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STATUTORY INSTRUMENTS

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**1990 No. 2384**

**The Patents Rules 1990**

*INFRINGEMENT PROCEEDINGS BEFORE COMPTROLLER*

**Procedure on reference to comptroller under section 61(3)**

72.—(1) Where a reference is made to the comptroller under section 61(3), the parties thereto shall make it on Patents Form 36/77, accompanied by a joint statement giving full particulars of the matters which are in dispute and of those on which they are in agreement.

(2) The procedure set out in this rule shall apply unless the only matter stated in the reference to be in dispute is the validity of any patent or part of a patent.

(3) The party to the dispute who is the proprietor of the patent or an exclusive licensee of the patent (such party being referred to in this and the next following rule as the plaintiff) shall within fourteen days of making the reference file a statement in duplicate giving full particulars of his case on the matters in dispute.

(4) The comptroller shall send a copy of the plaintiff's statement to the other party to the dispute (referred to in this and the next following rule as the defendant), who shall, within the period of two months beginning on the date when such copy is sent to him, file a counter-statement in duplicate setting out fully the grounds on which he contests the plaintiff's case and the comptroller shall send a copy of the counter-statement to the plaintiff.

(5) If the defendant alleges in his counter-statement that the patent or any part of it alleged by the plaintiff to have been infringed is not valid, the plaintiff shall, within the period of two months beginning on the date when the counter-statement is sent to him, file a further statement in duplicate setting out fully the grounds on which he contests the defendant's allegation; and the comptroller shall send a copy of the further statement to the defendant.

(6) Subject to such directions as the comptroller may give, the plaintiff may, within the period of two months beginning on the date when the counter-statement is sent to him, or, if he has filed a further statement under paragraph (5) above, within the period of two months thereof, file evidence in support of his case and shall send a copy thereof direct to the defendant.

(7) Within the period of two months beginning on the date when the copy of the plaintiff's evidence is sent to him or, if the plaintiff does not file any evidence, within two months of the expiration of the time within which such evidence might have been filed, the defendant may file evidence in support of his case and shall send a copy of it to the plaintiff; and, within the period of two months beginning on the date when the copy of the defendant's evidence is sent to him, the plaintiff may file further evidence confined to matters strictly in reply and shall send a copy of it direct to the defendant.

(8) No further evidence shall be filed by either party except by leave or direction of the comptroller.

(9) The comptroller may give such directions as he may think fit with regard to the subsequent procedure.