



Patents and Designs Act 1907

1907 CHAPTER 29

PART I

PATENTS

Amendment of Specification

21 Amendment of specification by comptroller

- (1) An applicant or a patentee may at any time, by request in writing left at the Patent Office, seek leave to amend his specification, including drawings forming part thereof, by way of disclaimer, correction, or explanation, stating the nature of, and the reasons for, the proposed amendment.
- (2) The request and the nature of the proposed amendment shall be advertised in the prescribed manner, and at any time within one month from its first advertisement any person may give notice at the Patent Office of opposition to the amendment.
- (3) Where such a notice is given the comptroller shall give notice of the opposition to the person making the request, and shall hear and decide the case.
- (4) Where no notice of opposition is given, or the person so giving notice of opposition does not appear, the comptroller shall determine whether and subject to what conditions, if any, the amendment ought to be allowed.
- (5) The decision of the comptroller in either case shall be subject to an appeal to the law officer, who shall, if required, hear the person making the request to amend, and, where notice of opposition has been given, the person giving that notice, if he is, in the opinion of the law officer, entitled to be heard in opposition to the request, and, where there is no opposition, the comptroller, and may make an order determining whether and subject to what conditions (if any) the amendment ought to be allowed.
- (6) No amendment shall be allowed that would make the specification, as amended, claim an invention substantially larger than or substantially different from the invention claimed by the specification as it stood before amendment.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (7) Leave to amend shall be conclusive as to the right of the party to make the amendment allowed, except in case of fraud ; and the amendment shall be advertised in the prescribed manner, and shall in all courts and for all purposes be deemed to form part of the specification.
- (8) This section shall not apply when and so long as any action for infringement or proceeding before the court for the revocation of a patent is pending.

22 Amendment of specification by the court

In any action for infringement of a patent or proceedings before a court for the revocation of a patent the court may by order allow the patentee to amend his specification by way of disclaimer in such manner, and subject to such terms as to costs, advertisement or otherwise, as the court may think fit:

Provided that no amendment shall be so allowed that would make the specification, as amended, claim an invention substantially larger than, or substantially different from, the invention claimed by the specification as it stood before the amendment, and where an application for such an order is made to the court notice of the application shall be given to the comptroller, and the comptroller shall have the right to appear and be heard, and shall appear if so directed by the court.

23 Restriction on recovery of damages

Where an amendment of a specification, by way of disclaimer, correction, or explanation, has been allowed under this Act, no damages shall be given in any action in respect of the use of the invention before the disclaimer, correction, or explanation, unless the patentee establishes to the satisfaction of the court that his original claim was framed in good faith and with reasonable skill and knowledge.