



Registered Designs Act 1949

1949 CHAPTER 88

Registrable designs and proceedings for registration

1 Designs registrable under Act.

- (1) Subject to the following provisions of this section, a design may, upon application made by the person claiming to be the proprietor, be registered under this Act in respect of any article or set of articles specified in the application.
- (2) Subject to the provisions of this Act, a design shall not be registered thereunder unless it is new or original and in particular shall not be so registered in respect of any article if it is the same as a design which before the date of the application for registration has been registered or published in the United Kingdom in respect of the same or any other article or differs from such a design only in immaterial details or in features which are variants commonly used in the trade.
- (3) In this Act the expression " design " means features of shape, configuration, pattern or ornament applied to an article by any industrial process or means, being features which in the finished article appeal to and are judged solely by the eye, but does not include a method or principle of construction or features of shape or configuration which are dictated solely by the function which the article to be made in that shape or configuration has to perform.
- (4) Rules made by the Board of Trade under this Act may provide for excluding from registration thereunder designs for such articles, being articles which are primarily literary or artistic in character, as the Board think fit.

2 Proprietorship of designs.

- (1) Subject to the provisions of this section, the author of a design shall be treated for the purposes of this Act as the proprietor of the design:

Provided that where the design is executed by the author for another person for good consideration, that other person shall be treated for the purposes of this Act as the proprietor.

- (2) Where a design, or the right to apply a design to any article, becomes vested, whether by assignment, transmission or operation of law, in any person other than the original proprietor, either alone or jointly with the original proprietor, that other person, or as the case may be the original proprietor and that other person, shall be treated for the purposes of this Act as the proprietor of the design or as the proprietor of the design in relation to that article.

3 Proceedings for registration.

- (1) An application for the registration of a design shall be made in the prescribed form and shall be filed at the Patent Office in the prescribed manner.
- (2) For the purpose of deciding whether a design is new or original, the registrar may make such searches, if any, as he thinks fit.
- (3) The registrar may refuse any application for the registration of a design or may register the design in pursuance of the application subject to such modifications, if any, as he thinks fit.
- (4) An application which, owing to any default or neglect on the part of the applicant, has not been completed so as to enable registration to be effected within such time as may be prescribed shall be deemed to be abandoned.
- (5) Except as otherwise expressly provided by this Act, a design when registered shall be registered as of the date on which the application for registration was made, or such other date (whether earlier or later than that date) as the registrar may in any particular case direct:

Provided that no proceedings shall be taken in respect of any infringement committed before the date on which the certificate of registration of the design under this Act is issued.

- (6) An appeal shall lie from any decision of the registrar under subsection (3) of this section.

4 Registration of same design in respect of other articles, etc.

- (1) Where the registered proprietor of a design registered in respect of any article makes an application—
- (a) for registration in respect of one or more other articles, of the registered design, or
 - (b) for registration in respect of the same or one or more other articles, of a design consisting of the registered design with modifications or variations not sufficient to alter the character or substantially to affect the identity thereof,
- the application shall not be refused and the registration made on that application shall not be invalidated by reason only of the previous registration or publication of the registered design:

Provided that the period of copyright in a design registered by virtue of this section shall not extend beyond the expiration of the original and any extended period of copyright in the original registered design.

- (2) Where any person makes an application for the registration of a design in respect of any article and either—

- (a) that design has been previously registered by another person in respect of some other article ; or
- (b) the design to which the application relates consists of a design previously registered by another person in respect of the same or some other article with modifications or variations not sufficient to alter the character or substantially to affect the identity thereof,

then, if at any time while the application is pending the applicant becomes the registered proprietor of the design previously registered, the foregoing provisions of this section shall apply as if at the time of making the application the applicant had been the registered proprietor of that design.

5 Provisions for secrecy of certain designs.

- (1) Where, either before or after the commencement of this Act, an application for the registration of a design has been made, and it appears to the registrar that the design is one of a class notified to him by a competent authority as relevant for defence purposes, he may give directions for prohibiting or restricting the publication of information with respect to the design, or the communication of such information to any person or class of persons specified in the directions.
- (2) Rules shall be made by the Board of Trade under this Act for securing that the representation or specimen of a design in the case of which directions are given under this section shall not be open to inspection at the Patent Office during the continuance in force of the directions.
- (3) Where the registrar gives any such directions as aforesaid, he shall give notice of the application and of the directions to a competent authority, and thereupon the following provisions shall have effect, that is to say:—
 - (a) the competent authority shall, upon receipt of such notice, consider whether the publication of the design would be prejudicial to the defence of the realm and unless a notice under paragraph (c) of this subsection has previously been given by that authority to the registrar, shall reconsider that question before the expiration of nine months from the date of filing of the application for registration of the design and at least once in every subsequent year ;
 - (b) for the purpose aforesaid, the competent authority may, at any time after the design has been registered or, with the consent of the applicant, at any time before the design has been registered, inspect the representation or specimen of the design filed in pursuance of the application;
 - (c) if upon consideration of the design at any time it appears to the competent authority that the publication of the design would not, or would no longer, be prejudicial to the defence of the realm, that authority shall give notice to the registrar to that effect;
 - (d) on the receipt of any such notice the registrar shall revoke the directions and may, subject to such conditions, if any, as he thinks fit, extend the time for doing anything required or authorised to be done by or under this Act in connection with the application or registration, whether or not that time has previously expired.
- (4) No person resident in the United Kingdom shall, except under the authority of a written permit granted by or on behalf of the registrar, make or cause to be made any application outside the United Kingdom for the registration of a design of any class prescribed for the purposes of this subsection unless—

- (a) an application for registration of the same design has been made in the United Kingdom not less than six weeks before the application outside the United Kingdom ; and
- (b) either no directions have been given under subsection (1) of this section in relation to the application in the United Kingdom or all such directions have been revoked:

Provided that this subsection shall not apply in relation to a design for which an application for protection has first been filed in a country outside the United Kingdom by a person resident outside the United Kingdom.

- (5) In this section the expression " competent authority" means a Secretary of State, the Admiralty or the Minister of Supply.

6 Provisions as to confidential disclosure, etc.

- (1) An application for the registration of a design shall not be refused, and the registration of a design shall not be invalidated, by reason only of—
 - (a) the disclosure of the design by the proprietor to any other person in such circumstances as would make it contrary to. good faith for that other person to use or publish the design;
 - (b) the disclosure of the design in breach of good faith by any person other than the proprietor of the design ; or
 - (c) in the case of a new or original textile design intended for registration, the acceptance of a first and confidential order for goods bearing the design.
- (2) An application for the registration of a design shall not be refused and the registration of a design shall not be invalidated by reason only—
 - (a) that a representation of the design, or any article to which the design has been applied, has been displayed, with the consent of the proprietor of the design, at an exhibition certified by the Board of Trade for the purposes of this subsection;
 - (b) that after any such display as aforesaid, and during the period of the exhibition, a representation of the design or any such article as aforesaid has been displayed by any person without the consent of the proprietor ; or
 - (c) that a representation of the design has been published in consequence of any such display as is mentioned in paragraph (a) of this subsection,

if the application for registration of the design is made not later than six months after the opening of the exhibition.
- (3) An application for the registration of a design shall not be refused, and the registration of a design shall not be invalidated, by reason only of the communication of the design by the proprietor thereof to a Government department or to any person authorised by a Government department to consider the merits of the design, or of anything done in consequence of such a communication-