



# Patents Act 1949

## 1949 CHAPTER 87

### *Revocation and surrender of patents*

#### **32 Revocation of patent by court**

- (1) Subject to the provisions of this Act, a patent may, on the petition of any person interested, be revoked by the court on any of the following grounds, that is to say.—
- (a) that the invention, so far as claimed in any claim of the complete specification, was claimed in a valid claim of earlier priority date contained in the complete specification of another patent granted in the United Kingdom;
  - (b) that the patent was granted on the application of a person not entitled under the provisions of this Act to apply therefor;
  - (c) that the patent was obtained in contravention of the rights of the petitioner or any person under or through whom he claims;
  - (d) that the subject of any claim of the complete specification is not an invention within the meaning of this Act;
  - (e) that the invention, so far as claimed in any claim of the complete specification, is not new having regard to what was known or used, before the priority date of the claim, in the United Kingdom;
  - (f) that the invention, so far as claimed in any claim of the complete specification, is obvious and does not involve any inventive step having regard to what was known or used, before the priority date of the claim, in the United Kingdom;
  - (g) that the invention, so far as claimed in any claim of the complete specification, is not useful;
  - (h) that the complete specification does not sufficiently and fairly describe the invention and the method by which it is to be performed, or does not disclose the best method of performing it which was known to the applicant for the patent and for which he was entitled to claim protection ;
  - (i) that the scope of any claim of the complete specification is not sufficiently and clearly defined or that any claim of the complete specification is not fairly based on the matter disclosed in the specification;
  - (j) that the patent was obtained on a false suggestion or representation;
  - (k) that the primary or intended use or exercise of the invention is contrary to law ;

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*Status: This is the original version (as it was originally enacted).*

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- (l) that the invention, so far as claimed in any claim of the complete specification, was secretly used in the United Kingdom, otherwise that as mentioned in subsection (2) of this section, before the priority date of that claim.
- (2) For the purposes of paragraph (f) of subsection (1) of this section, no account shall be taken of any use of the invention—
- (a) for the purpose of reasonable trial or experiment only; or
  - (b) by a Government department or any person authorised by a Government department, in consequence of the applicant for the patent or any person from whom he derives title having communicated or disclosed the invention directly or indirectly to a Government department or person authorised as aforesaid; or
  - (c) by any other person, in consequence of the applicant for the patent or any person from whom he derives title having communicated or disclosed the invention, and without the consent or acquiescence of the applicant or of any person from whom he derives title ;
- and for the purposes of paragraph (e) or paragraph (f) of the said subsection (1) no account shall be taken of any secret use.
- (3) Without prejudice to the provisions of subsection (1) of this section, a patent may be revoked by the court on the petition of a Government department, if the court is satisfied that the patentee has without reasonable cause failed to comply with a request of the department to make, use or exercise the patented invention for the services of the Crown upon reasonable terms.
- (4) Every ground on which a patent may be revoked shall be available as a ground of defence in any proceeding for the infringement of the patent.

### **33 Revocation of patent by comptroller**

- (1) At any time within twelve months after the sealing of a patent, any person interested who did not oppose the grant of the patent may apply to the comptroller for an order revoking the patent on any one or more of the grounds upon which the grant of the patent could have been opposed:
- Provided that when an action for infringement, or proceedings for the revocation, of a patent are pending in any court, an application to the comptroller under this section shall not be made except with the leave of the court.
- (2) Where an application is made under this section, the comptroller shall notify the patentee and shall give to the applicant and the patentee an opportunity to be heard before deciding the case.
- (3) If on an application under this section the comptroller is satisfied that any of the grounds aforesaid are established, he may by order direct that the patent shall be revoked either unconditionally or unless within such time as may be specified in the order the complete specification is amended to his satisfaction:
- Provided that the comptroller shall not make an order for the unconditional revocation of a patent under this section unless the circumstances are such as would have justified him in refusing to grant the patent in proceedings under section fourteen of this Act.
- (4) An appeal shall lie from any decision of the comptroller under this section.

### **34 Surrender of patent**

- (1) A patentee may at any time by notice given to the comptroller offer to surrender his patent.
- (2) Where such an offer is made the comptroller shall advertise the offer in the prescribed manner; and within the prescribed period after such advertisement any person interested may give notice to the comptroller of opposition to the surrender.
- (3) Where any such notice of opposition is duly given the comptroller shall notify the patentee.
- (4) If the comptroller is satisfied, after hearing the patentee and any opponent, if desirous of being heard, that the patent may properly be surrendered he may accept the offer and by order revoke the patent.
- (5) An appeal shall lie from any decision of the comptroller under this section.