

Evidence not raised in the particulars.

19. At the hearing of any action, petition, or counterclaim relating to a patent no evidence shall, except by leave of the Court (to be given upon such terms as to the Court may seem just), be admitted in proof of any alleged infringement or objection not raised in the particulars of breaches or objections respectively.

Taxation of costs. Necessity for certificate as to particulars when action, petition, or counterclaim proceeds to trial.

20. On taxation of costs in any action or counterclaim for infringement of patent, or in any petition for revocation of a patent under section 27 of the Act, or in any counterclaim for revocation of a patent under section 36 of the Act, the following provisions shall apply, that is to say:—

If the action, petition, or counterclaim proceeds to trial on any patent no costs shall be allowed in respect of any issues raised in the particulars of breaches or particulars of objections and relating to that patent to the parties delivering the same respectively, except in so far as such particulars are certified by the Court to have been proven or to have been reasonable and proper without regard to the general costs of the case; but, subject as aforesaid, the costs of the issue raised by the particulars of breaches and the particulars of objections shall be in the discretion of the Court.

Application for leave to amend specification under section 24 of the Act.

21. Where an application is made by a patentee for leave to amend his specification by way of disclaimer under section 24 of the Act, the following rules shall apply:—

(a.) The application shall be made by motion in the proceedings pending before the Court, and notice of such motion, together with a copy of the specification showing in red ink the amendment proposed to be made, shall be served on the parties to such proceedings, and in the first instance upon such parties only.

(b.) On the hearing of such motion the Court shall decide whether, and on what terms as to costs or otherwise, the application shall be allowed to proceed; and, if the application be allowed to proceed, shall give directions as to whether such application shall be heard on oral or affidavit evidence; and, if on affidavit evidence, shall fix the times within which affidavits shall be filed by the parties respectively, and by any other person entitled to be heard under the Act or these rules.

(c.) If the application be allowed to proceed, the applicant shall forthwith serve the Registrar with a copy of the notice of motion, together with such copy of specification as aforesaid, and also a copy of the order allowing the application to proceed, and also with the name and address of the applicant's solicitor; and the proposed amendment shall be advertised in the *Patent Office Journal*, such advertisement stating that any person desiring to oppose the amendment must, within one month of the issue of the advertisement, give notice in writing of such desire to the applicant's solicitor, whose name and address for that purpose shall be also stated in the advertisement. Any person giving such notice shall be entitled to be heard upon the hearing of the motion.

(d.) Within seven days after the receipt of any such notice the applicant shall, if the person giving such notice shall have stated therein an address for service within New Zealand, serve on such person a copy of the notice of motion, together with such copy of the specification as aforesaid, and also a copy of the order allowing the application to proceed. Such service may be made by prepaid registered letter sent to such person through the post at his address for service.

(e.) In either case the applicant shall, as soon as he shall have complied with the requirements of the preceding rules, and, in the case of an application directed to be heard on affidavit evidence, after the times fixed for filing evidence have expired, set the same down for hearing, and the application so set down shall be heard and disposed of in due course.

(f.) Where the Court allows a specification to be amended the applicant shall forthwith lodge with the Registrar an office copy of the order allowing such amendment, and the Registrar shall advertise the same once at least in the *Patent Office Journal*. He shall also, if required so to do by the Court or by the Registrar, leave at the Patent Office a new specification and drawings as amended, the same being prepared as far as may be in accordance with the rules of the Patent Office for the time being in force.

22. These rules may be cited as "The Rules of the Supreme Court (Patents and Designs)," and shall be read with the Rules of the Supreme Court.

F. D. THOMSON,
Clerk of the Executive Council.