



Patents Act 1949

1949 CHAPTER 87

Application, investigation, opposition, etc.

8 Search for anticipation by prior claim

- (1) In addition to the investigation required by the last foregoing section, the examiner shall make investigation for the purpose of ascertaining whether the invention, so far as claimed in any claim of the complete specification, is claimed in any claim of any other complete specification published on or after the date of filing the applicant's complete specification, being a specification filed—
 - (a) in pursuance of an application for a patent made in the United Kingdom and dated before that date ; or
 - (b) in pursuance of a convention application founded upon an application for protection made in a convention country before that date.
- (2) If it appears to the comptroller that the said invention is claimed in a Claim of any such other specification as aforesaid, he may, subject to the provisions of this section, direct that a reference to that other specification shall be inserted by way of notice to the public in the applicant's complete specification unless within such time as may be prescribed either—
 - (a) the applicant shows to the satisfaction of the comptroller that the priority date of his claim is not later than the priority date of the claim of the said other specification ; or
 - (b) the complete specification is amended to the satisfaction of the comptroller.
- (3) If in consequence of the investigation under section seven of this Act or otherwise it appears to the comptroller—
 - (a) that the invention, so far as claimed in any claim of the applicant's complete specification, has been claimed in any such specification as is mentioned in subsection (1) of that section ; and
 - (b) that the other specification was published on or after the priority date of the applicant's claim,

then unless it has been shown to the satisfaction of the comptroller under that section that the priority date of the applicant's claim is not later than the priority date of the

Status: This is the original version (as it was originally enacted).

claim of that other specification, the provisions of subsection (2) of this section shall apply as they apply in relation to a specification published on or after the date of filing of the applicant's complete specification.

- (4) The powers of the comptroller under this section to direct the insertion of a reference to another specification may be exercised either before or after a patent has been granted for the invention claimed in that other specification, but any direction given before the grant of such a patent shall be of no effect unless and until such a patent is granted.
- (5) An appeal shall lie from any direction of the comptroller under this section.