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STATUTORY INSTRUMENTS

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**1999 No. 1899**

**The Patents and Trade Marks (World Trade Organisation) Regulations 1999**

**PART III**

**AMENDMENTS OF THE PATENTS RULES 1995**

**Application for: compulsory licence under section 48(1), or revocation or cancellation under section 52(2)(a), of the 1977 Act**

9. For rule 68 of the 1995 rules substitute—

“68. An application under section 48(1) or 52(2)(a) shall be made on Patents Form 2/77 and shall be accompanied by a statement in duplicate of the facts upon which the applicant relies and evidence in duplicate verifying the statement.”.

**Procedure on receipt of application under section 48, 51 or 52 of the 1977 Act**

10. For rule 70 of the 1995 rules substitute—

“70.—(1) If upon consideration of the evidence submitted under rule 68 (application for: compulsory licence under section 48(1) or revocation or cancellation under section 52(2)(a)) or rule 69 (application by Minister under section 51), the comptroller is not satisfied that a prima facie case is made out for—

- (a) the making of an order or an entry, or
- (b) the revocation of an order or cancellation of an entry,

as the case may be, he shall notify the applicant accordingly, and unless, within one month of making such notification, the applicant requests to be heard in the matter, the comptroller shall refuse the application.

(2) Where the applicant requests a hearing within the time allowed, the comptroller, after giving the applicant the opportunity of being heard, shall determine whether the application may proceed or whether it shall be refused.

(3) If upon consideration of the evidence the comptroller is satisfied that a prima facie case has been made out for—

- (a) the making of an order or an entry, or
- (b) the revocation of an order or cancellation of an entry,

as the case may be, or if, after hearing the applicant, he so determines, he shall direct that the application shall be advertised in the Journal, and shall send a copy of the application, the statement and the evidence filed in support thereof—

- (c) where the application is under subparagraph (a), to the proprietor of the patent and to any other person shown on the register as having any right in or under the patent; or

(d) where the application is under subparagraph (b), to any person shown on the register as having any right in or under the patent.”.

**Opposition under section 52 of the 1977 Act**

**11.** For paragraph (1) of rule 71 of the 1995 rules substitute—

“**71.**—(1) Within two months of the date of the advertisement in the Journal of an application under rule 70(3), any person may give notice to the comptroller of opposition under section 52(1) or 52(2)(b), as the case may be, to the application on Patents Form 15/77.”.

**Part III: transitional provisions**

**12.** Rules 68, 70 and 71 of the 1995 rules shall apply to an application, or opposition to an application, under regulation 8(1) as they apply to an application or opposition under section 48, or section 52, of the 1977 Act.