



Patents Act 1949

1949 CHAPTER 87

Anticipation, etc.

50 Previous publication

- (1) An invention claimed in a complete specification shall not be deemed to have been anticipated by reason only that the invention was published in the United Kingdom—
 - (a) in a specification filed in pursuance of an application for a patent made in the United Kingdom and dated more than fifty years before the date of filing of the first-mentioned specification;
 - (b) in a specification describing the invention for the purposes of an application for protection in any country outside the United Kingdom made more than fifty years before that date; or
 - (c) in any abridgement of or extract from any such specification published under the authority of the comptroller or of the government of any country outside the United Kingdom.

- (2) Subject as hereinafter provided, an invention claimed in a complete specification shall not be deemed to have been anticipated by reason only that the invention was published before the priority date of the relevant claim of the specification, if the patentee or applicant for the patent proves—
 - (a) that the matter published was obtained from him or (where he is not himself the true and first inventor) from any person from whom he derives title, and was published without his consent or the consent of any such person; and
 - (b) where the patentee or applicant for the patent or any person from whom he derives title learned of the publication before the date of the application for the patent or (in the case of a convention application) before the date of the application for protection in a convention country, that the application or the application in a convention country, as the case may be, was made as soon as reasonably practicable thereafter:

Provided that this subsection shall not apply if the invention was before the priority date of the claim commercially worked in the United Kingdom, otherwise than for the purpose of reasonable trial, either by the patentee or applicant for the patent or

Status: This is the original version (as it was originally enacted).

any person from whom he derives title or by any other person with the consent of the patentee or applicant for the patent or any person from whom he derives title.

- (3) Where a complete specification is filed in pursuance of an application for a patent made by a person being the true and first inventor or deriving title from him, an invention claimed in that specification shall not be deemed to have been anticipated by reason only of any other application for a patent in respect of the same invention, made in contravention of the rights of that person, or by reason only that after the date of filing of that other application the invention was used or published, without the consent of that person, by the applicant in respect of that other application, or by any other person in consequence of any disclosure of the invention by that applicant.
- (4) Notwithstanding anything in this Act, the comptroller shall not refuse to accept a complete specification or to grant a patent, and a patent shall not be revoked or invalidated, by reason only of any circumstances which, by virtue of this section, do not constitute an anticipation of the invention claimed in the specification.

51 Previous communication, display or working

- (1) An invention claimed in a complete specification shall not be deemed to have been anticipated by reason only of the communication of the invention to a Government department or to any person authorised by a Government department to investigate the invention or its merits, or of anything done, in consequence of such a communication, for the purpose of the investigation.
- (2) An invention claimed in a complete specification shall not be deemed to have been anticipated by reason only of—
 - (a) the display of the invention with the consent of the true and first inventor at an exhibition certified by the Board of Trade for the purposes of this section, or the use thereof with his consent, for the purposes of such an exhibition in the place where it is held;
 - (b) the publication of any description of the invention in consequence of the display or use of the invention at any such exhibition as aforesaid;
 - (c) the use of the invention, after it has been displayed or used at any such exhibition as aforesaid and during the period of the exhibition, by any person without the consent of the true and first inventor; or
 - (d) the description of the invention in a paper read by the true and first inventor before a learned society or published with his consent in the transactions of such a society,

if the application for the patent is made by the true and first inventor or a person deriving title from him not later than six months after the opening of the exhibition or the reading or publication of the paper as the case may be.

- (3) An invention claimed in a complete specification shall not be deemed to have been anticipated by reason only that, at any time within one year before the priority date of the relevant claim of the specification, the invention was publicly worked in the United Kingdom—
 - (a) by the patentee or applicant for the patent or any person from whom he derives title; or
 - (b) by any other person with the consent of the patentee or applicant for the patent or any person from whom he derives title,

if the working was effected for the purpose of reasonable trial only and if it was reasonably necessary, having regard to the nature of the invention, that the working for that purpose should be effected in public.

- (4) Notwithstanding anything in this Act, the comptroller shall not refuse to accept a complete specification or to grant a patent, and a patent shall not be revoked or invalidated, by reason only of any circumstances which, by virtue of this section, do not constitute an anticipation of the invention claimed in the specification.

52 Use and publication after provisional specification or foreign application

- (1) Where a complete specification is filed or proceeded with in pursuance of an application which was accompanied by a provisional specification or by a specification treated by virtue of a direction under subsection (4) of section three of this Act as a provisional specification, then, notwithstanding anything in this Act, the comptroller shall not refuse to grant the patent, and the patent shall not be revoked or invalidated by reason only that any matter described in the provisional specification or in the specification treated as aforesaid as a provisional specification was used or published at any time after the date of filing of that specification.
- (2) Where a complete specification is filed in pursuance of a convention application, then, notwithstanding anything in this Act, the comptroller shall not refuse to grant the patent, and the patent shall not be revoked or invalidated by reason only that any matter disclosed in any application for protection in a convention country upon which the convention application is founded was used or published at any time after the date of that application for protection.

53 Priority date in case of obtaining

Where an application is made for a patent for an invention which has been claimed in a complete specification filed in pursuance of any other such application, then if—

- (a) the comptroller has refused to grant a patent in pursuance of that other application on the ground specified in paragraph (a) of subsection (1) of section fourteen of this Act;
- (b) a patent granted in pursuance of that other application has been revoked by the court or the comptroller on the ground specified in paragraph (a) of subsection (1) of section fourteen or paragraph (c) of subsection (1) of section thirty-two of this Act; or
- (c) the complete specification filed in pursuance of the said other application has, in proceedings under section fourteen or section thirty-three of this Act, been amended by the exclusion of the claim relating to the said invention in consequence of a finding by the comptroller that the invention was obtained by the applicant or patentee from any other person,

the comptroller may direct that the first-mentioned application and any specification filed in pursuance thereof shall be deemed, for the purposes of the provisions of this Act relating to the priority date of claims of complete specifications, to have been filed on the date on which the corresponding document was or was deemed to have been filed in the proceedings upon the said other application.