

1989 No. 1116

PATENTS

The Patents (Amendment) Rules 1989

<i>Made</i> - - - -	<i>3rd July 1989</i>
<i>Laid before Parliament</i>	<i>10th July 1989</i>
<i>Coming into force</i> -	<i>1st August 1989</i>

The Secretary of State, in exercise of the powers conferred upon him by section 123(1) and (2) of the Patents Act 1977(a) and after consultation with the Council on Tribunals pursuant to section 10(1) of the Tribunals and Inquiries Act 1971(b), hereby makes the following Rules:

1. These Rules may be cited as the Patents (Amendment) Rules 1989 and shall come into force on 1st August 1989.

2. In rule 69 of the Patents Rules 1982(c) the words "or (2)" shall be omitted and there shall be substituted for the words "section 51(4) or (5)" the words "section 51(3)".

3. For rule 111 of the Patents Rules 1982 there shall be substituted the following—

"Calculation of times or periods

111.—(1) Where, on any day, there is—

- (a) a general interruption or subsequent dislocation in the postal services of the United Kingdom, or
- (b) an event or circumstances causing an interruption in the normal operation of the Patent Office,

the comptroller may certify the day as being one on which there is an "interruption" and, where any period of time specified in the Act or these Rules for the giving, making or filing of any notice, application or other document expires on a day so certified the period shall be extended to the first day next following (not being an excluded day) which is not so certified.

(2) Any certificate of the comptroller given pursuant to this rule shall be posted in the Patent Office.

(3) Where, in or in connection with an application for a patent ("the application in suit"), it is desired to make a declaration specifying for the purposes of section 5(2) an earlier relevant application and the period of twelve months immediately following the date of filing the earlier relevant application ends on a day which is an excluded day for the purposes of section 120, such period shall, if the declaration is made on the first following day on which the Patent Office is open for the transaction

(a) 1977 c.37; section 51 of the Patents Act 1977 was substituted by the Copyright, Designs and Patents Act 1988 (c.48), Schedule 5, paragraph 14.
(b) 1971 c.62.
(c) S.I. 1982/717, to which there are amendments not relevant to these Rules.

of such business, be altered so as to include both the day of filing of the earlier relevant application and the day on which the declaration is made in or in connection with the application in suit.

(4) Where it is desired to make such a declaration and the said period of twelve months immediately following the date of filing the earlier relevant application ends on a day certified under paragraph (1) above as being one on which there is an interruption, the period shall, if the declaration is made on the first day following the end of the interruption, be altered so as to include both the day of filing of the earlier relevant application and the day on which the declaration is made in or in connection with the application in suit.

(5) Where an application for a patent is filed upon the day immediately following a day which is certified under paragraph (1) above as being one on which there is an interruption or which is an excluded day for the purposes of section 120, the period of six months specified in section 2 (4) shall be computed from the day following the next preceding day which is neither so certified nor so excluded.

(6) If in any particular case the comptroller is satisfied that the failure to give, make or file any notice, application or other document within—

(a) any period of time specified in the Act or these Rules for such giving, making or filing,
(b) the period of six months following a disclosure of matter constituting an invention falling within paragraph (a), (b) or (c) of section 2(4), or
(c) the period of twelve months referred to in paragraph (3) above,
was wholly or mainly attributable to a failure or undue delay in the postal services in the United Kingdom, the comptroller may, if he thinks fit—

- (i) extend the period of time for the giving, making or filing so that it ends on the day of the receipt by the addressee of the notice, application or other document (or, if the day of such receipt is an excluded day, on the first following day which is not an excluded day),
- (ii) determine that the period of six months referred to in sub-paragraph (b) above shall be altered so that it begins on the day of the disclosure and ends on the day of receipt by the Patent Office of the application for the patent (or, if the day of such receipt is an excluded day, on the first following day which is not an excluded day), or
- (iii) determine that the period of twelve months referred to in paragraph (3) above shall be altered so as to include both the day of filing of the earlier relevant application and the day on which the declaration specifying that application is received by the Patent Office (or, if the day of such receipt is an excluded day, the first following day which is not an excluded day),

as the case may be, in each case upon such notice to other parties and upon such terms as he may direct.”.

3rd July 1989

Eric Forth
Parliamentary Under Secretary of State
Department of Trade and Industry

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Patents Rules 1982 by amending rule 69 and by inserting a new rule 111 in substitution for the present rule 111. Rule 69 relates to the powers exercisable by the Comptroller-General of Patents under section 51 of the Patents Act 1977 in consequence of a report of the Monopolies and Mergers Commission and it is amended to take account of the insertion of a new section 51 by the Copyright, Designs and Patents Act 1988. Rule 111 relates to the extension of time periods for filing documents under the Patents Act 1977. The changes to rule 111 expand the circumstances in which time periods can be extended.