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STATUTORY INSTRUMENTS

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**1995 No. 2093**

**The Patents Rules 1995**

*INFORMATION AND INSPECTION*

**Request for information under section 118**

**92.**—(1) A request under section 118 for information relating to any patent or application for a patent may be made—

- (a) as to when a request for substantive examination has been filed or the prescribed period for doing so has expired without the request having been filed;
- (b) as to when the specification of a patent or application for a patent has been published;
- (c) as to when an application for a patent has been withdrawn, has been taken to be withdrawn, has been treated as having been withdrawn, has been refused or has been treated as having been refused;
- (d) as to when a renewal fee has not been paid within the period prescribed for the purposes of section 25(3);
- (e) as to when a renewal fee has been paid within the period of six months referred to in section 25(4);
- (f) as to when a patent has ceased to have effect and/or an application for restoration of a patent has been filed;
- (g) as to when an entry has been made in the register or an application has been made for the making of such entry;
- (h) as to when any application or request is made or action taken involving an entry in the register or advertisement in the Journal, if the nature of the application, request or action is specified in the request; and
- (i) as to when any document may be inspected in accordance with the provisions of rule 93 or 94.

(2) As regards information relating to any existing patent or existing application for a patent, a request may also be made—

- (a) as to when a complete specification following a provisional specification has been filed or when the period of fifteen months from the date of the application has expired and a complete specification has not been filed;
- (b) as to when a complete specification is or will be published, or when an application for a patent has become void, and
- (c) as to when a patent has been sealed or when the time for requesting sealing has expired.

(3) Any such request shall be made on Patents Form 49/77 and a separate form shall be used in respect of each item of information required.

(4) In this rule, “existing patent” means a patent mentioned in section 127(2)(a) and (c) and “existing application” means an application mentioned in section 127(2)(b).

### **Inspection of documents under section 118**

**93.**—(1) Subject to paragraph (5) below, and to the restrictions prescribed in paragraph (4) below, after the date of publication of an application for a patent in accordance with section 16, the comptroller shall, upon request and payment of the prescribed fee, if any, permit all documents filed or kept at the Patent Office in relation to the application or any patent granted in pursuance of it, to be inspected at the Patent Office.

(2) Subject to the same restrictions and to rule 96, where the circumstances specified in section 118(4) or (5) exist, the comptroller shall, upon request and payment of the prescribed fee, if any, permit inspection of such documents before the publication in accordance with section 16.

(3) Where a declaration has been made in accordance with section 5(2) or 127(4), inspection of any application referred to therein and of any translation thereof shall be permitted upon request under paragraph (1) or (2) above without payment of any fee.

(4) The restrictions referred to in paragraph (1) above are—

- (a) that no document shall be open to inspection until fourteen days after it has been filed at the Patent Office;
- (b) that documents prepared in the Patent Office solely for use therein shall not be open to inspection;
- (c) that any document sent to the Patent Office, at its request or otherwise, for inspection and subsequent return to the sender, shall not be open to inspection;
- (d) that no document filed at the Patent Office in connection with an application under section 40(1) or (2) or section 41(8) shall be open to inspection unless the comptroller otherwise directs;
- (e) that no request made under rule 48, 49(2), 52(2) or 92 or this rule shall be open to inspection;
- (f) that documents in respect of which the comptroller issues directions under rule 94 that they are to be treated as confidential shall not be open to inspection, save as permitted in accordance with that rule; and
- (g) that any documents issued by the Patent Office which the comptroller considers should be treated as confidential shall not be open to inspection unless the comptroller otherwise directs.

(5) Nothing in this rule shall be construed as imposing on the comptroller any duty of making available for public inspection—

- (a) any document or any part of a document—
  - (i) which in his opinion disparages any person in a way likely to damage him; or
  - (ii) the publication or exploitation of which would in his opinion be generally expected to encourage offensive, immoral or anti-social behaviour; or
- (b) the file (but not the report) of the international preliminary examination of an international application under the Patent Co-operation Treaty; or
- (c) any document filed with or sent to or by the Patent Office before 1st June 1978.

(6) No appeal shall lie from a decision of the comptroller under paragraph (5)(a) above not to make a document or part of a document available for public inspection.

### **Confidential documents**

**94.**—(1) A person filing at, or sending to, the Patent Office, a document other than a Patents Form, or any party to any proceedings to which the document relates, may, within fourteen days of the filing or sending of the document, request the comptroller (giving reasons for the request) to direct that the

document or any part of it specified by him be treated as confidential, and the comptroller may, at his discretion, so direct; and while the request is being considered by the comptroller, that document or part thereof (hereinafter referred to as the relevant document) shall not be open to public inspection.

(2) Where such a direction has been given and not withdrawn, nothing in this rule shall be taken to authorise or require any person to be allowed to inspect the relevant document to which the direction relates except by leave of the comptroller.

(3) The comptroller shall not withdraw any direction given under this rule nor shall he give leave for any person to inspect any relevant document to which a direction which has not been withdrawn relates without prior consultation with the person at whose request the direction was given, unless the comptroller is satisfied that such prior consultation is not reasonably practicable.

(4) Where such a direction is given or withdrawn a record of the fact shall be filed with the relevant document to which it relates.

(5) Where the period referred to in paragraph (1) above is extended under rule 110, the relevant document shall not be, or, if the period is extended after it has expired, shall cease to be, open to public inspection until the expiry of the extended period, and if a request for a direction is made the relevant document shall not be open to public inspection while the matter is being determined by the comptroller.

#### **Bibliographic data for purposes of section 118(3)(b)**

**95.** The following bibliographic data is prescribed for the purposes of section 118(3)(b)—

- (a) the number of the application;
- (b) the date of filing of the application and, where a declaration has been made under section 5(2) or 127(4), the filing date, country and file number when available of each application referred to in that declaration;
- (c) the name of the applicant or applicants;
- (d) the title of the invention; and
- (e) if the application has been withdrawn, has been taken to be withdrawn, has been treated as having been withdrawn, has been refused or is treated as having been refused, that fact.

#### **Request for information where section 118(4) applies**

**96.**—(1) Where the circumstances specified in section 118(4) exist, a request under section 118(1) shall be accompanied by a statutory declaration verifying their existence and such documentary evidence (if any) supporting the request as the comptroller may require.

(2) The comptroller shall send a copy of the request, the declaration and the evidence (if any) to the applicant for the patent and shall not comply with the request until the expiry of fourteen days thereafter.