
STATUTORY INSTRUMENTS

1995 No. 2093

The Patents Rules 1995

ENTITLEMENT TO PATENT

Reference of question to the comptroller under section 37(1)

54.—(1) A reference under section 37(1) shall be made on Patents Form 2/77 and shall be accompanied by a copy thereof and a statement in duplicate setting out fully the nature of the question, the facts upon which the person making the reference relies and the order which he is seeking.

(2) The comptroller shall send a copy of the reference and statement to every person who is not a party to the reference being—

- (a) a person who is shown on the register as having any right in or under the patent; or
- (b) a person who is alleged in the reference to be entitled to a right in or under the patent.

(3) If any person who is sent a copy of the reference and statement under paragraph (2) above wishes to oppose the making of the order sought (“the opponent”), he shall, within the period of two months beginning on the date when such copies are sent to him, file in duplicate a counter-statement setting out fully the grounds of his opposition and the comptroller shall send a copy of the counter-statement to the person making the reference and to those recipients of the copy of the reference and statement who are not party to the counter-statement.

(4) The person making the reference or any such recipient may, within the period of two months beginning on the date when the copy of the counter-statement is sent to him, file evidence in support of his case and shall send a copy of the evidence,—

- (a) in any case, to the opponent; and
- (b) in the case of evidence filed by such a recipient, to the person making the reference.

(5) Within the period of two months after the copy of such evidence is sent to him or, if no such evidence is filed, within two months of the expiration of the time within which it might have been filed, the opponent may file evidence in support of his case and shall send a copy of that evidence to the person making the reference and to those recipients; and within the period of two months after the copy of the opponent’s evidence is sent to him, that person or any of those recipients may file further evidence confined to matters strictly in reply and shall send a copy of it to the persons mentioned in subparagraphs (a) and (b) of paragraph (4) above.

(6) No further evidence shall be filed by any party except by leave or direction of the comptroller.

(7) The comptroller may give such directions as he may think fit with regard to the subsequent procedure.

Applications under section 37(3)

55.—(1) An application under section 37(3) for authority to do anything on behalf of a person to whom directions have been given under section 37(2)(d) shall be made on Patents Form 2/77 and shall be accompanied by a copy thereof and a statement in duplicate setting out fully the facts upon which the applicant relies and the nature of the authorisation sought.

(2) The comptroller shall send a copy of the application and statement to the person alleged to have failed to comply with the directions.

(3) The comptroller may give such directions as he may think fit with regard to the subsequent procedure.

Time limit for new application

56. Where the comptroller orders that a new application may be made under section 37(4), it shall be made within three months calculated from the day on which the time for appealing from that order expires without an appeal being brought or, where an appeal is brought, from the day on which it is finally disposed of.

Request under section 38(3)

57.—(1) Where an order is made under section 37 that a patent shall be transferred to one or more persons none of whom was an old proprietor of it or that a person other than an old proprietor may make a new application for a patent, a request under section 38(3) for the grant of a licence to continue working or, as the case may be, to work the invention shall, in the case of any of the old proprietors, be made within two months, and in the case of a licensee, four months, of his being notified by the comptroller of the making of the order.

(2) Where such an order is made, the comptroller shall notify the old proprietor or proprietors, and their licensees of whom he is aware, of the making of the order.

Reference to comptroller under section 38(5)

58.—(1) Where a question is referred to the comptroller under section 38(5) as to whether any person is entitled to be granted a licence or whether the period or terms of a licence are reasonable, the reference shall be made on Patents Form 2/77 and shall be accompanied by a copy thereof and a statement in duplicate setting out fully the question referred, the facts upon which the person making the reference relies and the terms of the licence which he is prepared to accept or grant.

(2) The comptroller shall send a copy of the reference and statement to the new proprietor or proprietors and every person claiming to be entitled to be granted a licence, in either case not being the person who makes the reference, and if any recipient does not agree to grant or accept a licence for such period and upon such terms, he shall, within the period of two months beginning on the date when such copies are sent to him, file a counter-statement in duplicate setting out fully the ground of his objection and the comptroller shall send a copy of the counter-statement to the person making the reference.

(3) The comptroller may give such directions as he may think fit with regard to the subsequent procedure.