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STATUTORY INSTRUMENTS

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**2007 No. 3291**

**The Patents Rules 2007**

**PART 8**

**OPINIONS**

*Review of opinion*

**Review of opinion**

**98.**—(1) The patent holder may, before the end of the period of three months [<sup>F1</sup>beginning immediately after] the date on which the opinion is issued, apply to the comptroller for a review of the opinion.

(2) However, such proceedings for a review may not be brought (or if brought may not be continued) if the issue raised by the review has been decided in other relevant proceedings.

(3) The application must be made on Patents Form 2 and be accompanied by a copy and a statement in duplicate setting out the grounds on which the review is sought.

(4) The statement must contain particulars of any relevant proceedings of which the applicant is aware which may be relevant to the question whether the proceedings for a review may be brought or continued.

(5) The application may be made on the following grounds only—

- (a) that the opinion wrongly concluded that the patent in suit was invalid, or was invalid to a limited extent; or
- (b) that, by reason of its interpretation of the specification of the patent in suit, the opinion wrongly concluded that a particular act did not or would not constitute an infringement of the patent.

**Textual Amendments**

**F1** Words in [rule 98\(1\)](#) substituted (1.10.2011) by [The Patents \(Amendment\) Rules 2011 \(S.I. 2011/2052\)](#), [rules 1, 3, Sch.](#) (with [rule 4](#))

**Procedure on review**

**99.**—(1) On receipt of the application, the comptroller must send a copy of the form and statement filed under rule 98 to—

- (a) the requester (if different from the applicant); and
- (b) any person who filed observations under rule 96.

(2) The comptroller must advertise the application in such manner as he thinks fit.

(3) Before the end of the relevant period, any person may file a statement in support of the application or a counter-statement contesting it (which in either case must be in duplicate), and on so doing shall become a party to the proceedings for a review.

(4) For the purposes of paragraph (3) the relevant period is—

- (a) four weeks [<sup>F2</sup>beginning immediately after] the date on which the application is advertised under paragraph (2); or
- (b) if it expires later, the period of two months [<sup>F3</sup>beginning immediately after] the date on which the opinion is issued under rule 97(2).

(5) The comptroller shall send to the other parties a copy of each statement or counter-statement filed under paragraph (3).

(6) The rules listed in Parts 4 and 5 of Schedule 3 shall apply to the proceedings for a review and for the purposes of rule 83(3)—

- (a) a reference to “the claimant” is a reference to the applicant for a review; and
- (b) a reference to “the defendant” is a reference to any other party.

#### Textual Amendments

- F2** Words in rule 99(4)(a) substituted (1.10.2011) by [The Patents \(Amendment\) Rules 2011 \(S.I. 2011/2052\)](#), rules 1, 3, [Sch.](#) (with rule 4)
- F3** Words in rule 99(4)(b) substituted (1.10.2011) by [The Patents \(Amendment\) Rules 2011 \(S.I. 2011/2052\)](#), rules 1, 3, [Sch.](#) (with rule 4)

#### Outcome of review

**100.**—(1) On completion of the proceedings under rule 99 the comptroller shall either—

- (a) set aside the opinion in whole or in part; or
- (b) decide that no reason has been shown for the opinion to be set aside.

(2) A decision under paragraph (1)(a) or (b) shall not estop any party to any proceedings from raising any issue regarding the validity or the infringement of the patent.

(3) No appeal under section 97 shall lie from a decision to set aside the opinion under paragraph (1)(a), except where the appeal relates to a part of the opinion that is not set aside.

**Changes to legislation:**

There are currently no known outstanding effects for the The Patents Rules 2007, Review of opinion.