

The adequacy of the proof should be considered and, if it is inadequate, a stock letter should be sent to the agent or applicant pointing out the deficiency. The change of name should have taken place after the filing date of the patent application, failing which the agent or applicant should be advised to consider applying for a correction of a clerical error, if that is applicable. If the change is allowed, the name in question should be altered in the Register on OPTICS or, in the case of 1949 Act patents, manually in the paper register. The agent or applicant should be informed by letter that alteration has been effected and a report sheet should be completed. The change of name folder should be placed at the back of the file in question or, if the change relates to more than one application or patent, the documents should be placed on the file of the highest publication number available.

[ In respect of all ungranted 1977 Act cases, the old name on Form 1/77 should be struck out and replaced by the new name in red capital letters. The alteration on Form 1/77 should be endorsed with "F20/77" and the date of receipt of the form and **initialled**. Form 20/77 should be signed and dated by the actioning officer. ]

32.07 Following the deletion of Rule 79 by The Patents (Amendment) Rules 1999, it is no longer required that the comptroller keep entries in the register relating to published but ungranted applications for European patents (UK). The Register of European Patents, kept by the EPO under article 127 of the EPC should be consulted for information on such applications.

### Section 32(2)

(b) *the registration of transactions, instruments or events affecting rights in or under patents and applications;*

#### **Transactions, instruments or events affecting rights**

r.44(3)

32.08 The register contains notice of any transaction, instrument or event referred to in s.33(3). An agreement to assign, which operates in English law to create and vest in the buyer an immediate equitable interest, may also be entered in the register as a transaction affecting rights in a patent but this is not itself an assignment or any of the other transactions, instruments or events specified in s.33 (**Coflexip Stena Offshore Limited's Patent** [1997] RPC 179).

r.46(1)

32.09 An application to register, or to give notice to the comptroller of, any such transaction, instrument or event should be made on Patents Form 21/77 accompanied by the appropriate fee (if any; this fee was set at zero by the Patents (Fees) Rules 1998). The fact that the application has been received is recorded in the register. The form should be signed by or on behalf of the person or persons making the application to confirm that the rights, which are affected by the transaction, instrument or event, have been **acquired**. Documentary evidence sufficient to establish the transaction, instrument or event should accompany the form if (a) in the case of an assignment it is not also signed by or on behalf of at least the assignor, or (b) in the case of a mortgage or the grant of a licence or security, where the mortgagor or grantor is not the applicant, it is not also signed by or on behalf of the mortgagor or grantor. **For any documentary evidence not in English, a verified translation must be supplied.**

r.46(2)

r.46(3)

r.113(1)

**The requirement for stamp duty to be paid on an instrument for the sale, transfer or other disposition of intellectual property was removed with effect from 28 March 2000 (by s.129 of the Finance Act 2000).** If the applicant or other party enquires as to whether stamp duty is payable in any **other** circumstances, eg in respect of transactions outside the UK, it will normally be necessary to advise that the enquiry should be referred to the Inland Revenue.

In the case of a published application for a patent, details of a transaction, instrument or event may be recorded even if the application has been refused or withdrawn.

s.30(1) &  
(2)

If Form 21/77 relates to an unpublished application for a patent the change of ownership is recorded on the Patents Form 1/77 in the file and on the register.

In the case of a granted patent, details of a transaction, instrument or event may be entered on the register even if the patent has lapsed for non-payment of fees provided that an application for restoration has not been filed. If such an application has been made registration is stayed until the application has been decided.

May 2003