The Patents Appeal Tribunal Rules 1950

1950 No. 392 (L. 8)

Made - - - - 20*th March*, 1950
Coming into Operation 1*st April*, 1950

I, the Honourable George Harold Lloyd-Jacob, Knight, the Judge of the High Court nominated by the Lord Chancellor to be the Appeal Tribunal constituted under section 85 (2) of the Patents Act 1949 (a) do, by virtue of section 85 (8) of the Act and all other powers enabling me in this behalf, hereby make the following Rules:—

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, within 14 days from the date of the decision, file with the Registrar, Patents Appeal Tribunal, Room 174, Royal Courts of Justice, London, W.C.2 (in these Rules referred to as "the Registrar") a notice in the form set out in the First Schedule hereto.

2. The notice shall state the nature of the decision appealed against, and whether the appeal is from the whole, or part only, and if so, what part of the decision.

3. The appellant shall send a copy of the notice of appeal to the Comptroller and to any person or persons who appeared, or gave notice of opposition, on the proceedings before the Comptroller.

4. On receiving the notice of appeal the Comptroller shall forthwith transmit to the Registrar all the papers relating to the matter which is the subject of the appeal.

5. No appeal shall be entertained of which notice is not given within 14 days from the date of the decision appealed against, or within such further time as the Comptroller may allow (upon request received before the expiration of the said 14 days) except by leave of the Appeal Tribunal.

6. The Registrar shall give to the appellant and the Comptroller and to any opposing party not less than seven days' notice of the time and place appointed for the hearing of the appeal, unless the Appeal Tribunal expressly directs that shorter notice may be given.

7. The evidence used on appeal to the Appeal Tribunal shall be the same as that used before the Comptroller and no further evidence shall be given, except with the leave of the Appeal Tribunal given upon application made for that purpose.

8. The regulations applicable to the filing of documentary evidence on proceedings before the Comptroller shall apply to documentary evidence filed on an appeal to the Appeal Tribunal.

9. The Appeal Tribunal may, at the request of any party, order the attendance at the hearing for the purpose of cross-examination of any person who has made a declaration in the matter to which the appeal relates.

(a) 12, 13 & 14 Geo. 6. c. 87.

10. Any person requiring the attendance of a witness for cross-examination shall tender to the witness whose attendance is required a reasonable sum for conduct money.

11. On any appeal the Appeal Tribunal may, at any time, either of its own motion or on the application of any party, appoint an independent scientific adviser to assist the Appeal Tribunal or to enquire and report upon any question of fact or of opinion not involving questions of law or construction.

12. Any report, so far as it is not accepted by all parties, shall be treated as information furnished to the Appeal Tribunal, and shall be given such weight as the Appeal Tribunal may think fit.

13. All reports shall be made in writing to the Appeal Tribunal, together with such copies as the Appeal Tribunal may require, and copies of the report shall be forwarded by the Registrar to the parties or their Agents.

14. Any party may, within 14 days after receiving a copy of the report, or within such other time as the Appeal Tribunal may direct, apply for leave to cross-examine the scientific adviser on his report, and the Appeal Tribunal may on such application make an order for the cross-examination of the scientific adviser at the hearing of the appeal. The Appeal Tribunal shall at the hearing direct at what stage the scientific adviser is to be called.

15. If the scientific adviser considers that any experiment or test (other than one of a trifling character) is necessary to enable him to report in a satisfactory manner he shall inform the parties or their Agents and shall endeavour to agree with them as to the expenses involved and as to the persons to attend the experiment or test. In default of agreement between the parties, all such matters shall be determined by the Appeal Tribunal.

16. The Appeal Tribunal may at any time direct the scientific adviser to make a further or supplemental report and the provisions of Rules 12, 13, 14 and 15 shall apply to such report as they apply to an original report.

17. The remuneration of the scientific adviser shall be fixed by the Appeal Tribunal, and shall include the costs of making a report and a proper daily fee for any day on which the scientific adviser is required to attend before the Appeal Tribunal.

18. The Appeal Tribunal may, in awarding costs, either fix the amount thereof or direct by whom and in what manner the amount of the costs is to be ascertained.

19. If any costs awarded are not paid within fourteen days after the amount thereof has been fixed or ascertained, or within such shorter period as may be directed by the Appeal Tribunal, the party to whom the costs are payable may apply to the Appeal Tribunal for an order for payment under the provisions of section 85 (5) of the Act.

20. Any notice of appeal to the Court of Appeal from a decision of the Appeal Tribunal shall be in the form set out in the Second Schedule hereto.

21. Any notice or other document required to be filed with or sent to the Registrar under these Rules may be sent by prepaid letter through the post.

22. The Interpretation Act, 1889(a), shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

(a) 52 & 53 Vict. c. 63.

23. In these Rules the expression "scientific adviser" includes persons with scientific qualifications, medical practitioners, engineers, architects, surveyors, accountants, actuaries, and any other specially skilled persons whose opinion in relation to any matter arising on an appeal may be of assistance to the Appeal Tribunal.

24. The Patents Appeal Tribunal Rules 1932(**a**) are hereby revoked, without prejudice to any appeal or other matter pending thereunder at the date on which these Rules come into force.

25. These Rules may be cited as the Patents Appeal Tribunal Rules 1950, and shall come into force on the first day of April 1950.

Dated the 20th day of March 1950.

G. H. Lloyd Jacob.

FIRST SCHEDULE

Notice of Appeal to Appeal Tribunal

IN THE MATTER OF AN APPLICATION (*a*)

and

IN THE MATTER OF AN OPPOSITION THERETO BY (*b*)

I/We (*c*)

of

hereby give notice of appeal to the Appeal Tribunal from (*d*)

of the (*e*)

dated the day of 19

whereby he (*f*)

Signature (*g*) .....

Address .....

.....

Date .....

(*a*) Here insert the nature of the application or proceedings, the name of the applicant and the number of the application for Letters Patent.

(*b*) Here insert the name(s) of the opponent(s) if the application is opposed.

(*c*) Here insert name(s) and full address(es) of appellant(s).

(*d*) Here insert "The decision" or "that part of the decision" as the case may be.

(*e*) Here insert "Comptroller-General" or "Officer acting for Comptroller-General" as the case may be.

(*f*) Here insert "refused (or allowed) application for Letters Patent" or "refused (or allowed) application for leave to amend specification" or otherwise as the case may be.

(*g*) To be signed by the appellant personally or by his duly authorised representative.

NOTE:—This notice must be sent to the Registrar, Patents Appeal Tribunal, Room 174, Royal Courts of Justice, London, W.C.2, and must bear an impressed judicature fee stamp for £3. 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 opponent(s).

(**a**) S.R. & O. 1932 (No. 887) p. 1423.

SECOND SCHEDULE

Notice of Appeal from Appeal Tribunal to Court of Appeal

IN THE COURT OF APPEAL

Judicature Fee Stamp £5

ON APPEAL FROM

THE PATENTS APPEAL TRIBUNAL

(*a*) Here insert full heading as in Notice of Appeal to Appeal Tribunal

IN THE MATTER OF AN APPLICATION (*a*)

TAKE NOTICE that this Honourable Court will be moved at the expiration of 14 days from the service upon you of this notice, or so soon thereafter as Counsel can be heard, by Counsel on behalf of (*b*)

(*b*) Here insert full name of Applicant, or Opponent, as the case may be.

(*c*) Here insert "Applicant" or "Opponent" as the case may be.

the above-named (*c*)

for an order that the order dated the day of 19

made by Mr. Justice , the Judge of the High Court nominated by the Lord Chancellor to be the Appeal Tribunal constituted under Section 85 (2) of the Patents Act, 1949 [so far as it provides that (*d*)]

(*d*) If the whole of the decision is appealed against, the words in square brackets should be struck out. If only part of the decision is appealed against the notice must specify what part.

(*e*) Here set out in full the relief sought.

may be reversed and that in lieu thereof it may be ordered (*e*)

(*f*) Set out concisely the grounds of appeal.

And Take notice that the grounds of the appeal are (*f*)

DATED the day of 19

(*g*) To be signed by the Appellant or his solicitor.

Signature (*g*) .....

Address .....

.....

To:—

NOTE:—This Notice must be addressed, and a copy must be sent, to the Comptroller-General at the Patent Office, 25, Southampton Buildings, London, W.C.2, and to any person or persons who appeared in opposition on the proceedings before the Appeal Tribunal.