



Patents Act 1977

1977 CHAPTER 37

PART III

MISCELLANEOUS AND GENERAL

Administrative provisions

^[F1] **Effect of resuscitating a withdrawn application under section 117**

117A

- (1) Where—
 - (a) the comptroller is requested to correct an error or mistake in a withdrawal of an application for a patent; and
 - (b) an application has been resuscitated in accordance with that request, the effect of that resuscitation is as follows.
- (2) Anything done under or in relation to the application during the period between the application being withdrawn and its resuscitation shall be treated as valid.
- (3) If the comptroller has published notice of the request as mentioned in section 117(3) above, anything done during that period which would have constituted an infringement of the rights conferred by publication of the application if the application had not been withdrawn shall be treated as an infringement of those rights if it was a continuation or repetition of an earlier act infringing those rights.
- (4) If the comptroller has published notice of the request as mentioned in section 117(3) above and, after the withdrawal of the application and before publication of the notice, a person—
 - (a) began in good faith to do an act which would have constituted an infringement of the rights conferred by publication of the application if the withdrawal had not taken place, or
 - (b) made in good faith effective and serious preparations to do such an act,

Changes to legislation: Patents Act 1977, Section 117A is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

he has the right to continue to do the act or, as the case may be, to do the act, notwithstanding the resuscitation of the application and the grant of the patent; but this right does not extend to granting a licence to another person to do the act.

- (5) If the act was done, or the preparations were made, in the course of a business, the person entitled to the right conferred by subsection (4) above may—
- (a) authorise the doing of that act by any partners of his for the time being in that business, and
 - (b) assign that right, or transmit it on death (or in the case of a body corporate on its dissolution), to any person who acquires that part of the business in the course of which the act was done or the preparations were made.
- (6) Where a product is disposed of to another in exercise of a right conferred by subsection (4) or (5) above, that other and any person claiming through him may deal with the product in the same way as if it had been disposed of by the applicant.]
- [^{F2}(7) The above provisions apply in relation to the use of a patented invention for the services of the Crown as they apply in relation to infringement of the rights conferred by publication of the application for a patent (or, as the case may be, infringement of the patent).
- “Patented invention” has the same meaning as in section 55 above.]

Textual Amendments

- F1** Ss. 117A, 117B inserted (1.1.2005) by [The Regulatory Reform \(Patents\) Order 2004 \(S.I. 2004/2357\)](#), arts. 1(2), **18** (with arts. 20-23)
- F2** S. 117A(7) inserted (1.1.2005) by [Patents Act 2004 \(c. 16\)](#), s. 17(2), **Sch. 2 para. 23** (see S.I. 2004/2357, art. 1(2))

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 56(4)(a)(iiia) and word added by [S.I. 2006/1056 Sch. para. 2\(b\)](#) (This amendment comes into force on the day on which 2005 asp 13, s. 20 comes into force, see art. 1(2)(b))
- s. 63(3)(a) words in s. 63(3) renumbered as s. 63(3)(a) by [2004 c. 16 s. 2\(4\)](#) (Amendment not applied to legislation.gov.uk. S. 2(4) was repealed (29.4.2006) by S.I. 2006/1028, art. 2(4), Sch. 4)
- s. 63(3)(b) and word inserted by [2004 c. 16 s. 2\(4\)](#) (Amendment not applied to legislation.gov.uk. S. 2(4) was repealed (29.4.2006) by S.I. 2006/1028, art. 2(4), Sch. 4)