calder Vale's Design (1934) 52 R.P.C. 117	609
"Cal-U-Test" T.M. [1967] F.S.R. 39	549
Cambridge U.P. <i>v.</i> University Tutorial Press (1928) 45 R.P.C. 335	9, 496
David Campari-Milano's Agreement [1978] 2 C.M.L.R. 397	237, 241, 245
Canadian Aero <i>v.</i> O'Malley (1973) 40 D.L.R. (3d) 371	217, 276
Canham <i>v.</i> Jones (1813) V. & B. 218; 35 E.R. 302	506
"Cannon" T.M. [1980] R.P.C. 519	526
Cape (Jonathan) <i>v.</i> Consolidated Press [1954] 1 W.L.R. 1313; [1954] 3 All E.R. 253; 98 S.J. 750	388
Capitol <i>v.</i> Mercury, 221 F. (2d) 657 (1955)	10
Carlin <i>v.</i> Collins [1979] F.S.R. 548	36
Carl Zeiss Stiftung <i>v.</i> Rayner & Keeler (No. 2) [1967] 1 A.C. 853; [1967] R.P.C. 497; [1966] 3 W.L.R. 125; [1966] 2 All E.R. 536; 110 S.J. 425	65, 66
Carl Zeiss Stiftung's T.M. [1970] R.P.C. 139; [1969] F.S.R. 440	547
Carroll <i>v.</i> Tomado [1971] R.P.C. 401; [1971] F.S.R. 218	46, 111
Cassell <i>v.</i> Broome [1972] A.C. 1027; [1972] 2 W.L.R. 645; [1972] 1 All E.R. 801; 116 S.J. 199	51, 370
Cathro's Appln. (1934) 51 R.P.C. 75, 475	256
Catnic <i>v.</i> Stressline [1976] F.S.R. 157	48, 208
Catnic Components <i>v.</i> Hill & Smith [1979] F.S.R. 619; [1978] F.S.R. 405	193, 418
Cave-Brown-Cave's Appln. [1958] R.P.C. 429	196
Cavendish House <i>v.</i> Cavendish-Woodhouse [1970] R.P.C. 234	481

<i>Caxton v. Sutherland</i> [1939] A.C. 178; [1938] 4 All E.R. 389; 108 L.J. Ch. 5; 55 T.L.R. 123; 82 S.J. 1047; 160 L.T. 17; [1936] Ch. 323; [1936] 1 All E.R. 177; 105 L.J. Ch. 150; 154 L.T. 367; 52 T.L.R. 230; 80 S.J. 145	52, 54, 56, 369, 370, 371, 372, 373
<i>Cellular Clothing v. Maxton & Murray</i> [1899] A.C. 326; 16 R.P.C. 397; (1899) 80 L.T. 809; (1899) 68 L.J.P.C. 72	478
<i>Centrafarm v. Sterling Drug</i> [1974] E.C.R. 1147; [1974] 2 C.M.L.R. 480; [1975] F.S.R. 161	246, 247, 248, 249, 250, 573
— <i>v. Winthrop</i> [1974] E.C.R. 1183; [1974] 2 C.M.L.R. 480	27, 576
<i>Centri-Spray v. Cera</i> [1979] F.S.R. 175	62
<i>Cescinsky v. Routledge</i> [1916] 2 K.B. 325	387
<i>Chabot v. Davies</i> (1936) 155 L.T. 525; [1936] 3 All E.R. 221; 106 L.J. Ch. 81; 53 T.L.R. 61; 80 S.J. 875	329
<i>Champagne Heidsieck v. Buxton</i> [1930] 1 Ch. 330; 47 R.P.C. 28; 99 L.J. Ch. 149; 142 L.T. 324; 46 T.L.R. 36	488, 569, 572
— <i>v. Scotto</i> (1926) 43 R.P.C. 101	488
<i>Chanel v. Three Pears</i> [1979] F.S.R. 393	58
<i>Chapling v. Frewin</i> [1966] Ch. 71; [1966] 2 W.L.R. 40; [1965] 3 All E.R. 764; 109 S.J. 871	382
— <i>v. Hicks</i> [1911] 2 K.B. 786	51
<i>Chappell v. Columbia</i> [1914] 2 Ch. 745; (1914) 83 L.J. Ch. 727; (1914) 111 L.T. 268	357
— <i>v. Nestlé</i> [1960] A.C. 87; [1959] 3 W.L.R. 168; (1959) 103 S.J. 561; [1959] 2 All E.R. 701	398
— <i>v. Thompson</i> [1928–35] Mac. C.C. 467	353
<i>Chatterton v. Cave</i> (1878) 3 App. Cas. 483; 47 L.J.Q.B. 545; 38 L.T. 398; 28 W.R. 498	350
<i>Chemidus Wavin v. TERI</i> [1977] F.S.R. 181; [1978] 3 C.M.L.R. 514	229, 592
<i>Cheseborough's T.M.</i> [1902] 2 Ch. 1; 19 R.P.C. 342; 71 L.J. Ch. 427; 86 L.T. 665; 18 T.L.R. 468	480
<i>Chevron's Patent</i> [1970] R.P.C. 580; [1970] F.S.R. 357	126
"Chin-Chin" T.M. [1965] R.P.C. 136	522, 523
"China Therm" T.M. [1980] F.S.R. 21	537
<i>Church of Scientology v. Kaufman</i> [1973] R.P.C. 635; [1972] F.S.R. 591; 117 S.J. 72	269
<i>Ciba-Geigy's (Dürr) Appln.</i> [1977] R.P.C. 83	176, 177
<i>Cincinnati Grinders v. B.S.A.</i> (1931) 48 R.P.C. 33	153
<i>Cinzano v. Java Kaffeegeschäfte</i> [1974] 2 C.M.L.R. 21	569, 572
<i>City Link v. Lakin</i> [1979] F.S.R. 653	481
<i>Clairol v. Thomas</i> (1968) 55 C.P.R. 176	567
<i>Clark v. Adie</i> (1877) 72 App. Cas. 315	192
— <i>v. Freeman</i> (1848) 11 Beav. 112; 117 L.J. Ch. 142; 11 L.T. (o.s.) 22; 12 Jur. 149	493
<i>Clark Equipment v. Registrar of Trade Marks</i> (1964) 111 C.L.R. 511; [1965] A.L.R. 344	525
<i>Cleveland Graphite v. Glacier Metal</i> (1950) 67 R.P.C. 149 (H.L.)	156
<i>Cleveland Petroleum v. Dartstone</i> [1969] 1 W.L.R. 116; (1968) 112 S.J. 962; [1968] 1 All E.R. 201; 20 P. & C.R. 235	595
<i>Clock (The) v. Clock House</i> (1936) 53 R.P.C. 269	491
<i>Cloth Workers of Ipswich</i> (1615) Godb. R. 252	79
<i>Cluett-Peabody v. McIntyre</i> [1958] R.P.C. 335	64, 558
<i>Clyde v. Russell</i> (1916) 33 R.P.C. 291	150

Coats (J. & P.) Appln. (1936) 53 R.P.C. 355; [1936] 2 All E.R. 975; 155 L.T. 127; 80 S.J. 611	523, 524
Cobianchi's Appln. (1953) 70 R.P.C. 199	170
Coca-Cola v. Struthers [1968] R.P.C. 231; [1968] F.S.R. 173; [1968] S.L.T. 353	489
Coco v. Clark [1969] R.P.C. 41; [1968] F.S.R. 415	266, 268, 269, 272, 274, 275, 285, 287
Coditel v. Ciné Vog (not yet reported)	309, 408
Colburn v. Ward (1950) 67 R.P.C. 73	158
Coles v. Need [1934] A.C. 82; 50 R.P.C. 379	484, 558
Collis v. Cater (1898) 78 L.T. 613	324
Columbia Gramophone's T.M. (1936) 42 R.P.C. 621	547
Combe v. Scholl [1977] F.S.R. 464	476
Commercial Broadcasters Fed. v. Phonographic Performances (N.Z.) (unreported)	402
Compagnie Française de Télévision v. Thorn [1978] R.P.C. 735	63
Compatability Research v. Computer Psyche [1967] R.P.C. 201; [1967] F.S.R. 63	475
Compco v. Daybrite, 376 U.S. 225, 234 (1964)	12, 265
Condor v. Hibbing (unreported)	208, 209
Constable v. Clarkson [1980] F.S.R. 123	48, 417, 608
Consten & Grundig v. EEC Commission [1966] E.C.R. 299; [1966] C.M.L.R. 418; [1966] Rec. 429	26, 573, 590
Conveyor v. Cameron [1973] 2 N.Z.L.R. 38	271
Cook Industries v. Galliher [1979] Ch. 439; [1978] 3 W.L.R. 637; [1978] 3 All E.R. 945; 122 S.J. 367	57
Cooper's Appln. (1902) 19 R.P.C. 53	170
Copex v. Flegon, <i>The Times</i> , August 18, 1967	339, 340
Copydex v. Noso (1952) 69 R.P.C. 38	496
Coral Index v. Regent Index [1970] R.P.C. 147; [1970] F.S.R. 13	278
Cording's Appln. (1916) 33 R.P.C. 325; 85 L.J. Ch. 742; (1916) 32 T.L.R. 672	522
Corelli v. Gray (1913) 30 T.L.R. 116; (1913) 29 T.L.R. 570	345, 350
Corke v. Pipers (unreported)	463
Corruplast v. Harrison [1978] R.P.C. 761	208
Cramp v. Symthson [1944] A.C. 329; [1944] 2 All E.R. 92; 113 L.J. Ch. 209; 171 L.T. 102; 60 T.L.R. 477; 88 S.J. 238	325
Cranbux's Appln. [1928] Ch. 829; (1928) 45 R.P.C. 281; 97 L.J. Ch. 476; 72 S.J. 302	554
Crane v. Price (1842) 1 W.P.C. 393; 4 Man. & G. 580; 5 Scott. N.R. 338; 12 L.J.C.P. 81; 134 E.R. 239	83, 155
Cranleigh Precision v. Bryant [1966] R.P.C. 81; [1965] 1 W.L.R. 1293; [1964] 3 All E.R. 289; 109 S.J. 830	267, 271, 272, 277
Crawford v. Bernard (1894) 11 R.P.C. 580; 86 L.J. Ch. 325; 116 L.T. 440; 61 S.J. 315	527
Crean's T.M. (1921) 38 R.P.C. 155	547
Crest Homes v. Adcott [1980] F.S.R. 396	505
Crosfield's Appln. [1910] 1 Ch. 130; 26 R.P.C. 837; 79 L.J. Ch. 211; 101 L.T. 587; 26 T.L.R. 100	488, 524
Croxteth Hall, The; The Celtic. <i>See</i> Ellerman Lines v. Murray.	
Crutwell v. Lye (1810) 17 Ves. Jun. 335	461
Cuisenaire v. Reed [1963] V.R. 719	330
— v. South West Imports [1968] 1 Ex. C.R. 493	330

<i>Cummins v. Bond</i> [1927] 1 Ch. 167; 76 L.J. Ch. 81; 136 L.T. 368; 70 S.J. 1003	334
<i>Customglass Boats v. Salthouse</i> [1976] 1 N.Z.L.R. 36; [1976] R.P.C. 589	503
	504
<i>Cutler v. Wandsworth Stadium</i> [1949] A.C. 398; [1949] 1 All E.R. 544; [1949] L.J.R. 824; 65 T.L.R. 170; 93 S.J. 163	40
<i>Czarnikow v. Koufos. See The Heron II.</i>	
<i>Dagnall v. British Film</i> [1928-35] Mac. C.C. 391	350
"Daiquiri Rum" T.M. [1969] R.P.C. 600; [1969] F.S.R. 89	511, 512, 546, 548, 550
<i>D'Almaine v. Boosey</i> (1835) 1 Y. & C. Ex. 288; 4 L.J. Ex. Eq. 21; 160 E.R. 117	349
<i>Danish Mercantile v. Beaumont</i> [1951] Ch. 680; (1950) 67 R.P.C. 111; [1951] 1 All E.R. 925; 95 S.J. 300	502
<i>Darcy v. Allin</i> (1602) 11 Co. Rep. 84b; Noy, 173; Moore, K.B. 671; 1 W.P.C. 1; 74 E.R. 1131	79
<i>Davidson Rubber's Agreements</i> [1972] C.M.L.R. D52; [1972] F.S.R. 451	235, 237, 244, 591
<i>Davis v. Sussex Rubber</i> [1927] 2 Ch. 345; 44 R.P.C. 412; 97 L.J. Ch. 8; 137 L.T. 714	528, 529
<i>Davis (Clifford) v. WEA Records</i> [1975] 1 W.L.R. 61; [1975] 1 All E.R. 237; 118 S.J. 775	391
<i>Day v. Brownrigg</i> (1978) 10 Ch.D. 294; 38 L.J. Ch. 173; 39 L.T. (N.S.) 553; 37 W.R. 217	44, 474
— <i>v. Riley & Whittaker</i> (1900) 17 R.P.C. 517; 48 W.R. 556; 44 S.J. 502	538
<i>Dean's Rag Book v. Pomerantz</i> (1930) 47 R.P.C. 485	612
<i>De Beer v. Graham</i> (1891) 12 L.R.N.S.W. 139	290
<i>De Beers' Applcn.</i> [1979] F.S.R. 72	170
<i>De Beers Abrasive v. International General Electric</i> [1975] F.S.R. 323; [1975] 1 W.L.R. 972; 119 S.J. 439; [1975] 2 All E.R. 599	506
<i>De Cordova v. Vick</i> (1951) 68 R.P.C. 103; [1951] W.N. 195; 95 S.J. 316	522, 523
<i>Deepsouth Packing v. Laitram</i> , 406 U.S. 518 (1972)	202
<i>Deere v. Harrison McGregor</i> [1965] R.P.C. 472	194
<i>De Manduit v. Gaumont British</i> [1936-45] Mac. C.C. 292	350
<i>Demerara Turf Club v. Djang</i> (1963) 6 W.I.R. 177	435
<i>Dent v. Turpin</i> (1861) 2 J. & H. 139	480
<i>Derry v. Peek</i> (1889) 14 App. Cas. 337	11, 461
<i>Deta Nominees v. Viscount Plastics</i> [1979] V.R. 167	274
<i>Deutsche Grammophon v. Metro</i> [1971] E.C.R. 487; [1971] C.M.L.R. 631	26, 247, 405
<i>De Vitre v. Betts</i> (1873) L.R. 6 H.L. 319	56
<i>Diamond v. Chakrabarty</i> (not yet reported)	178
<i>Diamond Stylus v. Bauden</i> [1973] R.P.C. 675; [1972] 177	278
<i>Diamond T's Applcn.</i> (1921) 38 R.P.C. 373; [1921] 2 Ch. 583; (1921) 90 L.J. Ch. 508; (1921) 126 L.T. 87; (1921) 66 S.J. 8	514
<i>Dickens, Re</i> [1935] Ch. 267; 104 L.J. Ch. 174; 152 L.T. 375; 51 T.L.R. 181; 78 S.J. 898	344
<i>Dickens v. Lee</i> (1844) 8 Jur. 183	349
<i>Dicks v. Brooks</i> (1880) 15 Ch.D. 22; 49 L.J. Ch. 812; 43 L.T. 71; 29 W.R. 87	357