

# Contents

<i>Preface</i>	ix	Collecting societies	72
<i>Preface to second edition</i>	xi	Licensing schemes	73
<i>Table of cases</i>	xii	Compulsory licences and licences as of right	75
<i>Table of legislation</i>	xxi	The Copyright Tribunal	75
<i>Glossary</i>	xxviii		
<i>Table of abbreviations</i>	xxxii		
 <i>Part One</i> <b>PRELIMINARY</b>			
<b>1</b> <i>Introduction</i>	3	<b>5</b> <i>Moral rights</i>	77
What is intellectual property law?	3	Introduction	77
Nature of intellectual property	10	Right to be identified as the author or director of a work (the paternity right)	78
Cross-cutting themes	14	Right to object to derogatory treatment of the work	85
Practical considerations	17	False attribution of a work	90
		Right to privacy in photographs and films	92
		Joint works	93
		Duration	94
		Waiver	94
		Remedies	95
		<i>porušení osobnostních práv</i>	
		<b>6</b> <i>Infringement and remedies</i>	97
		Rights of copyright owners	97
		The acts restricted by copyright	97
		Secondary infringements of copyright	112
		Remedies for infringement of copyright	114
		Presumptions	123
		Criminal offences	125
		<b>7</b> <i>Defences to copyright infringement</i>	132
		Introduction	132
		Copyright owner authorized or consented to the act	132
		Public interest	134
		The permitted acts	135
		Fair dealing	136
		Education	142
		Libraries and archives	144
		Public administration	145
		Computer programs	146
		Designs, typefaces and works in electronic form	146
		Miscellaneous – literary, dramatic, musical and artistic works	147
		Miscellaneous – other works	148
 <i>Part Two</i> <b>COPYRIGHT</b>			
<b>2</b> <i>Background and basic principles</i>	25		
What is copyright?	25		
Brief history	27		
Copyright and its relationship to other intellectual property rights	30		
Copyright as a means of exploiting a work	31		
<b>3</b> <i>Subsistence of copyright</i>	33		
Introduction	33		
Original literary, dramatic, musical or artistic works	34		
Sound recordings, films, broadcasts or cable programmes	44		
Qualification	47		
Duration of copyright	50		
<b>4</b> <i>Authorship and ownership of copyright</i>	56		
Introduction	56		
Authorship	57		
Ownership	60		
Dealing with copyright	66		



Adaptations	149
Summary	149
<b>8 New technology and copyright</b>	<b>161</b>
Introduction	161
Copyright protection for computer programs	161
Computer programs – basic position	164
Developments in the United States	166
The United Kingdom position	171
Making an adaptation	175
Permitted acts in relation to computer programs	177
Computer programming languages	182
Databases	183
Computer-generated works and advice derived from expert systems	187
Satellite broadcasting	190
Copying technology	191
Fax and electronic mail	193
Format rights	195
<b>9 European and international aspects of copyright</b>	<b>196</b>
Introduction	196
Copyright law and the Treaty of Rome	196
Harmonization	203
International conventions	204
<b>10 Rights in performances</b>	<b>207</b>
Introduction	207
Nature and subsistence of the rights	209
Infringement	210
Exceptions	212
Remedies	214
Offences	214
Summary	215

### Part Three

#### THE LAW OF BREACH OF CONFIDENCE

<b>11 Introduction</b>	<b>219</b>
Development of the law of breach of confidence	220
The modern law of breach of confidence	220
<b>12 Nature of the law of confidence</b>	<b>224</b>
Introduction	224
Confidential quality	224
Obligation of confidence	231
Unauthorized use	241
Remedies	242

### Part Four PATENT LAW

<b>13 Patent law – background, basic principles and practical aspects</b>	<b>247</b>
Introduction	247
Brief historical perspective	250
Justification for patent rights	251
Practical considerations	254
<b>14 Requirements for patentability and ownership</b>	<b>273</b>
Introduction	273
Basic requirements	274
Exclusions from patentability	283
Ownership and dealings in patents	292
Crown use	300
<b>15 Patents: infringement, defences and remedies</b>	<b>302</b>
Introduction	302
Choice of court	302
Infringement	303
Defences	310
Remedies	314
United Kingdom competition law	317
Criminal offences	318
<b>16 Patents in Europe</b>	<b>320</b>
Introduction	320
Patents and the Treaty of Rome (EEC Treaty)	320
The Community patent	329

### Part Five DESIGN LAW

<b>17 What is a design?</b>	<b>333</b>
Registered designs	335
Design right	336
Registered designs and the design right	337
Design right and copyright	338
Artistic, aesthetic or functional	340
Particular examples	342
Ownership – differences between rights	345
International aspects	346
Reform of design law	346
<b>18 Registered designs</b>	<b>349</b>
Requirements for registration	349
Ownership of registered design	356



Rights given by registration and infringement	358	Infringement of a registered trade mark	432
Defences to infringement actions	360	Surrender, revocation and invalidity	436
Remedies	361	Offences	437
Licences – compulsory and as of right	362	Other provisions	438
Offences	363	Transitional arrangements	438
Registration	364	Summary	439
International protection	367	Trade marks and the European Community	439
Crown use	367		
Transitional provisions	368	<b>21 Passing off</b>	444
Example registration	369	Introduction	444
<b>19 Design right</b>	373	Basic requirements for a passing off action	445
Introduction	373	Plaintiff's goodwill	448
Subsistence of right	374	The scope of passing off	449
Ownership	382	The nature of the misrepresentation	454
Rights of owner and infringement	384	Damage to goodwill	463
Exceptions to infringement	386	Defences	466
Defences to infringement actions	387	Remedies	467
Remedies	388	Malicious falsehood	468
Semiconductor topography design right	388	Summary	471
		<b>APPENDICES</b>	
<i>Part Six</i>		<i>Appendix 1 – Member States of selected international conventions</i>	474
<b>BUSINESS GOODWILL AND REPUTATION</b>		<i>Appendix 2 – Trade mark classification for goods and services</i>	484
<b>20 Trade marks</b>	390	<i>Appendix 3 – EC Directive on rental right and lending right and on certain rights related to copyright in the field of intellectual property</i>	486
Introduction	395	<i>Appendix 4 – EC Directive on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission</i>	493
The 'old' law	399	<i>Bibliography</i>	501
What is a trade mark?	400	<i>Index</i>	504
Requirements for registration	402		
Marks which may not be registered	409		
Registration procedure	412		
Assignment	414		
Rights given by registration and infringement	415		
Exceptions	420		
Defences	422		
Remedies	422		
Offences	422		
The 'new' law	424		
Background	424		
Registrable trade marks	425		
Registration	428		
Trade marks as property	430		
Rights conferred by registration	431		