



# Patents Act 1977

## 1977 CHAPTER 37

### PART I

#### NEW DOMESTIC LAW

#### *Infringement*

#### **60 Meaning of infringement**

- (1) Subject to the provisions of this section, a person infringes a patent for an invention if, but only if, while the patent is in force, he does any of the following things in the United Kingdom in relation to the invention without the consent of the proprietor of the patent, that is to say—
  - (a) where the invention is a product, he makes, disposes of, offers to dispose of, uses or imports the product or keeps it whether for disposal or otherwise;
  - (b) where the invention is a process, he uses the process or he offers it for use in the United Kingdom when he knows, or it is obvious to a reasonable person in the circumstances, that its use there without the consent of the proprietor would be an infringement of the patent;
  - (c) where the invention is a process, he disposes of, offers to dispose of, uses or imports any product obtained directly by means of that process or keeps any such product whether for disposal or otherwise.
- (2) Subject to the following provisions of this section, a person (other than the proprietor of the patent) also infringes a patent for an invention if, while the patent is in force and without the consent of the proprietor, he supplies or offers to supply in the United Kingdom a person other than a licensee or other person entitled to work the invention with any of the means, relating to an essential element of the invention, for putting the invention into effect when he knows, or it is obvious to a reasonable person in the circumstances, that those means are suitable for putting, and are intended to put, the invention into effect in the United Kingdom.
- (3) Subsection (2) above shall not apply to the supply or offer of a staple commercial product unless the supply or the offer is made for the purpose of inducing the person

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*Status: This is the original version (as it was originally enacted).*

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supplied or, as the case may be, the person to whom the offer is made to do an act which constitutes an infringement of the patent by virtue of subsection (1) above.

- (4) Without prejudice to section 86 below, subsections (1) and (2) above shall not apply to any act which, under any provision of the Community Patent Convention relating to the exhaustion of the rights of the proprietor of a patent, as that provision applies by virtue of that section, cannot be prevented by the proprietor of the patent.
- (5) An act which, apart from this subsection, would constitute an infringement of a patent for an invention shall not do so if—
- (a) it is done privately and for purposes which are not commercial;
  - (b) it is done for experimental purposes relating to the subject-matter of the invention ;
  - (c) it consists of the extemporaneous preparation in a pharmacy of a medicine for an individual in accordance with a prescription given by a registered medical or dental practitioner or consists of dealing with a medicine so prepared;
  - (d) it consists of the use, exclusively for the needs of a relevant ship, of a product or process in the body of such a ship or in its machinery, tackle, apparatus or other accessories, in a case where the ship has temporarily or accidentally entered the internal or territorial waters of the United Kingdom ;
  - (e) it consists of the use of a product or process in the body or operation of a relevant aircraft, hovercraft or vehicle which has temporarily or accidentally entered or is crossing the United Kingdom (including the air space above it and its territorial waters) or the use of accessories for such a relevant aircraft, hovercraft or vehicle;
  - (f) it consists of the use of an exempted aircraft which has lawfully entered or is lawfully crossing the United Kingdom as aforesaid or of the importation into the United Kingdom, or the use or storage there, of any part or accessory for such an aircraft.
- (6) For the purposes of subsection (2) above a person who does an act in relation to an invention which is prevented only by virtue of paragraph (a), (b) or (c) of subsection (5) above from constituting an infringement of a patent for the invention shall not be treated as a person entitled to work the invention, but—
- (a) the reference in that subsection to a person entitled to work an invention includes a reference to a person so entitled by virtue of section 55 above, and
  - (b) a person who by virtue of section 28(6) above or section 64 below is entitled to do an act in relation to the invention without it constituting such an infringement shall, so far as concerns that act, be treated as a person entitled to work the invention.
- (7) In this section—
- " relevant ship" and " relevant aircraft, hovercraft or vehicle" mean respectively a ship and an aircraft, hovercraft or vehicle registered in, or belonging to, any country, other than the United Kingdom, which is a party to the Convention for the Protection of Industrial Property signed at Paris on 20th March 1883 ; and
  - " exempted aircraft " means an aircraft to which section 53 of the Civil Aviation Act 1949 (aircraft exempted from seizure in respect of patent claims) applies.