



Patents Act 1949

1949 CHAPTER 87

Application, investigation, opposition, etc.

18 Provisions for secrecy of certain inventions

- (1) Where, either before or after the commencement of this Act, an application for a patent has been made in respect of an invention, and it appears to the comptroller that the invention is one of a class notified to him by a competent authority as relevant for defence purposes, he may give directions for prohibiting or restricting the publication of information with respect to the invention, or the communication of such information to any person or class of persons specified in the directions ; and while such directions are in force the application may, subject to the directions, proceed up to the acceptance of the complete specification, but the acceptance shall not be advertised nor the specification published, and no patent shall be granted in pursuance of the application.
- (2) Where the comptroller gives any such directions as aforesaid, he shall give notice of the application and of the directions to a competent authority, and thereupon the following provisions shall have effect, that is to say:—
 - (a) the competent authority shall, upon receipt of such notice, consider whether the publication of the invention would be prejudicial to the defence of the realm and unless a notice under paragraph (c) of this subsection has previously been given by that authority to the comptroller, shall reconsider that question before the expiration of nine months from the date of filing of the application for the patent and at least once in every subsequent year;
 - (b) for the purpose aforesaid, the competent authority may, at any time after the complete specification has been 'accepted or, with the consent of the applicant, at any time before the complete specification has been accepted, inspect the application and any documents furnished to the comptroller in connection therewith;
 - (c) if upon consideration of the invention at any time it appears to the competent authority that the publication of the invention would not, or would no longer, be prejudicial to the defence of the realm, that authority shall give notice to the comptroller to that effect;

Status: This is the original version (as it was originally enacted).

- (d) on the receipt of any such notice the comptroller shall revoke the directions and may, subject to such conditions, if any, as he thinks fit, extend the time for doing anything required or authorised to be done by or under this Act in connection with the application, whether or not that time has previously expired.
- (3) Where a complete specification filed in pursuance of an application for a patent for an invention in respect of which directions have been given under this section or under section twelve of the Atomic Energy Act, 1946, is accepted during the continuance in force of the directions, then—
- (a) if any use of the invention is made during the continuance in force of the directions by or on behalf of or to the order of a Government department, the provisions of sections forty-six to forty-nine of this Act shall apply in relation to that use as if the patent had been granted for the invention; and
- (b) if it appears to a competent authority that the applicant for the patent has suffered hardship by reason of the continuance in force of the directions, that authority may, with the consent of the Treasury, make to him such payment (if any) by way of compensation as appears to them to be reasonable having regard to the novelty and utility of the invention and the purpose for which it is designed, and to any other relevant circumstances.
- (4) Where a patent is granted in pursuance of an application in respect of which directions have been given under this section or under section twelve of the Atomic Energy Act, 1946, no renewal fees shall be payable in respect of any period during which those directions were in force.
- (5) No person resident in the United Kingdom shall, except under the authority of a written permit granted by or on behalf of the comptroller, make or cause to be made any application outside the United Kingdom for the grant of a patent for an invention unless—
- (a) an application for a patent for the same invention has been made in the United Kingdom not less than six weeks before the application outside the United Kingdom ; and
- (b) either no directions have been given under subsection (1) of this section or under section twelve of the Atomic Energy Act, 1946, in relation to the application in the United Kingdom, or all such directions have been revoked:
- Provided that this subsection shall not apply in relation to an invention for which an application for protection has first been filed in a country outside the United Kingdom by a person resident outside the United Kingdom.
- (6) If any person fails to comply with any direction given under this section or makes or causes to be made an application for the grant of a patent in contravention of this section, he shall be guilty of an offence and liable—
- (a) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds, or to both such imprisonment and such fine, or
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine not exceeding five hundred pounds, or to both such imprisonment and such fine.
- (7) In this section the expression " competent authority " means a Secretary of State, the Admiralty or the Minister of Supply.