



Patents Act 1949

1949 CHAPTER 87

Compulsory licences, etc.

38 Provisions as to licences under section 37

- (1) When the comptroller is satisfied, on application made under the last foregoing section, that the manufacture, use or sale of materials not protected by the patent is unfairly prejudiced by reason of conditions imposed by the patentee upon the grant of licences under the patent, or upon the purchase, hire or use of the patented article or process, he may, subject to the provisions of that section, order the grant of licences under the patent to such customers of the applicant as he thinks fit as well as to the applicant.
- (2) Where an application under the last foregoing section is made by a person being the holder of a licence under the patent, the comptroller may, if he makes an order for the grant of a licence to the applicant, order the existing licence to be cancelled, or may, if he thinks fit, instead of making an order for the grant of a licence to the applicant, order the existing licence to be amended.
- (3) Where on an application under the last foregoing section the comptroller orders the grant of a licence, he may direct that the licence shall operate—
 - (a) to deprive the patentee of any right which he may have as patentee to make, use, exercise or vend the invention or to grant licences under the patent;
 - (b) to revoke all existing licences in respect of the invention.
- (4) Subsection (3) of section thirty-five of this Act shall apply to any licence granted in pursuance of an order under the last foregoing section as it applies to a licence granted by virtue of the said section thirty-five.