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PATENTS ACT
(CHAPTER 221)

PATENTS
(AMENDMENT NO. 2)
RULES 2017

In exercise of the powers conferred by section 115 of the Patents Act, the Minister for Law, after consulting with the Intellectual Property Office of Singapore, makes the following Rules:

Citation and commencement

1. These Rules are the Patents (Amendment No. 2) Rules 2017 and come into operation on 30 October 2017.

Amendment of rule 2A

2. Rule 2A of the Patents Rules (R 1) is amended —

- (a) by deleting the words “each claim of the invention disclosed in” in paragraph (1)(a)(i) and substituting the words “the invention defined in each claim of the specification of”; and
- (b) by inserting, immediately after sub-paragraph (b) of paragraph (3), the following sub-paragraph:

“(ba) whether the invention defined in each claim of the specification of the application constitutes an invention;”.

Deletion and substitution of rule 8

3. Rule 8 of the Patents Rules is deleted and the following rule substituted therefor:

“Written evidence in support of circumstances in section 14(4), etc.

8.—(1) The written evidence filed under section 14(5C) by an applicant for a patent must comply with the following requirements:

- (a) the written evidence must be by statutory declaration or affidavit, and must enclose all supporting documents;

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- (b) where the applicant relies on the circumstances described in section 14(4)(c), the written evidence must —
- (i) state that the invention to which the applicant's application relates was in fact displayed at an international exhibition;
 - (ii) state the opening date of the exhibition and, where the first disclosure of the invention did not take place on that date, the date of the first disclosure; and
 - (iii) enclose one or more supporting documents identifying the invention that was displayed at the exhibition;
- (c) where the applicant claims that the publication by a foreign intellectual property office of an application for an intellectual property right (being an application containing matter constituting the invention to which the applicant's application relates), or a registration of an intellectual property right pursuant to such an application, was erroneous for a reason mentioned in section 14(5A)(b) or (5B)(b), the written evidence must enclose an acknowledgment from the foreign intellectual property office —
- (i) stating that the publication was erroneous and the reason for the publication being erroneous; and
 - (ii) if section 14(5B)(b) applies, stating the earliest date on which the publication ought to have been made under the law or treaty governing the application.

(2) For the purposes of section 2(2), a statement may be published in the journal that an exhibition described in the statement falls within the definition of "international exhibition" in section 2(1).

(3) In this rule, "foreign intellectual property office" has the same meaning as in section 14(8)."

Amendment of rule 43**4.** Rule 43 of the Patents Rules is amended —

(a) by inserting, immediately after paragraph (3), the following paragraph:

“(4) The prescribed date mentioned in section 29(11A)(a) and (b) is 1 January 2020.”; and

(b) by inserting, immediately after the words “supplementary examination report” in the rule heading, the word “, etc.”.

Amendment of rule 46

5. Rule 46(1A) of the Patents Rules is amended by inserting, immediately after sub-paragraph (b), the following sub-paragraph:

“(ba) the invention defined in any claim of the specification of the application does not constitute an invention;”.

Amendment of rule 86

6. Rule 86 of the Patents Rules is amended by deleting paragraph (4) and substituting the following paragraph:

“(4) In the case of an international application for a patent (Singapore), where an English translation of a document or part of a document is required by the Act or these Rules to be filed before or at the time limit for entering the national phase, verification of the translation, as required under rule 112 and permitted by rule 51 *bis* 1(d) of the Regulations under the Patent Co-operation Treaty, may be given to the Registrar at any time before the end of 2 months after that time limit.”.

Amendment of rule 108

7. Rule 108 of the Patents Rules is amended —

(a) by deleting “, (4)” in paragraph (2)(a);

(b) by inserting, immediately after sub-paragraph (a) of paragraph (2), the following sub-paragraph:

“(aa) paragraph (4) (except where paragraph (7) provides otherwise);”;

- (c) by deleting “8(1),” in paragraph (2)(b);
- (d) by deleting “8(2),” in paragraph (3)(a);
- (e) by deleting “86(4)(b),” in paragraph (3)(a); and
- (f) by inserting, immediately after paragraph (6), the following paragraph:

“(7) Where —

- (a) after receiving the search report under section 29(2)(b) from the Registrar, the applicant does not file a request for an examination report under section 29(3) within the period prescribed in rule 43(1) or (2) (whichever is applicable) for filing that request; and
- (b) the time prescribed under paragraph (4) for filing Patents Form 45 to extend that period expires before, or within 3 months after, 30 October 2017,

the time prescribed under paragraph (4) for filing that Form is extended to the end of 6 months after that date.”.

Saving and transitional provisions

8.—(1) Subject to paragraphs (2) and (3), rules 2 and 5 do not apply to any application for a patent the date of filing of which is before 30 October 2017, or to any patent granted pursuant to any such application, and rules 2A(1) and (3) and 46(1A) of the Patents Rules as in force immediately before that date continue to apply to every such application for a patent and every such patent as if rules 2 and 5 had not been enacted.

(2) Rules 2 and 5 apply to —

- (a) every new application for a patent made, on or after 30 October 2017, under section 20(3) or 47(4) of the Patents Act which is treated as having been filed before that date, and to every patent granted pursuant to any such application; and
- (b) every new application for a patent filed, on or after 30 October 2017, under section 26(11) of the Patents Act which is treated as having a date of filing that is before that date, and to every patent granted pursuant to any such application.

(3) Rules 2 and 5 apply to every international application for a patent (Singapore) that enters the national phase in Singapore under section 86(3) of the Patents Act on or after 30 October 2017, and to every patent granted pursuant to any such application.

(4) Despite rule 3, rule 8 of the Patents Rules as in force immediately before 30 October 2017 continues to apply to or in relation to any application for a patent the date of filing of which is before that date.

(5) Despite rule 6, rule 86(4) of the Patents Rules as in force immediately before 30 October 2017 continues to apply to or in relation to any international application for a patent (Singapore) the date of filing accorded under the Patent Co-operation Treaty of which is before that date.

(6) Despite rule 7(c) and (d), rule 108(2)(b) and (3)(a) of the Patents Rules as in force immediately before 30 October 2017 continues to apply to or in relation to any application for a patent the date of filing of which is before that date.

(7) Despite rule 7(e), rule 108(3)(a) of the Patents Rules as in force immediately before 30 October 2017 continues to apply to or in relation to any international application for a patent (Singapore) the date of filing accorded under the Patent Co-operation Treaty of which is before that date.

*[G.N. Nos. S 501/2009; S 730/2010; S 586/2011; S 210/2013; S 81/2014;
S 162/2014; S 739/2014; S 673/2016; S 146/2017]*

Made on 5 October 2017.

NG HOW YUE
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Ministry of Law,
Singapore.*

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