

CHAPTER 24

SECTION 117 CORRECTIONS OF ERRORS

Introduction	24.01 - 24.02
Central Limitation Process – EPC 2000	24.02
Initial Action A1	24.03 - 24.04
Initial Action - Formalities Check - A3	24.05 - 24.06
Formalities	24.06
Formalities Complied With – Corrections of Specification:-	24.07 - 24.31
Initial Advert	24.08
Referring the Request	24.09
Deputy Director’s Report for GB and EP(UK) patents	24.10 - 24.11
Correction of Specification <i>prima facie</i> allowable	24.12 - 24.16
Apply Corrections and Certificate	24.17 - 24.19
File returned from Deputy Director with authorisation	24.20 - 24.21
Clear Records – Corrections to the Specification Allowed	24.22 - 24.31
Final Advert	24.23
Electronic Ledger	24.24
OPTICS Entry	24.25 - 24.26
Case Referred to Publishing	24.27 - 24.31
Formalities Complied With - Corrections of Bibliography Details:-	24.32 - 24.52
Initial Advert	24.33
Referring the Request	24.34
B2 Report for GB and EP(UK) patents	24.35
Correction of Bibliographic Details are <i>prima facie</i> allowable	24.36 - 24.39
Apply Corrections and Certificates:-	24.40 - 24.44
Proprietor notified Correction allowed	24.45 - 24.46
Clear Records – Corrections to the Bibliographic Details Allowed	24.47 - 24.52
File Referred to Publishing	24.48 - 24.52

Formalities Not Complied With	24.53 - 24.77
New Attorneys - if the applicant is the proprietor	24.53
Evidence	24.54 - 24.57
EP opposition period	24.58
Opposition period not expired/Opposition pending	24.59 - 24.62
Response to Official Letter – Opposition period	24.63 - 24.66
Applicant wishes to stay	24.64 - 24.65
Applicant wishes to proceed	24.66
Is the request an Amendment or a Correction?	24.67
Has the patent been granted?	24.68 - 24.74
GB cases	24.69 - 24.71
EP cases	24.72 - 24.74
Applicant has applied to the EPO for correction	24.75
Outstanding revocation action	24.76
Problems arising from referring the request to Deputy Director/B2:-	24.77 - 24.88
Corrections not <i>prima facie</i> allowable	24.77 - 24.83
Corrections not proceeded with	24.84 - 24.86
Withdrawal of a Request	24.87 - 24.88
Clear records – Corrections not allowable/not proceeded with/ withdrawn	24.89 - 24.93
Final Advert	24.90
Electronic Ledger	24.91
OPTICS Entry	24.92–24.93
Opposition Filed	24.94 - 24.95
Extension of Time	24.96 - 24.98

Annexes

Annex 1	Initial advert
Annex 2	S117e letter
Annex 3	Full Advert Bibliographic Correction
Annex 4	Full Advert Correction of the Specification
Annex 5	S 117a letter
Annex 6	S 117c letter – EP correction allowed
Annex 7	S 117 Certificates available
Annex 8	Clear records sheet
Annex 9	Final Advert Corrections Allowed
Annex 10	Letter referring to Central Limitation Process
Annex 11	Correction allowed by EPO
Annex 12	Request for replacement specification/pages
Annex 13	GB correction allowed

24 CORRECTION OF ERRORS

INTRODUCTION

24.01 Section 117 concerns the correction of errors in specifications and in other documents filed in connection with patents and applications for patents. Prescribed conditions are set out in the Patents Rules 2007. S117 relates solely to the correction of errors in documents and not with procedural omissions. Rule 105 relates to corrections to the specification and Rule 49 relates to corrections to the bibliography. Section 117 does not cover the failure to file a document within a prescribed period or correcting the register or documents filed at the Office in connection with the register. This is an action undertaken by Assignments Section under Section 32 and rule 47. For corrections to translations, refer to Chapter 28

Corrections to EP and GB patents are processed electronically on PECS (Patent Electronic Case System). On filing a request to correct an EP patent, the EP patent is allocated an EP Lit number which is used to create a dossier on PECS. The A1 enters the EP Lit number on the ledger and on Optics as a free text entry.

If an EP paper case already exists, this is requested from NMP and scanned onto the dossier along with the request for correction by Index and Scanning section. If no paper file exists, a BDOC is requested and is scanned onto the dossier along with the request for correction.

24.02 Any person may request the correction of an error in the register or in any document filed at the office in connection with registration. The request needs to be in writing and accompanied by sufficient information to identify the nature of the error and the correction requested. If the comptroller has doubts that an error has occurred, he may require evidence to support the request. When a request is filed to correct a specification of a patent, the request will not be granted unless the correction is obvious.

EPC 2000 – Central Limitation Process

Following the introduction of the central limitation process, an EP (UK) patent may now be amended centrally at the EPO as well as in each individual contracting state. On receipt of a new s117, the Register Plus website (<http://www.epoline.org/portal/public/registerplus>) should be checked to determine whether there is a request to centrally limit an EP (UK) patent. And if so, whether the applicant wishes to stay the UK proceedings until conclusion of the EPC process or wishes to proceed. A standard letter is issued (See Annex 14).

A minute should be prepared as follows:

Official letter issued to attorney on XX.XX.XX. See copy on file. B/F for 1month (always to a Wednesday). Update DiaryL.

Letter created, locked and imported from PROSE.

File note is created in Word and imported using manual import (doc code is FILE NOTE-LIT).

INITIAL ACTION - A1

24.03 On receipt of a request, the A3 will request the A1 to

- arrange for the application to be indexed and scanned as a PECS case

The A1 will also need to:

- enter the application in the electronic ledger
- make a free text entry on OPTICS using REG ENT

The A1 attaches a request for index and scan to the application and sends it to the Index and Scanning section.

24.04 The new case will be placed by Index and Scanning in the Ex-parte team

mailbox to be actioned by a member of the ex-parte team.

INITIAL ACTION - FORMALITIES CHECKS - A3 DUTIES

24.05 Once the request has been scanned on, the A3 should carry out formalities checks to ensure the requirements of the Patents Rules 2007 have been complied with. An initial advertisement for the Journal should be prepared whether formalities have been complied with or not. Any issues should be resolved with the applicant and the case referred to the appropriate Deputy Director for corrections to the specification or the B2 ex-parte Line Manager for bibliographic corrections. The dossier should be minuted with any actions taken.

Formalities

24.06 The request for correction is checked to ensure:

- for bibliographic corrections to the name of the proprietor and inventor, Patents Form 20 has been filed
- the applicant's name is on the request
- a current address for service is provided in the UK, an EEA state or the Channel Islands. If the AFS provided does not match the register, refer to 24.53
- for corrections to the specification, the request identifies the proposed correction (usually shown in red on copies of the specification) and reasons for the correction are given,
- for corrections to the bibliography, the request contains sufficient information to identify the nature of the error and the correction requested, refer to 24.54-57
- for correction of an EP (UK) patent, the EPO opposition period has expired or no opposition is pending, refer to 24.58-66
- that any documents given as supporting evidence and not published in English are accompanied by a copy of a translation,
- the request is correctly applied for as a correction and not an amendment, refer to 24.67

- the patent has been granted, refer to 24.68-74
- the request has not already been allowed by the EPO, refer to 24.74-75
- no revocation action is outstanding, refer to 24.76
- the specification on file is the latest version (use Register Plus) and that there are no central limitation proceedings ongoing, refer to 24.02
- for requests to correct the specification and bibliograph, ensure the relevant documents are annotated “P” and “working copy”. If not, refer to the Index and Scanning manager to action.

FORMALITIES COMPLIED WITH - CORRECTIONS OF SPECIFICATION

24.07 The following procedure relates to a correction to the specification where all formalities have been complied with.

Initial Advert

24.08 Once all formalities have been completed, an initial advert (see annex 1) should be prepared for the Journal. The advert should be copied to the Journal folder on the H drive and a copy placed in the Journal file. A file note should be prepared as follows:

Formalities complied with, initial advert prepared.

Advert is created in Word and imported using manual import (doc code is ADVERT).

File note is created in Word and imported using manual import (doc code is FILE NOTE-LIT).

Referring the Request

24.09 The request should be referred to the appropriate Deputy Director. The minute sheet should be prepared as follows:-

Case referred for report under section 117 of the 2007 Act (see para 117.14 MOPP).

To refer a case to a DD, create, lock and import a minute from PROSE (doc code MINUTE-LIT), then create and send a “PSM – new s117” message.

Deputy Directors Report for GB and EP(UK) Patents

24.10 The request will be considered by the Deputy Director according to the tests set out in Section 117.07–117.09 of the MOPP and the Patents Rules 2007 ie that ‘the correction is obvious in the sense that it is immediately evident that nothing else would have been intended than what is offered as the correction’. The request is considered against a two fold test:

- is it clear that there is an error, and
- if so , is it clear what is now offered is what was originally intended?

24.11 If the correction is allowed, it may be advertised for opposition as the rights of a third party could be adversely affected (see MOPP 117.23); otherwise advertisement for opposition may not be considered necessary.

CORRECTION OF SPECIFICATION *PRIMA FACIE* ALLOWABLE

24.12 The Deputy Director’s report will state whether the correction is considered *prima facie* allowable and will advise whether it needs to be advertised in full. If advertisement is not necessary, proceed to correct the specification, refer to 24.17. If the report states that the corrections are not allowed, refer to 24.77

24.13 Where the correction needs to be advertised, an advert is prepared for the Journal with the heading *Request now open to Opposition* An example of an advert showing a correction of a specification can be seen in annex 4. The advert should be placed in the Journal folder on the H drive and a copy placed in the Journal file.

Advert is created in Word and imported using manual import (doc code is ADVERT).

24.14 The opposition period will last four weeks from the date of the published advert.

24.15 A standard letter s117a (see annex 5) is sent to the applicant's attorneys notifying the applicant of the date of the Journal advert and advising of the four week opposition period. A file note should be prepared as follows:

Official letter sent to attorney on XX.XX.XX. Full advert prepared for Journal dated XX.XX.XX. B/F for 4 weeks and 2 weeks from the date of advert for opposition (Always to a Wednesday). Update DiaryL.

Letter created, locked and imported from PROSE.

File note is created in Word and imported using manual import (doc code is FILE NOTE-LIT).

24.16 If opposition is filed refer to 24.94. If no opposition is filed proceed to correct the specification.

APPLY CORRECTIONS & CERTIFICATE

24.17 For corrections to EP specifications

For corrections to EP patents, if the corrections cannot be applied using enhance or assemble, a copy of the BDOC should be printed from the dossier and the corrections applied manually. The corrected BDOC should then be scanned onto the dossier by Index and scanning section. A file note is prepared as follows:-

Corrections manually applied to BDOC and sent to Index and Scanning

File note is created in Word and imported using manual import (doc code is FILE NOTE-LIT)

For corrections to GB specifications

The description, claims and drawings annotated “P” and “working copy” are cloned from PREGRANT into the LITIGATION section of the dossier. The corrections are then applied using the assemble and enhance functions. The corrected sections of the specification are annotated “C” and “working copy” along with any cloned sections not corrected. The references to “P” and “working copy” in the original cloned documents are deleted. This enables Publishing Section to extract all the documents required to produce a “C” specification.

- 24.18 If the corrections are extensive and no replacement page or specification has been filed, the A3 should request one.

Letter created, locked and imported from PROSE.

Any replacement specification should be checked by the A3 to ensure that the corrections made are in fact the same as those allowed by the Deputy Director. A file note should be added as follows:

Specification checked - corrections incorporated into retyped specification agree with those advertised and allowed.

File note is created in Word and imported using manual import (doc code is FILE NOTE-LIT).

- 24.19 Once the GB patent is corrected or the corrected EP BDOC is scanned onto PECS, the corrected patent should be referred to the appropriate Deputy Director. A file note should be prepared as follows:-

Corrections applied manually on pages xxxxxx/ corrections in the form of replacement pages xxxxxx/ corrections in the form of replacement specification. (Delete as appropriate). Please confirm that I can now apply your electronic signature to the appropriate certificate.

Create, lock and import minute from PROSE (doc code MINUTE-LIT), then create and send a “PSM – s117 and confirm your electronic signature can be added to the appropriate certificate” message to DD.

CASE RETURNED FROM DEPUTY DIRECTOR WITH AUTHORISATION

24.20 Once a message is received from the Deputy Director, a section 117c letter (see annex 6) should be issued by the A3 notifying the applicant that the corrections advertised have been allowed and that a copy of the ‘C’ specification will be forwarded in due course by Publishing Section. The appropriate certificate should be dated with the date of the letter or in the case of a hearing, the date of the decision and a DD electronic signature applied. This should then be pasted into a Word document. and imported into the dossier using manual import (doc code CERTIFICATE).

24.21 The following file note should be prepared as follows:-

Corrections allowed on XX.XX.XX (date of clear records). O/L issued (insert date), copy on file. Clear records.

File note is created in Word and imported using manual import (doc code is FILE NOTE-LIT).

CLEAR RECORDS – CORRECTION TO THE SPECIFICATION ALLOWED

24.22 Once the applicant has been informed of the outcome of the request clear records action may be undertaken. An advert should be prepared for the Journal and the electronic ledger and OPTICS updated. A ‘clear records’ proforma on word is used as a check list and to inform Publishing Section of the actions to be taken.

File note is created in Word and imported using manual import (doc code is FILE NOTE-LIT).

Final advert

24.23 A final advert should be prepared for the PDJ. This advert should be copied to the Journal folder on the H drive and a copy placed in the Journal file. The advert will appear in the Journal 3 weeks from the first Wednesday after the advert is prepared and submitted to publishing.

Advert is created in Word and imported using manual import (doc code is ADVERT).

Electronic Ledger

24.24 The relevant entry in the electronic ledger under section 117 should be updated to show the outcome of the request and the date of the clear records action.

Optics entry

24.25 A free text entry should be made on OPTICS using the REG ENT option as follows:-

Request for correction under Section 117 filed on XX.XX.XX allowed on XX.XX.XX.

24.26 Deleted.

Case referred to Publishing Section

24.27 For GB cases, the Publishing Section of the Clear Records sheet should be completed with actions taken. A request is made for a 'C' specification. If the C specification was corrected, then a C2 is requested.

24.28 To refer a case to Publishing, create, lock and import a minute from PROSE (doc code is MINUTE-LIT), then create and send a "PSM – s117 allowed. Please see cert for details of correction and prepare C spec" message to the

Publishing team mailbox.

- 24.29 For EP cases, the corrected BDOC and the certificate should be printed from PECS. The certificate should be attached to the back of the BDOC and placed in a red publishing file, with an appropriate minute to Publishing. The publishing file should then be referred to Publishing section for production of the C specification. If the C specification was corrected, then a C2 is requested. The A3 should complete the Publishing template on the H drive, in order to monitor the file travelling to and from Publishing.
- 24.30 On return of the publishing file from Publishing Section, the A3 will arrange for the minute, BDOC and CDOC to be scanned onto the dossier by Index and Scanning section and the red publishing file to be destroyed.
- 24.31 Deleted.

FORMALITIES COMPLIED WITH - CORRECTIONS OF BIBLIOGRAPHIC DETAILS

- 24.32 The following procedure relates to correction of the bibliographic details where all formalities have been complied with.

Initial Advert

- 24.33 Prepare an initial advert. Refer to 24.08

Referring the Request

- 24.34 Corrections to the bibliographic details should be referred to the B2. The minute sheet should be prepared as follows:-

Case referred for report under Section 117 of the 2007 Act (see para 117.14 MOPP). The request is (give explanation of what requires correcting and what it should be corrected to. Explain what evidence, if any, has been

filed and whether you consider the correction may be allowed).

The correction should be/not be advertised (recommend whether you think the correction should be advertised due to the nature of the correction).

For your consideration

To refer a case to a B2, create, lock and import a minute from PROSE (doc code is MINUTE-LIT), then create and send a “PSM – New s117” message.

B2 Report For GB and EP(UK) Patents

24.35 The request will be considered by the B2. The B2 will take into account whether it is clear that an error has occurred. If there are doubts, further explanation of the nature of the error or evidence may be required to support the request. Refer to 24.10.

CORRECTION OF BIBLIOGRAPHIC DETAILS ARE *PRIMA FACIE* ALLOWABLE

24.36 The report will state whether the correction is considered *prima facie* allowable and will advise whether it needs to be advertised in full. If advertisement is not necessary the B2 should update Optics, allowing the correction and then refer the case back to the Ex-Parte Team to produce a certificate, apply the B2's electronic signature and clear records (refer to 24.40). If the report states that the corrections are not allowed, refer to 24.77

24.37 Where the corrections needs to be advertised, an advert is prepared for the Journal with the heading *Request now open to Opposition* An example of an advert of a bibliographic correction can be seen in annex 3. The advert is placed in the Journal folder on the H drive and a copy placed in the Journal file. The opposition period will last four weeks from the date of the published advert

Advert is created in Word and imported using manual import (doc code is

ADVERT).

- 24.38 A standard letter s117a (see annex 5) is sent to the applicant's attorney notifying the applicant of the date of the Journal advert and advising of the four week opposition period. A file note should be prepared as follows:

Official letter sent to attorney on XX.XX.XX. Full advert prepared for Journal dated XX.XX.XX. B/F for four weeks and 2 weeks from the date of advert for opposition (always to a Wednesday). Update DiaryL.

Letter created, locked and imported from PROSE

File note is created in Word and imported using manual import (doc code is FILE NOTE-LIT).

- 24.39 If opposition is filed refer to 24.94. If no opposition is filed proceed to request the B2 to update Optics with the allowed bibliographic details. A minute should be prepared as follows:-

No opposition has been received. Please update Optics with the allowed corrections to the bibliography.

Create, lock and import minute from PROSE (doc code MINUTE-LIT), then create and send a "PSM – s117 no opposition filed , please update Optics and authorise electronic signature"

APPLY CORRECTIONS & CERTIFICATES

- 24.40 On a GB patent, the correction will apply to the front page of the A and B specification. On an EP patent, the correction will apply to the front page of the BDOC only.

24.41 Deleted.

24.42 Deleted.

24.43 For corrections to GB bibliography details

For corrections to the bibliography details on a GB patent, the abstract and the A Pub drawings annotated “P” and “Working Copy” are cloned from the Pre-Grant part of the dossier into the Litigation section of the dossier. The publication status is then changed to “C”. This enables Publishing section to extract all the documents required to produce an erratum. It should be noted that the abstract and drawings are required for the electronic publishing process only and will not be corrected as part of the corrections to the bibliography.

The certificate is completed and the electronic signature applied. This should then be pasted into a Word document. and imported into the dossier using manual import (doc code CERTIFICATE).

24.44 For corrections to EP bibliography details

For corrections to the bibliography details on an EP patent, if the corrections cannot be applied using enhance or assemble, a copy of the front page of the BDOC should be printed from the dossier and the corrections applied manually. The corrected front page of the BDOC should then be scanned onto the dossier by Index and scanning section. A file note is prepared as follows:-

Corrections applied to BDOC and sent to Index and Scanning

PROPRIETOR NOTIFIED CORRECTION ALLOWED

24.45 A section 117c letter and a copy of the DIS CUR (see annex 6) should be issued by the A3 notifying the applicant that the corrections advertised have been allowed and that a copy of the EP erratum will be forwarded in due

course by Publishing section. For GB erratums, the proprietor is notified that the erratum will be available to view online (See Annex 14). The date the correction was allowed is the date that the B2 updated the register with the correct details.

The certificate should be pasted in to a Word document, B2 electronic signature applied and the certificate imported using manual import (doc code is CERTIFICATE).

24.46 The following file note should be prepared as follows:-

Corrections allowed on XX.XX.XX (date of register entry). O/L issued (insert date). Clear records.

Letter created, locked and imported from PROSE.

File note is created in Word and imported using manual import (doc code is FILE NOTE-LIT).

CLEAR RECORDS – CORRECTION TO BIBLIOGRAPHIC DETAILS ALLOWED

24.47 For clear records action refer to 24.22 – 24.24.

However, note that no OPTICS entry is required as the B2 will have already performed this action

Case referred to Publishing Section

24.48 For GB cases, the Publishing Section of the Clear records sheet should be completed with actions taken. A request is made for an erratum. Publishing Section should be informed of the precise nature of the correction e.g. the original and the corrected name of the proprietor should be given.

To refer a case to Publishing, create, lock and import a minute from PROSE (doc code is MINUTE-LIT), then create and send a “PSM – s117 allowed, please prepare an erratum” message to the Publishing team mailbox.

24.49 For EP cases, the corrected BDOC and the certificate should be printed from PECS. The certificate should be attached to the back of the BDOC and placed in a red publishing file, with an appropriate minute to Publishing. The publishing file should then be referred to Publishing section for production of the erratum. The A3 should complete the Publishing template on the H drive, in order to monitor the file travelling to and from Publishing section.

24.50 On return of the publishing file from Publishing Section, the A3 will arrange for the minute, erratum and the BDOC to be scanned onto the dossier by Index and Scanning section and the red publishing file to be destroyed.

24.51 (Deleted)

24.52 (Deleted)

FORMALITIES NOT COMPLIED WITH

New attorneys - if the applicant is the proprietor

24.53 If the applicant for correction is the proprietor and new attorneys have been supplied on the request, a Patents Form 51 is required. However if the new attorneys are only authorized to act with regard to the correction only, no form is necessary. Only correspondence relating to the correction will be sent to the attorney named on the request and the address for service on the register will remain the same.

Evidence

24.54 Evidence may be required to establish that the correction offered is what was originally intended.

For bibliographic corrections, in the case of a corporate body wishing to correct its name, for example, the comptroller may request evidence in the form of a document from the appropriate companies registration authority,

such as a certificate from Companies House for an incorporated company in the UK, a State Certificate for the USA or an extract from the Handels register for Germany.

- 24.55 If the comptroller has doubts about a correction he may require evidence demonstrating that what is proposed was the applicant's intention at the time of filing. A copy of the applicant's instructions to his attorney, for example, or sworn evidence, may suffice.
- 24.56 Where insufficient evidence has been filed, or where copies of documents referred to on the request have not been supplied, the applicant should be asked to file further evidence or the missing documentation in accordance the Patents Rules 2007.
- 24.57 Generally, evidence will not be required to correct a spelling error in the inventor's name or when correcting the state of incorporation. The A3 may proceed to apply the appropriate corrections and certificates prior to referring the request to the B2 for OPTICS actions and authorisation to apply the electronic signature. Refer to 24.40 for applying corrections and certificates.

EP opposition period

- 24.58 A European patent (UK) has a nine month opposition period during which opposition proceedings may be filed and the patent may be amended/corrected before the EPO as part of such proceedings. The opposition period commences once the patent is mentioned in the European Patent Bulletin as granted. This date can be found on the OPTICS.

Opposition Period has not expired and/or opposition proceedings are pending

- 24.59 Where the opposition period has not yet expired and/or opposition proceedings are pending an applicant may write to inform us that he is aware of the situation but wishes to proceed regardless. Applicants are usually aware that the corrections may be negated as a result of subsequent correction before the EPO. The case should be referred to the Deputy Director/B2 as appropriate, and should contain the following minute:

Although the opposition period has not yet expired/the opposition proceedings are pending (delete as appropriate), the attorneys state in their letter dated XX.XX.XX, that they wish to proceed regardless. Case referred for report under Section 117 of the 1977 Act (see para 117.14 MOPP).

Create, lock and import minute from PROSE (doc code MINUTE-LIT), then create and send a “PSM – s117” message to the DD/B2.

24.60 Where the applicant has not sent us a letter acknowledging that the opposition period has not yet expired and/or opposition proceedings are pending, a standard letter s117c (see annex 2) is issued giving the applicant the option of either:

- staying the request until the opposition period has expired or the opposition proceedings have been settled or
- proceeding with the request under Section 117 on the understanding that the desired correction may be negated as a result of the subsequent correction before the EPO.

24.61 The minute should be prepared as follows:-

Official letter issued to attorney on XX.XX.XX. B/F for 1month (always to a Wednesday).

24.62 Section 117(B) of The Patents Act 1977 provides for an additional automatic extension of two months, for periods specified by the Office. This may be applied for retrospectively. As a result, the case should be diaried for 1 month and a further two months from the date of the letter. DiaryL should also be updated.

Letter created, locked and imported from PROSE.

File note is created in Word and imported using manual import (doc code is FILE NOTE-LIT).

Response to official letter - opposition period

24.63 The response to the Official letter is scanned onto PECS by Index and Scanning and then referred to the Deputy Director/B2 with one of the following minutes according to the nature of the reply.

If the applicant wishes to stay:

24.64 To note: *Attorneys have replied to Official Letter dated XX.XX.XX and have asked to stay the proceedings till the opposition period has expired or the proceedings have been settled. I shall diary the case until the opposition period has expired or until the opposition proceedings have been settled.*

Create, lock and import minute from PROSE (doc code MINUTE- LIT), then create and send a “PSM – Correction stayed” message to DD/B2. Update DiaryL.

24.65 The EP Register should be checked every 6 months for updates on the opposition proceedings. Once these have expired, the case should be referred to the Deputy Director/B2 with a minute as follows:

Case referred for report under Section 117 of the 1977 Act (see para 117.14 MOPP).

Create, lock and import minute from PROSE (doc code MINUTE-LIT), then create and send a “PSM – s117” message to DD/B2.

If the applicant wishes to proceed:

24.66 To note: Attorneys have replied to Official Letter dated XX.XX.XX and have asked to proceed with the correction. Case referred for report under Section 117 of the 1977 Act (see para 117.14 MOPP).

Create, lock and import minute from PROSE (doc code MINUTE-LIT), then create and send a “PSM – s117” message to DD/B2.

Is the request an Amendment or a Correction?

24.67 The request should be checked to see that the applicant has applied the term "correction" in the correct manner (see Chapter 17 for a description of what constitutes an amendment). If it appears that the application is an amendment rather than a correction, the case should be minuted to the appropriate Deputy Director for consideration.

Create, lock and import minute from PROSE (doc code MINUTE-LIT), then create and send a “PSM – s117” message to DD.

Has the patent been granted?

24.68 A request for correction cannot be actioned by Litigation Section until the granted patent has been published in the Journal or the EP Bulletin. The status of the patent should be checked on OPTICS.

GB cases

24.69 Using DIS FUL, a printout should be obtained. This will show two dates in connection with the granting of the patent. The first relates to when the applicant was notified by the Formalities Section that the patent was to be granted. The second gives the date when the notice of the grant is published in the Journal.

24.70 If the request is filed before the first date ie no notification of a grant letter has been sent by Formalities, the request for correction should be referred to the appropriate Formalities Section.

24.71 Where the request is filed between the two dates, the applicant should be informed that the request has been filed too early and that the Office will

therefore stay the proceedings until the notice of grant has been published in the Journal. The request for correction will be taken to have been filed on the day the notice is published in the Journal.

EP cases

- 24.72 Using DIS FUL, a printout should be obtained. This will show the date the patent was published as granted in the EP Bulletin.
- 24.73 If the request is filed before this date, the applicant should be informed that the request has been filed too early and the Office will therefore stay the proceedings. The request for correction will be taken to have been filed on that date that the notice is published in the bulletin.
- 24.74 If a European patent (UK) has already been corrected before the EPO, the comptroller will not consider a request for identical corrections. Therefore the request under section 117 with regard to those corrections is not necessary.

Applicant has applied to the EPO for Correction

- 24.75 Where the request is a correction of bibliographic details and the applicant has already applied to the EPO for the correction, the request should be stayed pending the outcome. If the request is successful, the correction will apply to all designated states. The case should be referred to the Register Admin section with the relevant EPO form to action. The request should be treated as not proceeded with, on the directions of the B2.

To refer a case to Register Admin, create, lock and import a minute from PROSE (doc code is MINUTE-LIT), then create and send a "PSM – EPO Correction" message.

Outstanding Revocation action

- 24.76 Whilst revocation action of a patent is still pending, it is for the comptroller to

decide whether the application to correct under section 117 is to be stayed or resolved (see MOPP 117.16). The case should be referred to the Deputy Director/B2 indicating that there is outstanding revocation action and asking for directions.

Create, lock and import minute from PROSE (doc code MINUTE-LIT), then create and send a “PSM – s117” message to the DD/B2.

PROBLEMS ARISING FROM REFERRING THE REQUEST TO DEPUTY DIRECTOR/B2

Corrections not *prima facie* allowable

24.77 The Deputy Director's/B2's report will give reasons why any correction or group of corrections are not regarded as allowable. These will be set out in a minute presented in a suitable letter format and should be sent to the applicant.

24.78 The letter is prepared with a formal heading and should include the Deputy Director's/B2's report together with his/her name and telephone number as follows:

With reference to the above, the examiner (Mr/Mrs ext) reports that(.insert report).

24.79 The file should be B/F for 2 months unless otherwise specified by the Deputy Director/B2. Section 117(B) of the Patents Act 1977 provides for an additional automatic extension of two months. This may be applied for retrospectively. As a result, the case should be diared for 2 months and a further two months from the date of the letter. DiaryL should also be updated.

Letter created, locked and imported from PROSE.

File note is created in Word and imported using manual import (doc code is FILE NOTE-LIT).

24.80 Any further corrections received in response to the official letter should be scanned onto PECS by Index and Scanning section and annotated with the date the corrections were filed.

24.81 The case should then be referred back to the Deputy Director/B2 with the following minute:

Attorneys have replied to the official letter dated XX.XX.XX and have stated in their letter dated that (insert summary of letter to help the examiner). For your consideration.

Create, lock and import minute from PROSE (doc code MINUTE-LIT), then create and send a “PSM – s117” message.

24.82 A new report will be produced and sent to the applicant until a set of corrections are considered *prima facie* allowable.

24.83 If an agreement cannot be reached, the Deputy Director/B2 will offer a hearing subject to advertisement of the proposed corrections. He/she will ensure it is clear that the allowability of the corrections have not yet been determined. An appropriate letter will be drafted by the Deputy Director/B2 and issued by the A3. If a hearing is subsequently requested, the case should be referred to the Hearings Clerk who will allocate a Hearing Officer.

Letter created, locked and imported from PROSE.

File note is created in Word and imported using manual import (doc code is FILE NOTE-LIT).

To refer to the Hearing Team, create, lock and import minute from PROSE (doc code MINUTE-LIT), then create and send a “PSM – set up hearing” message

Corrections not proceeded with

24.84 A request may be considered but not proceeded with for the following

reasons:

- the applicant fails to file the request correctly
- the request is an amendment rather than a correction
- the applicant fails to respond to official letters
- the correction is allowed by the EPO, and therefore already applies to the European patent (UK)

24.85 If the Deputy Director/B2 considers a request should be regarded as not proceeded with, he/she will import a minute onto PECS advising that the applicant be informed and the Journal and Register updated.

24.86 The A3 should issue an official letter to the applicant informing them of the Deputy Director's /B2's decision. Records are now cleared. Refer to 24.89

Letter created, locked and imported from PROSE.

File note is created in Word and imported using manual import (doc code is FILE NOTE-LIT).

Withdrawal of a request

24.87 Any request to withdraw should be referred to the Deputy Director/B2 for consideration. The minute note should read as follows:

Attorneys letter received on XX.XX.XX. The attorneys wish to withdraw the request. For your consideration.

Create, lock and import minute from PROSE (doc code MINUTE-LIT), then create and send a "PSM – S117 Withdrawal" message to DD.

24.88 If the withdrawal is allowed, the applicant should be informed by letter. Records are now cleared. Refer to 24.89

Letter created, locked and imported from PROSE.

File note is created in Word and imported using manual import (doc code is

FILE NOTE-LIT).

CLEAR RECORDS – NOT PROCEEDED WITH/NOT ALLOWED/WITHDRAWN

24.89 Once the applicant has been informed of the outcome of the request clear records action may be undertaken. An advert should be prepared for the Journal and the electronic ledger and OPTICS updated. The dossier should be updated with all actions taken.

Final advert

24.90 An advert should be drafted manually corresponding with the decision or directions of the Deputy Director/B2. The advert should be copied to the Journal folder on the H drive and a copy placed in the Journal file.

Advert is created in Word and imported using manual import (doc code is ADVERT).

File note is created in Word and imported using manual import (doc code is FILE NOTE-LIT).

Electronic Ledger

24.91 The relevant entry in the electronic ledger under section 117 should be updated to show the outcome of the request and the date of the clear records action.

OPTICS entry

24.92 A free text entry should be made on OPTICS indicating the outcome of the request. Using the REG ENT facility, type in wording corresponding to the outcome of the decision eg:

Request for correction under Section 117 filed on XX.XX.XX not proceeded with/not allowed/withdrawn on XX.XX.XX.

24.93 (Deleted)

OPPOSITION FILED FOLLOWING ADVERTISEMENT

24.94 Notice of opposition should be received on Patents Form 15 and filed within four weeks of the date of the full advertisement in the Journal, of the *prima facie* allowable corrections. This period may not be extended.

24.95 Upon receiving any opposition, the case should be referred to the B2, with an appropriate minute. The opposition initiates *inter partes* proceedings.

Create, lock and import minute from PROSE (doc code MINUTE-LIT), then create and send a “PSM – Opposition filed” message to B2.

EXTENSION OF TIME

24.96 Where official letters have been sent to the applicant for the correction, extension of time requests may be received. These should be referred to the Deputy Director/B2 with the following minute:

The attorney by phone/fax/letter on/dated XX.XX.XX has requested an extension of time. Please advise whether the request for extension is allowable.

Create, lock and import minute from PROSE (doc code MINUTE-LIT), then create and send a “PSM – EOT request” message.

24.97 The applicant should be advised of the Deputy Director's/B2's decision and a note of the action taken added to the dossier.

Letter created, locked and imported from PROSE.

File note is created in Word and imported using manual import (doc code is FILE NOTE-LIT).

24.98 An extension to the four week opposition period is **not** allowed.

ANNEX 1

INITIAL ADVERT

Section 117

Correction of Errors in Patents and Applications

Request made for Correction of Error

In the event that the Comptroller requires notice of the proposed correction to be advertised in accordance with Rule 75(1) then details of the proposed correction will be advertised later.

Patent Number *PROPRIETORS NAME*

Title

*Request for correction under Section 117 filed on
XX.Xxxx.XXXX*

ANNEX 2

***** Patents Directorate
c/o Concept House
Cardiff Road, Newport
South Wales NP10 8QQ

Direct Line: 01633 81xxxx
E-mail: *****
Switchboard: 01633 814000
Fax: 01633 814491
Minicom: 08459 222250
DX: 722540/41 Cleppa Park 3
Internet: www.ipo.gov.uk

Your Reference:
Our Reference: 3Y31/Name/File Reference

Date

Dear Sirs

Patent number: GB/EP xxxxxxx (Proprietors Name)
Request for correction under section 117 of the Patents Act 1977

I refer to your request for correction filed on xx Xxxxxx xxxx.

You are advised that the nine month period allowed to oppose the European Patent (UK) has not yet expired. In these circumstances there are two options available to you.

- a. staying the request until the opposition period has expired or the opposition proceedings have been settled, or
- b. proceeding with the request to correct under Section 117 on the understanding that the desired correction may be negated as a result of subsequent amendment before the EPO.

Please see paragraph 117.11 of the Manual of Patent Practice.

You should advise me of your decision by xx Xxxxxx xxxx.

Yours faithfully

Your Name
Litigation Section
Patents Directorate

ANNEX 3

FULL ADVERT BIBLIOGRAPHIC CORRECTION

Section 117

Correction of Errors in Patents and Applications

Request now open to Opposition

Any person may give notice of opposition to the undermentioned Request by filing Patents Form 15 within four weeks from the date of publication of this Journal. If no notice of opposition is received, the correction will be allowed by the Comptroller in the present advertised form.

NB. The paging referred to is that of the printed specification

GB/EPxxxxxxx *PROPRIETORS NAME*

Title

The proposed corrections are as follows:

Front Page Code 72 *Delete* Cedric Lynch
Insert Cedric Lyon

ANNEX 4

FULL ADVERT CORRECTION OF THE SPECIFICATION

Section 117

Correction of Errors in Patents and Applications

Request now open to Opposition

Any person may give notice of opposition to the undermentioned Request by filing Patents Form 15 within four weeks from the date of publication of this Journal. If no notice of opposition is received, the correction will be allowed by the Comptroller in the present advertised form.

NB. The paging referred to is that of the printed specification

GB/EPxxxxxxx *PROPRIETORS NAME*

Title

The proposed corrections are as follows:

Page 28 Line 31 *Insert* 19. A kit according to Claim 13, 14, 15, 16, 17 or 18, which further comprises a reattorney for releasing adenylate nucleotides from the interior of the cells.

ANNEX 5

c/o

**Patents Directorate
Concept House
Cardiff Road, Newport
South Wales NP10 8QQ**

Direct Line: 01633 81xxxx
E-mail: *****
Switchboard: 01633 814000
Fax: 01633 814491
Minicom: 08459 222250
DX: 722540/41 Cleppa Park 3
Internet: www.ipo.gov.uk

Your Reference:
Our Reference: 3Y31/Name/File Reference

Date

Dear Sirs

Patent number: GB/EP xxxxxxx (Proprietors Name)
Request for correction under section 117 of the Patents Act 1977

I am writing to inform you that your request for correction will be advertised for opposition in the Patents and Designs Journal xx Xxxxx xxxx.

A four week period from the date of advertisement will be allowed for any opposition to the proposed correction.

Yours faithfully

Your Name
Litigation Section
Patents Directorate

ANNEX 6

c/o

**Patents Directorate
Concept House
Cardiff Road, Newport
South Wales NP10 8QQ**

Direct Line: 01633 81xxxx

E-mail: *****

Switchboard: 01633 814000

Fax: 01633 814491

Minicom: 08459 222250

DX: 722540/41 Cleppa Park 3

Internet: www.ipo.gov.uk

Your Reference:

Our Reference: 3Y31/Name/File Reference

Date

Dear Sirs

Patent number: *EP xxxxxxx* (*Proprietors Name*)

Request for correction under section 117 of the Patents Act 1977

I am writing to inform you that the correction requested on xxXXxx has been allowed. I enclose a copy of the current patent register for your information.

The correction will be published as a C specification or in the form of an erratum slip. A copy will be forwarded to you by our Publishing Section (Tel No. 01633 814876) in due course.

Yours faithfully

Your Name
Litigation Section
Patents Directorate

ANNEX 7

SECTION 117 CERTIFICATES AVAILABLE

CORRECTION OF THE SPECIFICATION

Certificate for the specification:

The corrections shown in red ink on pages () of this specification were made under Section 117 of the Patents Act 1977, the proprietor of the Patent having been notified of the decision to allow the correction on ()

Deputy Director
Acting for the Comptroller

CORRECTION OF BIBLIOGRAPHIC DETAILS

Certificate for the Form 10, 9, 7 and/or 1:

The correction shown in red ink on page of this form was made under Section 117 of the Patents Act 1977 on

Acting for the Comptroller

Certificate for the specification (although correction on front page certificate goes on the last page containing written text):

The corrections shown in red ink on pages () of this specification were made under Section 117 of the Patents Act 1977, the proprietor of the Patent having been notified of the decision to allow the correction on ()

Acting for the Comptroller

ANNEX 8

CLEAR RECORDS SHEET

Reference **GB/EP xxxxxxxx**

1. Clear Records

DATE	xx/xx/xx
Journal	xx Xxxxx xxxx
RECORD BOOK	√
OPTICS	√

Records Cleared By
Your Name Room: 3Y31 Ext: xxxx

2. Publishing Section

FOR A GB BIBLIOGRAPHIC CORRECTION:

Correction allowed under Section 117.

Please prepare erratums for both the A & B specs with the allowed corrections.

These are

FOR AN EP BIBLIOGRAPHIC CORRECTION

Correction allowed under Section 117.

Please prepare an erratum for the B spec with the allowed corrections.

These are

FOR A CORRECTION OF THE SPECIFICATION:

Correction allowed under Section 117.

Please prepare a C specification or erratum.

ANNEX 9

FINAL ADVERT CORRECTIONS ALLOWED

Section 117

Correction of Errors in Patents and Applications

Case decided by the Comptroller

Corrections Allowed

GB/EPxxxxxxx

PROPRIETORS NAME

Title

Request for Correction under Section 117 filed on xx
Xxxxxx xxxx allowed on xx Xxxxxx xxxx.

ANNEX 10

c/o

**Patents Directorate
Concept House
Cardiff Road Newport
South Wales NP10 8QQ**

Direct Line: 01633 81xxxx
E-mail: xxxxxxxxxxxx
Switchboard: 01633 814000
Fax: 01633 814491
Minicom: 08459 222250
DX: 722540/41 Cleppa Park
Internet: www.ipo.gov.uk

Your Reference:
Our Reference: 3Y31/Name/File Reference

Date

Dear Sirs

Patent number: EP xxxxxx (Proprietors Name)
Request for correction under Section 117 of the Patents Act 1977.

Latest date for reply xx xx xx

I refer to your request for correction filed on xx. Xxxxx. Xxx .

On checking the European Patent Office register, it appears that you have filed an application to centrally limit your patent at the EPO. In these circumstances there are two options available to you

- a. staying the request until the conclusion of the central limitation process, or
- b. proceeding with the request to correct under Section 117

You should advise me of your decision regarding the above by xx. Xxxxx. xxxx .

Yours faithfully

Your Name
*Litigation Section
Patents Directorate*

ANNEX 11

c/o

**Patents Directorate
Concept House
Cardiff Road, Newport
South Wales, NP10 8QQ**

Direct Line: 01633 81xxxx
E-Mail: xxxxxxxxxxxx
Switchboard: 01633 814000
Fax: 01633 814491
Minicom: 08459 222250
DX: 722540/41 Cleppa Park 3
Internet: www.ipo.gov.uk

Your reference:

Our reference: 3Y31/Name/File Reference

Date

Dear Sirs

Patent Number : xxxxxxx (Proprietors Name)

Request for correction under Section 117 of the Patents Act 1977

I am writing to inform you that the correction requested on xxXXxx will not proceed as the European Patent Office has already allowed the correction on xxXXxx.

The European Patent Office will contact us in due course and our Patents register will be updated accordingly.

Yours faithfully

Your Name
Litigation Section
Patents Directorate

ANNEX 12

c/o

**Patents Directorate
Concept House
Cardiff Road Newport
South Wales NP10 8QQ**

Direct Line: 01633 81xxxx
E-mail: xxxxxxxxxxxxxxxx
Switchboard: 01633 814000
Fax: 01633 814491
Minicom: 08459 222250
DX: 722540/41 Cleppa Park
Internet: www.ipo.gov.uk

Your Reference:
Our Reference: 3Y31/Name/File Reference

Date

Dear Sirs

Patent number: xxxxxxx (Proprietors Name)
Request for correction under Section 117 of the Patents Act 1977.

Latest date for reply xxXXxx

I refer to your request for correction filed on xxXXxx.

In order to correct the specification of the above patent under Section 117, please provide a clean version of the retyped specification/pages [] incorporating the allowed corrections.

Yours faithfully

Your Name
Litigation Section
Patents Directorate

ANNEX 13

c/o

**Patents Directorate
Concept House
Cardiff Road, Newport
South Wales, NP10 8QQ**

Direct Line: 01633 81xxxx
E-Mail: xxxxxxxxxxxx
Switchboard: 01633 814000
Fax: 01633 814491
Minicom: 08459 222250
DX: 722540/41 Cleppa Park 3
Internet: www.ipo.gov.uk

Your reference:

Our reference: 3Y31/Name/File Reference

Date

Dear Sirs

Patent Number : xxxxxx (Proprietors Name)

Request for correction under Section 117 of the Patents Act 1977

I am pleased to inform you that the correction requested on xxXXxx has been allowed.

All amendments of GB patents will eventually be published as a C specification. These documents will be available for you to view and download on our website via the Patents Publication Enquiry Service:

<http://www.ipo.gov.uk/types/patent/p-os/p-find/p-find-publication.htm>

Yours faithfully

Your Name
Litigation Section
Patents Directorate