STATUTORY INSTRUMENTS

1970 No. 1074 (L.22)

PATENTS

The Patents Appeal Tribunal (Amendment) Rules 1970

Made - - - 16*th July* 1970

Coming into Operation 1*st October* 1970

The Appeal Tribunal constituted under section 85(2) of the Patents Act 1949(**a**), as amended by section 24 of the Administration of Justice Act 1969(**b**), in exercise of the powers conferred upon it by section 85(8) and (8A) of the Patents Act 1949, as amended by section 24 of the Administration of Justice Act 1969 and section 10 of the Administration of Justice Act 1970(**c**), hereby makes the following Rules :—

1.—(1) These Rules may be cited as the Patents Appeal Tribunal (Amendment) Rules 1970 and shall come into operation on 1st October 1970.

(2) The Interpretation Act 1889(**d**) shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

(3) In these Rules a rule referred to by number means the rule so numbered in the Patents Appeal Tribunal Rules 1950(**e**), as amended (**f**), and "the schedule" means the schedule to those Rules.

2. For rule 1 there shall be substituted the following rule :—

"1.—(1) Any person who desires to appeal to the Appeal Tribunal from a decision of the Comptroller-General of Patents, Designs and Trade Marks (in these Rules referred to as "the Comptroller") in any case in which a right of appeal is given by the Patents Act 1949 (in these Rules referred to as "the Act") shall file with the Registrar of the Patents Appeal Tribunal (in these Rules referred to as "the Registrar") at the Royal Courts of Justice, London, a notice of appeal in the form set out in the schedule to these Rules.

(2) The notice of appeal shall be filed—

(*a*) in the case of a decision on a matter of procedure, within 14 days after the date of the decision ; and

(*b*) in any other case, within six weeks after the date of the decision.

(3) The Comptroller may determine whether any decision is on a matter of procedure and any such determination shall itself be a decision on a matter of procedure."

3. For rule 3 there shall be substituted the following rule :—

"3. The appellant shall, within two days of filing the notice of appeal,

(**a**) 1949 c. 87.
(**b**) 1969 c. 58.
(**c**) 1970 c. 31.
(**d**) 1889 c. 63.
(**e**) S.I. 1950/392 (1950 II, p. 201).
(**f**) S.I. 1956/470, 1961/1016, 1969/500 (1956 II, p. 1722; 1961 II, p. 1965; 1969 I, p. 1404).

send a copy thereof to the Comptroller and to any person who appeared or gave notice of opposition on the proceedings before the Comptroller."

4. For rule 5 there shall be substituted the following rule :—

"5. Except by leave of the Appeal Tribunal, no appeal shall be entertained unless notice of appeal has been given within the period specified in rule 1(2) or within such further time as the Comptroller may allow upon request made to him prior to the expiry of that period."

5. After rule 6 there shall be inserted the following rule :—

"6A.—(1) A party to an appeal before the Appeal Tribunal may appear and be heard either in person or by a patent agent, a solicitor, or counsel.

(2) In this Rule "counsel" means a member of the Bar of England and Wales or of Northern Ireland or a member of the Faculty of Advocates in Scotland."

6. The schedule shall be amended as follows :—

(1) The word "FIRST" shall be deleted from the heading.

(2) For the Note at the end there shall be substituted the following :—

"NOTE :—This notice must be sent to the Registrar of the Patents Appeal Tribunal, Royal Courts of Justice, London, WC2A 2LL and must bear an impressed judicature fee stamp for £6. An unstamped copy of the notice must be sent to the Comptroller-General at the Patent Office, 25 Southampton Buildings, London, W.C.2, and to any person who appeared or gave notice of opposition on the proceedings from which the appeal is brought, within the period prescribed by the Patents Appeal Tribunal Rules."

Dated 16th July 1970.

Patrick Graham, J.
Senior Judge of the Appeal Tribunal.

EXPLANATORY NOTE

(*This Note is not part of the Rules.*)

These Rules extend from 14 days to six weeks the time for appealing to the Patents Appeal Tribunal in relation to other than procedural decisions of the Comptroller-General of Patents, Designs and Trade Marks. They also make provision with regard to the right of audience before the Appeal Tribunal and effect alterations in the Patents Appeal Tribunal Rules 1950 respecting notices of appeal.

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