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STATUTORY INSTRUMENTS

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**1999 No. 1899**

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

**PART II**

**AMENDMENTS OF THE PATENTS ACT 1977**

**Part II: transitional provisions**

**8.—(1)** A WTO proprietor of a patent in respect of which an order or entry has been made under section 48 of the 1977 Act before the relevant date may apply to the comptroller—

- (a) to have the order revoked or the entry cancelled on the grounds that the grounds on which the order or entry was made are not set out in subsection (1) of section 48A of that Act; or
- (b) to have the conditions subject to which any licence was granted before that date in pursuance of the order or entry modified on the grounds that the licence does not satisfy the requirements set out in subsection (6) of that section.

(2) If it appears to the comptroller on an application under paragraph (1)(a) that the grounds on which the order or entry was made are not set out in section 48A(1) of the 1977 Act, he may—

- (a) revoke the order or cancel the entry; or
- (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.

(3) If it appears to the comptroller on an application under paragraph (1)(b) that the conditions of the licence should be modified, he may modify the conditions accordingly; but in doing so he shall have regard to the need to protect the legitimate interests of the holder of the licence.

(4) Subsections (1), (4) and (5) of section 52 of the 1977 Act shall apply to an application under paragraph (1) as they apply to an application under sections 48 to 51 of that Act, but as if the reference in subsection (1) to the proprietor of the patent or any other person were a reference to any person.

(5) Section 48A(5) of the 1977 Act shall apply to a licence granted on or after the relevant date in pursuance of an entry made before that date in relation to a patent whose proprietor is a WTO proprietor, if the entry was made—

- (a) before the commencement date and on the ground mentioned in section 48(3)(d)(ii) of that Act; or
- (b) on or after that date and on the ground mentioned in section 48B(1)(d)(ii) of that Act.

(6) Section 48A(6) of the 1977 Act shall apply to a licence granted on or after the relevant date in pursuance of an entry made before that date in relation to a patent whose proprietor is a WTO proprietor.

(7) A proprietor is a WTO proprietor for the purposes of this regulation if—

- (a) he is a national of, or is domiciled in, a country which is a member of the World Trade Organisation; or

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(b) he has a real and effective industrial or commercial establishment in such a country.

(8) In this regulation—

“the commencement date” means the date of the coming into force of these Regulations;

“the relevant date” means the commencement date or, if later, the date on which the proprietor of the patent became a WTO proprietor.