
STATUTORY INSTRUMENTS

1999 No. 1899

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

PART II

AMENDMENTS OF THE PATENTS ACT 1977

Opposition, appeal and arbitration

6. For section 52 of the 1977 Act substitute—

“52 Opposition, appeal and arbitration.

(1) The proprietor of the patent concerned or any other person wishing to oppose an application under sections 48 to 51 above may, in accordance with rules, give to the comptroller notice of opposition; and the comptroller shall consider any opposition in deciding whether to grant the application.

(2) Where an order or entry has been made under section 48 above in respect of a patent whose proprietor is a WTO proprietor—

- (a) the proprietor or any other person may, in accordance with rules, apply to the comptroller to have the order revoked or the entry cancelled on the grounds that the circumstances which led to the making of the order or entry have ceased to exist and are unlikely to recur;
- (b) any person wishing to oppose an application under paragraph (a) above may, in accordance with rules, give to the comptroller notice of opposition; and
- (c) the comptroller shall consider any opposition in deciding whether to grant the application.

(3) If it appears to the comptroller on an application under subsection (2)(a) above that the circumstances which led to the making of the order or entry have ceased to exist and are unlikely to recur, he may—

- (a) revoke the order or cancel the entry; and
- (b) terminate any licence granted to a person in pursuance of the order or entry subject to such terms and conditions as he thinks necessary for the protection of the legitimate interests of that person.

(4) Where an appeal is brought—

- (a) from an order made by the comptroller in pursuance of an application under sections 48 to 51 above;
- (b) from a decision of his to make an entry in the register in pursuance of such an application;
- (c) from a revocation or cancellation made by him under subsection (3) above; or

(d) from a refusal of his to make such an order, entry, revocation or cancellation, the Attorney General, the appropriate Law Officer within the meaning of section 4A of the Crown Suits (Scotland) Act 1857⁽¹⁾ or the Attorney General for Northern Ireland, or such other counsel as any of them may appoint, shall be entitled to appear and be heard.

(5) Where an application under sections 48 to 51 above or subsection (2) above is opposed, and either—

- (a) the parties consent, or
- (b) the proceedings require a prolonged examination of documents or any scientific or local investigation which cannot in the opinion of the comptroller conveniently be made before him,

the comptroller may at any time order the whole proceedings, or any question or issue of fact arising in them, to be referred to an arbitrator or arbiter agreed on by the parties or, in default of agreement, appointed by the comptroller.

(6) Where the whole proceedings are so referred, unless the parties otherwise agree before the award of the arbitrator or arbiter is made, an appeal shall lie from the award to the court.

(7) Where a question or issue of fact is so referred, the arbitrator or arbiter shall report his findings to the comptroller.”

⁽¹⁾ 1857 c. 44.