From:

Subject: RE: Possible claim for Judicial Review of the transitional provisions for the repeal of section 52 of the CDPA

[OFFICIAL - SENSITIVE]

11 August 2015 13:40:00 Date:

OFFICIAL - SENSITIVE



I marked up the files for you (green flags) so it shouldn't take too long. Basically it's just reporting from meetings that the Commission didn't have a problem with the existing regime as it was minimal (and of course that was before various aspects of copyright were harmonised). As the files were spread between different boxes it's easier if you send them back to me so I can send the whole lot back together to NMP (there were another dozen boxes or so which I retrieved but haven't thought worth searching).

Thanks



From:

Sent: 13 May 2015 11:35

Subject: RE: Possible claim for Judicial Review of the transitional provisions for the repeal of section 52 of the CDPA [OFFICIAL - SENSITIVE]

OFFICIAL - SENSITIVE



Thanks for the box of documents – will take some time to peruse them.

If it helps, I can send them back to Nine Mile Point myself.



From:

Sent: 08 May 2015 18:01

To:

Cc:

Subject: RE: Possible claim for Judicial Review of the transitional provisions for the repeal of section 52 of the CDPA [OFFICIAL - SENSITIVE]

OFFICIAL - SENSITIVE



I'm looking through some files, but not entirely sure what I'm looking for. In 1996 there was an amended proposal for the Designs Directive which took on the same wording for Article 18 as was being considered in the Regulation and there was an EM which made clear that previous concerns about having to amend UK law were no longer applicable. I'll continue looking backwards through these files including for the reports Lionel Bently mentions. However the question of compatibility of S52 with the Designs Directive is a different one from the question of compatibility of s52 with any copyright acquis, and this second issue may not have been specifically in mind. Of course I don't

have the background on the decision we took to repeal S52 in the first place, though mentioned it in passing at the time. I would expect the relevant files were trawled at that point...



From:

Sent: 01 May 2015 14:11

To:

Cc:

Subject: RE: Possible claim for Judicial Review of the transitional provisions for the repeal of section 52 of the CDPA [OFFICIAL - SENSITIVE]

OFFICIAL - SENSITIVE



A thought just crossed my mind. I note that you said that you were involved in negotiating the Designs Directive. In Lionel Bently's paper on industrial designs, he argued that the UK and Irish had agreed with the Commission that that the UK's s52 could remain.

Do you have any recollection of this? We are trying to find out if the UK had any concerns about s52's compatibility with EU law before the Flos case.

Thanks and happy to talk through,



Copyright and Enforcement Directorate Intellectual Property Office **United Kingdom**

From:

Sent: 23 April 2015 13:42

To:

Subject: RE: Possible claim for Judicial Review of the transitional provisions for the repeal of section 52 of the CDPA [OFFICIAL - SENSITIVE]

OFFICIAL - SENSITIVE

Thanks. I was involved in the negotiation of the Designs Directive but I certainly don't think we felt that being "eligible" for copyright was the same as having copyright "conferred". Anyway best of luck.

Cheers



From:

Sent: 23 April 2015 11:34

To: Cc:

Dave King; John Alty; Louise Smyth; Neil Feinson; Paul Feldman;

Ros Lynch; Rosa Wilkinson; Sean Dennehey; Pippa Hall
Subject: Possible claim for Judicial Review of the transitional provisions for the repeal of section 52 of the CDPA [OFFICIAL - SENSITIVE]
OFFICIAL - SENSITIVE
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Please find attached submission for information.
Summary
Following an initial verbal update to your office, this submission provides further detail about a possible claim for a judicial review of Section 52 of the CDPA.
Urgency
Routine. This submission is for information.
Annexes
Annex A: Letter before claim
Contacts
Relevant Official:

Director Responsible: Ros Lynch