
Package of changes to the Patent Rules 2007

Department for Business, Innovation and Skills

RPC rating: fit for purpose

Description of proposal

The proposal will make eleven changes to the Patent Rules 2007. The package of changes is predominantly deregulatory, but includes one regulatory element that will prevent the use of ‘omnibus’ patent claims, except when essential. Omnibus patents do not provide detailed technical features of an invention and instead “*refer generally to the description or drawings of the invention included in the patent application*”. This makes it difficult for competitors to know if they are likely to infringe a patent.

The changes include removing three notification requirements (for example, in relation to some address changes) and three requirements relating to the provision of multiple documents; clarifying the rules in relation to amendments to applications and to the use of photographs in technical drawings; and providing more information on the timetables for completing some actions during the application process. These changes are expected to benefit business by reducing administrative burdens or streamlining processes.

Impacts of proposal

The IA provides a narrative description of the changes, including some estimates for some of the changes. The most significant monetised benefit to business is in relation to the ‘removal of the requirement for patent holders to notify the IPO annually of the address they wish to use to receive renewal reminders’. This is estimated to affect around 2,000 repeat notifications a year, with reduced postage and stationery costs estimated to be £4,000. The Department has not attempted to monetise the time savings. With the exception of the omnibus changes, the other elements of the package are expected to have minor benefits to business ranging from zero to £718 a year in total.

The IA explains that a relatively significant proportion of UK patents (35%) currently include omnibus patent claims. However, the Department also explains that the majority (86%) of patents in force in the UK were made in line with the European (UK) patent rules (administered by the European Patent Office). The European (UK) patent rules allow omnibus claims only where necessary, with only 0.04% taking up the free option of adding such claims. The Department’s assessment is that, while

this does not cover all patents in force, it provides an indication of the proportion in which omnibus claims may still be considered essential. Consultation responses were mixed regarding the potential benefits to competitors of reducing the proportion of omnibus patents. As such, the Department has not provided a monetised estimate of the benefits. The IA, however, argues that the use of omnibus claims is mainly a matter of historical convention that usually sits alongside the more detailed patent, but which provides very little additional scope of protection. While the change in process would appear to have the potential to introduce some additional costs to the application process, the Department's assessment, supported by consultation responses, is that these are likely to be negligible. On this basis the Department has not provided a monetised cost in relation to the changes.

The RPC is also able to validate the estimated equivalent annual net direct cost to business (EANDCB) of zero, and that this element should be considered as a qualifying regulatory provision.

Quality of submission

The IA provides sufficient information to support the assessment of the EANDCB as zero for reporting purposes. The IA would benefit from providing further information on whether stakeholders agree with the Department assessment that UK patents including omnibus claims tend to do so as a result of historical convention. However, the evidence provided by consultation responses means the Department's approach is proportionate and the estimated impacts are reasonable.

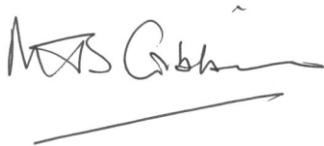
Departmental assessment

Classification	Qualifying regulatory provision (OUT)
Equivalent annual net cost to business (EANCB)	Zero
Business net present value	£0.04 million
Societal net present value	£0.13 million

RPC assessment

Classification	Qualifying regulatory provision (OUT)
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EANCB – RPC validated ¹	Zero
BIT score – RPC validated ¹	Zero
Small and micro business assessment	Not required (low cost regulation)



Michael Gibbons CBE, Chairman

¹ For reporting purposes, the RPC validates EANCB figures to the nearest £100,000.