



Registered Designs Act 1949

1949 CHAPTER 88

Legal proceedings and Appeals

25 Certificate of contested validity of registration.

- (1) If in any proceedings before the court the validity of the registration of a design is contested, and it is found by the court that the design is validly registered, the court may certify that the validity of the registration of the design was contested in those proceedings.
- (2) Where any such certificate has been granted, then if in any subsequent proceedings before the court for infringement of the copyright in the registered design or for cancellation of the registration of the design, a final order or judgment is made or given in favour of the registered proprietor, he shall, unless the court otherwise directs, be entitled to his costs as between solicitor and client:

Provided that this subsection shall not apply to the costs of any appeal in any such proceedings as aforesaid.

26 Remedy for groundless threats of infringement proceedings.

- (1) Where any person (whether entitled to or interested in a registered design or an application for registration of a design or not) by circulars, advertisements or otherwise threatens any other person with proceedings for infringement of the copyright in a registered design, any person aggrieved thereby may bring an action against him for any such relief as is mentioned in the next following subsection.
- (2) Unless in any action brought by virtue of this section the defendant proves that the acts in respect of which proceedings were threatened constitute or, if done, would constitute, an infringement of the copyright in a registered design the registration of which is not shown by the plaintiff to be invalid, the plaintiff shall be entitled to the following relief, that is to say:—
 - (a) a declaration to the effect that the threats are unjustifiable;
 - (b) an injunction against the continuance of the threats; and
 - (c) such damages, if any, as he has sustained thereby.

- (3) For the avoidance of doubt it is hereby declared that a mere notification that a design is registered does not constitute a threat of proceedings within the meaning of this section.

27 The Court.

Subject to the provisions of this Act relating to Scotland, Northern Ireland and the Isle of Man, any reference or application to the court under this Act, shall, subject to rules of court, be dealt with by such judge of the High Court as the Lord Chancellor may select for the purpose.

28 The Appeal Tribunal.

- (1) Any appeal from the registrar under this Act shall lie to the Appeal Tribunal.
- (2) The Appeal Tribunal shall be a judge of the High Court nominated for the purpose by the Lord Chancellor.
- (3) The expenses of the Appeal Tribunal shall be defrayed and the fees to be taken therein may be fixed as if the Tribunal were a court of the High Court.
- (4) The Appeal Tribunal may examine witnesses on oath and administer oaths for that purpose.
- (5) Upon any appeal under this Act the Appeal Tribunal may by order award to any party such costs as the Tribunal may consider reasonable and direct how and by what parties the costs are to be paid ; and any such order may be made a rule of court.
- (6) The Appeal Tribunal shall, with regard to the right of audience, observe the same practice as before the first day of November, nineteen hundred and thirty-two, was observed in the hearing of appeals by the law officer.
- (7) Upon any appeal under this Act the Appeal Tribunal may exercise any power which could have been-exercised by the registrar in the proceeding from which the appeal is brought.
- (8) Subject to the foregoing provisions of this section the Appeal Tribunal may make rules for regulating all matters relating to proceedings before it under this Act.
- (9) An appeal to the Appeal Tribunal under this Act shall not be deemed to be a proceeding in the High Court.