



Copyright, Designs and Patents Act 1988

1988 CHAPTER 48

PART III

DESIGN RIGHT

CHAPTER IV

JURISDICTION OF THE COMPTROLLER AND THE COURT

Jurisdiction of the court

251 References and appeals on design right matters

- (1) In any proceedings before him under section 246 (reference of matter relating to design right), the comptroller may at any time order the whole proceedings or any question or issue (whether of fact or law) to be referred, on such terms as he may direct, to the High Court or, in Scotland, the Court of Session.
- (2) The comptroller shall make such an order if the parties to the proceedings agree that he should do so.
- (3) On a reference under this section the court may exercise any power available to the comptroller by virtue of this Part as respects the matter referred to it and, following its determination, may refer any matter back to the comptroller.
- (4) An appeal lies from any decision of the comptroller in proceedings before him under section 246 (decisions on matters relating to design right) to the High Court or, in Scotland, the Court of Session.

252 Reference of disputes relating to Crown use

- (1) A dispute as to any matter which falls to be determined by the court in default of agreement under—

Status: This is the original version (as it was originally enacted).

- (a) section 241 (settlement of terms for Crown use),
 - (b) section 242 (rights of third parties in case of Crown use), or
 - (c) section 243 (Crown use: compensation for loss of profit),
- may be referred to the court by any party to the dispute.
- (2) In determining a dispute between a government department and any person as to the terms for Crown use of a design the court shall have regard to—
- (a) any sums which that person or a person from whom he derives title has received or is entitled to receive, directly or indirectly, from any government department in respect of the design; and
 - (b) whether that person or a person from whom he derives title has in the court's opinion without reasonable cause failed to comply with a request of the department for the use of the design on reasonable terms.
- (3) One of two or more joint owners of design right may, without the concurrence of the others, refer a dispute to the court under this section, but shall not do so unless the others are made parties; and none of those others is liable for any costs unless he takes part in the proceedings.
- (4) Where the consent of an exclusive licensee is required by section 242(3)(a)(i) to the settlement by agreement of the terms for Crown use of a design, a determination by the court of the amount of any payment to be made for such use is of no effect unless the licensee has been notified of the reference and given an opportunity to be heard.
- (5) On the reference of a dispute as to the amount recoverable as mentioned in section 242(3)(a)(ii) (right of exclusive licensee to recover part of amount payable to design right owner) the court shall determine what is just having regard to any expenditure incurred by the licensee—
- (a) in developing the design, or
 - (b) in making payments to the design right owner in consideration of the licence (other than royalties or other payments determined by reference to the use of the design).
- (6) In this section “the court” means—
- (a) in England and Wales, the High Court or any patents county court having jurisdiction by virtue of an order under section 287 of this Act,
 - (b) in Scotland, the Court of Session, and
 - (c) in Northern Ireland, the High Court.