18. Infringement of patents

This chapter explores the infringement of patents. In the United Kingdom, s. 60 of the Patents Act is the key provision on direct patent infringement. The patentee will have to show two things: first, that one or more infringing acts have been committed within the United Kingdom, and second, that the defendant’s conduct falls within the scope of protection afforded to the patent, i.e. within the literal or purposive meaning of the claims. By way of response, the defendant to a patent infringement action can raise a number of different arguments. It can deny that the claimant has established the elements of the infringement action by showing that no infringing conduct has been committed, or even if it has, that the defendant’s product or process is not within the meaning of the claims. The Patents Act defines infringing conduct in s. 60. One critical aspect is that it must involve some sort of commercial activity.
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