



# Patents Act 1949

## 1949 CHAPTER 87

### *Amendment of specifications*

#### **29 Amendment of specification with leave of comptroller**

- (1) Subject to the provisions of section thirty-one of this Act, the comptroller may, upon application made under this section by a patentee, or by an applicant for a patent at any time after the acceptance of the complete specification, allow the complete specification to be amended subject to such conditions, if any, as the comptroller thinks fit:

Provided that the comptroller shall not allow a specification to be amended under this section upon an application made while any action before the court for infringement of the patent or any proceeding before the court for the revocation of the patent is pending.

- (2) Every application for leave to amend a specification under this section shall state the nature of the proposed amendment and shall give full particulars of the reasons for which the application is made.
- (3) Any application for leave to amend a specification under this section, and the nature of the proposed amendment, shall be advertised in the prescribed manner :

Provided that where the application is made before the publication of the complete specification, the comptroller may, if he thinks fit, dispense with advertisement under this subsection or direct that advertisement shall be postponed until the complete specification is published.

- (4) Within the prescribed period after the advertisement of an application under this section, any person may give notice to the comptroller of opposition thereto; and where such a notice is given within the period aforesaid, the comptroller shall notify the person by whom the application under this section is made and shall give to that person and to the opponent an opportunity to be heard before he decides the case.
- (5) An appeal shall lie from any decision of the comptroller under this section.

- (6) This section shall not apply in relation to any amendment of a specification effected in proceedings in opposition to the grant of a patent or on a reference to the comptroller of a dispute as to the infringement or validity of a claim, or effected in pursuance of any provision of this Act authorising the comptroller to direct a reference to another specification or patent to be inserted, or to refuse to grant a patent, or to revoke a patent, unless the specification is amended to his satisfaction.

### **30 Amendment of specification with leave of the court**

- (1) In any action for infringement of a patent or any proceeding before the court for the revocation of a patent, the court may, subject to the provisions of the next following section, by order allow the patentee to amend his complete specification in such manner, and subject to such terms as to costs, advertisements or otherwise, as the court may think fit; and if in any such proceedings for revocation the court decides that the patent is invalid, the court may allow the specification to be amended under this section instead of revoking the patent.
- (2) Where an application for an order under this section is made to the court, the applicant shall give notice of the application to the comptroller, and the comptroller shall be entitled to appear and be heard, and shall appear if so directed by the court.

### **31 Supplementary provisions as to amendment of specification**

- (1) After the acceptance of a complete specification, no amendment thereof shall be effected except by way of disclaimer, correction or explanation, and no amendment thereof shall be allowed, except for the purpose of correcting an obvious mistake, the effect of which would be that the specification as amended would claim or describe matter not in substance disclosed in the specification before the amendment, or that any claim of the specification as amended would not fall wholly within the scope of a claim of the specification before the amendment.
- (2) Where, after the date of the publication of a complete specification, any amendment of the specification is allowed or approved by the comptroller, the court or the Appeal Tribunal under this Act, the right of the patentee or applicant to make the amendment shall not be called in question except on the ground of fraud; and the amendment shall in all courts and for all purposes be deemed to form part of the specification:
- Provided that in construing the specification as amended reference may be made to the specification as originally published.
- (3) Where, after the date of the publication of a complete specification, any amendment of the specification is allowed or approved as aforesaid, the fact that the specification has been amended shall be advertised in the Journal.