# Blackstone's Statutes on

# **Intellectual Property**

12th edition

edited by

### **Andrew Christie**

Control Medicinal BSc, LLB (Hons) (Melb), (L.M. (Lond), PhD (Cantab)

Professor of Intellectual Property, Melbourne Law School, University of Melbourne

and

## Stephen Gare

MA (Cantab), MA (Business Law)

Consultant at Greenberg Traurig Maher LLP, London





#### Great Clarendon Street, Oxford, OX2 6DP, United Kingdom

Oxford University Press is a department of the University of Oxford. It furthers the University's objective of excellence in research, scholarship, and education by publishing worldwide. Oxford is a registered trade mark of Oxford University Press in the UK and in certain other countries

This selection © Andrew Christie and Stephen Gare 2014

The moral rights of the authors have been asserted

First published by Blackstone Press 1992

Ninth edition 2008 Tenth edition 2010 Eleventh edition 2012 Twelfth edition 2014

Impression: 1

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, without the prior permission in writing of Oxford University Press, or as expressly permitted by law, by licence or under terms agreed with the appropriate reprographics rights organization. Enquiries concerning reproduction outside the scope of the above should be sent to the Rights Department, Oxford University Press, at the address above

You must not circulate this work in more ner form and you must impose this same condition on any acquirer

Public sector information reproduced under Qp in Government Licence v1.0 (http://www.nationalarchives.gov.uk/doc/open-gover.unent-licence/open-government-licence.htm)

Crown Copyright material reproduced with the permission of the Controller, HMSO (under the lerms of the Click Use licence)

Published in the United States of America by Oxford University Press 198 Madison Avenue, New York, NY 10016, United States of America

British Library Cataloguing in Publication Data

Data available

ISBN 978-0-19-870945-9

Printed in Great Britain by Bell & Bain Ltd, Glasgow

Links to third party websites are provided by Oxford in good faith and or information only. Oxford disclaims any responsibility for the materials contained in any third party website referenced in this work.

Oxford University Press is committed to using paper from sustainable and ethical sources.

# **Contents**

	Editors' preface	xii
	New to this edition	xiii
	Acknowledgements	xiv
	List of useful IP websites	xvi
Part A	Copyright, Design and Related Rights	1
Part B	Trade Marks and Related Rights	292
Part C	Patents, Plant Varieties and Related Rights	416
Part D	Multi-Regime Measures	521
Appendix	Intellectual Property Act 2014	579
	Index	583
Q'	Multi-Regime Measures Intellectual Property Act 2014  Index  Index	

# **Chronological contents**

Part A	Copyright, Design and Related Rights	1
A1.	United Kingdom	
	Registered Designs Act 1949	1
	Copyright, Designs and Patents Act 1988	16
	Copyright (Industrial Process and Excluded Articles)	
	(No. 2) Order 1989	135
	Copyright and Related Rights Regulations 1996	136
	Copyright and Rights in Databases Regulations 1997	138
	Electronic Commerce (EC Directive) Regulations 2002	147
	Communications Act 2003	149
	Community Design Regulations 2005	152
	Artist's Resale Right Regulations 2006	154
	Digital Economy Act 2010	159
A2.	Communications Act 2003 Community Design Regulations 2005 Artist's Resale Right Regulations 2006 Digital Economy Act 2010 United States Converight Act of 1076 Fine Digital Millennium Charlet Act	
	Copyright Act of 1976 [inc. Digital Millennium Copyright Act	
	provisions at §§ 512, 1201–1204]	160
A3.	European Union	
	Council Directive 93/83/EEC of 27/5 prember 1993 on the	
	coordination of certain rules correcting copyright and	
	rights related to copyright and icable to satellite broadcasting	
	and cable retransmission	181
	Directive 96/9/EC of the European Parliament and of the	
	Council of 11 Mar 12, 1996 on the legal protection of databases	188
	Directive 98/71/EC of the European Parliament and of the	
	Council of 3 October 1998 on the legal protection of designs	197
	Directive C 84/EC of the European Parliament and of the	
	Council of 20 November 1998 on the legal protection of	202
	res based on, or consisting of, conditional access	203
	Directive 2001/29/EC of the European Parliament and of the	
	Council of 22 May 2001 on the harmonisation of certain aspects	207
	of copyright and related rights in the information society	207
	Directive 2001/84/EC of the European Parliament and of the Council of 27 September 2001 on the resale right for the benefit	
	of the author of an original work of art	219
	Council Regulation (EC) No. 6/2002 of 12 December 2001	21/
	on Community designs	224
	Directive 2006/115/EC of the European Parliament and of	22 1
	the Council of 12 December 2006 on rental right and lending	
	right and on certain rights related to copyright in the field of	
	intellectual property (codified version)	238

		Directive 2006/116/EC of the European Parliament and of the Council of 12 December 2006 on the term of protection of copyright and certain related rights (codified version)  Directive 2009/24/EC of the European Parliament and of the Council of 23 April 2009 on the legal protection of computer programs (codified version)  Directive 2012/28/EU of the European Parliament and of the Council of 25 October 2012 on certain permitted uses of orphan works	<ul><li>243</li><li>248</li><li>253</li></ul>	
	A4.	International		
		Berne Convention for the Protection of Literary and Artistic Works 1886 (1971 revision with 1979 amendments) International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations	260	
		1961 (Rome Convention)	269	
		Geneva Convention for the Protection of Producers of Phonograms against Unauthorised Duplication of their		
		Phonograms 1971	273	
		WIPO Copyright Treaty 1996	275	
		Agreed Statements concerning the WIPO Copyright Treaty 1996	278	
		WIPO Performances and Phonograms Treaty 1996 Agreed Statements concerning the WIPO Performances and	279	
		Phonograms Treaty 1996	284	
		Geneva Act of the Hague Agreement concerning the	201	
		International Registration of Industria Designs 1999	285	
Part	В	Trade Marks and Related Rights	292	
Part		~C2	292	
Part		United Kingdom		
Part		United Kingdom Trade Marks Act 1994	292	
Part		United Kingdom  Trade Marks Act 1994  Olympic Symbol (**) (Protection) Act 1995	292 326	
Part		United Kingdom  Trade Marks Act 1994 Olympic Symbol (**) (Protection) Act 1995 Community Trade Mark Regulations 2006	292 326 333	
Part		United Kingdom  Trade Marks Act 1994 Olympic Symbol (** (Protection) Act 1995 Community Trade Mark Regulations 2006 Trade Marks (Relative Grounds) Order 2007	292 326 333 334	
Part		United Kingdom  Trade Marks Act 1994 Olympic Symbol (**) (Protection) Act 1995 Community Trade Mark Regulations 2006 Trade Marks (Relative Grounds) Order 2007 Business Protection from Misleading Marketing Regulations 2008	292 326 333 334 335	
Part	B1.	United Kingdom  Trade Marks Act 1994 Olympic Symbol (**) (Protection) Act 1995 Community Trade Mark Regulations 2006 Trade Marks (Relative Grounds) Order 2007 Business Protection from Misleading Marketing Regulations 2008 Consolver Protection from Unfair Trading Regulations 2008	292 326 333 334	
Part I	B1.	United Kingdom  Trade Marks Act 1994 Olympic Symbol (**) (Protection) Act 1995 Community Trade Mark Regulations 2006 Trade Marks (Relative Grounds) Order 2007 Business Protection from Misleading Marketing Regulations 2008	292 326 333 334 335	
Part	B1.	United Kingdom  Trade Marks Act 1994 Olympic Symbol (**) (Protection) Act 1995 Community Trade Mark Regulations 2006 Trade Marks (Relative Grounds) Order 2007 Business Protection from Misleading Marketing Regulations 2008 Consolver Protection from Unfair Trading Regulations 2008	292 326 333 334 335	
Part	B1.	United Kingdom  Trade Marks Act 1994 Olympic Symbol Community Trade Mark Regulations 2006 Trade Marks (Relative Grounds) Order 2007 Busines, Protection from Misleading Marketing Regulations 2008 Consumer Protection from Unfair Trading Regulations 2008 United States Trademark Act of 1946	292 326 333 334 335 337	
Part	B1.	United Kingdom  Trade Marks Act 1994 Olympic Symbol & (Protection) Act 1995 Community Trade Mark Regulations 2006 Trade Marks (Relative Grounds) Order 2007 Business Protection from Misleading Marketing Regulations 2008 Consoner Protection from Unfair Trading Regulations 2008 United States Trademark Act of 1946  European Union Directive 2006/114/EC of the European Parliament and of the	292 326 333 334 335 337	
Part	B1.	United Kingdom  Trade Marks Act 1994 Olympic Symbol & (Protection) Act 1995 Community Trade Mark Regulations 2006 Trade Marks (Relative Grounds) Order 2007 Business Protection from Misleading Marketing Regulations 2008 Consumer Protection from Unfair Trading Regulations 2008 United States Trademark Act of 1946  European Union Directive 2006/114/EC of the European Parliament and of the Council of 12 December 2006 concerning misleading and	292 326 333 334 335 337	
Part I	B1.	United Kingdom  Trade Marks Act 1994 Olympic Symbol & (Protection) Act 1995 Community Trade Mark Regulations 2006 Trade Marks (Relative Grounds) Order 2007 Business Protection from Misleading Marketing Regulations 2008 Consumer Protection from Unfair Trading Regulations 2008 United States Trademark Act of 1946  European Union Directive 2006/114/EC of the European Parliament and of the Council of 12 December 2006 concerning misleading and comparative advertising (codified version) (Text with EEA	292 326 333 334 335 337	
Part I	B1.	United Kingdom  Trade Marks Act 1994 Olympic Symbol (**) (Protection) Act 1995 Community Trade Mark Regulations 2006 Trade Marks (Relative Grounds) Order 2007 Business Protection from Misleading Marketing Regulations 2008 Consumer Protection from Unfair Trading Regulations 2008 United States Trademark Act of 1946  European Union Directive 2006/114/EC of the European Parliament and of the Council of 12 December 2006 concerning misleading and comparative advertising (codified version) (Text with EEA relevance)	292 326 333 334 335 337	
Part	B1.	United Kingdom  Trade Marks Act 1994 Olympic Symbol Co. (Protection) Act 1995 Community Trade Mark Regulations 2006 Trade Marks (Relative Grounds) Order 2007 Business Protection from Misleading Marketing Regulations 2008 Consumer Protection from Unfair Trading Regulations 2008 United States Trademark Act of 1946  European Union  Directive 2006/114/EC of the European Parliament and of the Council of 12 December 2006 concerning misleading and comparative advertising (codified version) (Text with EEA relevance) Directive 2008/95/EC of the European Parliament and of the	292 326 333 334 335 337	
Part	B1.	United Kingdom  Trade Marks Act 1994 Olympic Symbol (**) (Protection) Act 1995 Community Trade Mark Regulations 2006 Trade Marks (Relative Grounds) Order 2007 Business Protection from Misleading Marketing Regulations 2008 Consumer Protection from Unfair Trading Regulations 2008 United States Trademark Act of 1946  European Union Directive 2006/114/EC of the European Parliament and of the Council of 12 December 2006 concerning misleading and comparative advertising (codified version) (Text with EEA relevance) Directive 2008/95/EC of the European Parliament and of the Council of 22 October 2008 to approximate the laws of the	292 326 333 334 335 337	
Part	B1.	United Kingdom  Trade Marks Act 1994 Olympic Symbol Component (Protection) Act 1995 Community Trade Mark Regulations 2006 Trade Marks (Relative Grounds) Order 2007 Business Protection from Misleading Marketing Regulations 2008 Consolmer Protection from Unfair Trading Regulations 2008 United States Trademark Act of 1946  European Union Directive 2006/114/EC of the European Parliament and of the Council of 12 December 2006 concerning misleading and comparative advertising (codified version) (Text with EEA relevance) Directive 2008/95/EC of the European Parliament and of the Council of 22 October 2008 to approximate the laws of the Member States relating to trade marks (codified version)	292 326 333 334 335 337 341	
Part	B1.	United Kingdom  Trade Marks Act 1994 Olympic Symbol components (Protection) Act 1995 Community Twade Mark Regulations 2006 Trade Marks (Relative Grounds) Order 2007 Business Protection from Misleading Marketing Regulations 2008 Consumer Protection from Unfair Trading Regulations 2008 United States Trademark Act of 1946  European Union Directive 2006/114/EC of the European Parliament and of the Council of 12 December 2006 concerning misleading and comparative advertising (codified version) (Text with EEA relevance) Directive 2008/95/EC of the European Parliament and of the Council of 22 October 2008 to approximate the laws of the Member States relating to trade marks (codified version) (Text with EEA relevance)	292 326 333 334 335 337	
Part	B1.	United Kingdom  Trade Marks Act 1994 Olympic Symbol components (Protection) Act 1995 Community Twale Mark Regulations 2006 Trade Marks (Relative Grounds) Order 2007 Business Protection from Misleading Marketing Regulations 2008 Consumer Protection from Unfair Trading Regulations 2008 United States Trademark Act of 1946  European Union Directive 2006/114/EC of the European Parliament and of the Council of 12 December 2006 concerning misleading and comparative advertising (codified version) (Text with EEA relevance) Directive 2008/95/EC of the European Parliament and of the Council of 22 October 2008 to approximate the laws of the Member States relating to trade marks (codified version) (Text with EEA relevance) Council Regulation (EC) No. 207/2009 of 26 February	292 326 333 334 335 337 341	
Part	B1.	United Kingdom  Trade Marks Act 1994 Olympic Symbol components (Protection) Act 1995 Community Twade Mark Regulations 2006 Trade Marks (Relative Grounds) Order 2007 Business Protection from Misleading Marketing Regulations 2008 Consumer Protection from Unfair Trading Regulations 2008 United States Trademark Act of 1946  European Union Directive 2006/114/EC of the European Parliament and of the Council of 12 December 2006 concerning misleading and comparative advertising (codified version) (Text with EEA relevance) Directive 2008/95/EC of the European Parliament and of the Council of 22 October 2008 to approximate the laws of the Member States relating to trade marks (codified version) (Text with EEA relevance)	292 326 333 334 335 337 341	

	Regulation (EU) No. 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for		
	agricultural products and foodstuffs	376	
В4.	International		
	Lisbon Agreement for the Protection of Appellations		
	of Origin 1958 (1967 revision with 1979 amendments)	399	
	Uniform Domain Name Dispute Resolution Policy 1999	401	
	Paris Union and WIPO Joint Recommendation concerning	10.1	
	Provisions on the Protection of Well-Known Marks 1999	404	
	Paris Union and WIPO Joint Recommendation concerning Provisions on the Protection of Marks, and Other Industrial		
	Property Rights in Signs, on the Internet 2001	408	
	Nice Classification (Tenth Edition) 2014	413	
Part C	Patents, Plant Varieties and Related Rights	416	
			_
C1.	United Kingdom	,	
	Patents Act 1977	416	
	Plant Varieties Act 1997	457	
	Patents and Plant Variety Rights (Compulsory Licensing)		
	Regulations 2002	468	
C2.	United States		
	Patent Act of 1952	471	
СЗ.	European Union		
	Council Regulation (EC) No. 2107/94 of 27 July 1994 on		
	Community plant variety rights	478	
	Directive 98/44/EC of the European Parliament and of the		
	Council of 6 July 1923 on the legal protection of		
	biotechnologica: inventions	489	
C4.	International		
	UPOV Convention for the Protection of New Varieties		
	of rants 1961 (1991 revision)	497	
	European Patent Convention 1973 (2000 revision)	504	
	Protocol on the Interpretation of Article 69 of the		
	European Patent Convention	514	
	Rio Convention on Biological Diversity 1992	515	
Part D	Multi-Regime Measures	521	
D1.	United Kingdom		
	Human Rights Act 1998	521	
	Intellectual Property (Enforcement, etc.) Regulations 2006	533	
D2.	European Union		
	Directive 2004/48/EC of the European Parliament and of the		
	Council of 29 April 2004 on the enforcement of intellectual		
	property rights	534	
	Commission Statement concerning Article 2 of		
	Directive 2004/48/EC	544	

D3.	International		
	Paris Convention for the Protection of Industrial		
	Property 1883 (1967 revision with 1979 amendments)	544	
	TRIPS Agreement 1994	553	
	Implementation of paragraph 6 of the Doha Declaration on the		
	TRIPS Agreement and Public Health 2003	574	
Appendix	Intellectual Property Act 2014	579	
	Index	583	

Preview Cappidhied Naterial

### **Alphabetical contents**

- A Artist's Resale Right Regulations 2006 (UK) . . . 154
- B Berne Convention 1886 (1979
  amendments) . . . 260
  Biotechnological Inventions Directive 98/44/
  EC (EU) . . . 489
  Business Protection from Misleading Marketing
- C Communications Act 2003 (UK) . . . 149
  Community Design Regulations 2005
  (UK) . . . 152

Regulations 2008 (UK) . . . 335

- Community Designs Regulation No. 6/2002 (EU) . . . 224
- Community Plant Variety Rights Regulation No. 2100/94 (EU) ... 478
- Community Trade Mark Regulation No. 207/2009 (EU) . . . 360
- Community Trade Mark Regulations 2006 (UK) . . . 333
- Conditional Access Directive 98/84/EC (EU) . . . 203
- Consumer Protection from Unfair Trading Regulations 2008 (UK) . . . 337
- Copyright Act of 1976 [inc. Digital Millennium Copyright Act] (US) . . . 160
- Copyright and Related Right: in the Information Society Directive 20(1, 2)/EC (EU) . . . 207
- Copyright and Relate 17 lights Regulations 1996 (UK) . . . 136
- Copyright and Rights in Databases Regulations 1997 (UK) . . . 138
- Copyright, Designs and Patents Act 1988 (UK) . . . 16
- Copyright (Industrial Process and Excluded Articles) (No. 2) Order 1989 (UK) . . . 135
- Copyright Term of Protection Directive 2006/116/EC (EU)  $\dots$  243
- D Database Directive 96/9/EC (EU) ... 188 Designs Directive 98/71/EC (EU) ... 197 Digital Economy Act 2010 (UK) ... 159
- E Electronic Commerce (EC Directive) Regulations 2002 (UK) . . . 147

- Enforcement of Intellectual Property Rights
  Directive 2004/48/EC (EU) . . . 534
- Enforcement of Intellectual Property Rights Directive 2004/48/EC (Commission Statement concerning Article 2) (EU) . . . 544
- European Patent Convention 1973 (2000 revision) . . . 504
- European Patent Convention Protocol on the Interpretation of Article 69 . . . 514
- G Geneva Act of the Hague Agreement concerning the International Registration of Industrial Dec. 5, 5 1999... 285 Geneva Convention 1971... 273
- H Human Rights Act 1998 (UK) . . . 521
- I Implementation of paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health . . . 574
  Intellectual Property Act 2014 (UK) . . . 579
  Intellectual Property (Enforcement, etc.)
  Regulations 2006 (UK) . . . 533
- L Lisbon Agreement for the Protection of Appellations of Origin 1958 (1967 revision with 1979 amendments) . . . 399
- M Misleading and Comparative Advertising Directive 2006/114/EC (EU) . . . 348
- N Nice Classification (Tenth Edition) . . . 413
- O Olympic Symbol etc. (Protection) Act 1995
  (UK) . . . 326
  Orphan Works Directive 2012/28/EU
  (EU) . . . 253
- P Paris Convention 1883 (1967 revision with 1979 amendments) . . . 544
  - Paris Union and WIPO Joint Recommendation concerning Provisions on the Protection of Marks, and Other Industrial Property Rights in Signs, on the Internet 2001 . . . 408
  - Paris Union and WIPO Joint Recommendation concerning Provisions on the Protection of Well-Known Marks 1999 . . . 404

- Patent Act of 1952 (US) . . . 471
  Patents Act 1977 (UK) . . . 416
  Patents and Plant Variety Rights (Compulsory Licensing) Regulations 2002 (UK) . . . 468
  Plant Varieties Act 1997 (UK) . . . 457
- Q Quality Schemes for Agricultural
  Products and Foodstuffs Regulation
  No. 1151/2012 (EU) . . . 376
- R Registered Designs Act 1949 (UK) . . . 1
  Rental Right and Lending Right Directive
  2006/115/EC (EU) . . . 238
  Resale Rights Directive 2001/84/EC (EU) . . . 219
  Rio Convention on Biological Diversity
  1992 . . . 515
  Rome Convention 1961 . . . 269
- S Satellite Broadcasting and Cable Retransmission
  Directive 93/83/EEC (EU) . . . 181
  Software Directive 2009/24/EC (EU) . . . 248

  WIPO Performance of the product of the p

- T Trademark Act of 1946 (US) ... 341
  Trade Marks Act 1994 (UK) ... 292
  Trade Marks Directive 2008/95/EC
  (EU) ... 353
  Trade Marks (Relative Grounds) Order 2007
  (UK) ... 334
  TRIPS Agreement 1994 ... 553
- U Uniform Domain Name Dispute Resolution
  Policy 1999 . . . 401
  UPOV Convention 1961 (1991
  revision) . . . 497
- W WIPO Copyright Treaty 1996 . . . 275
  WIPO Copyright Treaty 1996 Agreed
  Statements . . . 278
  WIPO Performances and Phonograms Treaty
  1996 . . . 279
  WIPO Performances and Phonograms
  Treaty 1996 Agreed
  Statements 284