



House of Commons

Tuesday 28 January 2014

PUBLIC BILL COMMITTEE

New Amendments handed in are marked thus ★

☆ *Amendments which will comply with the required notice period at their next appearance*

INTELLECTUAL PROPERTY BILL [LORDS]

RESOLUTION OF THE PROGRAMMING SUB-COMMITTEE

The Programming Sub-Committee appointed by the Speaker in respect of the Bill agreed the following Resolution at its meeting on Thursday 23 January (Standing Order No. 83C):

That—

- (1) the Committee shall (in addition to its first meeting at 8.55 am on Tuesday 28 January) meet—
 - (a) at 2.00 pm on Tuesday 28 January;
 - (b) at 11.30 am and 2.00 pm on Thursday 30 January;
- (2) the proceedings shall be taken in the following order: Clauses 1 to 12; Clauses 14 to 19; Schedule; Clauses 21 to 24; Clause 13; Clause 20; new Clauses; new Schedules; remaining proceedings on the Bill.
- (3) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Thursday 30 January.

Mr David Willetts has given notice of his intention to move a motion in the terms of the Resolution of the Programming Sub-Committee (Standing Order No. 83C).

Mr David Willetts

That, subject to the discretion of the Chair, any written evidence received by the Committee shall be reported to the House for publication.

 Intellectual Property Bill [*Lords*], *continued*

Iain Wright

- 16
- Clause 1, page 1, line 12, leave out from ‘insert’ to end of line 13 and insert—
 ‘in this section “qualifying country” means—
 (i) the United Kingdom; and
 (ii) another member state of the European Economic Area.’.

Iain Wright

- 15
- Clause 1, page 1, line 15, at end insert—
 ‘(5) The Secretary of State will, within a period of 12 months of the Act coming into force, undertake a review as to how the provisions within this section have—
 (a) contributed to the advancement of the design industry in the United Kingdom; and
 (b) helped to harmonise unregistered design rights between the UK and unregistered Community design right.
 (6) The Secretary of State will report the findings of his review to both Houses of Parliament.’.

Iain Wright

- 17
- Clause 2, page 2, line 31, at end insert—
 ‘(iii) this act has been in force for at least six months.’.

Iain Wright

- 18
- Clause 2, page 2, line 31, at end insert—
 ‘(4) For section 259 of the Copyright, Designs and Patents Act 1988 (joint designs) substitute—
 “Joint designs
 (1) Where two or more persons have jointly developed a design, design right shall vest in them jointly.
 (2) Where two or more persons are proprietors of unregistered design right or community unregistered design right, subject to the provisions of this section and subject to any agreement to the contrary—
 (a) each of them shall be entitled, by himself or his agents, to do in respect of the design concerned, for his own benefit and without the consent of or the need to account to the other or others, any act which would apart from this subsection, amount to an infringement of the design right concerned; and
 (b) any such act shall not amount to an infringement of the design right or unregistered community design right concerned.
 (3) Subject to any agreement for the time being in force, where two or more persons are proprietors of design right or unregistered community design right one of them shall not without the consent of the other or others grant a licence under the design right or assign or mortgage a share in the design right or in Scotland cause or permit security to be granted over it.

Intellectual Property Bill [*Lords*], *continued*

- (4) Where an article is disposed of by any of two or more proprietors of unregistered design right to any person, that person and any other person claiming through him shall be entitled to deal with the article in the same way as if it had been disposed of by a sole proprietor.”.’.

David Willetts

Clause 3, page 2, line 33, leave out subsection (1).

3

David Willetts

Clause 3, page 2, leave out lines 42 to 44 and insert—

- ‘(b) a body corporate or other body having legal personality which—
- (i) is formed under the law of a part of the United Kingdom or another qualifying country, and
 - (ii) has in any qualifying country a place of business at which substantial business activity is carried on.”.’.

4

Iain Wright

Clause 3, page 2, line 42, leave out ‘a person’ and insert ‘A Body Corporate formed under the law of a qualifying country’.

19

David Willetts

Clause 3, page 3, leave out lines 7 and 8 and insert—

- ‘(a) in subsection (1)(a), omit “who is exclusively authorised to put such articles on the market in the United Kingdom”,
- (b) in subsection (2), for “requirements” substitute “requirement”,
- (c) in subsection (3), for “those requirements” substitute “that requirement”, and
- (d) omit subsection (4).’.

5

Iain Wright

Clause 5, page 4, line 7, at end insert—

‘(2A) In subsection (1), after paragraph (a) insert—

- “(aa) in pursuance of an assignment or licence made or granted by a person who is the proprietor of unregistered design right or unregistered Community design right in a corresponding unregistered design or unregistered Community Design.”.’

20

Intellectual Property Bill [*Lords*], *continued*

Iain Wright

- Clause 8, page 6, line 6, at end insert— 21
(3) The Secretary of State will, within six months of the Act coming into force, report to both Houses of Parliament on plans to publicise changes to the law introduced under this provision with the objective to educate holders of design rights.’
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Iain Wright

- Clause 9, page 6, leave out subsection (5). 22
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Iain Wright

- Clause 10, page 7, line 19, at end insert ‘or the Patents County Court’. 23
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Iain Wright

- Clause 11, page 9, leave out lines 30 to 35. 24
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Iain Wright

- Clause 16, page 16, line 24, leave out subsection (4). 32
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Pete Wishart

- ☆ Clause 17, page 17, line 14, at end insert— 37
(3A) In making an order under this section which confers jurisdiction on a court, removes jurisdiction from a court or varies the jurisdiction of a court, the Secretary of State shall—
(a) ensure he takes into account the views of—
(i) HM Courts & Tribunals Service;
(ii) The Scottish Courts Services;
(iii) The Northern Ireland Courts and Tribunals Service; and
(iv) any other appropriate body;
and

Intellectual Property Bill [*Lords*], *continued*

- (b) where the number of patent cases is such as to meet the requirements as set out in Article 7 of the Agreement on a Unified Patent Court, to confer local divisional court jurisdiction on—
- (i) in England and Wales, the High Court;
 - (ii) in Scotland, the Court of Session; and
 - (iii) in Northern Ireland, the High Court.’.

Iain Wright 34
 Clause 21, page 19, line 1, after ‘to’, insert ‘job creation and’.

Iain Wright 35
 Clause 21, page 19, line 6, leave out ‘and’ and insert—
 ‘(iii) an assessment of the degree of online copyright infringement and the extent to which identified search engines and other internet services facilitate this, and’.

Iain Wright 36
 Clause 21, page 19, line 10, at end insert—
 ‘(2) The Secretary of State must make a statement to both Houses of Parliament detailing the findings of the report referred to in subsection (1) and what actions he intends to take as result of any recommendations of the report.’.

David Willetts 6
 Clause 13, page 11, line 22, after ‘person’ insert ‘intentionally’.

David Willetts 7
 Clause 13, page 11, line 23, leave out ‘exactly or substantially to that design’ and insert ‘—
 (i) exactly to that design, or
 (ii) with features that differ only in immaterial details from that design’.

Iain Wright 25
 Clause 13, page 11, line 27, leave out ‘and’ and insert—
 ‘(ia) knowing that, or being reckless as to whether, making the product is an infringement of the registered design, and’.

David Willetts 8
 Clause 13, page 11, line 31, after ‘been’ insert ‘intentionally’.

Intellectual Property Bill [*Lords*], *continued*

David Willetts	9
Clause 13, page 11, line 31, leave out from ‘product’ to end of line 32 and insert ‘_____’	
(a) exactly to the design, or	
(b) with features that differ only in immaterial details from the design.’	
Iain Wright	26
Clause 13, page 11, line 35, leave out ‘uses’ and insert ‘sells’.	
Iain Wright	27
Clause 13, page 11, line 39, after ‘so’, insert ‘deliberately’.	
David Willetts	10
Clause 13, page 11, line 40, after ‘been’ insert ‘intentionally’.	
David Willetts	11
Clause 13, page 11, line 42, leave out ‘or substantially to the design’ and insert ‘to the design or with features that differ only in immaterial details from the design’.	
Iain Wright	28
Clause 13, page 11, line 42, at end insert—	
‘(ia) the person does so knowing that, or being reckless as to whether offering putting on the market, importing, exporting or selling of the product is an infringement of the registered design.’	
Iain Wright	29
Clause 13, page 12, leave out line 6 and insert—	
‘(a) reasonably believed that the registered design was not infringed.’	
Iain Wright	30
Clause 13, page 12, leave out line 7.	
Iain Wright	31
Clause 13, page 12, line 13, at end insert—	
‘(7A) In this section “design right” includes an unregistered community design and a reference to the owner of the design right is also to be read as a reference to the owner of a community design right in a design.’	
David Willetts	12
Clause 13, page 13, line 1, leave out ‘or substantially to a registered design’ and insert ‘to a registered design, or with features that differ only in immaterial details from a registered design.’	

Intellectual Property Bill [Lords], continued

- David Willetts 13
 Clause 13, page 13, line 2, at end insert “intentionally”.
- David Willetts 14
 Clause 13, page 13, line 4, at end insert ‘intentionally’.
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- Dr Julian Huppert 1
 Clause 20, page 18, line 15, after ‘information’, insert ‘created or’.
- Iain Wright 33
 Clause 20, page 18, line 15, leave out ‘obtained in the’ and insert ‘created or obtained in the planning of’.
- Dr Julian Huppert 2
 Clause 20, page 18, line 15, after ‘the’, insert ‘planning of’.
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*NEW CLAUSES**Director General of Intellectual Property Rights*

- Iain Wright NC1
 To move the following Clause:—
- (1) The Copyright, Designs and Patents Act 1988 is amended as follows:
 (2) In Part VII (miscellaneous and general) at the beginning insert—
- “295A Director General of Intellectual Property Rights**
- (1) The Secretary of State shall appoint an officer to be known as the Director General of Intellectual Property Rights (“the Director General”).
- (2) The Director General has a duty to—
- (a) promote the creation of new intellectual property,
 - (b) protect and promote the interests of UK intellectual property rights holders,
 - (c) co-ordinate effective enforcement of UK intellectual property rights, and
 - (d) educate consumers on the nature and value of intellectual property.

Intellectual Property Bill [*Lords*], *continued*

- (3) In performing those duties, the Director General must also have regard to the desirability of—
- (a) promoting the importance of intellectual property in the UK,
 - (b) encouraging investment and innovation in new UK intellectual property, and
 - (c) protecting intellectual property against infringement of rights.”’.
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Future of intellectual property

Iain Wright

NC2

To move the following Clause:—

- ‘(1) Subordinate legislation to implement the government’s policy statement entitled “Modernising Copyright” published in December 2012 will not be brought forward until the Secretary of State has published, and laid before both Houses of Parliament, a report setting out the government’s long term plans for the future of intellectual property in the United Kingdom.’.
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Online copyright infringements: technology companies

Iain Wright

NC3

To move the following Clause:—

- ‘(1) The Secretary of State will, within three months of this Act coming into force, report to both Houses of Parliament on proposals that will have the purpose of ensuring technology companies hinder access via the internet to copyright infringing material.’.
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Copyright in broadcast

Iain Wright

NC4

To move the following Clause:—

- ‘(1) The Secretary of State will, within six months of the commencement of the Act, bring forward a report to both Houses of Parliament outlining his view as to whether section 73 of the Copyright, Designs and Patents Act 1988 (reception and re-transmission of wireless broadcast by cable) is still applicable in today’s

Intellectual Property Bill [*Lords*], *continued*

broadcasting medium, and what further changes to legislation he plans to make in the light of his review.’.

Criminal liability

Mr Iain Wright

NC5

☆ To move the following Clause:—

- ‘(1) The Copyright, Designs and Patents Act 1988 is amended as follows.
 - (2) In section 107(4A)(b) (criminal liability for making or dealing with infringing articles, etc) for “two” substitute “ten”.
 - (3) In section 198(5A)(b) (criminal liability for making, dealing with or using illicit recordings) for “two” substitute “ten”.’.
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Lookalikes

Mr Iain Wright

NC6

☆ To move the following Clause:—

- ‘(1) A person (“A”) shall not, in relation to any goods or services, use any features of packaging, marking, labelling or decoration in such a way that the public is likely to attribute to A’s goods or services the reputation of another person (“B”) or the qualities or reputation of B’s goods or services.
 - (2) For the purposes of subsection (1) it is immaterial whether there is any similarity between the goods or services of A and those of B.
 - (3) Subsection (1) shall not apply to features of packaging, marking, labelling or decoration that are commonplace.’.
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ORDER OF THE HOUSE [20 JANUARY 2014]

That the following provisions shall apply to the Intellectual Property Bill [*Lords*]:

Committal

1. The Bill shall be committed to a Public Bill Committee.

Proceedings in Public Bill Committee

2. Proceedings in the Public Bill Committee shall (so far as not previously concluded) be brought to a conclusion on Tuesday 30 January 2014.
3. The Public Bill Committee shall have leave to sit twice on the first day on which it meets.

Intellectual Property Bill [*Lords*], *continued**Consideration and Third Reading*

4. Proceedings on Consideration shall (so far as not previously concluded) be brought to a conclusion two hours after the commencement of the proceedings.
5. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion three hours after the commencement of proceedings on Consideration.
6. Standing Order No. 83B (Programming committees) shall not apply to proceedings on Consideration and Third Reading.

Other proceedings

7. Any other proceedings on the Bill (including any proceedings on consideration of any message from the Lords) may be programmed.
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