



# Patents and Designs Act 1907

## 1907 CHAPTER 29

### PART I

#### PATENTS

##### *Compulsory Licences and Revocation*

#### **24 Compulsory licences and revocation**

- (1) Any person interested may present a petition to the Board of Trade alleging that the reasonable requirements of the public with respect to a patented invention have not been satisfied, and praying for the grant of a compulsory licence, or, in the alternative, for the revocation of the patent.
- (2) The Board of Trade shall consider the petition, and if the parties do not come to an arrangement between themselves the Board of Trade, if satisfied that a prima facie case has been made out, shall refer the petition to the court, and, if the Board are not so satisfied, they may dismiss the petition.
- (3) Where any such petition is referred by the Board of Trade to the court, and it is proved to the satisfaction of the court that the reasonable requirements of the public with reference to the patented invention have not been satisfied, the patentee may be ordered by the court to grant licences on such terms as the court may think just, or, if the court is of opinion that the reasonable requirements of the public will not be satisfied by the grant of licences, the patent may be revoked by order of the court. Provided that an order of revocation shall not be made before the expiration of three years from the date of the patent, or if the patentee gives satisfactory reasons for his default.
- (4) On the hearing of any petition under this section the patentee and any person claiming an interest in the patent as exclusive licensee or otherwise shall be made parties to the proceeding, and the law officer or such other counsel as he may appoint shall be entitled to appear and be heard.
- (5) For the purposes of this section the reasonable requirements of the public shall not be deemed to have been satisfied—

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- (a) if by reason of the default of the patentee to manufacture to an adequate extent and supply on reasonable terms the patented article, or any parts thereof which are necessary for its efficient working, or to carry on the patented process to an adequate extent or to grant licences on reasonable terms, any existing trade or industry or the establishment of any new trade or industry in the United Kingdom is unfairly prejudiced, or the demand for the patented article or the article produced by the patented process is not reasonably met; or
  - (b) if any trade or industry in the United Kingdom is unfairly prejudiced by the conditions attached by the patentee before or after the passing of this Act to the purchase, hire, or use of the patented article or to the using or working of the patented process.
- (6) An order of the court directing the grant of any licence under this section shall, without prejudice to any other method of enforcement, operate as if it were embodied in a deed granting a licence and made between the parties to the proceeding.

## 25 Revocation of patent

- (1) Revocation of a patent may be obtained on petition to the court.
- (2) Every ground on which—
- (a) a patent might, immediately before the first day of January, one thousand eight hundred and eighty-four, have been repealed by scire facias; or
  - (b) a patent may be revoked under this Act either by the comptroller or as an alternative to the grant of a compulsory licence ;
- shall be available by way of defence to an action of infringement and shall also be a ground of revocation under this section.
- (3) A petition for revocation of a patent may be presented—
- (a) by the Attorney-General or any person authorised by him ; or
  - (b) by any person alleging—
    - (i) that the patent was obtained in fraud of his rights, or of the rights of any person under or through whom he claims ; or
    - (ii) that he, or any person under or through whom he claims, was the true inventor of any invention included in the claim of the patentee ; or
    - (iii) that he, or any person under or through whom he claims an interest in any trade, business, or manufacture, had publicly manufactured, used, or sold, within this realm, before the date of the patent, anything claimed by the patentee as his invention.

## 26 Power of comptroller to revoke patents on certain grounds

- (1) Any person who would have been entitled to oppose the grant of a patent, or is the successor in interest of a person who was so entitled, may, within two years from the date of the patent, in the prescribed manner apply to the comptroller for an order revoking the patent on any one or more of the grounds on which the grant of the patent might have been opposed.

Provided that, when an action for infringement or proceedings for the revocation of the patent are pending in any court, an application under this section shall not be made except with the leave of the court.

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- (2) The comptroller shall give notice of the application to the patentee, and after hearing the parties, if desirous of being heard, may make an order revoking the patent or requiring the specification relating thereto to be amended by disclaimer, correction, or explanation, or dismissing the application ; but the comptroller shall not make an order revoking the patent unless the circumstances are such as would have justified him in refusing to grant the patent, had the proceedings been proceedings in an opposition to the grant of a patent.
- (3) A patentee may at any time by giving notice in the prescribed manner to the comptroller offer to surrender his patent, and the comptroller may, -if after giving notice of the offer and hearing all parties who desire to be heard he thinks fit, accept the offer, and thereupon make an order for the revocation of the patent.
- (4) Any decision of the comptroller under this section shall be subject to appeal to the court.

## **27 Revocation of patents worked outside the United Kingdom**

- (1) At any time not less than four years after the date of a patent, and not less than one year after the passing of this Act, any person may apply to the comptroller for the revocation of the patent on the ground that the patented article or process is manufactured or carried on exclusively or mainly outside the United Kingdom.
- (2) The comptroller shall consider the application, and, if after enquiry he is satisfied that the allegations contained therein are correct, then, subject to the provisions of this section, and unless the patentee proves that the patented article or process is manufactured or carried on to an adequate extent in the United Kingdom, or gives satisfactory reasons why the article or process is not so manufactured or carried on, the comptroller may make an order revoking the patent either—
  - (a) forthwith ; or
  - (b) after such reasonable interval as may be specified in the order, unless in the meantime it is shown to his satisfaction that the patented article or process is manufactured or carried on within the United Kingdom to an adequate extent :

Provided that no such order shall be made which is at variance with any treaty, convention, arrangement, or engagement with any foreign country or British possession.

- (3) If within the time limited in the order the patented article or process is not manufactured or carried on within the United Kingdom to an adequate extent, but the patentee gives satisfactory reasons why it is not so manufactured or carried on, the comptroller may extend the period mentioned in the previous order for such period not exceeding twelve months as may be specified in the subsequent order.
- (4) Any decision of the comptroller under this section shall be subject to appeal to the court, and on any such appeal the law officer or such other counsel as he may appoint shall be entitled to appear and be heard.