

PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1883 TO 1888.

Form I.

PATENT.

FORM OF OPPOSITION TO COMPULSORY GRANT OF LICENCE.

* Here state *
name and full
address.

hereby give notice of objection to the application of _____

for the compulsory grant of a Licence under a Patent No. _____
of 188_____

(Signed) _____

To the COMPTROLLER,
Patent Office, 25 Southampton Buildings,
Chancery Lane, London, W.C.

PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1883 TO 1888.

Form J.

APPLICATION FOR CERTIFICATE OF PAYMENT OR RENEWAL.

_____ hereby transmit the fee prescribed for the continuation in force of * _____ Patent No. _____, of 18 _____ for a further period of _____

* Here insert name of patentee.

Name † _____

† Here insert name and full address.

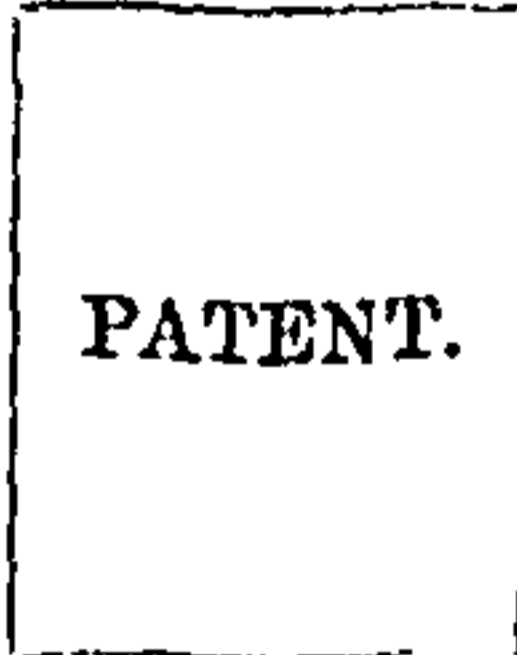
Address _____

To the COMPTROLLER,
Patent Office, 25 Southampton Buildings,
Chancery Lane, London, W.C.

(This part of the Form to be filled in at the Patent Office.)

CERTIFICATE OF PAYMENT OR RENEWAL.

Letters Patent No. _____ of 188 _____
_____ 18 _____



This is to certify that _____ did this _____ day of _____ 18 _____, make the prescribed payment of £ _____ in respect of a period of _____ from _____ and that by virtue of such payment the rights of the patentee remain in force.*

* See section 17 of the Patents, Designs, and Trade Marks Act, 1883.



Patent Office, London.

PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1883 TO 1888.

Form K.

PATENT.

FORM OF APPLICATION FOR ENLARGEMENT OF
TIME FOR PAYMENT OF RENEWAL FEE.

SIR,

I hereby apply for an enlargement of time for _____
month in which to make the _____ payment of
£ _____ upon my Patent No. _____
of 188 _____

The circumstances in which the payment was omitted are as

(a) See Rule follows (a):—
49.

I am,

Sir,

Your obedient Servant,

(b) Here in-
sert full
address, to
which receipt
is to be sent.

(b) _____

To the COMPTROLLER,

Patent Office, 25 Southampton Buildings,
Chancery Lane, London, W.C.

PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1883 TO 1888.

Form L.

FORM OF REQUEST TO ENTER NAME UPON THE REGISTER OF PATENTS.

PATENT.

I (a) _____

(a) Or We.
 Here insert name, full address, and description.

hereby request that you will enter (b) _____ name (c) in the Register of Patents:—

(b) My or our.
 (c) Or names.

(d) _____ claim to be entitled (e) _____

(d) I or We.
 (e) Here insert the nature of the claim.

of the Patent No. _____ of 188____, granted to (f) _____

(f) Here give name and address, &c., of Patentee or Patentees.

for (g) _____

(g) Here insert title of the invention.

by virtue of (h) _____

(h) Here specify the particulars of such document, giving its date, and the parties to the same, and showing how the claim here made is substantiated.

And in proof whereof I transmit the accompanying (i) _____

(i) Here insert the nature of the document.

_____ with an attested copy thereof (j).

(j) Where any document which is a matter of record is required to be left, a certified or official copy in lieu of an attested copy must be left.

I am,
 Sir,
 Your obedient Servant,

To the COMPTROLLER,
 Patent Office, 25 Southampton Buildings,
 Chancery Lane, London, W.C.

PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1883 TO 1888.

Form M.

PATENT.

FORM OF REQUEST TO ENTER NOTIFICATION OF
LICENCE IN THE REGISTER OF PATENTS.

Sir,

I hereby transmit an attested copy of a licence granted to me by _____

under Patent No. _____ of 188____, as well as the original licence for verification, and I have to request that a notification thereof may be entered in the Register.

I am,

Sir,

Your obedient Servant,

(a) Here insert full address.

(a) _____

To the COMPTROLLER,
Patent Office, 25 Southampton Buildings,
Chancery Lane, London, W.C.

PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1883 TO 1888.

Form N.

APPLICATION FOR DUPLICATE OF PATENT.



Date _____

SIR,

I regret to have to inform you that the Letters Patent

dated * _____ No. _____

* Here insert date, No., name, and full address of Patentee.

granted to _____

for an invention of † _____

† Here insert title of invention.

have been ‡ _____

‡ Here insert the word "destroyed" or "lost," as the case may be.

I beg therefore to apply for the issue of a duplicate of such Letters Patent.§

§ Here state interest possessed by applicant in the Letters Patent.

[Signature of Applicant.]

To the COMPTROLLER,
 Patent Office, 25 Southampton Buildings,
 Chancery Lane, London, W.C.

PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1883 TO 1888.

PATENT.

Form O.

NOTICE OF INTENDED EXHIBITION OF AN
UNPATENTED INVENTION.

* Here state
name and full
address of
applicant.

hereby give notice of my intention to exhibit a _____

of _____ at the _____

† State
"opened" or
"is to open."

exhibition, which † _____ of _____ 18 _____

under the provisions of the Patents, Designs, and Trade Marks
Act of 1883.

‡ Insert
brief descrip-
tion of inven-
tion, with
drawings if
necessary.

‡ _____ herewith enclose _____

(Signed) _____

To the COMPTROLLER,
Patent Office, 25 Southampton Building,
Chancery Lane, London, W.C.

PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1883 TO 1888.

Form P.

FORM OF REQUEST FOR CORRECTION OF CLERICAL
ERROR.

PATENT.

SIR,

I hereby request that the following clerical error (a) (a) or errors.

in the (b)_____

No. _____ of 18 _____, may be corrected in the manner shown in
red ink in the certified copy of the original (b)_____

(b) Here
state whether
in application,
specification,
or register.

hereunto annexed.

Signature_____

Full Address_____

To the COMPTROLLER,
Patent Office, 25 Southampton Buildings,
Chancery Lane, London, W.C.

PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1883 TO 1888.

PATENT.

Form Q.

CERTIFICATE OF COMPTROLLER-GENERAL.

PATENT OFFICE,
LONDON.

_____ 18_____

I, _____, Comptroller-General of Patents,
Designs, and Trade Marks, hereby certify

* Here insert name and full address of person requiring the information.

To * _____

PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1883 TO 1888.

Form E.

FORM OF NOTICE FOR ALTERATION OF AN ADDRESS IN REGISTER.

PATENT.

SIR,

(a) _____

(a) Here state name or names and full address of applicant or applicants.

hereby request that _____ address now upon the Register may be altered as follows :—

(b) _____

(b) Here insert full address.

Sir,

Your obedient Servant,

To the COMPTROLLER,
Patent Office, 25 Southampton Buildings,
Chancery Lane, London, W.C.

PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1883 TO 1888.

Form S.

PATENT.

FORM OF APPLICATION FOR ENTRY OF ORDER OF
PRIVY COUNCIL IN REGISTER.

(a) Here
state name and
full address of
applicant.

(a) _____

(b) Here
state the pur-
port of the
order.

hereby transmit an office copy of an Order in Council with refer-
ence to (b)

 Sir,

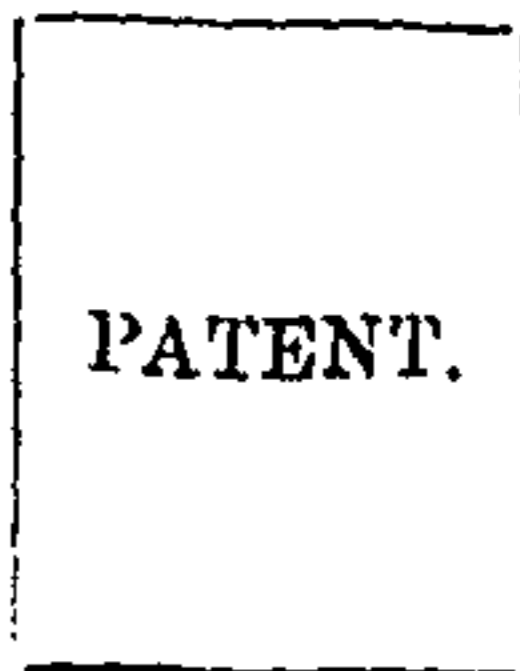
Your obedient Servant,

To the COMPTROLLER,
 Patent Office, 25 Southampton Buildings,
 Chancery Lane, London, W.C.

PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1883 TO 1888.

Form T.

FORM OF APPEAL TO LAW OFFICER.



I, (a) _____ of (a) _____

(a) Here insert name and full address of appellant.

hereby give notice of my intention to appeal to the Law Officer

from (b) _____

(b) Here insert "the decision" or "that part of the decision," as the case may be.

of the Comptroller of the _____ day of _____

18____, whereby he (c) _____

(c) Here insert "refused [or allowed] application for Patent," or "refused [or allowed] application for leave to amend Patent," or otherwise, as the case may be.

No. (d) _____ of the year 18____ (d)

Signature _____

(d) Insert number and year.

Date _____

N.B.—This notice has to be sent to the Comptroller-General at the Patent Office, London, W.C., and a copy of same to the Law Officer's Clerk at Room 549 Royal Courts of Justice, London.

PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1883 TO 1888.

Form U.

PATENT.

FORM OF APPLICATION FOR EXTENSION OF TIME FOR LEAVING A COMPLETE SPECIFICATION.

SIR,

_____ hereby apply for extension of time for one month in which to leave a Complete Specification upon application.

_____ dated _____

The circumstances in and grounds upon which this extension is

(a) See Rule 50. applied for are as follows (a) :— _____

Sir,
Your obedient Servant,
(b) _____

(b) To be signed by applicant or applicants or his or their agent.

To the COMPTROLLER,
Patent Office, 25 Southampton Buildings,
Chancery Lane, London, W.C.

PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1883 TO 1888.

Form V.

PATENT.

FORM OF APPLICATION FOR EXTENSION OF TIME FOR ACCEPTANCE OF A COMPLETE SPECIFICATION.

SIR,

_____ hereby apply for extension of time for _____ month _____ for the acceptance of the Complete Specification upon application No. _____ dated _____

The circumstances in and grounds upon which this extension is applied for are as follows (a):— _____

(a) See Rule 50.

Sir,

Your obedient Servant,

(b) _____

(b) To be signed by applicant or applicants or his or their agent.

To the COMPTROLLER,
Patent Office, 25 Southampton Buildings,
Chancery Lane, London, W.C.

M. E. HICKS-BEACH,
President of the Board of Trade.

31st March 1890.

APPENDICES TO PATENT AGENTS RULES, 1889.

APPENDIX A.

Form 1.

Form of Register.

Name.	Designation.	Address.	Date of Registration.

Form 2.

** Form of Statutory Declaration.*

REGISTER OF PATENT AGENTS RULES, 1889.

I, *A.B.* [*insert full name, and in the case of a member of a firm add,*
 “a member of the firm of _____”] of

_____, in the county of

Patent Agent, do solemnly and sincerely declare as follows :

1. That prior to the 24th December 1888 I had been *bonâ fide* practising in the United Kingdom as a patent agent.

2. That I acted as patent agent in obtaining the following patents :
 [*Give the official numbers and dates of some patents for the United Kingdom in the obtaining of which the declarant acted as patent agent.*]

3. That I desire to be registered as a patent agent in pursuance of the said Act.

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act, 1835.

Declared at

* A printed form of this declaration for use of applicants is now also on sale.

APPENDIX B.

Particulars of Preliminary Examinations.

1. The Matriculation Examination at any University in England, Scotland, or Ireland.
 2. The Oxford or Cambridge Middle Class Senior Local Examinations.
 3. The Examinations of the Civil Service Commissioners for admission to the Civil Service.
-

APPENDIX C.

(List of Fees, see p. 838, post.)

ASSIGNMENT OF LETTERS PATENT
TOGETHER WITH THE BENEFIT OF
FUTURE IMPROVEMENTS.

Parties. THIS INDENTURE, made the day of , 18 ,
BETWEEN A. B., of, &c. (hereinafter called the assignor), of the
one part, and C. D., of, &c. (hereinafter called the assignee),
of the other part. WHEREAS the assignor is the true and
Recitals. first inventor of an invention of [*title of invention*]. AND
True and first WHEREAS by letters patent dated the day of ,
inventor. 18 , and numbered , the sole and exclusive licence and
Patents. authority of making, using, exercising, and vending in the United
Kingdom of Great Britain and Ireland [*in the case of patents*
granted prior to 1884, the Channel Islands] and the Isle of Man the
said invention of improvements in, &c. [*title of invention*], were
granted to the assignor, his executors, administrators, and assigns,
for the term of fourteen years from the day of , 18 ,
subject to a condition for making void the same if the specification
filed by the assignor were not a complete one and otherwise as
therein provided [*or in the case of patents granted prior to 1884,*
subject to the assignor filing a complete specification of the said
Agreement for invention, and otherwise as therein provided]. AND WHEREAS the
sale. assignor has agreed with the assignee to sell to him for the sum of
£ the said invention and letters patent, and the exclusive
benefit thereof, and of all extensions of the said letters patent; and
also (subject to the provisions hereinafter contained) of all improve-
ments or additions to the said invention or discoveries connected with
the manufacture of , whether the same are now known or
shall hereafter become or be made known to the assignor. NOW
Assignment. THIS INDENTURE WITNESSETH, that in pursuance of the
said agreement, and in consideration of the sum of £ paid by
the assignee to the assignor (the receipt whereof the assignor doth
hereby acknowledge), the assignor as beneficial owner doth hereby
assign unto the assignee ALL THOSE the said invention and letters
patent, and the sole and exclusive benefit thereof, and of all exten-
sions thereof, and of all rights, powers, emoluments, and advantages
whatsoever under or in respect of the said letters patent, To HAVE AND
TO HOLD, use, exercise, and enjoy the said invention, letters patent, and

premises unto the assignee, his executors, administrators, and assigns, absolutely. AND the assignor doth hereby covenant with the assignee, his executors, administrators, and assigns, that, notwithstanding any thing by him the assignor done, omitted, or knowingly suffered, the said letters patent are now valid and subsisting, and not void or voidable. AND ALSO that he the assignor will from time to time, after making any improvement in or addition to the said invention, or any discovery in connection with the manufacture of _____, as well all improvements, additions, or discoveries as aforesaid (if any) now known or which may hereafter become or be made known to him, forthwith give notice thereof in writing to the assignee, his executors, administrators, or assigns, who shall be entitled to the sole and exclusive use and benefit thereof. AND ALSO WILL, as and when reasonably required by the assignee, his executors, administrators, or assigns, communicate and explain to him or them, or to his or their agents, such improvement, addition, or discovery, the assignee, his executors, administrators, or assigns, paying all costs, charges, and expenses (if any) thereby actually incurred. AND WILL, at the expense of the assignee, his executors, administrators, or assigns, if he or they shall so require, either alone or conjointly with the assignee, his executors, administrators, or assigns, apply for and obtain letters patent in respect of such improvement, addition, or discovery, and execute and do all such assurances and things as shall be necessary or convenient for vesting the same letters patent, and the sole and exclusive benefit thereof, in the assignee, his executors, administrators, or assigns, as by him or them shall be reasonably required. AND WILL, at the expense of the assignee, his executors, administrators, or assigns, execute and do all such assurances and things as shall be reasonably required for enabling him or them to obtain, hold, and enjoy the exclusive benefit of any extension of the terms comprised in the letters patent hereby assigned, or, as far as practicable, of any term which may be comprised in any letters patent which may hereafter be vested in the assignor, either solely or jointly with the assignee, his executors, administrators, or assigns, according to the covenant in this behalf hereinbefore contained.

Covenant as to validity.

Covenant to assign future improvements.

Covenant to assign extension of terms of patents.

In Witness, &c.

**NON-ASSIGNABLE LICENCE TO USE AND
EXERCISE A PATENTED INVENTION
WITHIN A DISTRICT.**

Parties.

THIS INDENTURE, made the day of , 18 ,
BETWEEN A. B., of, &c. (hereinafter called the licensor), of the one
part, and C. D., of, &c. (hereinafter called the licensee), of the other
part. WHEREAS, by letters patent dated the day of ,
18 , and numbered , the sole and exclusive licence and
authority of making, using, exercising, and vending in the United
Kingdom of Great Britain and Ireland [*in the case of patents granted
prior to 1884, the Channel Islands*], and the Isle of Man the said
invention of improvements, &c. [*title of patent*], were granted to the
licensor, his executors, administrators, and assigns, for the term of
fourteen years from the date thereof [*in the case of patents granted
prior to 1884, from the day of*], subject to the
licensor filing a complete specification of the said invention and
otherwise as therein mentioned], subject to the payment of the
fees, and the conditions for making void the same, as therein pro-
vided. AND WHEREAS the licensor has agreed to grant the licensee
a licence to use and exercise the said invention within the district
hereinafter described, upon the terms hereinafter appearing. NOW
THIS INDENTURE WITNESSETH that in pursuance of the said
agreement, and in consideration of the royalties hereinafter reserved
and made payable to the licensor, and the covenants on the part of the
licensee hereinafter contained, the licensor doth hereby grant unto
the licensee full liberty, licence, power, and authority, within the
district, being [*define the district*], to use and exercise the said inven-
tion during the term of years from the date hereof, and to
sell and dispose of all manufactured according to the said
invention, when and as the licensee shall think fit, for his absolute
use and benefit. AND it is hereby mutually covenanted and agreed
between and by the parties hereto as follows, namely:—

Recital of
grant of
patent.Recital of
agreement for
licence.Grant of
licence.

Covenants.

Payment of
royalties.

1. The licensee shall, and will, pay to the licensor, his executors,
administrators, and assigns, yearly during the said term of
years, and so in proportion for any less time than a year, the sum of
£ , as a fixed or minimum royalty in the nature of rent, by
equal quarterly payments, on the day of , the

day of _____, the _____ day of _____, and the _____ day of _____ in each year, the first of such payments to be made on the _____ day of _____ next; and shall, and will, also pay to the licensor, his executors, administrators, or assigns, in respect of every _____ manufactured by the licensee according to the said invention, in every half-year of the said term, commencing on the _____ day of _____ and the _____ day of _____, the royalty or sum of £ _____, to become due and to be paid at the end of {two calendar months after the expiration of the half-year during which the same shall have been manufactured or made as aforesaid.

2. The licensee shall, and will, at all times during the continuance Accounts. of this licence, keep, at his usual place of business, all proper books of account, and make true and complete entries therein, at the earliest opportunities, of all particulars necessary or convenient for the purposes hereof, of all _____ manufactured or made by him according to the said invention, and produce the said books to the licensor, his executors, administrators, or assigns, or his or their agent, at all reasonable times, for inspection and the taking of copies or extracts therefrom; and shall, and will, at his, the licensee's, own expense, obtain and give to the licensor, his executors, administrators, or assigns, or his or their agent, all such information as to any item or matter contained, or which ought to be contained, therein as shall be reasonably required.

3. The licensee shall, and will, at the end of each half-year in the Statements of first paragraph mentioned, deliver or send to the licensor, his execu- accounts. tors, administrators, or assigns, a statement in writing of the number of _____ manufactured or made by the licensee in such half-year, and the amount of royalties payable in respect thereof, as in the first paragraph mentioned; and will, if and when required by the licensor, his executors, administrators, or assigns, but at the expense of the licensee, verify, or procure some suitable person in his employ to verify, the said statement, or any part or parts thereof, by statutory declaration.

4. The licensor, his executors, administrators, or assigns, shall be Inspection at liberty, at any time during the continuance of this licence, to enter of premises. upon any factory or place of business of the licensee in which the manufacture of _____ shall be carried on, at any reasonable hour of the daytime, to inspect the same, and the works thereof, and all _____ manufactured, or in course of manufacture, in such factory or place.

5. The licensor shall, and will, whenever so required, give to the Assistance licensee such assistance and information respecting the said invention from licensor. and the mode of working the same, and all processes connected there-

with, as may be necessary for enabling him to use and exercise the said invention to the greatest advantage.

Infringements. 6. In the event of the said letters patent being infringed during the continuance of this licence, the licensor, his executors, administrators, or assigns, shall, and will, after notice of such infringement, at his or their own costs, take all necessary proceedings for effectually protecting and defending the same; and in default of his or their so doing, the licensee shall be at liberty, by notice in writing given to or left at the usual or last known place of business or residence of the licensor, his executors, administrators, or assigns, to determine this licence.

Validity of patent. 7. The licensee shall not at any time during the continuance of this licence dispute the validity of the said letters patent.

Alienation. 8. The licensee shall not, without the written consent of the licensor, his executors, administrators, or assigns, first had and obtained, assign, mortgage, charge, or grant sub-licences in respect of, or otherwise deal or part with the possession or control of, this licence, or attempt so to do.

Termination. 9. This licence may be determined at any time after the first six calendar months by either party, on giving to the other party, or leaving at his usual or last known place of business or residence, three calendar months' previous notice in writing of his intention so to do; and, at the expiration of such notice, these presents, and all covenants, agreements, and provisions therein contained, shall cease and be void, but without prejudice to the remedies of either party for the recovery of any moneys then due to him hereunder.

In Witness, &c.

MORTGAGE OF LETTERS PATENT.

THIS INDENTURE, made the day of , 18 , Parties.

BETWEEN A. B. (hereinafter called the mortgagor, which expression shall include his executors, administrators, and assigns where the context so admits), of the one part, and C. D. (hereinafter called the mortgagee, which expression shall include his executors, administrators, and assigns where the context so admits), of the other part.

WHEREAS the mortgagor was the true and first inventor of certain Recitals.

improvements in, &c. [*title of invention*]. AND WHEREAS, by letters True and first inventor.
patent dated the day of , 18 , and num- Grant of patent.
bered , the sole and exclusive licence and authority of making,

using, exercising, and vending in the United Kingdom of Great Britain and Ireland [*in the case of patents granted prior to 1884, the Channel Islands*] and the Isle of Man the said invention of improvements, &c. [*title of invention*] were granted to the mortgagor for the term of fourteen years [*in the case of patents granted prior to 1884, from the day of , subject to the mortgagor filing a complete specification of the said invention, and otherwise as therein mentioned*] from the date thereof, subject to the payment of the fees and the conditions for making void the same as therein mentioned.

AND WHEREAS the mortgagor has applied to the mortgagee Request for loan.
for a loan of £ , and the mortgagee has agreed to lend to the mortgagor the said sum of £ upon having the repayment thereof, together with interest thereon at the rate hereinafter

mentioned, secured in manner hereinafter appearing. NOW THIS Covenant of repayment.
INDENTURE WITNESSETH, that in pursuance of the said

agreement, and in consideration of the sum of £ now paid by the mortgagee to the mortgagor (the receipt whereof the mortgagor doth hereby acknowledge), the mortgagor doth hereby covenant with the mortgagee that he, the mortgagor, will on the day of next [*first day for payment of interest*] pay to the mortgagee the sum of £ [*the sum advanced*], together with interest for the same in the meantime at the rate of per centum per annum from the date hereof. AND will, in case and so long as the said sum of £ or any part thereof shall remain unpaid, pay to the mortgagee interest for the same at the rate aforesaid by equal half-yearly [*or quarterly*] payments on the

day of _____, &c. [*half-yearly or quarterly days*], in every
Assignment. year. AND THIS INDENTURE ALSO WITNESSETH, that,
 in further pursuance of the said agreement and in consideration
 of the premises, the mortgagor as beneficial owner doth hereby
 assign and transfer unto the mortgagee ALL THAT the said invention
 of improvements in, &c. [*title*], and the said letters patent for the
 same, and the full and exclusive benefit thereof (and of any and
 every improvement, extension, or renewal thereof), and the right to
 apply for and obtain an extension or renewal thereof, and all
Habendum. rights, powers, and benefits to the said invention and letters
 patent, belonging, To HOLD the said invention, letters patent, and
 premises unto the mortgagee, subject to the proviso for redemption
 hereinafter contained. PROVIDED ALWAYS, and it is hereby agreed and
 declared, that if the mortgagor shall pay to the mortgagee the sum
 of £ _____ [*sum advanced*], together with interest for the same at
 the aforesaid rate of _____ per centum per annum, on the _____ day
 of _____ next [*date of first payment of interest*], the mort-
 gagee shall at any time thereafter, upon the request and at the cost
 of the mortgagor, reassign the said premises hereinbefore assigned,
Covenants. to the mortgagor, or as he shall direct. AND the mortgagor doth
 hereby covenant with the mortgagee that he, the mortgagor, will, so
 long as any money shall remain on the security of these presents, pay
 the fees required by law for keeping the said letters patent on foot
 one calendar month at least before the latest time allowed by law for
Payment of payment of the same respectively, and will do all other acts and
fees. things as may be necessary to maintaining the said letters patent,
 and will send or deliver to the mortgagee the receipt for every such
 payment immediately after the same shall have been made. AND
Infringements. FURTHER, that he, the mortgagor, will from time to time, so long as
 any money shall remain on the security of these presents, use his
 best endeavours to discover any infringement now or hereafter to
 be made of the said letters patent, or any extension thereof, and
 communicate to the mortgagee every suspected or ascertained
 infringement aforesaid, and if, and when, required in writing by
 the mortgagee so to do, will either himself commence or take and
 prosecute or defend all legal or other proceedings necessary or
 suitable for the protection of the said letters patent, or the recovery
 of damages for, or restraining, the infringement thereof, or permit
 the mortgagee to take such proceedings, and, in the event of the
 mortgagor taking such proceedings will do everything in his power
 for the purpose of making such proceedings successful, and will,
 whatever the event of any such proceedings, pay on demand the
 costs of the mortgagee (if any) relating thereto, as between solicitor
 and client. AND FURTHER, that in case the mortgagor shall neglect

or refuse to make the payments aforesaid, or any of them, it shall be lawful for the mortgagee to pay the same. AND that all moneys and expenses (if any) paid by the mortgagee for or in respect of any renewal fees or other charges, or any proceedings or other matters aforesaid, together with interest for the same at the rate of per centum per annum from the time, or respective times, of the same having been made or expended, shall be repaid by the mortgagor to the mortgagee on demand, and shall in the meantime, and until repayment thereof, be charged on the premises hereby assigned. PROVIDED ALWAYS, and it is hereby agreed and declared, that at any time, or times, before the mortgagee shall have become entitled to exercise the power of sale vested in him by virtue of these presents and the statute in that behalf, it shall be lawful for the mortgagor himself to use and exercise the said invention without interruption from the mortgagee, and, in the name and as the attorney of the mortgagee, to grant licences for the use of the said invention and letters patent for such periods, and upon such conditions, as he shall think fit, but so that the mortgagor shall not be authorised to enter into any covenants in the name of the mortgagee, or to subject him to any personal liability, and so that no exclusive licence shall be granted without the consent in writing of the mortgagee, and so that on every such licence there be reserved the best rent or royalty that can conveniently be obtained without taking anything in the nature of a fine or a premium. AND it shall be lawful for the mortgagee, at any time, or times, after he shall have become entitled to exercise the power of sale aforesaid, to grant licences for the use of the said invention and letters patent for such periods, and upon such conditions, and in such manner as he may think fit, and in consideration of a sum, or sums, in gross, or any rents or royalties, or otherwise.

Power to mortgagee to pay fees.

Power to mortgagor to use invention.

Licences.

In Witness, &c.

ACTION OF INFRINGEMENT.

INDORSEMENT ON WRIT.(a)

The plaintiff's claim is for damages for the infringement of the plaintiff's patent.

And for an injunction to restrain the defendant from infringing the plaintiff's patent.

ANOTHER FORM.

1. For an injunction to restrain the defendant his servants and agents from infringing the plaintiff's letters patent dated the day of 18 and numbered

2. For damages for such infringement or at the option of the plaintiff an account of all profits derived by the defendant from such infringement.

3. For the delivery up to the plaintiff or the destruction of all articles in the possession of the defendant made in such infringement.

4. For costs.

STATEMENT OF CLAIM.(b)

Infringement. The defendant has infringed the plaintiff's patent No. 14,084 granted for the term of fourteen years from the 21st May 1880 for certain improvements in the manufacture of iron and steel whereof the plaintiff was the first inventor.

Injunction and damages. The plaintiff claims an injunction to restrain the defendant from further infringement and £100 damages.

Particulars of breaches are delivered herewith.

Place of trial Durham.

(Signed)

Delivered

(a) See R. S. C. 1883, Appendix A, part iii. sec. iv.

(b) R. S. C. 1883, Appendix C, Form 6.

ANOTHER FORM.

188 —K—No.

In the High Court of Justice
Queen's Bench Division
[or Chancery Division
Mr. Justice ——]

Writ issued

Between A. B.,

Plaintiff

and

C. D.,

Defendant.

STATEMENT OF CLAIM.

The defendant has infringed the plaintiff's patent No. _____ of Infringement.
A.D. _____ granted for the term of fourteen years from the
day of _____ 18 _____ for certain improvements in
whereof E. F. therein named was the true and first
inventor.

1. The plaintiff claims an injunction to restrain the defendant Injunction,
from further infringement.

2. An inquiry as to the damages sustained by the plaintiff by Damages or
reason of the infringement or at plaintiff's option an account of account.
profits made by the defendant.

3. That the defendant may be ordered to pay to the plaintiff the Payment of
amount so found to be due. amount found
due.

4. That the defendant may be ordered forthwith to deliver up Delivery up,
to the plaintiff to be destroyed all machines or apparatus made in
infringement of the plaintiff's patent.

5. Costs.

Costs.

(Signed)

Particulars of breaches are delivered herewith.

Delivered this _____ day of _____ 18 _____ by
of _____ solicitor for the plaintiff.

ANOTHER FORM.

18 —A—No.

In the High Court of Justice
Chancery Division
Mr. Justice —
[or Queen's Bench Division].

Writ issued

Between A. B.,

Plaintiff

and

C. D.,

Defendant.

STATEMENT OF CLAIM.

Title.

1. The plaintiff is the registered legal owner of the letters patent dated the day of 18 and numbered for an invention of improvement in the manufacture of granted for the term of fourteen years from the date thereof to E. F.

2. The said letters patent were duly assigned to the plaintiff by an indenture dated the day of 18 and made between the said E. F. and the plaintiff. Notice of such assignment was entered on the Register of Patents on the day of 18 since which date the plaintiff has remained the sole registered owner of such letters patent.

Validity.

3. The said letters patent are good and valid and are and have been ever since the grant thereof of full force and effect.

Infringement.

4. Since the day of 18 and prior to the issue of the writ herein the defendant has infringed [or threatened to infringe] the said letters patent and has made sold supplied let on hire and used [or threatened to make sell supply let on hire and use] manufactured according to the invention in respect of which the said letters patent were granted and he threatens and intends to continue to do so unless restrained by the order of this honourable Court.

The plaintiff claims—

Injunction.

1. An injunction to restrain the defendant his servants agents and workmen during the continuance of the said letters patent from manufacturing selling supplying letting on hire or using any manufactured according to

or in the manner described in the complete specification filed previous to the grant of the said letters patent as therein recited or according to or in any manner only colourably differing from the same and generally from infringing the rights of the plaintiff in respect of such letters patent.

2. An account of all gains and profits made by the defendant by the manufacture sale supply letting on hire or use of such manufactured sold supplied let on hire or used by the defendant or by any person or persons by the order or for the use of the defendant and that the defendant may be ordered to pay the amount of such gains and profits to the plaintiff. Account.

3. Damages for the infringement of the said letters patent. Damages.

4. Delivery up to the plaintiff of all such aforesaid as are in the possession or power of the defendant. Delivery up.

5. Costs. Costs as

6. The plaintiff claims full costs charges and expenses as between solicitor and client. In an action brought by the plaintiff against G. H. for infringement of the said letters patent Mr. Justice ——— certified that the validity of the said letters patent came in question. between solicitor and client.

7. Such further or other relief as the nature of the case may require. Further or other relief.

(Signed)

Particulars of breaches [or threatened breaches] are delivered herewith.

Delivered the _____ day of _____ 18____ by _____ of _____ solicitor for the plaintiff.

PARTICULARS OF BREACHES.(a)

18 —A—No.

In the High Court of Justice
Queen's Bench Division
[or Chancery Division
Mr. Justice ———]

Between A. B.

Plaintiff

and

C. D.

Defendant.

(a) As to the objects and requisites of particulars of breaches, see pp. 512-517 ante.

PARTICULARS OF BREACHES.

The following are the particulars of the breaches complained of in this action :

Infringements at divers times subsequent to the date of plaintiff's patent.

That the defendant has at divers times since the day of - 18 and prior to the commencement of this action infringed the plaintiff's letters patent and the three claims thereof in manner following that is to say—

That the defendant has subsequently to the date of the plaintiff's patent manufactured and sold or fitted on board divers ships certain cold dry air refrigerating machines for preserving meat or other substances in which are arranged and combined together steam engines air compressing and air expansion apparatus in the improved manner described and claimed in the Queen's Printers' copy of the complete specification filed prior to the grant of the said letters patent as therein recited.

Specific infringements.

And also that in refrigerating machines made sold or fitted by the defendant pipes of considerable length are provided for the passage of compressed air (drawn from the refrigerating chamber) to the expansion cylinder and traversing the cooling chamber or some part thereof or some chamber in connection therewith in such manner that the moisture in the air is deposited in the pipes and can be drawn off before the air reaches the expansion cylinder.

Number and dates of other infringements not known to the plaintiff.

The defendant sold a cold dry air refrigerating machine for preserving meat or other substances to one E. F. of on the day of 18 . The exact number and dates of the defendant's infringements save as hereinbefore mentioned are not at present known to the plaintiff, but the plaintiff will claim to recover full compensation from the defendant in respect of all such infringements.

(Signed)

Delivered this day of 18 by
of solicitor for the plaintiff.

DEFENCE.(c)

1. The defendant did not infringe the patent.
2. The invention was not new.
3. The plaintiff was not the first or true inventor.
4. The invention was not useful.

(c) R. S. C. 1883, Appendix D, sec. vi.

5. [*Denial of any other matter of fact affecting the validity of the patent.*]

6. The patent was not assigned to the plaintiff.

(Signed)

Delivered

ANOTHER FORM.

18 —A—No.

In the High Court of Justice

Queen's Bench Division

[or Chancery Division

Mr. Justice ——]

Between A. B.

Plaintiff

and

C. D.

Defendant.

DEFENCE.

The defendant says that—

1. He has not infringed the plaintiff's patent No. of A.D. Infringement.

2. The defendant contends that the invention which is described and claimed in [*the patentee's*] specification is one in which

and that the as described in the said specification is not claimed by any of the claiming clauses thereof except when in combination with the invention as hereinbefore described and limited. The defendant sells and exports considerable numbers of and separately and not in the form of complete and they contend that such acts are not infringements of the said letters patent.

3. The alleged invention was not new. Novelty.

4. The alleged invention was not useful. Utility.

5. The alleged invention is not proper subject-matter for a patent. Subject-matter.

6. E. F. was not the true and first inventor of the alleged invention. True and first inventor.

7. The complete specification of the alleged invention does not particularly describe the nature thereof and in what manner the same is to be performed. Insufficiency of specification.

8. The said complete specification does not distinguish what parts of the alleged invention are new and what old.

9. The provisional specification of the alleged invention does not describe the nature thereof and the invention claimed in the said complete specification is an invention different from and larger than that described in the provisional specification. Variance of specifications.

Defendant an
officer or ser-
vant of the
Crown.

10. If the issues of the validity of the plaintiff's patent and the infringement thereof are found in the plaintiff's favour as the defendant is [*Director-General of Ordnance*] and an officer or servant of the Crown the plaintiff is not entitled to damages or an injunction but only to have the terms of the user of his invention agreed or in default of agreement settled by the Treasury under the provisions of sec. 27 of the Patents Designs and Trade Marks Act 1883.

(Signed)

Delivered the day of 18 by
 of solicitor for the defendant.

PARTICULARS OF OBJECTIONS.(a)

18 —A—No.

In the High Court of Justice
Queen's Bench Division
[or Chancery Division
Mr. Justice —]

Between A. B.

Plaintiff

and

C. D.

Defendant.

PARTICULARS OF OBJECTIONS.

Delivered by the Defendant with his Statement of Defence.

The following are the particulars of the objections on which the defendant relies in support of his defence—

True and first
inventor.

1. The said E. F. referred to in the statement of claim was not the true and first inventor of the said invention.

2. The said [*patentee*] obtained the patent by misrepresentation in falsely alleging that he was the true and first inventor [*add details*].

3. The plaintiff is not in law the proprietor of the exclusive right to make and sell [*the articles complained of*] by reason that the exclusive right to make and sell such [*articles complained of*] was granted prior to the date of the said letters patent No. of 18 [*the plaintiff's patent*] to A. R. by letters patent No. of 18 . The grant of the said letters patent No. of 18 to A. R. owned previously to the 1st Jan. 1884, have been a ground of repealing the plaintiff's said letters patent No. of 18 by *scire facias* and is

(a) As to the objects and requisites of particulars of objections, see pp. 527-540 *ante*.

available by way of defence to this action under sec. 26 of the Patents Designs and Trade Marks Act 1883.

4. The alleged invention is not the proper subject-matter for a patent. Subject-matter.

5. The alleged invention is not useful. Utility.

6. The alleged invention was not new at the date of the said letters patent, having regard to the common and public knowledge at the date thereof. Common knowledge.

7. The alleged invention was published within this realm prior to the date of the said letters patent by the filing at the Patent Office of the following specifications— Publication of prior specifications.

(a) The specification of W. E. N. No. of the year 18 for "improvements in machinery or apparatus for producing ice and for general refrigerating purposes." The portions relied on are from page line to page line and page line to the end and the drawings therein referred to.

(b) The specification of C. W. S. No. of the year 18 for "improvements in refrigerating and producing ice and in apparatus or machinery for that purpose." The defendant relies upon the whole of this specification.

[Add other specifications.]

8. The alleged invention was published within this realm prior to the date of the said letters patent in the following printed books— Publication by prior books.

<i>(Title)</i>	edition	page	line	to line	
<i>(Title)</i>	edition	page	line	to page	line .

[Add other books.]

9. The alleged invention was published within this realm prior to the date of the said letters patent in a report and drawings by C. W. S. Such report is dated the day of 18 and was published in London by being forwarded by the said C. W. S. (from his office in Westminster) on or about that date to H. W. B. of Publication by prior reports and drawings.

The said report was further published in London by copies thereof having been forwarded about the date aforesaid to (amongst others) the following persons—

(a) W. H. T. of .
(b) J. L. of .

[Add others.]

10. The alleged invention was published within this realm prior to the date of the said letters patent by the manufacture and sale [or erection or use or public exhibition] of machines similar Publication by prior machines.

to the machine described and claimed in the plaintiff's complete specification at the places and in the years hereinafter mentioned that is to say—

(a) By J. W. of _____ at _____ in 18 ."

(b) By Messrs. H. H. & Co. of _____ at _____ in 18 .

[Add others.]

Other instances of publication.

11. [Other instances of prior publication, e.g. oral communications.]

Disconformity.

12. The provisional specification of the alleged invention does not describe the nature thereof and the invention claimed in the said complete specification [as amended] is an invention differing from and larger than that described in the said provisional specification and differs therefrom in the following particulars that is to say [point out differences].

Insufficiency of complete specification.

13. The complete specification of the alleged invention does not particularly describe the nature thereof and in what manner the same is to be performed, inasmuch as—

(a) The said complete specification does not distinguish what parts of the alleged invention are new and what parts thereof are old.

(b) The said complete specification contains false suggestions to wit that [certain parts] are described as useful and necessary whereas the said [same parts] are not of any utility and are not necessary.

(c) The said complete specification is ambiguous and calculated to mislead in that [add particulars].

(d) The said complete specification is insufficient by reason that it does not contain sufficient information to enable a workman skilled in the _____ trade to [add details].

(e) The patentee did not state in the said complete specification the most beneficial method with which he was at the date of the said specification acquainted of carrying out the said invention to wit he did not state [add particulars].

Delivered this _____ day of _____ 18 by _____ of _____ solicitor for the defendant.

NOTICE OF MOTION FOR LEAVE TO AMEND A SPECIFICATION PENDING ACTION FOR INFRINGEMENT.

TAKE NOTICE that this Honourable Court will be moved before his lordship, Mr. Justice —, on the _____ day of _____, 18 , or so soon thereafter as counsel can be heard by counsel on behalf of

the above-named _____ the owner of the letters patent mentioned in the writ in this action, that he may be at liberty to apply at the Patent Office for leave to amend the specification filed in pursuance of the said letters patent by way of disclaimer, correction, or explanation, and that in the meantime the hearing of this action may be postponed. And that the said specification, when so amended as aforesaid, may be used in evidence on the hearing of the said action upon such terms as may seem fit to his lordship.

To _____ [*the defendant*], and _____,
of _____, his solicitor.

NOTICE OF MOTION FOR INTERLOCUTORY INJUNCTION.

TAKE NOTICE that this Honourable Court will be moved before his lordship, Mr. Justice —, on the _____ day _____, 18____, or so soon thereafter as counsel can be heard, by Mr. —, of counsel on behalf of the above-named plaintiff, that the defendant, his servants and agents, may be restrained until the trial of this action, or until further order, during the continuance of the letters patent bearing date the _____ day of _____, 18____, and numbered _____, from making, selling, supplying, using, or putting in practice any [*patented articles*], made according to or in the manner described in the specification [or specifications], of the invention for which the said letters patent were granted, or according to or in any manner only colourably differing from the same, and from in any manner infringing the said letters patent, and that such further order may be made as to this Honourable Court shall seem meet.

JUDGMENT AFTER TRIAL OF ACTION.

Order of Mr. Justice _____, dated _____ day of _____, 18____.
18____ —B—No.

In the High Court of Justice,
Chancery Division,
Mr. Justice —

Wednesday, the _____ day of _____ 18____.

Between The B. A.

Plaintiffs

and

I. L.

Defendants.

This action coming on the day of and the day of , 18 , for trial before this Court, in the presence of counsel for the plaintiffs and defendants, and upon hearing the pleadings, &c. pleadings in the action the letters patent of the day of 18 , granted to J. H., therein mentioned, and the indenture of the day of 18 , also therein mentioned, and so much of the answer of the said defendant I. L. to the plaintiff's interrogatories as is contained in paragraphs 6, 8, &c., and the further answer of the said defendant I. L. read, and upon hearing the evidence of the several persons named in the schedule hereto on their examination taken orally before this Court upon the several days set opposite their names in the said schedule, and upon producing the several exhibits to such persons on their said examinations referred to in the third column of the said schedule; Admissions. and the defendants by their counsel admitting that the dye analysed by Dr. William O., Professor I. D., Dr. J. B. G., and Professor W. E. A. was the Fast Blackley Red which was sold to A. S. B., as in the pleadings mentioned, and that the same was sold by the defendants; and upon hearing what was alleged by counsel for the plaintiff and defendants; and the Judge, for his assistance, having submitted certain questions to Professor R. for his opinion, and obtained from the said Professor R. certain reports thereon, dated respectively the day of , 18 , and the day of , 18 :

Action to stand for judgment. This Court did order that this action should stand for judgment, and, this action standing for judgment, this day, in the presence of counsel for the plaintiffs and defendants, and the particulars of objections of the defendants being deemed to be amended by the addition thereto of an objection that the alleged invention of J. H. J., in the pleadings named, was and is not proper subject-matter for which letters patent can be validly granted: Injunction. This Court doth order that the defendants, I. L., J. L., and C., and J. L. L. and S., their servants, agents, and workmen, be restrained, during the continuance of the letters patent in the pleadings mentioned, from making, using, or putting in practice, or permitting to be made, used, or put in practice, the invention described in the specification of J. H. J., in the pleadings mentioned, or any part of the same invention, and from manufacturing, selling, or making any profitable use, or permitting the manufacture, sale, or profitable use, of any dyes or colouring matters being the same as "Fast Blackley Red" sold to A. S. B., in the pleadings mentioned, or any dyes or colouring matters made according to the said invention, or any part thereof, or by any process being a colourable imitation of the said invention, or any part thereof, and from in any manner infringing the rights and privileges granted by the said letters patent. And it is ordered

that an account be taken of all dyes or colouring matters being the same as the "Fast Blackley Red" sold to the said A. S. B. as aforesaid, or otherwise made in infringement of the said letters patent, which have been manufactured, or sold, or used by, or by the order or for the use or profit of, the defendants, or any of them; and also of the gains or profits made by the defendants, or any of them, by reason of such manufacture, sale, or use. And it is ordered that the defendants do, within fourteen days after the date of the Chief Clerk's Certificate, pay to the plaintiffs what shall be certified to be the amount of such profits made by the defendants respectively. And it is ordered that the defendants I. L., J. L., and C. and J. L. L. and S. deliver up to the plaintiffs, The B. A. and S. F., or in the presence of the plaintiffs or their agents destroy or otherwise render unfit for use, all dyes or colouring matters made or used by, or by the order or for the profit of, the defendants, or any of them, being the same as the "Fast Blackley Red" sold to the said A. S. B. as aforesaid, or otherwise made in infringement of the said letters patent, which are in the possession, custody, or power of the defendants, or any of them, or the servants or agents of them, or any of them, the particulars of such dyes or colouring matters to be verified by affidavit, but such delivery, destruction, or otherwise rendering unfit for use is not to be enforced before the _____ of _____, 18____; and in the event of the defendants electing to appeal, not until the appeal has been disposed of, or until further order, and in that case such dyes or colouring matters are to be deposited for safe custody at the office of M. A. and G. W. F., the defendants' solicitors, at No. _____ P. S. M.

And it is ordered that the plaintiffs do deposit with the Master of the Supreme Court the original shorthand-writers' notes of the _____ and _____ argument, and also all printed or written copies thereof in the possession or power of the plaintiffs, their solicitor, agent, and witnesses (to be verified by affidavit), the same to remain in Court until either there shall be an appeal, or until, by lapse of time or otherwise, it shall be determined that there shall be no appeal. And in the event of such appeal, the parties respectively are to be at liberty to apply for delivery out to them of so many copies of the said notes, or of the said printed or written copies, as they may require. And if, by lapse of time or otherwise, it shall be determined that there shall be no appeal, either of the parties are to be at liberty to make such application to the Court for the disposal of the said notes, and printed and written copies, as they may think fit. And it is ordered that a certificate be given pursuant to the Act of Parliament of 5th and 6th William IV. c. 83, s. 3, and the Act of the 15th and 16th Victoria, c. 83, that the validity of the said letters

Account to be taken.

Delivery up.

Deposit of documents, &c.

Appeal.

Application.

Certificate of validity.

Payment of
costs.

patent came in question at the trial of this action, and that the plaintiffs proved their particulars of breaches. And it is ordered that the said defendants do pay to the said plaintiffs their costs of this action, including the costs of transcribing and printing the shorthand-writers' notes, and the costs of Professor R.'s reports; such costs to be taxed by the Taxing Master.

JUDGMENT VARIED ON APPEAL.

ORDER OF THE COURT OF APPEAL.

Dated 18 .

Court of Appeal. 18 —B—No. .

Saturday, the day of , 18 .

Mr. C., Regr.

Between B. A., &c.

Plaintiffs

and

I. L., &c.

Defendants.

Upon motion by way of appeal on the of November, and the of December 18 , made unto this Court by counsel for the defendants, from the judgment dated the June 18 , and upon hearing counsel for the plaintiffs, and upon reading the said judgment :

This Court did order that the said appeal should stand for judgment, and the same standing on the March 18 , and this day in the paper for judgment, in the presence of counsel on both sides :

Judgment
reversed.

This Court doth order that the said judgment be reversed.

And it is ordered that the plaintiffs' action do stand dismissed.

Repayment of
costs.

And it is ordered that the plaintiffs, B. A., &c., do repay the defendants, I. L., &c., the sum of £ , being the amount of the costs of the said judgment, already paid by the defendants to the plaintiffs.

Taxation of
costs.

And it is ordered that it be referred to the Taxing Master to tax —(1) The defendants their costs of this action, other than their costs occasioned by the issue or issues raised by the Particulars of Breaches in the said judgment mentioned, and other than the defendants' costs of the motion on the November 18 , but including in the defendants' costs the costs of transcribing and printing the shorthand-writers' notes in the Court below, and the

cost of Professor R.'s report in the judgment mentioned; (2) The costs of the defendants occasioned by the said appeal, other than their costs occasioned by the issue or issues raised by the Particulars of Breaches aforesaid; and (3) The costs of the plaintiffs of the said action, as well in the Court of Appeal as in the Court below, occasioned by the issue or issues raised by the said Particulars of Breaches.

And it is ordered that such costs of the plaintiffs, and the sum of Set-off,
 £ , the taxed costs of the plaintiffs of the motion made on the
 November 18 , in this action by the defendants, be set off
 against such costs by the defendants. And the Taxing Master is to
 certify to whom, after such set-off, the balance is due.

And it is ordered that the party from whom such balance shall be Payment of
 certified to be due pay the amount thereof to the other party. balance.

CERTIFICATE OF VALIDITY.

I hereby certify, pursuant to the 31st section of the Patents, Designs, and Trade Marks Act, 1883 (46 & 47 Vict. c. 57), that upon the trial of this action, the validity of the letters patent, in the pleadings mentioned, dated the 28th November 1878, and numbered 4847, granted to F. J. C., amended by disclaimer allowed 12th November 1884, and now vested in the Edison and Swan United Electric Light Company, Limited, came into question.

Dated this 16th day of July 1888.

E. E. KAY.

ACTION TO RESTRAIN THREATS OF LEGAL PROCEEDINGS.

INDORSEMENT ON WRIT.

The plaintiff's claim is—

1. For an injunction to restrain the defendant from continuing to threaten the plaintiff, or any other person or persons, whereby the plaintiff may be aggrieved, by circulars, advertisements, or otherwise, with any legal proceedings or liability in respect of any alleged manufacture, use, sale, or purchase of any invention in infringement of the defendant's patent, dated the day of , 18 , and numbered , or in respect of any article or articles, process or processes, alleged by the defendant to be an infringement of his said patent.
2. For damages in respect of such threats.
3. For costs.

STATEMENT OF CLAIM.

189 —A—No.

In the High Court of Justice
Queen's Bench Division
[or Chancery Division
Mr. Justice —]

Between A. B.

Plaintiff.

and

C. D.

Defendant.

STATEMENT OF CLAIM.

1. On the day of 1898 the defendant by [*set out particulars*] claiming to be the patentee of an invention for [*state the title of the invention*] threatened the plaintiff with legal

proceedings in respect of the sale by the plaintiff of certain [*add particulars*] to [*add particulars*].

2. The sale of the said [*add particulars*] to which the said threats related was not in fact an infringement of any legal rights of the defendant.

3. The defendant issued the said threats falsely and maliciously and with the object of injuring the plaintiff and not *bonâ fide* in support of any patent or other right which he possesses.

4. Unless the defendant is restrained from publishing the said or similar threats the plaintiff will be greatly injured in his business.

The plaintiff claims—

1. An injunction to restrain the defendant from alleging by letters, circulars, advertisements or in any other manner that [*the articles in question*] constructed or sold by the plaintiff are constructed in infringement of the defendant's patent and to restrain the defendant from threatening the plaintiff or any of his customers with proceedings for infringement of any patents the property of the defendant in connection with the construction or sale by the plaintiff of any of the said [*the articles in question*].

2. An injunction to restrain the defendant from writing or forwarding to any customers of the plaintiff or to any other person any letters, documents or statements alleging that they are entitled to restrain the plaintiff from selling his [*the articles in question*] or that it is their intention to take any proceedings to restrain the plaintiff from selling his [*the articles in question*].

3. Damages.

4. A declaration that the [*the articles in question*] constructed and sold by the plaintiff are not infringements of any patent or other rights vested in the defendant.

DEFENCE.

189 —A—No.

In the High Court of Justice

Queen's Bench Division

[or Chancery Division

Mr. Justice ———]

Between A. B.

Plaintiff.

and

C. D.

Defendant.

DEFENCE.

1. The defendant denies that by the letters patent No. of
 or No. of or either of them referred to in
 paragraph of the statement of claim he threatened the plaintiff
 with any legal proceedings in respect of the sale by the plaintiff of
 [*the articles in question*] to [*the plaintiff's customer*] or in respect of
 any alleged sale of [*the articles in question*] or other inventions. The
 defendant does not and never did allege any such sale as aforesaid
 and he denies that the plaintiff in fact ever sold a [*the article in
 question*].

2. The invention referred to in paragraph of the statement
 of claim was the subject of letters patent granted to No.
 of 18 which expired in 18 . The defendant did not
 during the currency of the said letters patent claim and has not
 since the expiration of the said letters patent claimed to be patentee
 thereunder of the said invention the fact that the said letters
 patent had expired in 18 was well known to the persons to whom
 the letters complained of by the plaintiff were addressed.

3. The said letters were not written falsely or maliciously or with
 the object of injuring the plaintiff but were written *bonâ fide* under
 the circumstances hereinafter mentioned.

[*State the circumstances.*]

4. With regard to the invention referred to in paragraph of
 the statement of claim the said invention is the subject-matter of
 letters patent No. of 18 of which the defendant is the registered
 legal owner and the said letters are and always have been good and
 valid. Such threats having reference to the said letters patent as
 were in fact made by the defendant were made *bonâ fide* and with
 the intention of protecting his rights under the said letters patent.

5. The said has in fact infringed the defendant's
 said letters patent No. of in manner following that
 is to say [*add particulars*].

6. On the day of the defendant commenced
 an action [*add the title of the infringement action*] for the infringe-
 ment of the said letters patent No. of . Such action
 is still pending and the defendant will rely on the same as an answer
 to this action.

REVOCATION OF LETTERS PATENT.

PETITION FOR REVOCATION.

In the High Court of Justice,
Chancery Division,
Mr. Justice ———

In the Matter of G. & G.'s Patent,
No. A.D. 18

and

In the Matter of the Patents, Designs, and
Trades Marks Act, 1883.

To Her Majesty's High Court of Justice

THE HUMBLE PETITION of S. S., of , in the City
of London.

SHEWETH AS FOLLOWS :—

1. Your petitioner is an electrician, and the patentee of many inventions in connection with the production, distribution, and utilisation of electric currents, which inventions are now in extensive practical use.

2. Among other methods of distribution, for some time past your petitioner has specially occupied himself with methods of effecting the same by means of secondary generators by which electrical action is obtained at different points of an electrical circuit by means of electric induction only, without interrupting such circuit or making any connection with the conductor conveying the current.

3. In or about the month of December 18 , your petitioner invented an improved form of secondary generator for the purpose of effecting economically and conveniently the above-mentioned object, and on the day of December 18 , your petitioner applied for and obtained a provisional protection, No. A.D. 18 for such invention, and has since filed a complete specification for the said invention.

4. Since obtaining the said provisional protection your petitioner has manufactured and used secondary generators constructed accord-

ing to your petitioner's said invention, and the same have been shown to possess great advantages over other forms, and to be of great practical utility.

5. The sale and user of the said secondary generators made according to your petitioner's invention has recently been interfered with by a Limited Company named the National Company for the Distribution of Electricity by Secondary Generators (Limited). The said company claim to be entitled to restrain any person using any mode of electrical distribution by means of secondary generators, of whatever form or construction such generators may be.

6. The said claim of the aforesaid company purports to be based upon letters patent granted to L. G. and J. D. G., and numbered A.D. 18 . The invention in respect of which the said letters patent were granted was in no wise novel at the date of the same, and the said letters patent are and always have been of no force and validity by reason thereof and of the other matters set forth in the Particulars of Objection delivered herewith in pursuance of sec. 26 of the above-named Act.

7. The existence of the above-named letters patent claiming a wide and general monopoly of the system of distribution by means of secondary generators, which was known to and the property of the public at the date of the said letters patent, has been and is the cause of great injury to the public by preventing the sale of machines made according to your petitioner's invention, as well as those made by other inventors who likewise have made improvements in secondary generators and in the distribution of electricity thereby.

8. That the public are prejudiced by the above-mentioned general claim in the said letters patent, because consumers of electricity are not in general acquainted with the science of electricity and the technical application thereof, and are therefore unable to form an opinion as to the invalidity of the said letters patent, whereby the sale and use of improved secondary generators are wholly prevented.

9. The office of Mr. A. C. C. H., No. , in the county of , is the place where the petitioner may be served with any petition or summons or notice of any proceedings or order of the Courts relating to the matters herein referred to.

Your petitioner therefore humbly prays for the revocation of letters patent No. A.D. 18 , or that such order may be made in the premises as to this Honourable Court may seem meet.

And your petitioner will ever pray, &c.

S. Z.

It is intended to serve this petition on L. G., J. D. G., and the N. Co. for the Distribution of Electricity by Secondary Generators (Limited).

I hereby authorise the presentation to the High Court of Justice of the above written petition.

Fiat of
Attorney-
General.

RICHARD E. WEBSTER,
Attorney-General.

ROYAL COURTS OF JUSTICE,
December 7th, 189 .

PROLONGATION OR EXTENSION OF
LETTERS PATENT.

ADVERTISEMENT OF INTENTION TO PRESENT PETI-
TION FOR PROLONGATION OR EXTENSION OF
LETTERS PATENT.

In the Privy Council.

In the Matter of Letters Patent granted to
of , and bearing date the day
of 18 , and numbered .

Notice is hereby given, that it is the intention of
of , to present a petition to Her Majesty in Council
praying that the term of the said letters patent may be extended.
And notice is hereby further given, that on the day of
inst., or on such subsequent day as the Judicial Committee of Her
Majesty's Privy Council shall appoint for that purpose, application
will be made to the said Committee that a day may be fixed for
hearing the matter of the said petition, and any person or persons
desirous of being heard in opposition to the said petition must
enter a *caveat* to that effect in the Privy Council on or before the
said day of next.

Dated this day of , 18 .

Solicitor for the Petitioner.

CAVEAT.

In the Privy Council.

In the Matter of Letters Patent granted to ,
of , and bearing date the day
of , and numbered .

Caveat issued on behalf of

ADVERTISEMENT OF DAY FIXED FOR HEARING PETITION FOR PROLONGATION OR EXTENSION.

In the Privy Council.

In the Matter of Letters Patent granted to _____,
of _____, and bearing date the _____ day
of _____ 18____, and numbered _____.

Notice is hereby given, that their lordships, the Judicial Committee of the Privy Council, have appointed the _____ day of _____, 18____, at half-past ten o'clock in the forenoon, for hearing the matter of the above petition.

Solicitor for the Petitioner.

PETITION FOR PROLONGATION OR EXTENSION OF LETTERS PATENT.

In the Privy Council.

Presented the _____ day of _____, 18____.

To the Queen's Most Excellent Majesty in Council.

In the Matter of Letters Patent granted to R. R., formerly of No. _____, A. Road, now No. _____, H. Road, N. C., in the County of _____, Contractor, for the Invention of "A new or improved captain's bridge, constructed as a self-launching life-raft," dated the _____ day of _____, 18____.

THE HUMBLE PETITION of the above-named R. R.; formerly of No. _____, A. Road, now No. _____, H. Road, N. C., in the County of _____, Contractor.

SHEWETH:—

Invention.

1. That your petitioner, previously to the grant of the letters patent hereinafter mentioned, invented, after considerable personal application and cost, "A new or improved captain's bridge, constructed as a self-launching life-raft" (hereinafter called "the said invention"), which invention was and is of great utility, and therefore beneficial to the public.

Grant of letters patent.

2. That your Majesty was graciously pleased, by letters patent

under the Great Seal of the United Kingdom of Great Britain, bearing date the day of , 18 , to grant unto your petitioner R. R., his executors, administrators, and assigns, the sole privilege and authority to use the said invention within the said United Kingdom, the Channel Islands, and the Isle of Man for the term of fourteen years from the date of the said letters patent.

3. That your petitioner, in compliance with a proviso in the said letters patent contained, duly made and caused to be filed in the Great Seal Patent Office, within six calendar months from the date of the said letters patent, an instrument in writing, under his hand and seal, particularly describing and ascertaining the nature of the said invention, and the manner in which the same was to be performed. Specification duly filed.

4. That your petitioner has not obtained any letters patent or brevets d'invention for his said invention in any foreign country. No foreign patent rights.

5. That your petitioner has expended large sums of money and devoted great pains and trouble while in health in endeavouring to introduce the said invention to the public and to bring the same into use. Expenditure, &c., on invention.

6. That your petitioner met with an accident while travelling on the South-Eastern Railway between London Bridge and Cannon Street on the 24th day of December, 1878, and in consequence thereof was confined to his bed until nearly the end of the year 1882. Accident to petitioner.

7. That your petitioner would have presented this his petition earlier, and about the 22nd day of October, 1886, when he called at the Privy Council Office for particulars as to presenting same; he was, however, unfortunately seized that day with a fit, and is only now able to attend to business. Cause of delay in presenting petition.

8. That your petitioner has, owing to his illness and other circumstances wholly beyond his control, failed to receive adequate benefit from his invention. Insufficient remuneration.

9. Your petitioner has no doubt that, if the term of the said letters patent should be extended, the said letters patent will become productive, and your petitioner will be able to obtain a fair reimbursement and remuneration commensurate with the great public value and importance of the said invention, and which his state of health will now allow him energetically to prosecute. Probability of invention becoming profitable.

10. That your petitioner's invention was tried practically, and with great success, in the month of February, 1883, on board H.M.S. *Polyphemus*, at Portsmouth, before Lord Northbrook and others, when the use of the invention for the saving of life was most amply demonstrated. Merits of invention.

Medals
awarded for
invention.

11. That your petitioner exhibited a model of his invention at the International Fisheries Exhibition held in London in 1883, when he was awarded a gold medal; and at the Naval and Submarine Engineering Exhibition held at the Agricultural Hall, Islington, in April, 1882, when he was awarded the first prize of 100 guineas.

Seven years'
extension
desired.

12. That your petitioner humbly submits that, under the circumstances of the case, an exclusive right of using and vending the said invention for the further period of seven years will not sufficiently reimburse and remunerate your petitioner.

Advertise-
ments.

13. That your petitioner has given public notice by advertisements caused to be inserted the requisite number of times in the *London Gazette* and in other newspapers, pursuant to the statutes in that case made and provided, that it is his intention to apply to your Majesty in Council that the said letters patent may be extended for a further term.

Prayer.

Your petitioner therefore humbly prays that your Majesty will be graciously pleased to take the case of your petitioner into your Royal consideration, and to refer this petition to the Judicial Committee of your Majesty's Most Honourable Privy Council, and that your petitioner may be heard before such Committee by his counsel and witnesses; and that you Majesty will be graciously pleased to grant to your petitioner a prolongation of the term by the said letters patent granted for the additional term of fourteen years, or for such term as to your Majesty shall seem fit,

And your petitioner will ever pray.

R. P. U.,
Solicitor for the Petitioner.

ANOTHER FORM.

In the Privy Council.

Presented day of , 18 .

To the Queen's Most Excellent Majesty in Council.

In the Matter of Letters Patent granted to W. A. M.,

late of , in the of

, but now of and ,

in the of , for the Invention

of "Improvements in apparatus for consuming

smoke, promoting combustion, and feeding fur-

naces with fuel," bearing date the day

of , 18 , No .

THE HUMBLE PETITION of W. M., of Nos. and ,
 in the of , , and of the
 above-named W. A. M.

SHEWETH :—

1. That your petitioner the above-named W. A. M., previously ^{Invention.} to the grant of the letters patent hereinafter mentioned, invented, after considerable personal application and cost, certain “Improvements in apparatus for consuming smoke, promoting combustion, and feeding furnaces with fuel” (hereinafter called “the said invention”), which invention was and is of great utility and greatly beneficial to the public.

2. That your Majesty was graciously pleased, by letters patent ^{Grant of letters patent.} under the Great Seal of the United Kingdom of Great Britain, bearing date the day of , 18 , to grant unto your petitioner W. A. M., his executors, administrators, and assigns, the sole privilege and authority to use the said invention within the said United Kingdom, the Channel Islands, and Isle of Man for the term of fourteen years from the date of the said letters patent.

3. That your petitioner W. A. M., in compliance with a proviso ^{Specification filed.} in the said letters patent contained, duly made and caused to be filed in the Great Seal Patent Office, within six calendar months from the date of the said letters patent, an instrument in writing, under his hand and seal, particularly describing and ascertaining the nature of his said invention, and the manner in which the same was to be performed.

4. That your petitioner W. A. M. also obtained letters patent ^{Foreign patent rights.} or brevets d’invention for his said invention in the Empire of France, dated the day of , 18 ; in the Dominion of Canada, dated the day of , 18 , and in the Kingdom of Norway, dated the day of , 18 .

5. That letters patent, dated the day of , 18 , for the use of the said invention in the United States of America were also granted to your petitioner W. A. M., and one J. A., of Broadway, New York, to whom the said W. A. M. had by an agreement dated the day of 18 , agreed to grant an exclusive licence to make, use, and vend the said invention in the said United States at the royalty and upon the conditions in the same agreement mentioned. Your petitioner W. A. M. ultimately assigned one moiety of the last-mentioned letters patent to one E. H. A., of Boston, in the State of Massachusetts, in the United States aforesaid, your petitioner W. A. M. remaining the owner of the other moiety thereof. The said last-

mentioned letters patent were re-issued in the United States of America under date 18 .

Licences
granted.

6. That by an indenture dated the day of , 18 , and made between your petitioner W. A. M. of the first part, and the said J. A. of the second part, after reciting that, by an assignment of even date, your petitioner had conveyed to the said J. A. an undivided half of his right in the said Canadian patent, your petitioner granted to the said J. A., his executors, administrators, and assigns, the exclusive licence to make, use, and vend the said invention in the Dominion of Canada at the royalty and upon the conditions in the same indenture mentioned.

7. That on the of , 18 , letters patent for the use of the said invention in the Empire of Austria were, on the nomination of your petitioner W. A. M., granted to a certain firm of B. N. & F., in consideration of a sum of £ by the last-named persons paid to your petitioner W. A. M., and an agreement on their part to pay to your last-named petitioner a royalty of £ per door, and a minimum yearly royalty of £ . The contract under which the said Austrian patent was obtained by the said B. N. & F. (which contract was dated in the year 18) provided for the obtaining by that firm of a patent or brevet d'invention for the use of the last-mentioned invention in Russia, but your petitioners have been unable to ascertain whether any such Russian patent was ever obtained. Your petitioners did not, nor did either of them, ever obtain any patent for the said invention in Russia. Your petitioners received from the said firm of B. N. & F. the aforesaid sum of £ , and a further sum of £ for royalties; but, except as aforesaid, they have not, nor has either of them, ever received any moneys from the last-mentioned firm.

Expiration of
foreign patent
rights.

8. That the said several letters patent or brevets d'invention for France, Canada, the United States of America, and Austria have all expired, or lapsed, or been abandoned. The said patent or brevet d'invention for Norway is still in force, but will expire on the day of , 18 .

Object of
invention.

9. That the said invention relates to improvements in the means of consuming smoke and of effecting combustion in steam boilers, as also improvements in the means of supplying furnaces with fuel.

Expenditure,
&c., on inven-
tion.

10. That your petitioner W. A. M. is a civil engineer, and he has for more than thirty years past devoted his attention to smoke-consuming apparatus, and has given much time and labour and expended very considerable sums of money in conducting experiments relating to the subject-matter of the said invention, and either alone, or with his then partner, one E. W., he obtained letters patent

for apparatus relating thereto, all of which last-mentioned letters patent have expired or become void.

11. That previously to the time when your petitioner W. A. M. turned his attention to the subject, the smoke-consuming apparatus then known were ineffective on account of some of them failing to introduce the air to the furnaces in such a manner as to support combustion, and those apparatus which succeeded in consuming smoke diminished the efficiency of the fire and caused waste of fuel, and in some cases became destroyed by the action of the fire. These defects were sought to be remedied by an apparatus which was the subject of the letters patent dated _____, 18____, No. _____, granted to your petitioner W. A. M. and one J. P. This invention consisted of argand fire-bars, and the object was to cause an increased supply of atmospheric air to enter the furnace through the grate. This object, however, was not attained, by reason of the holes frequently becoming clogged with dross and clinker from the fire, rendering them useless as conductors of the air. Subsequently your petitioner W. A. M., and the said J. P., obtained letters patent of the _____, 18____, No. _____, for a contrivance which consisted in constructing the furnace with rocking bars. The object of the last-mentioned contrivance was to provide a means for keeping the surface of the grate free from the accumulations of dross, clinker, &c., and so to maintain a regular supply of air to the furnace from the ash-pit. This was sought to be accomplished by giving a rocking motion to the fire-bars. The system introduced by the last-mentioned letters patent proved to be defective in consequence of the fire-bars being necessarily too deep, and consequently impeding the passage of air and clogging the air spaces. In case the stoker neglected to frequently put these rocking bars in motion, they became fast, so that they could not be put in motion at all until the fire was out and the apparatus re-adjusted. Your petitioner W. A. M. then obtained letters patent of the _____, 18____, No. _____, for a contrivance the object of which was to secure lightness as well as strength, so that thin bars could be used. As these bars consisted of two parts, wrought and cast iron, and the parts had to be put together, the manufacture under this last patent was found to be too expensive.

12. That your petitioner W. A. M. also, in conjunction with one E. W., obtained provisional protection dated _____, 18____, and letters patent dated _____, 18____, for inventions connected with smoke-consuming apparatus, which, however, were not successful; and ultimately your petitioner W. A. M. invented the contrivance which was patented by the above-mentioned letters patent of _____ day of _____, 18____, the subject of this

Improvements
produced by
invention.

Prior patents
for allied but
unsuccessful
inventions.

present petition. The general advantages of this invention are as follow :—It was found that the consumption of smoke could not be successfully carried out by the fire-bars, but that a proper admission of atmospheric air at the mouth of the furnace was required. The patent door the subject of the invention comprised in the last-mentioned letters patent accomplished that object. It secured a better control over the air admitted than any other system, and was easily manipulated. Being balanced, it would remain in whatever position it was set—a great advantage for marine purposes. The manner of consuming, or rather preventing, the smoke was by opening the door a few inches inward. This caused the atmospheric air to impinge on the fuel at the commencing point of combustion, causing the gases to be perfectly developed before leaving the furnace, an effect which may be compared with a glass chimney on a lamp.

Assignment of patent.

13. That by an indenture dated the day of , 18 , and made and executed between and by your petitioner W. A. M. of the one part, and your petitioner W. M. of the other part, your petitioner W. A. M., in consideration of the sum of £ , in the said indenture expressed to be paid by your petitioner W. M. to your petitioner W. A. M., assigned the said letters patent of the day of , 18 , to your petitioner W. M. for all the residue of the term of the said letters patent.

Non-payment of purchase-money.

14. That your petitioner W. M. is a son of your petitioner W. A. M., and at the date of the assignment was a clerk in the office of your last-named petitioner. That the sum of £ mentioned in the last-stated indenture was never paid by your petitioner W. M. to your petitioner W. A. M.; and the said assignment was, in fact, executed by your petitioner W. A. M. with the view to make a provision for his said son, your petitioner W. M., in the event of your petitioner W. A. M. dying during the continuance of the said letters patent, leaving his said son him surviving. That your petitioner W. M. is still in the employment of your petitioner W. A. M., and assists him in his business of a civil engineer, but does not participate in any profits thereof, and merely receives a salary. That the said letters patent of the day of , 18 , although vested under the assignment aforesaid in your petitioner W. M., are, and ever since the year 18 have been, worked for the sole benefit of your petitioner W. A. M.

Expenditure, &c., in endeavouring to introduce invention.

15. That your petitioner W. A. M. has expended large sums of money, and devoted great pains and labour, in endeavouring to introduce the said invention to the public, and to bring the same into use. That for this purpose your petitioners, or one of them, adver-

tised the said invention extensively, and personally undertook journeys to all parts of the country to visit various manufacturing towns and other places where it was likely the said invention would be taken up, and also employed travellers or agents to sell on commission fire-doors made according to the said invention, and also supplied such fire-doors free of expense to shipowners and manufacturers for the purpose of trial.

16. That although, under the circumstances aforesaid, considerable numbers of fire-doors made according to the said invention comprised in the said letters patent of the day of , 18 , were sold, yet the necessary expenses of introducing the said invention as aforesaid were so great that it was only during the last year and nine months, or thereabouts, that is to say, the years 18 and 18 , that any profit was made from the said invention. In all other years since the date of the said letters patent, the working of the said letters patent, and the manufacture and sale of fire-doors made according to the said invention, resulted in losses, which far more than counter-balanced the profit of the years 18 and 18 aforesaid; and, on the whole, your petitioner W. A. M., instead of obtaining any profit from the said invention, has sustained a very considerable loss.

Insufficient remuneration.

17. That only one licence has ever been granted for the use of the said invention in the United Kingdom, that is to say, a licence to one J. B., of M. and O., which was granted by your petitioner W. A. M. in or about the month of , 18 . That the said licence was granted with a view to the establishment of the said J. B. as an agent for the sale of fire-doors made according to the said invention, but the business arising therefrom being very small and unprofitable to your petitioner, he in the month of , 18 , revoked the said licence. Your petitioner believes that the said J. B. made no profit whatever from his use of the said invention under the said licence.

Only one licence granted in the United Kingdom.

18. That, at the time when your petitioners were endeavouring to introduce the said invention to the public, there were so many other inventions before the public having the same object as the said invention of your petitioner W. A. M. that it was very difficult to induce manufacturers and others to give a trial to any new invention; and further, the Acts for preventing smoke nuisance were not at that time so rigidly enforced as they are at present; and from these and other circumstances your petitioners experienced great difficulty in getting manufacturers and steam-users to give a trial to the said invention, and their endeavours to introduce the same to the public necessarily involved great expense on the part of your petitioners.

Reasons for delay in public appreciation of invention.

Utility of
invention.

19. That of late the utility of the said invention has been generally acknowledged, and steam-users are now requiring that boilers made for them shall be fitted with fire-doors made according to the said invention, and compelling engineers to apply such fire-doors, and in consequence there has arisen a considerable demand (which is increasing) for fire-doors made according to the said invention. Moreover, the Lords Commissioners of the Admiralty have caused the boilers of ten of Her Majesty's ships to be fitted with the said fire-doors made according to the said invention; and your petitioner W. A. M. has supplied several of the said fire-doors for the boilers used at Her Majesty's Dockyard at Portsmouth, where they are now in use. Under the circumstances aforesaid, the working of the said letters patent and invention has resulted, during the last two years, in a considerable increase in the number of sales, with a diminution in the expenses of working.

Loss sustained
by petitioner.

20. That, under the circumstances aforesaid, your petitioner W. A. M. has, notwithstanding his considerable outlay upon the said invention, been unable to obtain any profit thereupon, nor has he obtained any remuneration for his expense and labour in perfecting the same; but, on the contrary, he has sustained considerable loss in relation to the said invention, and it is only now, when the letters patent are about to expire, that the use of the said invention is becoming fully established and extending.

Probability of
patent
becoming
productive.

21. That your petitioners have no doubt that, if the term of the said letters patent should be prolonged, the said letters patent will now become productive, and your petitioner W. A. M. will be able to obtain a fair reimbursement and remuneration commensurate with the great public value and importance of the said invention.

Seven years'
extension
asked for.

22. That your petitioners humbly submit that, under the circumstances of the case, an exclusive right of using and vending the said invention for the further period of seven years will not sufficiently reimburse and remunerate your petitioner W. A. M.

Advertise-
ments.

23. That your petitioners have given public notice, by advertisements caused to be inserted the requisite number of times in the *London Gazette* and in metropolitan and country newspapers, pursuant to the statutes in that case made and provided, that it is their intention to apply to your Majesty in Council for a prolongation of the term of sole using and vending the said invention.

Prayer.

Your petitioners therefore humbly pray that your Majesty will be graciously pleased to take the case of your petitioners into your Royal consideration, and to refer the same to the Judicial Committee of your Majesty's most Honourable Privy Council, and that your petitioners may be heard before

such Committee by their counsel and witnesses, and that your Majesty will be pleased to grant to your petitioners a prolongation of the term of sole using and vending the said invention for the further and additional term of fourteen years, or for such other term as to your Majesty shall seem fit, and to grant new letters patent for the said invention to your petitioners for such term as to your Majesty shall seem fit, after the expiration of the first term originally granted by the existing letters patent hereinbefore mentioned according to the form of the statutes in such cases made and provided.

And your petitioners will ever pray, &c.

B. & R.,
Solicitors for Petitioners.

FORM OF ACCOUNTS WHICH MUST ACCOMPANY PETITION FOR PROLONGATION OR EXTENSION OF LETTERS PATENT.

IN THE PRIVY COUNCIL.

Re R. Patent, 18 , No. .

STATEMENT OF RECEIPTS AND EXPENDITURE FILED ON PETITION FOR PROLONGATION OF PATENT.

<i>Receipts.</i>		£	s.	d.	<i>Expenditure.</i>		£	s.	d.
18					18				
April	Money received in prizes at exhibitions, viz. :—				April	Taking out patent, making drawings, &c.			
	1st prize at Agricultural Hall, London . . .					Making three working models, and exhibiting same at the London Tavern . . .			
	Do. at the International Fisheries Exhibition				18				
					June	Exhibiting models at the Exhibition of Life Saving Apparatus at Liverpool			
					Dec.	Exhibiting models at the Admiralty			
					18				
					April	Paid Government stamp			
						Paid patent agents' charges			
					18				
					May	Exhibiting models at Fishmongers' Hall			
					18				
					March	Do. at United Service Institute			
					May	Do. do.			
					Aug.	Do. at the Royal Aquarium, when 1st prize silver medal was received			

Nov. Making two large working models of the *Princess Alice*, and exhibiting same to the jury at Woolwich, and at the Board of Trade Office, Poplar

18

April Paid Government stamp
 Paid patent agents' charges
 Making eight working models to scale, and exhibiting same at the Naval and Submarine Exhibition at the Agricultural Hall, Islington, London—

	£	s.	d.
Rent of space			
Fitting up stand, &c.			
Wages, attendance to show models			
Carriage of models each way			
Workmen's time and materials			

Printing circulars, &c., in connection with same

18

April Exhibiting models at Clarence House to H.R.H. the Duke of Edinburgh

May Do. do. at Admiralty to Sir Thomas Brassey

Do. do. to Sir Francis Sullivan

Carried forward

Carried forward

18 *Receipts.*
 To Sale of 156 doors, as per press
 copy-book
 Less discount.
 To Balance, being loss

£	s.	d.	£	s.	d.

18

Expenditure.
 By Purchases of raw material for
 156 doors, calculated to be
 at least
 „ Trade expenses, as per cash-
 book, being one year's tra-
 velling—
 Expenses of several tra-
 vellers .
 Stationery .
 Patent agents' charges .
 Charges for patterns, oil,
 and other trade expenses
 „ Commission, as per cash-book
 „ Advertising .
 „ Wages of workmen .
 „ Rent, taxes, and lighting .
 „ Bad debts .

£	s.	d.	£	s.	d.

£

£

18

Receipts.
 To Sale of 364 doors, as per press
 copy-book
Less discount
 To Balance, being loss

£	s.	d.	£	s.	d.

18

Expenditure.
 By Purchases of raw material for
 364 doors, as per vouchers .
 „ Trade expenses, as per cash-
 book, being one year's tra-
 velling—
 Expenses of several tra-
 vellers
 Bricklayers' work
 Stationery
 Charges for patterns, oil,
 and other trade ex-
 penses
 „ Commission, as per cash-book
 „ Advertising
 „ Wages of workmen
 „ Rent, taxes, and lighting

£	s.	d.	£	s.	d.

FORMS.

		<i>Receipts.</i>					
18		£	s.	d.	£	s.	d.
	To Sale of 415 doors as per press copy-book						
	<i>Less discount</i>						
	To Balance, being loss						

		<i>Expenditure.</i>					
18		£	s.	d.	£	s.	d.
	By Purchases of raw material for 415 doors, as per vouchers						
	„ Trade expenses, as per cash-book, being one year's travelling—						
	Expenses of several travellers						
	Stationery						
	Bricklayers' work						
	Charges for patterns, oil, and other trade expenses						
	„ Commission, as per cash-book						
	„ Advertising						
	„ Wages of workmen						
	„ Rent, taxes, and lighting						
	„ Bad debts						

18

Receipts.

To Sale of 473 doors, as per press copy-book

Less discount .

To Balance, being loss

	£	s.	d.	£	s.	d.	18

Expenditure.

By Purchases of raw material for 473 doors, as per vouchers .

„ Trade expenses, as per cash-book, being one year's travelling—

Expenses of several travellers

Bricklayers' work

Stationery

Charges for patterns, oil, and other trade expenses

„ Commission, as per cash-book

„ Advertising

„ Wages of workmen

„ Rent, taxes, and lighting

„ Bad debts

	£	s.	d.	£	s.	d.

FORMS.

	<i>Receipts.</i>				<i>Receipts.</i>		
18	£	s.	d.	£	s.	d.	
To Sale of 365 doors, as per press copy-book		
Less discount							
To Royalties—							
England							
America							
To Balance, being loss							
			£				

	<i>Expenditure.</i>				<i>Expenditure.</i>		
18	£	s.	d.	£	s.	d.	
By Purchases, as per vouchers, of raw material for 365 doors .							
„ Trade expenses, as per cash-book, being one year's travelling—							
Expenses of several travellers							
Patent expenses (stamp)							
Stationery							
Bricklayers' work							
Law expenses incurred in the recovery of several debts							
Charges for patterns, oil, and other trade expenses							
„ Commission, as per cash-book							
„ Advertising							
„ Wages of workmen							
„ Rent, taxes, and lighting							
			£				

18

Receipts.

To Sale of 330 doors, as per press copy-book

Less discount

To Royalties—

England

New York

Austria

To Balance, being loss

£ s. d. £ s. d.

18

Expenditure.

By Purchases of raw material for 330 doors, as per vouchers

„ Trade expenses, as per cash-book, being one year's travelling—

Expenses of several travellers

Stationery

Bricklayers' work

Law expenses incurred in recovering several debts

Charges for patterns, oil, and other trade expenses

„ Commission, as per cash-book

„ Advertising

„ Wages of workmen

„ Rent, taxes, and lighting

£ s. d. s. d.

52

18

<i>Receipts.</i>					
£	s.	d.	£	s.	d.
To Sale of 325 doors, as per press copy-book					
<i>Less discount.</i>					
To Royalties—					
Austria					
America					
To Balance, being loss					
			£		

18

<i>Expenditure.</i>					
£	s.	d.	£	s.	d.
By Purchases of raw material for 325 doors, as per vouchers .					
„ Trade expenses, as per cash-book, being one year's travelling—					
Expenses of several travellers					
Stationery					
Bricklayers' work					
Charges for patterns, oil, and other trade expenses					
„ Advertising, as per cash-book					
„ Commission					
„ Wages of workmen					
„ Rent, taxes, and lighting					
„ Bad debts					
			£		

18

<i>Receipts.</i>					
£	s.	d.	£	s.	d.
To Sale of 311 doors, as per press copy-book					
<i>Less discount</i>					
To Royalties—					
England					
To Balance, being loss					
			£		

18

<i>Expenditure.</i>					
£	s.	d.	£	s.	d.
By Purchases of raw material for 311 doors, as per vouchers					
,, Trade expenses, as per cash-book, being one year's travelling—					
Expenses of several travellers					
Stationery					
Charges for patterns, oil, and other trade expenses					
,, Commission, as per cash-book					
,, Advertising					
,, Wages of workmen					
,, Rent, taxes, and lighting					
,, Bad debts					
			£		

FORMS.

827

<i>Receipts.</i>		£	s.	d.	£	s.	d.
18	To Sale of 313 doors, as per press copy-book						
	Less discount						
	To Royalties—						
	Austria						
	To Balance, being loss						
					£		

<i>Expenditure.</i>		£	s.	d.	£	s.	d.
18	By Purchases of raw material for 313 doors, as per vouchers						
	„ Trade expenses, as per cash-book, being one year's travelling—						
	Expenses of several travellers						
	Law expenses incurred in recovering several debts						
	Stationery						
	Charges for patterns, oil, and other trade expenses						
	„ Commission, as per cash-book						
	„ Advertising						
	„ Wages of workmen						
	„ Rent, taxes, and lighting						
	„ Bad debts						
					£		

M.'s PATENT.

List of Firms supplied gratuitously with Furnace Doors.

							Cost.					
							£	s.	d.	£	s.	d.

ORDERS.

ORDER FOR REVOCATION OF LETTERS PATENT.

Re Gaulard and Gibbs' Patent, 4362, A.D. 1882
(North, J., July 9, 1888).

Upon the petition of S. Z. de F., in the
on the day of , 18 , preferred unto this
Court, and upon hearing counsel for the petitioner and for the
respondents, L. G. and J. D. G., and the N. Co. for the Distribution
of Electricity by Secondary Generators, Limited, on the ,
and upon reading the petition, the amended particulars of objections
delivered by the petitioner, the exhibits produced to the witnesses
named in the schedule hereto, and set opposite to their names in
the third column of such schedule, and upon hearing the evidence
of the witnesses named in the first column of such schedule, upon
their examination taken orally before this Court on the days men-
tioned in such schedule: this Court did order that the petition
should stand for judgment, and the same standing for judgment
this day in the paper, in the presence of counsel for the petitioner
and the respondents: this Court doth order that the letters patent
No. 4362, A.D. 1882, in the petition mentioned, granted to L. G. and
J. D. G., be revoked. And it is ordered that the respondents L. G.,
J. D. G., and the N. Co. for the Distribution of Electricity by
Secondary Generators, Limited, pay to the petitioner, S. Z. de F.,
his costs of the said petition, to be taxed by the taxing master on the
higher scale.

SCHEDULE.

ORDER FOR FURTHER AND BETTER PARTICULARS
OF OBJECTIONS.

Harris v. Rothwell (Feb. 13, 1886).

Upon, &c., this Court doth order that the defendant do on or
before the day of , 1886, deliver to the plaintiff

further and better particulars in writing of his objections as to the validity of the letters patent on which he means to rely at the trial—viz.:

Portions of invention alleged to have been published.

1. By stating what portions of the plaintiff's invention are alleged to have been published prior to the date of the letters patent in each of the several publications in the particulars of objections mentioned by reference to the claiming clauses of the specification of the said patent.

Parts of prior publications relied on.

2. Also by stating more specifically the parts of the alleged publications relied on by the defendant in paragraph eleven of the said particulars of objections.

3. Also by stating more particularly the time and place of the alleged prior users.

Claim anticipated.

4. Also by stating, by reference to the claiming clauses of the specification of the plaintiff's patent, which portions of the said patent are alleged to be anticipated by each of such prior users.

Interrogatories.

And it is ordered that the plaintiff be at liberty to administer interrogatories for the examination of the defendant.

Costs.

And it is ordered that the costs of this application be costs in the action.

ORDER FOR LEAVE TO AMEND SPECIFICATION
DURING ACTION OF INFRINGEMENT.

The Haslam Foundry and Engineering Company v. Goodfellow and others (Kay, J., Dec. 2, 1887).

Upon motion this day made unto this Court by counsel for the plaintiffs, and upon hearing counsel for the defendants, and upon reading the pleadings in this action, and an affidavit of A. C., filed the 1st December 1887, and the exhibits therein referred to: it is ordered that the plaintiffs be at liberty to apply at the Patent Office for leave to further amend the specification of their patent, No. 1034 of the year 1877, by striking out the second claim thereof, and by making such other alterations (if any) as will be rendered necessary thereby. And it is ordered that, after such amendment has been made, the plaintiffs be at liberty to amend their statement of claim so as to limit this action to the amended specification of the said patent. And in default thereof, it is ordered that this action do stand dismissed of this Court, with costs, to be taxed by the taxing master, and be paid by the plaintiffs, the Haslam Foundry and Engineering Company, Limited, to the defendants. And it is ordered that the costs of the defendants Messrs. G. & M., Messrs. L. & H., and Messrs. T. N. &

Son, of this application, and of and occasioned by such last-mentioned amendment, be their costs in any event, and be borne by the said plaintiffs, the Haslam Foundry and Engineering Company, Limited. And it is ordered that, in the event of this action proceeding, all other costs be reserved.

ORDER FOR LEAVE TO AMEND SPECIFICATION
PENDING PETITION FOR REVOCATION OF
PATENT.

Re Gaulard and Gibbs' Patent (Kekewich, J., Nov. 21, 1887).

Upon motion this day made unto this Court by counsel for L. G. and J. D. G., and the N. Company, the respondents to the petition preferred by the above-named S. Z. F., and upon hearing counsel for the said petitioner, an affidavit of the petitioner, S. Z. F., filed the day of _____, 18____, and an affidavit of J. D. G., filed the day of _____, 18____: this Court doth order that the applicants be at liberty forthwith to apply to amend their specification filed in pursuance of the above letters patent, No. _____ of 18____, by way of disclaimer, the applicants undertaking to prosecute their proceedings with all diligence. And it is ordered that the petitioner be at liberty, within fourteen days after notice of the amendments made in the specification, either to amend his petition and the particulars of objection delivered by him, or to discontinue all proceedings thereunder. And it is ordered that the respondents L. G., J. D. G., and the N. Company do pay to the petitioner, S. Z. F., his costs of and consequent upon the presentation of his petition up to and including his costs of this motion. Costs to be taxed by the taxing master.

18____ —A—No.

ORDER FOR INSPECTION.

The Haslam Foundry and Engineering Company, Limited v. Goodfellow and others (Kay, J., April 5, 1887).

Upon motion this day made unto this Court by counsel for the plaintiffs, and upon reading the writ issued in this action and affidavit of _____, &c. &c., and the plaintiffs by their counsel undertaking during the inspection hereinafter directed, or until further

order, not to threaten the defendants, Messieurs Goodfellow and Mathews, or their customers, or any other person or persons, by circulars, advertisements, or otherwise, with any legal proceedings or liability in respect of the manufacture, use, sale, or purchase of refrigerating engines or machines by the said defendants, or the use, sale, or purchase of engines or machines, sold by, or offered for sale by any purchaser from, the said defendants: this Court doth order that the plaintiffs be at liberty, on giving four days' notice, by [*scientific experts*] and solicitor, to inspect refrigerating machines manufactured and in course of manufacture by the defendants, Messieurs Goodfellow and Mathews, for the other defendants, or one of them, which are referred to in the said affidavit of R. M. in the said action of Goodfellow v. The Haslam Foundry and Engineering Company, Limited, 1887—G—573. And it is ordered that the costs of this application be costs in the action.

ORDER OF REFERENCE TO INDEPENDENT EXPERT
FOR REPORT TO THE COURT DURING ACTION OF
INFRINGEMENT.

Badische Anilin und Soda Fabrik v. Levenstein.(a)

The Court, being desirous of obtaining the opinion of Professor R. upon the questions set forth or referred to in the schedule hereto, doth order that such questions be referred to the said Professor for inquiry and report, and that a specification of the patent, dated February 25, 1878, No. 786, be supplied to the Professor.

SCHEDULE.

ORDER FOR EXPERIMENTS BEFORE SCIENTIFIC
EXPERT AND HIS REPORT TO THE COURT DURING
ACTION OF INFRINGEMENT.

*Edison and Swan United Electric Light Company, Limited v.
Holland and others (Kay, J., January 1, 1888).*

This Court, being desirous that experiments should be conducted as hereinafter mentioned, doth hereby order that experiments

(a) 2 P. O. R. 77.

confined to the repetition of experiments of which evidence has already been given before this Court on behalf of the plaintiff and defendants respectively upon the patent of _____, dated the _____ day of _____, and numbered _____, be conducted before one of the following persons in the following rotation [*names of scientific experts*]. And the plaintiffs and defendants respectively are to repeat in the presence of the person before whom such experiments are conducted, and of two experts on each side, any of their said experiments of which evidence has been given as aforesaid which they may think fit, with the aid of assistants. Each side to choose the place at which its experiments shall be made. And it is ordered that such one of them the said _____ before whom such experiments shall be conducted do report to the Court the nature and result of each experiment made before him.

FEES.

FEES IN REFERENCE TO THE REGISTRATION
OF PATENT AGENTS.(a)

Nature of Fee.	When to be Paid.	To whom to be Paid.	Amount.
For registration of name of patent agent who had been <i>bond fide</i> in practice prior to the passing of the Act.	On application and before registration.	To the Registrar at the Institute.	£ s. d. 5 5 0
For registration of name of any person other than as above.	Do. do.	Do.	5 5 0
Annual fee to be paid by every registered patent agent.	On or before November 30 of each year, in respect of the year commencing January 1st following.	Do.	3 3 0
On entry of a candidate for the final qualifying examination.	At time of entering name.	Do.	2 2 0

(a) This list forms Appendix C. to the Register of Patent Agents' Rules, 1889.

LIST OF FEES PAYABLE ON AND IN CONNECTION
WITH LETTERS PATENT.(b)

Up to Sealing.

	£	s.	d.	£	s.	d.
1. On application for provisional protection	1	0	0			
2. On filing complete specification	3	0	0			
	-----			4	0	0
or						
3. On filing complete specification with first application				4	0	0
4. On appeal from Comptroller to law officer. By appellant				3	0	0

5. On notice of opposition to grant of patent. By opponent				0	10	0
6. On hearing by Comptroller. By applicant and by opponent respectively				1	0	0

7. On application to amend specification :—						
Up to sealing. By applicant	1	10	0			
8. After sealing. By patentee	3	0	0			
9. On notice of opposition to amendment. By opponent				0	10	0
10. On hearing by Comptroller. By applicant and by opponent respectively				1	0	0
11. On application to amend specification during action or proceeding. By patentee				3	0	0

12. On application to the Board of Trade for a compulsory licence. By person applying				5	0	0
13. On opposition to grant of compulsory licence. By patentee				5	0	0

(b) This list forms the First Schedule to the Patent Rules, 1890.

		<i>£</i>	<i>s.</i>	<i>d.</i>
14.	On certificate of renewal :—			
	Before end of 4 years from date of patent	50	0	0
15.	Before end of 7 years, or in the case of patents granted under the "Patents, Designs, and Trade Marks Act, 1883," before the end of 8 years from date of patent	100	0	0
	or in lieu of the fees of £50 and £100, the following annual fees :—			
16.	Before the expiration of the 4th year from the date of the patent	10	0	0
17.	" " 5th " "	10	0	0
18.	" " 6th " "	10	0	0
19.	" " 7th " "	10	0	0
20.	" " 8th " "	15	0	0
21.	" " 9th " "	15	0	0
22.	" " 10th " "	20	0	0
23.	" " 11th " "	20	0	0
24.	" " 12th " "	20	0	0
25.	" " 13th " "	20	0	0
	On enlargement of time for payment of renewal fees :—			
26.	Not exceeding 1 month	3	0	0
27.	" 2 months	7	0	0
28.	" 3 months	10	0	0
29.	For every entry of an assignment, transmission, agreement, licence, or extension of patent	0	10	0
30.	For duplicate of letters patent each	2	0	0
31.	On notice to Comptroller of intended exhibition of a patent under section 39	0	10	0
32.	Search or inspection fee each	0	1	0
33.	For office copies every 100 words (but never less than one shilling)	0	0	4
34.	" of drawings, cost according to agreement.			
35.	For certifying office copies, MS. or printed, each	0	1	0
36.	On request to Comptroller to correct a clerical error up to sealing after sealing	0	5	0
		1	0	0
37.	For certificate of Comptroller under section 96	0	5	0
38.	For altering address in register	0	5	0

FEEES.

841

	£	s.	d.
39. For enlargement of time for filing complete specification, not exceeding one month	2	0	0
40. For enlargement of time for acceptance of complete specification—			
Not exceeding one month	2	0	0
" two months	4	0	0
" three months	6	0	0

M. E. HICKS-BEACH,

President of the Board of Trade.

31st March 1890.

Approved:

R. E. WELBY,

For the Lords Commissioners of

Her Majesty's Treasury.

31st March 1890.

WAR OFFICE MEMORANDUM FOR INVENTORS.

WAR OFFICE,

January 1, 1886.

In consequence of the numerous claims for compensation for loss of time and for expenses incurred by private individuals in working out inventions of various kinds, as well as for rewards in consequence of the use of such inventions, the Secretary of State for War considers it necessary to make known the following regulations:—

(a) With regard to unpatented inventions—

- (1) Persons who desire to submit any unpatented invention for consideration should do so by letter addressed to the Under Secretary of State for War. The letter should state the nature of the invention, and whether the person who offers it for consideration desires to make any claim to remuneration in connection with it. In the absence of such a statement, it will be assumed that no such remuneration is expected.
- (2) Expenses incurred before the submission of an unpatented invention will not be considered to give a claim for repayment. No liability on behalf of the public will be recognised on account of loss of time or expenses incurred in connection with an invention after such submission, unless authority for such expenses has been previously given by letter, signed by one of the Under Secretaries of State, or the Director of Artillery; and the liability will be strictly confined to the limits of expenditure authorised in such letter.
- (3) All claims for reward for an unpatented invention will be examined by a joint council of the Admiralty and War Office, to be held at the War Office, and if any payment be recommended by the council and approved by the Secretary of State for War, the sum will, with the concurrence of the Treasury, be included in the Estimates, but it will not be due to the claimant until after the vote is passed by the House of Commons.
- (4) No claim for reward for an unpatented invention will be held to be established unless the invention has been adopted into the Service.

(b) With regard to patented inventions—

(5) By section 27 of the Patents, Designs, and Trade Marks Act, 1883, it is enacted as follows:—

“ A patent shall have to all intents the like effect as against her Majesty the Queen, her heirs and successors, as it has against a subject.

“ But the officers or authorities administering any department of the service of the Crown may by themselves, their agents, contractors, or others, at any time after the application, use the invention for the service of the Crown, on terms to be before or after the use thereof agreed on, with the approval of the Treasury, between those officers or authorities and the patentee, or, in default of such agreement, on such terms as may be settled by the Treasury after hearing all parties interested.”

(6) Persons desiring to submit patented inventions should proceed on all points as laid down in paragraph (1).

(7) Should there be a statement to the effect that remuneration is expected in the event of the adoption and use of the invention by the Secretary of State for War, his agents, contractors, or others, and should there be such adoption and use, or an intention to adopt and use it, then in default of an agreement between the Secretary of State for War and the patentee, or his agent, as to the terms of remuneration, the Treasury will settle the terms after hearing all parties interested.

RALPH THOMPSON.

INDEX.

ABANDONMENT OF APPLICATION

on, for a patent before advertisement of acceptance of the complete specification the specifications are never published, 127, 300, 302, 303

ABRIDGMENTS OF SPECIFICATIONS

publication of, 652

powers of Board of Trade as to, 671

ACCEPTANCE

of application for patent, 294

notice of, 298

effect of, 298

advertisement of, 716

of complete specification, 302

when, must take place, 303

extension of time for, 303

form of application for, 771

effect of, 503, 644

advertisement of, 303

specification is open to public inspection on, 303

no guarantee of validity, 302

ACCESSION OF BRITISH GOVERNMENT

to International Convention, 710

declaration of, 711

ACCIDENT

result of, may be good subject matter, 6, 27

ACCOUNT—*See also* ACCOUNT OR DAMAGES

assignee of share in profits is entitled to an, from licensee, 352

defendant usually ordered to keep an, when an interlocutory injunction is refused, 552

necessary on petition for extension—*see* EXTENSION OF TERM OF PATENT of fees, salaries, &c., in Comptroller's Annual Report, 672

ACCOUNT OR DAMAGES

successful plaintiff may claim, at his election, 598

but not both against same defendant, 598, 605

account against one defendant and damages against another, 599

when damages are preferable to an account of profits and *vice versa*, 599

order, by agreement, for a royalty is sometimes to be preferred to an account or damages, 600

distinction between an account of profits and an inquiry as to damages, 600

the greater the profit the less may be the damage, and the less the profit the greater may be the damage, 600

delay and its effect on right to, 600

plaintiff may be entitled to, though not to an injunction, 601

omission to ask for, at the trial, 609

ACCOUNT OR DAMAGES—(continued)

- assessment of,
 - usually goes up to the conclusion of the inquiry, 601
 - plaintiff an assignee, 601
 - articles manufactured for export, 601
 - infringements committed within certain periods are not included in,
 - 602
 - prior to publication of complete specification, 602
 - prior to amendment of specification unless the Court is satisfied that the original claim was framed in good faith and with reasonable skill and knowledge, 602
 - after failure to pay fees and before enlargement of time for payment, 602
 - time for payment of amount found due after, 602
 - proof in bankruptcy for amount found due, 604
 - discovery on, of number of infringing articles sold and prices, 602
 - names and addresses of defendant's customers, 602
 - profits of defendant's business before infringement as well as since, 603
- account of profits, 603
 - relationship between plaintiff and defendant on the taking of an, 603
 - plaintiff only entitled to actual profits made by defendant's use of the invention, 603
 - true test of profits, 603
 - comparison between profits of defendant's business before and after infringement, 603
 - when plaintiff is in the habit of supplying on royalty articles consisting of patented and non-patented parts, 604
 - scope of, 604
 - production of documents on order for an, 604
 - interrogatories on order for an, 604
- damages, 605
 - plaintiff must prove damage in fact, before he can be entitled to an inquiry as to, 605
 - may be recovered against a manufacturer or user, or both, until the full measure has been recovered, 608
 - effect of acceptance of agreed, from manufacturer, 608
 - in respect of infringements committed after a judgment adverse to the patentee and before its reversal on appeal, 609
 - in respect of infringements before amendment of specification, 271
 - reference of an inquiry as to, to a judge and jury, 609
 - in action at the instance of one of several co-owners, 352
 - measure of, 605
 - importance of plaintiff's usual course of dealing with the invention, 606
 - when plaintiff's usual course of business is to grant licences, 607
 - when plaintiff's usual course of business is not to grant licences, 607
 - every sale without licence is a damage to the patentee, 606
 - profit derived by defendant is not necessarily a, 606
 - difficulty in arriving at, when product sold might have been made by process or machine other than the plaintiff's, 606
 - reduction of price by the plaintiff, 606
 - consequent on defendant's underselling, 607
 - reduction allowed to defendant in respect of increased sale and business connection, 607
 - not affected by amount accepted from non-litigants, 605
 - annoyance and vexation caused by necessity for litigation does not affect, 605
 - costs of former discontinued action, 609
 - cost of inquiry as to, 628
 - usually reserved, 628

ACQUIESCENCE—See also LACHES

- effect of, on right to interlocutory injunction, 541, 542, 545
- as a bar to a perpetual injunction to restrain infringement, 593

ACTION OF INFRINGEMENT—*See* WRIT, STATEMENT OF CLAIM, PARTICULARS OF BREACHES, DEFENCE, PARTICULARS OF OBJECTIONS, DISCOVERY, INSPECTION, CONSOLIDATION OF ACTION, TRIAL, NEW TRIAL, INJUNCTION, ACCOUNT OR DAMAGES, DESTRUCTION OF DELIVERING UP COSTS

- remedies of patentee in respect of infringements, 461
- two distinct kinds of, 516
 - one based on actual infringement, 516
 - the other on threatened infringement, 516
- proceedings before commencement of, 504
 - usual course, 505
 - plaintiff not bound to rely on promise of an infringer not to repeat infringement, 505
 - Court does not usually notice negotiations prior to action, 506
 - proper course when there are several different infringers, 504
- which is a defence to an action to restrain threats of legal proceedings, 450
- does not lie in respect of infringements committed before acceptance and publication of complete specification, 298
- "passing off" may be sued for in, 463
- recovery of royalties may be asked for alternatively in, 385
- registration of assignment condition precedent to right to sue, *quar.* 365
- survival of right of, to tenant in common, 351
- amendment of specification after, 274

ACTION OF REDUCTION

- proceedings for revocation are in Scotland in the form of an, 390

ACTION TO RESTRAIN THREATS OF LEGAL PROCEEDINGS

- See* THREATS OF LEGAL PROCEEDINGS.

ACTS

- See* STATUTES

ADDITION

- See* COMBINATION

ADDRESS

- correction of, 669
- statement of, must accompany application, 713
 - also notice of opposition, 719

ADEQUATE REMUNERATION

- See* EXTENSION OF TERM OF PATENT

ADMINISTRATOR

- may apply for patent, 5
- may petition for extension of term of patent, 411

ADMISSION OF INFRINGEMENT

- effect of, and undertaking not to repeat on the costs of action, 612
- also on plaintiff's right to an injunction, 594

ADVANTAGE

- production of a new, is not *per se* sufficient to support a patent, 67, 71, 73, 86

ADVERTISEMENT

- of acceptance of application, 716
- of acceptance of provisional specification, 716
- of acceptance of complete specification, 303, 716
- of request for leave to amend specification, 277, 721
- of amendment of specification, 646, 722
- of intention to present petition for extension, is necessary, 415
 - in the *London Gazette*, 415
 - and other papers, 415
 - when petitioner is resident abroad, 417
- equitable assignee's name, if co-petitioner, must appear in the advertisements, 417
- form of, 802

ADVERTISEMENT—(continued)

- of day fixed for hearing of petition for extension, 418
- form of, 804
- threats of legal proceedings made by, 441

AFFIDAVIT

- for use under Act of 1883, form of, 715
- in support of order for inspection, 563, 564
- further, of documents, 561
- of advertisement of intention to present a petition for extension must accompany the petition, 416

AGENT—*See also* PATENT AGENT

- any one may act as an ordinary agent in the matter of obtaining a patent, 291
- application cannot be signed by, 290
- forms subsequent to application may be signed by, 291
- appointment of, form of, 747
- rights of, of assignor when the right to use the invention is reserved, 350
- mere, cannot maintain action of infringement in his own name, 507
- of Crown authority, right to use invention on terms, 649
- of foreign inventor may be patentee, 18
- of prior patentee cannot oppose grant of patent, 317
- infringement by, 508

ALIEN

- as patentee, 303
- rights of, 303
- enemy cannot be patentee, 19
- quarry* patent could be held in trust for, 4
- communications from abroad by, 15

ALLOWANCES

- mentioned in Comptroller's annual report, 672
- to credit of petitioner for extension—*See* EXTENSION OF TERM OF PATENT

AMBIGUITY

- See* LICENCE; SPECIFICATIONS

AMBIT OF CLAIM

- for carrying a new principle into effect, 44
- for carrying an old principle into effect, 46
- for a process, 53
- licensee not estopped from disputing, 379, 380
- affected by documents which do not amount to publications, 135, 253
- may extend to proportions of ingredients not specifically mentioned, 184
- may extend to essence of invention though not specifically mentioned, 249, 464
- what is outside, is disclaimed, 464

AMENDMENT

- of application may be required by Comptroller, 294, 641
- of application which comprises more than one invention, 296
- of notice of opposition to grant of patent, 308
- of particulars of breaches, 512
- of particulars of objections, 528
- of documents not provided for by Acts of 1883-1888, 714

AMENDMENT OF THE SPECIFICATIONS

- patent otherwise void may sometimes be cured by, 256
- second amendments are discouraged, 280
- necessity for, should be avoided, 256
- adverse consequences of, 256
- discretion of Comptroller and law officer as to allowing, 259
- prohibition does not lie to Comptroller or law officer, 259
- leave to amend, no guarantee of validity, 259
- is conclusive, 280
- except in case of fraud, 280
- as evidence of prior invalidity, 259, 445

- AMENDMENT OF THE SPECIFICATIONS—(continued)
- leave to amend, no guarantee of validity—(continued)
 - effect of application for, by defendant to action under s. 32 of Act of 1883, 445
 - amended specification takes the place of the original, 260
 - disconformity after amendment is fatal, 259
 - notification of, to be entered on Register of Patents, 336
 - advertisement of, 646, 721
 - delay may be a bar to, 270
 - drawings may be inserted on, 270
 - after action for infringement, 274
 - after order for revocation, 274
 - after action adverse to defendant removes the estoppel in a subsequent action, 522
 - injunction obtained before, cannot be enforced after, 274, 595
 - actions after, in respect of infringements committed before, 273
 - statutory provisions as to, 645
 - certain amendments only are allowable, 256
 - defects inconsistent with intention to fully specify the invention cannot be cured by, 263
 - extension or substantial variation of claim by amendment is not allowable, 259
 - law officer's decision is final as to fact of, 260
 - practice when opposition in doubtful cases, 261
 - examples, 262
 - imputations of disadvantages in prior patents are not allowable on, 259
 - allowable amendments, 257
 - prior to Act of 1883, 257
 - under Act of 1883, 258
 - no action or petition pending, 258
 - pending action for infringement or petition for revocation, 258
 - disclaimer, 264
 - object of an allowable, 264
 - which removes an ambiguity is allowable, 265
 - e.g.*, a limitation to one of two possible meanings, 266
 - rule in *Seed v. Higgins*, 266
 - which removes an insufficiency of specification is not allowable, 265
 - but *query* in case of communicated inventions, 265
 - which extends the claim is not allowable. 264, 265
 - i.e.*, which extends the total grant as distinct from the extension of an individual claim, 264
 - is not a claim to residue, 267
 - residue is not construed by, 268
 - correction and explanation, 268
 - good reason for, must be shown, 268
 - function of a legitimate, 268
 - ambiguity may be removed by, 269, 270
 - but specification cannot be rewritten, 269
 - or subsequently acquired information added, 269
 - insertion of drawing may be allowed, 270
 - clerical errors, 269
 - jurisdiction of Master of the Rolls in matter of, 269
 - s. 18 of Act of 1883 applicable whether patent is sealed or not, 270
 - conditions for the benefit of the public are sometimes imposed when leave is given for, 271
 - e.g.*, no action to be brought in respect of infringements committed before a certain date, 271
 - effect on continued user of article made prior to date fixed, 271
 - or in respect of particular infringements, 272
 - right to bring actions on patents not the subject of the application is not affected by, 272

AMENDMENT OF THE SPECIFICATIONS—(continued)

conditions for the benefit of the public are sometimes imposed when leave is given for—(continued)

e.g., no action to be brought in respect of infringements committed before a certain date—(continued)

marking of articles in respect of which no action is to be brought, 273

when leave for, has been given, action for infringement may be founded on the amended specification, though the amendment has not been actually made. 274

retrospective effect of, 273

use of amended specification in proceedings pending at the time of amendment, 273, 274

practice as to,

before acceptance of complete specification. 256 (n), 302

after acceptance of complete specification, but before patent is sealed. 256, 302

after patent is sealed, 278

slight amendments allowed at hearing of applications for patents before law officer, 312

no action for infringement or petition for revocation pending, 275

s. 18 of Act 1883 Applies, 275

applicant, who may be, 277

request, must be signed by, 277

reasons for, must be stated in writing, 263

but form no part of the specification when amended, 263, 268

nor is leave refused merely on ground of insufficiency of statement of, 263

advertisement of, 277

opposition, 277

notice of, necessary, 278

locus standi of opponent, 279

postponement of opposition to grant of a patent till hearing of, 257

evidence, 278

when and how to be filed, 278

hearing, 278

personally or by agent, 276

objection to *locus standi* of opponent. 279

decision when there is no opponent or opponent does not appear, 279

appeal from Comptroller, 278, 279

law officer's decision is final, 280

Comptroller may be heard on, 279

leave to amend is conclusive, 280

except in case of fraud, 280

costs, 280.

Comptroller has no power over, 280

law officer has control over, 280

pending action or petition, 280

Comptroller does not usually give or receive. on appeal. 280

return of stamp on appeal, 281

“pending action for infringement or proceeding for revocation,” 281. 403

meaning of, 282

s. 19 of Act of 1883 applies, 282

leave of the Court or a Judge is necessary. 283

“Court” defined, 283

powers of Court of Appeal and House of Lords, 622

how obtained, 283

notice of motion for leave of Court or a Judge, 790

several actions or petitions pending, 284

discretion of a Court or a Judge, 284, 287

AMENDMENT OF THE SPECIFICATIONS—(continued)

practice as to—(continued)

“pending action for infringement or proceeding for revocation”—
(continued)

s. 19 of Act of 1883 applies—(continued)

leave of the Court or a Judge is necessary—(continued)

terms usually imposed when leave is granted, 273, 285

when Court does not impose terms the Comptroller or law officer does not usually do so, 288

procedure after leave of the Court or a Judge has been obtained, 288

action or petition commenced after application made under s. 18 of Act of 1883, 283

form of application for leave to amend, 754

opposition to amendment, 755

order for leave to amend pending action for infringement, 834

pending petition for revocation, 835

AMOUNT OF INVENTION

See SUBJECT-MATTER, 27

ANALOGOUS APPLICATION

See NEW USE OF OLD APPLIANCES

ANALOGOUS USE

prior, may or may not be publication, 102

ANTICIPATION—See also NOVELTY ; PUBLICATION

distinction between, and publication, 103

statement of desirability of a result is not an, 97

mere scientific curiosity is not, 97

combination capable of yielding an unobserved result is no, of an invention which consists in perceiving and utilising it, 98

what would be an infringement, if of later date than a patent, is not necessarily an, 135

prior document is no, unless all essential features of the invention are disclosed, 133

combined effect of different prior documents, 137

mosaic of extracts from different prior documents no, 137

APPEAL

from Comptroller to law officer

practice on, 726—See LAW OFFICERS' RULES

from Board of Trade in matter of compulsory licences, 371

from judgment in action of infringement, 590

procedure on, 590

security for costs of, 591

when appellant is bankrupt, 591

fresh evidence on, 531, 591

amendment of particulars so as to admit, 531

issues abandoned below are not allowed to be raised, 591

decision on fact as well as law may be reversed on, 592

decision of several points on, when one is sufficient, 592

practice as to, 592

particulars of objections may be considered on, though only issue is infringement, 592

new trial may be ordered on, 590

stay of proceedings pending, 595, 630

absence of plaintiff abroad insufficient ground for postponing, 591

APPLICANT FOR PATENT

any person may be an, alone, 4, 291

if he can make the necessary declaration, 4

who may be a joint, 4

disagreement as to form of specification by joint applicants, 302

foreigner who has previously applied abroad, 8

preference given to, 17

form of application must be signed by, 290

entitled to notice of opposition, 309

APPLICANT FOR PATENT—(continued)

- alien enemy, 19
- infant, 5
- legal representative of deceased inventor, 5
- lunatic, 5
- married woman, 4
- joint inventors should all be, 12
- persons disqualified from being, 18
- rival applicants, 316
- death of, before sealing of patent, 644
- rights of, after acceptance of complete specification and before sealing of patent, 503, 644

APPLICATION FOR PATENT—See also APPLICANT FOR PATENT; SPECIFICATIONS; OPPOSITION

- statutory provisions for, 641
 - forms of, 744, 749
- interest of an inventor in the invention before making, 345
- delay in making, effect of, 118, 342
- delay in making, is undesirable, 118, 342
- joint inventors must concur in the same, 12
- in fraud of true and first inventor, 335
- by legal representative of deceased true and first inventor, 5
- subsequent, before a prior, is sealed for the same invention, 301
- concurrent, 316
- form of, must be signed by the applicant, 290
 - subsequent forms may be signed by an agent, 291
- how to be made, 292
 - invention original, 292
 - communicated from abroad, 292
 - partly original and partly communicated from abroad, 292
- to be left at, or sent by post to, the Patent Office, 292
 - with a declaration and specification, 292
 - provision for persons incapable of making declaration, 293
 - specification may be provisional or complete, 292
 - form of declaration to be used, 293
- one invention only should be included in, 293
 - inclusion of more than one invention is no objection to validity, 294
- abandonment of,
 - specifications are never published on, 127, 300, 302, 303
- conditions may be imposed on grant of patent, 311—see also **CONDITIONS**
- examination and acceptance of, 294
 - examiners appointed by statute, 294
 - reference of application to, 294
 - duties of, 294
 - reports of, are not published, 301
 - Comptroller acts on report of, 294
 - and may require amendment of the specification, 294
 - appeal to law officer from Comptroller's decision, 295
 - practice on, 295
 - costs of, 295
 - objections which may be taken by Comptroller, 294
 - as to title, 295
 - as to inclusion of more than one invention, 296
 - test of one invention, 296
 - example of amendment by limitation to one invention, 297
- notice of acceptance of, 298
 - effect of, 298
- advertisement of acceptance of, 716
- rights of foreigner, who has applied abroad, as to, 303
 - foreign corporation, 303
 - are personal, 305
 - only foreigner who has actually applied abroad is recognised, 305
 - effect of abortive application abroad, 305
 - practice under s. 103 of Act of 1883, 306
 - minor differences in English and foreign specification allowable, 306

APPLICATION FOR PATENT—(continued)

- second, in respect of same invention, 301
- costs,
 - Comptroller no statutory power over, 312
 - law officer has statutory power over, 312

APPORTIONMENT

- of costs in action of infringement, 614, 617
 - when plaintiff succeeds on validity, but fails on infringement, 614
 - when plaintiff fails on validity, but succeeds on infringement, 616

ARBITRATION ACT, 1889

- applies to patent actions, 582
- arbitration between parties before action no estoppel, 526

ARKWRIGHT'S CASE

- contrasted with Dolland's case and Tennant's case, 102

ARMS (ROYAL)

- unauthorised use of, incurs a penalty, 674

ART

- subject matter must be an, 21
 - producing vendible articles, 22
 - not to be used for illegal purposes, 22
- rediscovery of a lost, as subject-matter, 104
- interpretation of terms of, 127, 237, 238, 239, 251, 570

ARRANGEMENT OF PARTS

- general, may be subject matter, 43
- distinguished from a principle, 43

ASSESSOR

- trial of action of infringement with aid of an, 583
 - power of Court to order, 583
 - Court must order, on request of either party, 583
- hearing of petition for revocation with aid of an, 401
- remuneration of, 583

ASSIGNEE

- account of profits or inquiry as to damages where plaintiff is an, 601
- under no obligation to maintain the patent, 347
- covenants for protection of co-owners are advisable on an assignment of a patent, 350
- of share in profits entitled to an account from a licensee, 352
- equitable, of exclusive licensee not estopped from disputing the patent, 381
- rights of, 360
 - action of infringement, 361
 - quæry* registration a condition precedent, 365, 366
 - amendment of specification, 277, 361
 - petition for extension of term of patent, 361, 411
 - not so favourably received as original patentee on, 411
 - who has advanced capital for the development of the invention is more favourably received on, than one who has not, 412
- under prior patent has *locus standi* to oppose a grant of a subsequent patent, 381
- death of, 363

ASSIGNMENT OF PATENT

- origin of power to assign, 341
 - consists in the terms of the grant, 345
 - rights of an author, 341
 - rights of an inventor, 341
 - monopoly exists only by virtue of the grant, 344
 - interest in an invention before the grant of a patent, 345
 - form of letters patent, 345, 741
- to corporations, 345
- for a district, 346, 651
 - difference between legal interest of an assignee and a licensee, 348
- to Secretary of State for War, 348

ASSIGNMENT OF PATENT—(continued)

- different inventions included in one patent, 349
- to several assignees, 350
 - rights of co-owners, 351
- account of profits or damages where there has been an, 601
- does not fix assignee with obligation to maintain the patent, 347
 - i.e.*, to pay renewal fees when consideration is a royalty, 347
- equitable, may arise from conduct, 347
- exclusive licence may amount to an, 374
- estoppel on, 354
- future inventions, 353
- partnership may be created by, 362
- precedent of an, 774
- warranty on, 357
- with notice of licences, 361
- with notice of covenants, 360
- may be by deed or act and operation of law, 346
 - by deed, 346
 - no particular form of words necessary, 347
 - consideration, 347
 - covenants in restraint of trade, 349
 - covenant to assign future improvements, 353
 - covenants for protection of co-owners, 350
 - reservation to assignor of right to use the invention, 350
 - agents of assignor, 350
 - form of, 774
 - by act and operation of law, 363
 - death of grantee or assignee, 363
 - death of person possessed of unpatented invention, 363
 - bankruptcy, 364
 - patent granted to undischarged bankrupt, 364
 - seizure by sheriff under writ of *fi. fa.*, 364
- registration of, 364
 - should be immediate, 365
 - practice on, 365
 - query* condition precedent to right to sue, 365
 - query* has a retrospective effect, 366

ASSIGNOR

- covenants in restraint of trade by, 349
- reservation of right to use the invention by, 350
- estoppel,
 - recitals and covenants may effect an, 354
 - from denial of title as against assignee, 355
 - but not from denial of a particular construction of the specification, 355
 - no, against assisting a defendant with evidence, 556

ASSISTANT

- employment of, by first and true inventor, 12

ASSIZES

- trial of action for infringement at, 586
- hearing of petition for revocation at, 401

ATTACHMENT

- difference between procedure on, and committal, 596

ATTORNEY-GENERAL—See also LAW OFFICER

- fiat of, when necessary for presentation of petition for revocation of letters
 - patent, 391, 392
 - how obtained, 393
 - may be given *nunc pro tunc*, 394
 - form of, 801
 - costs of obtaining, 394
- may oppose petition for extension of term of patent without notice, 419
- always appears at hearing of petition for extension of term of patent, 421
 - but does not give or claim costs, 440

AUTHOR

rights of an, as compared with those of an inventor, 341

BANK HOLIDAY

Patent Office closed on, 713

Register of Patents closed to inspection on, 724

leaving documents, paying fees, &c., at Patent Office on, 333, 670

BANKRUPTCY

proof in, of amount found due on taking of account of profits or damages, 604

devolution of patent on, of patentee, 364

assignment by trustee in, does not effect an estoppel against a bankrupt patentee in an action brought by the assignee, 357

patent granted to an undischarged bankrupt, 364

right of undischarged bankrupt to fruits of an unpatented invention, 364

BOARD OF TRADE

power of, to make and alter rules regulating business of Patent Office, 671

power of, as to registration of Patent Agents, 684, 738

power of, to dispense with acts and things required under Patent Rules, 1890, 725

power of, to appoint and remove Comptroller and other officers, 668

Comptroller acts under superintendence and direction of, 667

power of, to require models on payment, 653

power of, to regulate fees, 647

proceedings of, 690

certificate of, conclusive evidence, 690

exhibitions certified by, 117, 652, 682

power of, to compel grant of licences, 371, 646

appeal from decision of, as to compulsory licences, 371

how powers of, may be exercised, 690

BODY CORPORATE

may be patentee, 18

but not alone, 18

may be an assignee, 345

and registered as such, 346

BONA FIDES

See SPECIFICATIONS

BRITISH POSSESSION

definition of, 677

BREACHES

See PARTICULARS

BURDEN OF PROOF

See EVIDENCE

CAPITALIST

may obtain interest in the invention from the first, 4

CATALOGUES

relating to inventions, published by Comptroller, 652

CAVEAT

any person may enter a, against the extension of the term of a patent, 418

CERTIFICATE

of Comptroller is *prima-facie* evidence, 670

form of, 766

of Board of Trade as to exhibitions, 117, 652, 682

of particulars

necessary on taxation of costs in action of infringement, 617

but not on petition for revocation, 404, 622

query in action to restrain threats, 458

CERTIFICATE—(continued)**of particulars—(continued)**

necessary on taxation of costs in action of infringement—(continued)

omission to ask for, at the trial, 618

power of Court of Appeal and House of Lords to grant, 618

practice of Court of County Palatine of Lancaster as to, 618

is granted (1) when particulars have been proven ; (2) when in the opinion of the Court or a Judge they were reasonable and proper, 619

when action is discontinued, 619

when action not tried out on all issues, 619

rule that Court will only certify such particulars as materials before the Court enable it to say are reasonable and proper, 620

illustrations of the working of the rule, 620

though validity is not decided, certificate may be given on the ground that the particulars were necessary to fix the ambit of the claim, 621

action in respect of several patents, 621

of payment or renewal, 720

form of, 759

form of application for, 759

of Secretary of State for War to effect that invention should be kept secret, 348, 653

of validity, 622

effect of, on costs of subsequent petition for revocation, 622

effect of, on costs of subsequent action, 622—*see* COSTS—Solicitor and clients

meaning of "subsequent action," 625

effect of, in subsequent action to restrain threats of legal proceedings, 458

powers of Court of Appeal and House of Lords as to, 622

discretion of Court or Judge as to allowing solicitor and client's costs on the strength of, 626

illustrations of exercise of, 626

when subsequent defendant does not dispute validity, 627

when may be given, 622

after expiry of the patent, 622

in absence of evidence on issue of validity, 623

where plaintiff fails on issue of infringement, 624

where defendant admits validity on a certain construction of the specification, 624

quere in action to restrain threats, 622

on petition for revocation, 622

form of, 795

CESTUIS QUE TRUST

right of, to sue in respect of infringement, 353

may be made party to action commenced by trustee, 353

CHEMICAL INVENTION

publication of highly scientific, 134

infringement of patent for, 493

CHRISTMAS DAY

Patent Office closed on, 713

Register of Patents not open to inspection on, 724

leaving documents, paying fees, &c., at Patent Office, 333, 670

CIRCULARS

threats of legal proceedings by, 441, 446, 449

CLAIM

See SPECIFICATIONS

CLASSES OF INVENTIONS, 36**CLERGYMAN**

if beneficed cannot be a patentee, 19

CLERICAL ERRORS

See ERRORS

CLERK OF FOREIGN INVENTOR

may be patentee, 18

COKE, SIR EDWARD

chapter of monopolies by, 23

commentary on ss. 5 and 6 of Statute of Monopolies, 23

commentary by, on words "mischievous to the State by raising the prices of commodities at home" in 21 Jac. 1, c. 3, s. 6, 141

COLONIES

prior use in, no bar to English patent, 120

provisions under Acts of 1883 for, and India, 673

COLOURABLE IMITATION

infringement by, 467, 487, 489

is infringement though substitution of equivalents may not be, 489

objection to the use of the terms "colourable," "colourably," 467

COMBINATION

is subject-matter, 58

if result is new, better or cheaper article, 60

whether parts are new or old, 58

immateriality of novelty of parts, 62

merit largely depends on result produced, 58

ratio decidendi of the cases, 58

new combination may consist in

omission of a part or parts from an old combination, 62

addition to an old combination, 62

substitution of new equivalents for old parts, 63

examples of patents void for substitution of known equivalents, 64

rearrangement of old parts, 61, 63

infringement of patent for, 476—*see also* INFRINGEMENT

by taking substance, 478

special claim for subsidiary part, 478

by substitution of equivalents, 479

not known at the date of the patent, 479

effect of public knowledge on question of, 480

two classes of cases, 481

Curtis v. Platt as type of one class, 481

Proctor v. Bennis as type of the other class, 483

correct application of the doctrine of, is a matter of difficulty in some cases, 490

illustrations, 491

colourable imitation is infringement though substitution of equivalents may not be, 489

new parts of new, are subject-matter for separate patents or claims, 62, 228

COMMERCIAL SUCCESS

as a test of invention, 9

not necessarily evidence of utility, 577

want of, not necessarily evidence of non-utility, 576

COMMERCIAL UTILITY

as it affects validity, 143, 577

COMMISSION

credited to petitioner on application for extension of term of patent, 434

COMMITTEE OF LUNATIC

declaration by, 5

COMMON KNOWLEDGE

as objection to validity, 533

how the plea should be raised, 533

distinction between issue of, and prior publication, 534

COMMON LAW

- declaration of, by Statute of Monopolies, 1
- cases on subject matter prior to Statute of Monopolies, 25
- novelty as a requisite at, 92
 - preserved by Statute of Monopolies, 94
- utility a, requisite, 139

COMMUNICATION

- by one to another in the realm-not subject-matter, 16, 17
- made abroad may be subject-matter, 15, 17
 - patents granted under Act 1883 for, 17
- by one foreigner to another abroad good subject-matter, 17
- foreigner's application for patent, 303
 - rights under s. 103 of Act 1883 are personal, 305

COMMUNICATOR

- as true and first inventor when the invention is a foreign one, 15, 17
- the invention is made in the realm, 17

COMPANY

- "person" includes, 676
- may be registered as proprietor, 18
- cannot be sole original patentee, 18
- may be joint original patentee, 18
- as petitioner for extension of term of patent, 412
- directors of, personally liable for infringement, 509

COMPLETE SPECIFICATION

See SPECIFICATIONS

COMPTROLLER

- as defined by Act of 1883, 677
 - is appointed by the Board of Trade, 668
 - may be removed by Board of Trade, 668
 - acts under superintendence and direction of the Board of Trade, 667
- certificate of, *prima-facie* evidence, 339, 670
- discretion of Crown as to granting patents is exercised through the, 289
 - on the report of examiners with regard to acceptance of applications, 294
 - subject to appeal to the law officer, 295
 - practice in, 295
- no inquiry as to age, coverture, or sanity of an applicant by, 5
- hearing of opposition by, 310
- discretion of, as to amendments of specifications, 259
 - does not usually impose terms when the Court has not done so under s. 19 of Act 1883, 288
- exercise of discretionary power, subject to appeal, 670
- form of application for hearing by, 753
- form of certificate of, 766
- power of, to take direction of law officer, 670
 - to refuse application or to require amendment, 294
 - to impose conditions on granting leave to apply to amend specifications, 271
 - to correct clerical errors, 270
 - none over costs of proceedings on application for patent, 295
 - to require amendment of specification on report of examiner, 300
 - none over costs of application for leave to amend specification, 280
- required to publish illustrated journal and report of cases, 335
 - also annual report, 672

COMPULSORY LICENCES

- statutory provisions as to, 646
- patentee may be compelled to grant, 371
- appeal from decision of Board of Trade as to, 371
- form of application for grant of, 756
 - petition for grant of, 757
 - opposition to grant of, 758
- grounds for grant of, 371
- practice on application for, 722

CONDITIONS

- of grant of patent, 343
 - non-compliance with, a ground of revocation, 395
- special, may be imposed by Comptroller or law officer on application. 311

CONFIRMATION OF PATENTS. 334**CONSIDERATION**

- for a patent is entire, 98
- partial failure of, for patent is fatal to validity, 98, 146
- novelty as part of, for a patent, 92
- utility as part of, for a patent, 140
- not necessary for licence by deed, 370
- no restriction as to, for licence, 378
- usual, for licence, 378

CONSIGNEE

- of goods shipped from abroad, defendant to action of infringement. 510

CONSOLIDATION OF ACTIONS

- can be obtained only at the instance of the defendants. 589
- several actions on the same patent, 589
- several actions by different plaintiffs against the same defendant, 589
- time for, 589
- how to be effected, 589

CONSTRUCTION

- of letters patent, 460
- of specifications—*see* SPECIFICATIONS

CONTEMPT OF COURT

- breach of injunction a, 596
 - motion for committal, 596
 - proof necessary on, 596
 - expiry of patent, an answer to, 597
 - is procedure whereby to determine whether acts done since injunction, similar though not the same as those done before, are a breach of the injunction, 597
 - solicitor and client's costs on, 598
- advertisements relative to *ex parte* statements in Court which are, 598
- advertisements and statements relative to evidence and expense of trial or appeal which are not, 598

CONTRACT

- breach of, no justification for infringement of patent, 501

CONTRACTORS

- of Crown authority, right to use invention on terms, 377, 649

CONVENTION (INTERNATIONAL)—*See* INTERNATIONAL CONVENTION.

- for protection of industrial property, 692
 - final protocol, 705
 - accession of her Majesty's Government to, 710
 - declaration of acceptance of, 711

CO-OWNERS OF PATENT

- should be joint petitioners on application to amend a specification, 277
 - but amendments may be allowed in absence of unregistered, 277
- covenants for protection of, 350
- disputes between, on an application for extension of the term of a patent. 428
- rights of, 351
 - to sue in respect of infringements, 351, 353
 - to sue in respect of royalties, 352
 - to personal use of the invention, 352
 - to grant licences, 352, 368
 - trustee and *cestuis que* trust, 353

COPIES

- of statutory declarations on application, how obtained, 309, 719
- of accounts on petition for extension, 419
- of deeds, licences, &c., to be supplied to Comptroller, 647
- sealed, to be received in evidence, 699
- certified, of documents in Patent Office, 725
- of Patent Office publications, presentation of, 671

CORPORATION—See BODY CORPORATE

- sole as patentee, 19
- may be joint patentee, 18
 - but not sole original patentee, 18
 - except in case of invention communicated from abroad, 18
- may be assignee, 345
 - and registered as such, 346

CORRECTION

See AMENDMENT OF THE SPECIFICATIONS

COSTS

- of application for patent
 - Comptroller has no power over, 312
 - law officer has no power over, 312
- of amendment of specification, 280
- of opposition to grant of patent, 312
- of action to restrain threats of legal proceedings, 459
 - caused by trying action in two forms, 459
- of further and better particulars, 529
- of action of infringement, 611
 - discretion of the Court or a Judge, 611
 - ignorance of the patent does not exempt from liability, 612
 - circumstances which will induce the Court to deprive a successful plaintiff of, 506
 - defendant admitting and undertaking to discontinue infringement, 612
 - oppressive conduct on the part of the plaintiff, 613
 - withdrawal of action by plaintiff, 613
 - apportionment of, 614-617
 - where plaintiff succeeds on validity but fails on infringement, 614
 - where plaintiff fails on validity but succeeds on infringement, 616
- drawings, 627
- inquiry as to damages, 628
 - usually reserved, 628
- expert's fees, 627
- further and better particulars, 529
- issues, abandoned at the trial, 614
 - separate, 613
- motion to commit for breach of injunction, 598
- models, 627
 - on the higher scale, 629
 - illustrations of cases in which, are given, 629
 - on appeal though refused below, 629
 - reservation of question as to, till after taxation, 630
- party and party, 627
- scientific evidence, 627
- security for, of appeal, 591
 - when appellant is bankrupt, 591
- shorthand notes, 628
 - usual agreement as to, 628
- solicitor and client's, 625
 - not always given though certificate of validity has been obtained in a former action, 625
 - discretion of the Court or a Judge, 626
 - illustration of exercise of the, 626
 - when defendant does not dispute validity, 627
- taxation
 - certificate of particulars, 617
 - is necessary on, 617

COSTS—(continued)

of action of infringement—(continued)

taxation—(continued)

certificate of particulars—(continued)

omission to ask for, at the trial, 618

power of Court of Appeal and House of Lords to grant, 618

practice of Court of County Palatine of Lancaster, 618

is granted (1) where particulars have been proven; (2) where in the opinion of the Court or a Judge they were reasonable and proper, 619

where action is discontinued, 619

where action is not tried out on all the issues, 619

rule that Court will only certify such particulars as the materials before the Court enable it to say are reasonable and proper, 620

illustrations of the working of the rule, 620

though validity is not decided, may be given on the ground that the particulars were necessary to fix the ambit of the claim, 621

action in respect of several patents, 621

certificate of validity in former action and its effect on costs of a subsequent action, 622, 625

meaning of "subsequent action," 625

discretion of taxing master as to, pending appeal, 385

three counsel, 628

of interrogatories, 556

must be secured, 556

of petition for revocation, 404

respondent out of jurisdiction cannot be compelled to give security for, 400

certificate of particulars is not necessary on taxation, 404, 622

COUNSEL

joint petitioners for revocation must appear by same, 401

only two on each side heard on petition for extension, 420

unless opponents have distinct and separate interests, 420

costs of three, 627

COUNTY COURT

no jurisdiction to try actions in which the validity of a patent is in issue, 581

action to recover royalties may be brought in, 582

COURT

as defined by Act of 1883, 390, 676

leave of, or a Judge is necessary for the amendment of specifications pending action of infringement or petition for revocation, 281

how obtained, 283

terms usually imposed on application for, 273

power of, to compel inspection, 564

rectification of Register of Patents by, 339

COURT OF APPEAL

discretion of, as to admitting evidence not within the particulars, 567

jurisdiction of, to grant certificate of particulars, 618

jurisdiction of, to grant certificate of validity, 622

COURT OF COUNTY PALATINE OF LANCASTER

jurisdiction of, to grant leave to apply to amend specifications pending action or petition, 283

to grant an account of profits or inquiry as to damages, 605

to certify as to particulars, 618

to grant certificate of validity, 622

to hear petition for revocation, 390

COVENANTS

assignment with notice of, 360

usual, inserted in licences, 378, 387

COVENANTS—(continued)

- recovery of royalties paid without knowledge of breach of, 384
- estoppel in virtue of, implying validity, 379
- in restraint of trade by assignee and their enforcement, 349
- to assign future improvements, advisable for protection of assignee, 353
- for protection of co-owners, advisable on assignments, 350
- for title, to grant licences, and for validity are not implied by law, 381

COVERTURE

- no inquiry as to, on application for patent, 5

CRANE v. PRICE

- decision in, doubtful on the facts, 48

CROWN

- discretion of, in matter of granting patents, 289
 - exercised through Comptroller-General and law officers, 289
 - not suspended during minority or incapacity of the sovereign, 289
- authority of, to grant an extension of the term of a patent, 405—*see*
EXTENSION OF TERM OF PATENT
- patent binds the, 649
 - but the Crown has the right to use of inventions on terms, 377, 649
 - procedure to question authority of, or its officers to use an invention,
377

CUSTOM HOUSE AGENT

- liability of, in respect of importation of infringing goods, 503

CUSTOMERS

- disclosure of defendant's, on inquiry as to damages, 602

DAMAGES

- See* ACCOUNT OR DAMAGES

DATE OF LETTERS PATENT

- letters patent bear, as of the day of application, 166, 331
 - except in case of patents granted to foreigners under s. 103 of Act of
1883, which may be ante-dated to date of application abroad, 303

DEATH

- of person possessed of an invention for which no application for a patent
has been made, 5, 363, 651, 715
- of person possessed of an invention in respect of which an application for
a patent has been made, 5, 644, 715

DECLARATION

- necessary, on application for a patent, 4, 292, 293
 - provision for persons incapable of making, 293
 - by legal representative of deceased inventor, 5, 651
 - by first importer, 16
- statutory, for use in Patent Office, 293
 - how to be made and subscribed, 293
 - exempt from stamp duty, 293
 - on opposition to grant of patent, 309
 - times for leaving at Patent Office, 309
 - list of, to be furnished to opposite party, 309
 - copies of, how obtained by opposite party, 309
- of acceptance of accession of British Government to International Con-
vention, 711

DEED

- assignments of patents must be by, failing act and operation of law, 346
 - no particular form of words necessary, 347
- licences by, 368
- necessity for a formal, is question of construction in cases of executory
agreements for licences, 369

DEFENCE

- in action of infringement, 517
 - two main defences are open, 517
 - denial of infringement, 517
 - denial of validity, 517
 - alternative pleas of no infringement and acts done under licence are not allowable, 382
 - breach of contract by plaintiff no, 501, 517
 - ignorance no, 465
 - intention no, 465
 - all grounds of. should be stated, 518
 - relation of, to particulars of objections, 518
 - particulars do not stand in the place of pleas, 518
 - and cannot go outside pleas, 518
 - denial of validity on the grounds stated in the particulars of objections is sufficient, 518
 - grounds on which invalidity may be pleaded, 519
 - patentee not true and first inventor, 519
 - invention not subject matter, 519
 - invention not new, 520
 - invention not useful, 520
 - insufficiency of specification, 521
 - disconformity, 521
 - any ground on which the patent might, prior to 1884, have been repleaded by *scire facias*, 519
 - fresh issues may, on leave, be raised during the progress of the action, 521
 - estoppel of defendant from denying the validity of the patent, 522
 - arbitration between parties before action, 526
 - decision in former action, 522
 - parties to subsequent action not the same as parties to the former, 522
 - specification amended after former action removes estoppel, 523
 - defendant having submitted to an injunction, 523
 - defendant a licensee, 524
 - defendant an assignee, 524
 - may deny ambit of claim, 525
 - or particular construction of specification, 355
 - defendant a former partner of the plaintiff, 525
 - agreement between the parties, 525
 - assignment by trustee in bankruptcy does not necessarily estop original patentee, 526
 - some co-defendants may be estopped whilst others are not, 526
 - defendant may be estopped on motion for interlocutory injunction, though not at the trial, 525
 - inspection for purpose of preparing, 563
 - precedents of, in action of infringement, 786-788
 - in action to restrain threats of legal proceedings, 797

DEFECTS

- what allusions to, in prior inventions are allowable in subsequent specifications, 325

DEFINITIONS

- anticipation and publication, 103
- British possession, 677
- Comptroller, 677
- Court, the, 677, 390
- Court of Appeal, 677
- distinct statement of invention claimed, 220
- foreign application, 304
- "improvements" as used in title, 69, 156
- industrial property, 705
- infringement, 463
- injunction, in Scotland, means interdict, 655
- invention, 17, 20, 655

DEFINITIONS—(continued)

inventor, 17
 law officer, 677
 legislature, 677
 manufacture, 21
 novelty and discovery, 102
 ordinary skilful workman, 191
 patent, 655
 "patents" as used in International Convention, 705
 patentee, 655
 "person" includes "body corporate," 677
 "prescribed," in reference to Act of 1883, 677
 public knowledge, 95
 public use, 111-116
 "subsequent action," in reference to costs, 625
 subject matter
 exhaustive definition of, not possible, 36
 by Statute of Monopolies, 3
 by Court of King's Bench, 22
 "summary conviction" in Ireland, 677
 Treasury, the, 677
 utility, 143

DELAY—See LACHES

in applying for a patent is undesirable, 118
 in sealing a patent, 331
 effect of, on right to account or damages, 600
 disentitles plaintiff to interlocutory injunction, 541
 what amounts to, 541
 may sometimes be explained, 542
 examples, 542
 no bar to perpetual injunction, 593

DESTRUCTION OR DELIVERY TO PLAINTIFF OF INFRINGING ARTICLES

power of Court to order, 609
 as alternative remedies, 609
 when infringing article is composite, 610
 marking of infringing articles, 610
 loss caused to defendant by, 611
 question as to, may be reserved, 610
 form of order for, 610

DETAILS

improvements in, made by servant of inventor, 14
 mentioned in complete and provisional specifications may differ, 163

DIRECTOR OF COMPANY

may be personally liable for infringements, 509

DISCLAIMER—See AMENDMENT OF SPECIFICATIONS; OPPOSITION TO GRANT OF PATENT

claim is by implication a, 221, 267
 amendment of specification by, 264
 object of allowable, 264
 removal of ambiguity, 265
 e.g., limitation to one of two possible meanings, 266
 rule in *Seed v. Higgins*, 266
 insufficiency of specification may not be cured by, 265
 but *quarry* in the case of communicated inventions, 265
 extension of claim by, is not allowable, 264, 265
 i.e., extension of total grant, 264
 sealed copy of, in Patent Office is evidence, 669
 at hearing of opposition to grant of a patent Comptroller sometimes
 effects the principle that no claim is allowed which is wide enough
 to include something already patented, by requiring a general or
 special, 322
 grounds on which required, 323, 326
 general disclaimers are more usual than special, 324, 326
 when special disclaimers are requisite, 325-328

DISCONFORMITY--*See also* IMPROVEMENT; SPECIFICATIONS, COMPLETE
 meaning of, 168
 is fatal to validity, 168
 whether before or after amendment, 169, 259
 a ground for refusing an application for a patent, 329
 true way to decide questions of fact as to, 169
 effect of detailing advantages in the provisional specification, 170
 illustrative cases of patents held void for, 171
 illustrative cases in which objection of, failed, 173

DISCOVERY

not every, is subject-matter, 25
 distinction between, and invention, 25
 distinction between, and novelty, 102
 in action of infringement, 553-567
 interrogatories
 may be administered notwithstanding necessity for particulars,
 553
 must be limited to facts enabling interrogating party to prove
 his case, 553
 as to fact of infringement, 559, 560
 fishing, are not allowable, 554
 irrelevant, are not allowable, 553
 plaintiff and defendant have an equal right to discovery, 555
 when discovery a matter of indifference to party against whom it
 is sought, 555
 or cannot help the interrogating party till he obtain judg-
 ment, 555
 rule that "he who answers must answer fully," 556
 neither party can be compelled to put a construction on the
 specification in answer to, 559
 when complete answer cannot be given without oracular demon-
 stration, 559
 names and addresses of alleged prior users, 559
 defendant's customers, 560, 602
 disclosure of processes used by alleged infringer, 559
 as to documents not disclosed in original affidavit, 562
 costs of, must be secured, 556
 right to, may depend on prior decision of an issue, 557
 trade secrets and, 557
 privileged communications, 558
 communications between patentee and patent agent not privileged,
 558
 communications between patentee and his solicitor are privileged,
 558
 production of documents, 560
 documents not disclosed in original affidavits, 561
 further affidavit of documents, 561
 interrogatories as to, 562
 effect of limited order for, 562
 on an account of profits or an inquiry as to damages
 number of infringing articles sold with the prices, 602
 names and addresses of defendant's customers, 602
 profits of defendant's business before as well as after infringe-
 ment, 603
 on petition for revocation
 as in action of infringement, 399

DOCUMENTS--*See also* AFFIDAVIT

publication by, 124
 foreign books, 124
 a question of fact, 125
 document may be public property the moment it is written, 127
 terms of art may have different meanings in different, 127
 document which points away from the patentee's claim, 127
 provisional specifications, 127

DOCUMENTS—(continued)

publication by—(continued)

a question of fact—(continued)

no necessity to prove that prior description has been put in practice, 129

mere suggestion is not publication, 129

sufficiency of description necessary to amount to publication, 130, 131

document though no publication may narrow the ambit of patentee's claim, 135

difference between a prior document and a prior machine or a publication, 138

several different documents taken together, 137

mosaic of extracts from, 137

evidence as to, 573

notice to admit is necessary, 573

proof of documents not admitted, 573

production of, 560

documents not disclosed in original affidavit, 560, 561

further affidavit of, 561

interrogatories as to, 562

effect of limited order for, 562

discovery of relevant, 560

amendment of, by Comptroller, 714

may be sent by post to Patent Office, 670

provisions as to day for leaving at Patent Office, 670

sealed copies of, in Patent Office are evidence, 669

size, &c., of, for use in Patent Office, 713

DOLAND'S CASE

authority on law of true and first inventor, 8

contrasted with Tennant's case and *R. v. Arkwright*, 8, 102**DRAWINGS**

both provisional and complete specification must be accompanied by, if required 165, 641

both specifications may be accompanied by the same, 682

complete specification may refer to the, which accompany the provisional, 682

not published unless application is accepted, 681

amendment of, 294

amendment of specification by insertion of new, 270

costs of, in action of infringement, 627

effect of, on construction of specifications, 253

powers of Board of Trade as to, 671

size and preparation of, for use in the Patent Office, 717

transmission of certified copies of, 671

DUE DILIGENCE—See THREATS OF LEGAL PROCEEDINGS

action not prosecuted with, a ground for dissolving an interlocutory injunction, 553

DUPLICATES

of letters patent, 335

of specifications, &c., 671, 750, 751

of drawings necessary, 716, 718

DURATION*See* **EXTENT AND DURATION OF LETTERS PATENT****DUTIES**

payment of, in respect of patents assigned in consideration of a royalty, 347

payable in respect of patents, 839

payable in reference to registration of patent agents, 838

EDINBURGH MUSEUM OF SCIENCE AND ART

transmission of certified copies of specifications, &c., to, 671

EMPLOYER

- not entitled to invention made by employee, 14
- but is entitled to details worked out by employee, 14
- suggestions made by employee, 15

ENGLAND

- revocation of letters patent in, effect of, 390

ENLARGEMENT OF TIME

- for payment of fees, 721
 - form of application for, 760
- for leaving and accepting specifications, 721
 - forms of application for, 770, 771
- for doing other acts prescribed by Patent Rules, 1890, 721
- for appealing to law officer, 726

EQUITY

- no infringement on, of a patent, 464

EQUIVALENTS

- substitution of known, not subject-matter, 63
- substitution of new, is subject-matter, 63
- examples of patents void as being merely for the substitution of one known, for another, 64
- prior use of, may or may not be publication, 103
- importance of, in questions relating to opposition to grant of patents, 322
- infringement by use of, 479
 - equivalents not known at date of patent, 480
 - effect of public knowledge on question of, 480
 - two classes of cases, 481
 - Curtis v. Platt as type of one class, 481
 - Procter v. Bennis as type of the other class, 483
 - difficulty in deciding in which class a particular case falls, 485
 - correct application of doctrine of, a matter of difficulty sometimes, 490
 - illustrations, 491
 - chemical patents and, 493
 - use of ingredients in proportions outside those claimed, 494

ERRORS

- in specifications
 - effect of, on sufficiency, 197
 - if corrected by other parts are not fatal, 255
 - if apparent are not fatal, 255
 - if not apparent are fatal, 255
 - which amount to false suggestion are fatal, 255
 - construction of, by the Court, 255
 - clerical,
 - power of Comptroller to correct, 270, 669
 - power of Master of Rolls to correct, 269
 - delay in applying to correct, 270
 - form of request for correction of, 765

ESTOPPEL

- of assignor
 - recitals and covenants by, which affect an, 354
 - as against assignee from denying title to convey, 355
 - but not a particular construction of the specification, 355
 - no estoppel from assisting defendant with evidence, 356
 - assignment by trustee in bankruptcy does not estop bankrupt patentee, 357, 526
- of defendant to action of infringement from denying validity, 522
 - decision in former action, 522, 549
 - different parties, 522, 549
 - amendment of specification after action removes estoppel, 523
 - prior submission to injunction, 523
 - agreement between parties, 525
 - assignment by trustee in bankruptcy, 526
 - defendant assignor, 524
 - defendant licensee, 524

ESTOPPEL—(continued)

- of defendant to action of infringement from denying validity—(continued)
 - defendant a former partner of plaintiff, 525
 - some joint defendants may be estopped whilst others are not, 526
 - may operate on motion for interlocutory injunction though not at the trial, 525
- of licensee, 379, 382
 - from denying validity of patent in action by licensor, 379
 - but not if licence not under seal unless acted on, 381
 - or if licensee is only equitable assignee of exclusive licensee, 381
 - no, against denial of ambit of licence, 379
 - or ambit of patentee's claim, 380
 - may be subject of special covenant, 381
 - terminates with the licence, 380, 381, 382
- no, against petitioner for revocation in respect of an unsuccessful action for infringement, 401

EVIDENCE

- action of infringement, 567, 581
 - necessary on application for interlocutory injunction, 540-553
 - necessary to obtain an order for inspection, 563
 - necessity for evidence of actual damage, 605
 - when defendant does not appear at the trial, 567
 - confined to the particulars, 567
 - except by leave of Court or a Judge, 567
 - not within the particulars, 567
 - discretion of Judge as to, 567
 - discretion of Court of Appeal as to, 567
 - particulars not objected to are construed widely, 567
 - and such evidence is admitted as is within their literal meaning, 528, 567
- of assignee, 568
 - interest in validity of patent may affect, 568
- of licensee admissible in action brought by patentee, 381, 568
 - but not when action is for benefit of the licensee, 368
- expert,
 - necessity for, and value of, 569
 - limit of admissibility of, 570
 - costs of, 627
- proof of documents filed in Patent Office, 669
 - necessary to prove
 - grant of patent, 570
 - scope of invention claimed, 571
 - issue of true and first inventor, 571
 - effect of previous failures on, 11
 - issue of subject matter, 571
 - novelty and utility not conclusive evidence of invention, 34
 - simplicity is not conclusive evidence of lack of invention, 34
 - new, better and cheaper article as evidence of invention, 11
 - issue of novelty
 - plaintiff must give *prima-facie* evidence on, 572
 - onus* then on the defendant, 572
 - documents as evidence of publication, 573
 - necessity for notice to admit documents, 574
 - proof of documents not admitted, 574
 - sealed copies of documents filed at Patent Office are evidence, 669
 - not necessary to prove patentee's knowledge of prior document, 125
 - proof of public right of access to, is sufficient, 125
 - not necessary to prove actual use of prior published invention, 129
 - rebutting evidence may be given by plaintiff on, 573
 - recalling witnesses, 574
 - evidence of person who has knowledge of plaintiff's specification, 133
 - models as evidence on, 574

EVIDENCE—(continued)

action of infringement—(continued)

necessary to prove—(continued)

issue of utility, 575

user or non-user by the public as evidence on, 145, 576

commercial success, 576

patent for an improvement is not evidence of lack of utility
in the original, 67

issue of sufficiency of specification, 577

plaintiff must give some evidence on, 577

onus then on defendant to establish insufficiency, 578amendment of specification as evidence of prior invalidity,
259, 445

issue of infringement, 578

a mixed question of law and fact, 237, 578

multiplicity of expert evidence not admissible on, 578

effect of prior construction of specification by Court of
Equal Jurisdiction, 579

defendant himself a patentee, 579

necessity for proof that alleged infringement was not com-
mitted by agents or under licence of the plaintiff, 579,
581when it is sufficient for the plaintiff to make out a *prima-*
facie case on, 580facts which are *prima-facie* evidence of infringement,
581defence that alleged infringement in a trade secret, evidence
given *in camera*, 581

fresh evidence as to, on appeal, 591

oppositions to grant of patent, 309

petition for extension, 421

may be taken by clerk of Privy Council, 421

petition for revocation

confined to particulars, 398

except by leave of Court or a Judge, 398

trial on affidavit evidence, 400

statutory provisions as to giving in, and effect as, of,

Board of Trade Orders and Certificates, 69, 581, 673

Patent Office copies and certificates of specifications, disclaimers
and other documents or extracts from them, 581, 669, 670

Register of Patents, 581, 647

Seal of the Patent Office, 581, 647

EXAMINATION

of application, 294

of complete specification, 300

EXAMINERS

appointed under Act of 1883, 668

application for patent is referred to, 294

duties of examiners, 294

Comptroller may refuse application on report of, 294

or require amendment of specifications and drawings, 294

complete specification is referred to, 300

and Comptroller may refuse it or require an amendment on
report of, 300

reports of, are not published, 301

EXECUTION

against patent, 364

EXECUTOR

patent vests in, 363

EXHIBITIONS (INDUSTRIAL OR INTERNATIONAL)

protection of non-patented inventions exhibited at, 117, 652, 682

Patent Rules, 1890, as to, 714

form of notice of intended exhibition of an unpatented invention, 764

EXISTING PATENTS

provisions of Act of 1883 as to, 655

EXISTING RULES

provisions of Act of 1883 as to, 676

EXPERIMENTAL USE

and publication, 106

prior, though profitable is not necessarily fatal to validity, 110

law as to, stated by Tindal, C.J., 106

always a question of fact, 107

and infringement, 496

use by way of *bonâ-fide* experiment no infringement, 496

use for advantage is infringement, 496

e.g., use for instruction of pupils, 496

EXPERIMENTS

law of anticipation by, 106

unsuccessful, no publication, 105

publication by, always a question of fact, 7, 107

abandoned, *prima facie* presumed to have been incomplete, 107

illustrative cases, 107

when necessity for, renders a specification bad and when not, 189, 198

expenses of, credited to petitioner for extension of term of patent, 434

inclusion in complete specification of results of, made during period

of provisional protection, 167, 168

EXPERT

evidence of, and its value, 569

costs of, 627, 734

multiplicity of, evidence not admissible, 578

form of order for reference to independent, during action, 836

form of order for experiments before, and his report to the Court thereon, 836

EXPLANATION

See AMENDMENT OF SPECIFICATIONS

EXTENSION OF TERM OF PATENT

Crown has authority to grant an, 405

is a matter of favour and not of right, 414, 439

and Crown is not bound to act on the recommendation of the Judicial Committee, 439

only one period of, in respect of the same patent, 439

cannot be demanded *ex debito justitiæ*, 421

when same invention is patented abroad, 433

procedure for, prior to 1835 was by special Act of Parliament, 406

between 1835 and 1884 was by way of petition to Privy Council, 406, 409

Lord Brougham's Act, 406

2 & 3 Vict. c. 67, 407

7 & 8 Vict. c. 69, 407

15 & 16 Vict. c. 83, 408

procedure for, since 1884 is by way of petition under s. 25 of Act of 1883, 409

practice is governed by Privy Council Rules 1898 and Privy Council Rules made under Lord Brougham's Act, 409

s. 25 of the Act 1883, 410, 647

petitioner, 411

who may be, 411

original patentee, 411

legal personal representative, 411

assignee, 361, 411

not so favourably received as original patentee, 411

who has advanced capital for development is more favourably received than one who has not, 412

companies, 412

importer, 413

not so meritorious as an original inventor, 413

exclusive licensee should be a co-petitioner, 413

quarry mortgagee, 361

- EXTENSION OF TERM OF PATENT—(continued)**
 procedure for, since 1884 is by way of petition under s. 25 of Act of 1883
 —(continued)
 petition, 413
 cognate patents may be included in one, 413
 requisites of, 414
 full disclosure of all essential facts must be made, 414
 examples, 414
 amendments may be made, 414
 how, 415
 absence of statutory, affects jurisdiction of the Committee,
 but not so non-compliance with the rules, 415
 advertisement of intention to present, is necessary, 415
 in *London Gazette*, 415
 and other papers, 415
 petitioner resident abroad, 417
 precedent of, 802
 affidavit of advertisement must accompany the petition, 416
 and must be proved before petition is heard, 417
 otherwise Judicial Committee has no jurisdiction,
 417
 Judicial Committee may dispense with the prescribed mode
 of, 417
 name of equitable assignee must appear in, 417
 service of, on all opponents is necessary, 419
 time limit for presentation of, 415
 six months before the natural expiration of the patent, 415
 and one week after last requisite advertisement in the
 London Gazette, 416
 how to be printed, 419
 documents necessary to be lodged at the Council Office before
 hearing of, 416
 precedents of, 804
- opposition
 any person may enter a *caveat*, 418
 interest in the patent is not essential, 418
 Attorney-General always appears at the hearing, 421
 and may oppose without notice, 419
 opponent is entitled to notice of day fixed for hearing and to
 copy of the petition, 418
 also, at his own expense, to all papers lodged in reference to
 the petition, 418, 419
 also to notice of any special application by the petitioner, 418
 all opponents must be served, 419
- objections
 copies of, must be lodged by opponent at Council Office, 419
 how notices of opposition, &c., are to be printed, 419
 compliance with rules may be dispensed with, 420
 precedent of, 803
 grounds of
 extension detrimental to public interest, 422, 423
 grant of an exclusive licence, 422
 may be surmounted by licensee renouncing, 422
 patent *prima facie* invalid, 423
 invention not meritorious, 423
 part only meritorious, 423
 validity highly doubtful for some specific reason, 424
 invention not useful, 425
 no benefit accrued or likely to accrue to the public, 427
 small public user, 425, 426
 no likelihood of future user by the public, 427
 patentee sufficiently rewarded, 427
 accounts insufficient, 429
 assignee's profits not disclosed in, 432
 licensee's profits not disclosed in, 432
 profits derived from foreign patents not disclosed in, 433

EXTENSION OF TERM OF PATENT—(continued)

procedure for, since 1884 is by way of petition under s. 25 of Act of 1883

—(continued)

opposition—(continued)

grounds of—(continued)

patentee has not used his best endeavours to develop the invention, 427

disputes between co-owners have retarded the development of the invention, 428

patentee has permitted open infringements, 428

prior extension of term, 439

accounts

when to be lodged by the petitioner, 429

requisites of, 429

must be full, clear, and accurate, 429

must disclose whole profit and loss from the patent, 429

made by the patentee as such, 432

items which may be credited to the patentee, 434

expenses of experiments, legal proceedings, salaries, and commissions, 434

manufacturer's profits as distinct from patentee's profits, 435

personal remuneration for time devoted to pushing invention, 436

items not allowed, 435

assignee's profits, 432

licensee's profits, 432

foreign patents, profits on, 432

rule in Pitman's case, 433

profits on articles made expressly for exportation abroad, 433

absence of books may sometimes be explained, 430

losses sometimes need not be proved with strict accuracy, 430

how, should be kept from the first, 430

effect of keeping and rendering accounts on a wrong system, 431, 436

balance at end of each year should be struck, 432

to disclose ratio of increase or diminution of profit from year to year, 432

copies of, how obtained, 419

precedents of, 814

grounds on which Judicial Committee recommend extension, 422-437

all the circumstances of the case are to be considered, 422, 431

practice with regard to inventions also patented abroad, 433

no extension is recommended unless the original patentee would be directly or indirectly benefited, 412

probable benefit to the petitioner and injury to the public is important, 411

merit, 422-427

prima-facie proof of validity must be given, 423

validity is not decided by the Committee, 424

though it is always material on the fact of merit, 424

invention must be proved to be independently meritorious, 423

only part meritorious, extension may be limited to, 423

nature of merit necessary to be proved, 424

merit of utility as distinct from merit of ingenuity is essential, 424

test of utility for purpose of extension, 425

non-user by the public, 425

presumption of non-utility arising from, may be rebutted in certain cases, 426

patent for an improvement is not proof of want of utility in original, 67

EXTENSION OF TERM OF PATENT—(continued)

procedure for, since 1884 is by way of petition under s. 25 of Act of 1883

—(continued)

grounds on which Judicial Committee recommend extension—(continued).

merit—(continued)

nature of merit necessary to be proved—(continued)

probability of future user by the public must be established, 427

of an importer is less than that of an original inventor, 413

insufficient remuneration, 427-437

benefit accrued to or likely to accrue to the public is to be considered with that derived by the patentee, 427

patentee must have used his best endeavours to develop the invention, 427

e.g., he must not have permitted open infringements, 428

disputes between co-owners retarding development, 428

adequate remuneration, what is, 429

hearing of the petition, 420

application for a day for, 416

must be made by the petitioner, 416

and advertised when fixed, 416

precedent of advertisement, 804

usual order fixing a day for hearing, 418

postpones hearing if the patent has a considerable time to run, 418

discretion of the Committee is absolute, 421

parties may appear personally or by counsel on, 420

not more than two counsel are heard on either side, 420

unless opponents have distinct and separate interests. 420

Attorney-General always appears on, 421

when there is no opposition, 420

pending proceedings affecting the validity of the patent, 420

utility usually dealt with before adequacy of remuneration, 420

formal proofs may be taken by the clerk of the Committee, 421

new grant,

Crown gives effect to the recommendation of the Judicial Committee by means of a, 437, 439

which is subject to the same conditions as the expired grant, 437

to whom, may be made, 437

no fresh specification need be filed on, 437

is in the nature of a graft on the old one, 437

and open to the same objections, 424, 437

conditions are frequently imposed on a, where requisite, 437

in the interest of the original patentee, 437

or his representatives, 437

for the benefit of persons other than the original patentee. 438

for the benefit of the public generally, 438

as to date of commencement and expiry when there are cognate patents, 439

security for performance of conditions is usually required, 439

Crown has authority only to make one, in respect of the same patent, 439

duration of, cannot exceed fourteen years, 439

usually limited to not more than seven years, 439

but sometimes a longer period is recommended, 439

registration of order for, 440

costs, 440

Attorney-General does not ask for and is not ordered to pay, 440

discretion of the Committee as to, 440

practice as to, 440

taxation of, 417

EXTENSION OF TIME

- for payment of fees, 721
 - form of application for, 760
- for leaving and accepting specifications, 721
 - forms of application for, 770, 771
- for doing other acts prescribed by Patent Rules, 1890, 721
- for appealing to law officer, 726

EXTENT AND DURATION OF PATENT

- extent, 332
- duration
 - usual, 332
 - is conditional on payment of fees, 332
 - enlargement of time for payment of fees, 721

EXTRACTS FROM REGISTER OF PATENTS

- any person may obtain, 668
- sealed, are evidence, 669

FALSE SUGGESTION

- e.g.*, as to novelty or utility is fatal to validity, 99
- a ground of revocation, 395
- distinction between false representation and false statement, 396

FALSIFICATION

- of entries in Register of Patents, 340, 670

FAST (PUBLIC)

- days observed as
 - Patent Office closed on, 713
 - Register of Patents not open to inspection on, 724
 - leaving documents, paying fees, &c., at Patent Office on, 333, 670

FEEES

- statutory provisions as to, 647
- payment of, is necessary to validity, 332
- revival of patent void for non-payment of, 333
- enlargement of time for payment of, 332
 - form of application for, 760
- list of, in reference to the registration of Patent Agents, 838
- list of, on and in connection with letters patent, 839

FIDUCIARY COMMUNICATION

- effect of, on novelty, 116

FIERI FACIAS

- writ of, entitles sheriff to sell patent, 364

FOREIGN APPLICATION

- meaning of, 306
- practice on, 306
- must be made in same manner as an ordinary application, 304
- patentee in respect of, 304, 306
- provisions as to, confer no rights in respect of communicated inventions, 305
 - i.e.*, rights thereby conferred are personal, 305
- allowable difference between English and foreign specification on, 306
 - description in English not in foreign specification, 307
 - claim in English not in foreign specification, 307
- retrospective effect of order in Council as to, 304

FOREIGN PATENT

- extension of English patent for invention, subject of, 433
- reference to, necessary on petition for extension of English patents, 432

FOREIGN SOVEREIGN

- position of, as regards infringement, 502

FOREIGN VESSELS

- in British waters, use of patented invention in, 501, 653

FOREIGNER

- may be patentee, 4
 - patents were granted to, prior to Act of 1883, 4
- when entitled to priority. 8, 17
- concurrent application by, 8
- communication by one, resident abroad to another is good subject-matter, 17
- rights of, on application for patent under International Convention of 1884, 303
 - are personal, 305
 - corporation, 303
 - effect of abortive application abroad, 305
 - practice on applications under provisions of s. 103 of Act of 1883, 306
 - minor differences in English and foreign specifications allowable, 306
- as opponent to grant of English patent, 315
- as defendant to action of infringement, 509

FORMS

- forms of patent, 741
- application for patent, 744
- application for patent for invention communicated from abroad, 746
- application for patent under international and colonial arrangements, 748
- provisional specification, 750
- complete specification, 751
- opposition to grant of patent, 752
- application for hearing by the Comptroller, 753
- application for amendment of specification or drawings, 754
- opposition to amendment of specification or drawings, 755
- application for compulsory grant of licence, 756
- petition for compulsory grant of licences, 757
- opposition to compulsory grant of licence, 758
- application for certificate of payment or renewal, 759
- application for enlargement of time for payment or renewal fee, 760
- request to enter name upon the register of patents, 761
- request to enter notification of licence in the register of patents, 762
- application for duplicate of patent, 763
- notice of intended exhibition of an unpatented invention, 764
- request for correction of clerical error, 765
- certificate of Comptroller, 766
- notice of alteration of an address in register, 767
- application for entry of order of Privy Council in register, 768
- appeal to law officer, 769
- application for extension of time for leaving a complete specification, 770
- application for extension of time for acceptance of a complete specification, 771
- appendices to Patent Agents' Rules, 1889, 772
- assignment of letters patent, 774
- licence to use patented invention, 776
- mortgage of letters patent, 779
- action of infringement
 - indorsement on writ, 782
 - statement of claim, 782
 - particulars of breaches, 785
 - defence, 786
 - particulars of objection, 788
 - notice of motion for interlocutory injunction, 791
 - notice of motion for leave to amend a specification pending action for infringement, 790
 - judgment after trial of action, 791
 - judgment varied on appeal, 794
 - certificate of validity, 795
- action to restrain threats of legal proceedings
 - indorsement on writ, 796

FORMS—(continued)

- action to restrain threats of legal proceedings—(continued)
 - statement of claim, 796
 - defence, 797
- extension of letters patent
 - advertisement of intention to present petition, 802
 - caveat*, 802
 - notice of objections, 803
 - advertisement of day fixed for hearing of petition, 804
 - petition for extension of letters patent, 804
 - accounts to accompany petition for extension, 814
- revocation of letters patent
 - petition for revocation, 799
 - fiat of Attorney-General, 801

FOXWELL v. BOSTOCK

- rule in, 216
- explanation of, 217

FRAUD

- application for patent in, of true and first inventor, 335
- abroad no prejudice to applicant for patent for a communicated invention. 315
- of rights of another, meaning of, 392
- defence of action to recover royalties, 384
- ground for revocation, 391, 397
 - if patent revoked, new patent may be granted to inventor, 397
- judgment obtained by, 590

GOOD-FRIDAY

- Patent Office closed on, 713
- Register of Patents not open to inspection on, 724
- leaving documents, paying fees, &c., at Patent Office on, 333, 670

GOVERNMENT CONTRACTOR

- may be sued for infringement, 377

GRANT

- practice on, of patents regulated by Act of 1883 and rules thereunder, 289
- effect of, of patent, 92
- opposition to, of patent—*see* OPPOSITION

GRANTEE

- true and first inventor must be one, 4
- several persons may be, 4
- person other than true and first inventor may be one, 4
- married woman, 4
- infant, 5
- lunatic, 5
- legal representative of deceased person, 5
- on death of, patent vests in executor or administrator, 363
- persons not capable of being, 18

HIDDEN PROPERTY OF MATTER

- application of newly discovered, is good subject-matter, 50, 86
- examples, 50

HILL v. EVANS

- rule in, as to sufficiency of description necessary in an anticipatory document to render it a publication, 131
- explained, 131

HOLIDAY

- See* BANK HOLIDAY

HOUSE OF LORDS

- jurisdiction of, to grant certificate of particulars, 618

HOUSE OF LORDS—(continued)

- jurisdiction of, to grant certificate of validity, 622
- no original jurisdiction to grant leave to amend a specification pending action on petition, 283

IGNORANCE

- no defence to action of infringement, 465

ILLEGAL MONOPOLIES

- suppressed by Statute of Monopolies, 2
- Acts for suppression of certain, prior to Statute of Monopolies, 1

ILLUSTRATED JOURNAL

- publication and sale of, of patents, 335, 652

IMPORTATION

- of article made abroad and its effect on novelty, 122
- infringement by, 497, 509

IMPORTER

- first, is true and first inventor, 15, 16, 17, 18
 - even though he did not actually make the invention, 17
 - and is not a meritorious importer, 18
- may petition for extension of term of patent, 411, 413
 - but is not considered so meritorious as an original inventor, 413

IMPROVEMENT

- in details during provisional protection, 165, 167
 - inclusion of, in complete specification, 163, 167
 - made by servant belong to master, 14
- may be good subject-matter, 65
 - as consisting in an addition to, omission from or rearrangement of old parts, 65
 - if it is the outcome of invention, 67
 - amount of improvement does not affect validity of patent for, 99
 - nor does lack of utility in a prior construction, 150
- claim must be limited to, in case of patent for, 67, 202, 214
- legality of patents for, 66
- patent for, is no evidence of lack of utility in an original invention, 67
- licence of patentee of an original invention may be necessary for use of an, upon it, 66
- mere use of known machine in a more beneficial manner is not a patentable, 69
- mere adaptation of a well-known idea is not a patentable, 69
- mere working direction is not a patentable, 68
 - of which patentee was ignorant at the date of patent, 213
- validity of patents used for obstructing, 142
- covenant to assign future, not contrary to public policy, 353
 - and are advisable for protection of an assignee of letters patent, 353
- meaning of "improvements" as used in titles, 69, 156

INABILITY

- declaration on behalf of person under, 293, 671

INDEMNITY

- person who has given an, to defendant may be allowed to take part in the action, 510

INDEX, ETC.

- of specifications published prior to Act of 1883, 652
 - under Act of 1883, 652

INDORSEMENT OF WRIT

- form of, in action of infringement, 782
- form of, in action to restrain threats of legal proceedings, 795

INDUSTRIAL PROPERTY

- See* INTERNATIONAL CONVENTION FOR THE PROTECTION OF INDUSTRIAL PROPERTY

INFANT

- may be patentee, 5
- validity of patent granted to, alone, 5
- declaration on behalf of, 293

INFRINGEMENT

- a mixed question of law and fact, 237, 578
- breach of contract no justification for, 501
- criterion of novelty and, are not the same, 475
- definition of, 463
- no proceedings for, until patent actually sealed, 503
- no, if patent is void, 517
- no, unless saleable article is produced, 495
- no, unless what is claimed is taken, 463
 - ambit of claim may be limited, 464
 - claim really a disclaimer, 464
- no, of equity of a patent, 464
- innocent, 465
- ignorance is no defence, 465
- intention is immaterial on question of, 465
 - effect of intention, 465
- act done under subsequent patent, 466
- colourable imitation, 467, 487, 489
 - objection to the use of the term "colourable" or "colourably," 467
- by several different persons, 504
 - proper course for patentee to adopt on, 504
- after decision adverse to validity and before its reversal on appeal, 503
- procedure to test whether similar though different acts done after injunction are, 597
- before publication of complete specification, damages in respect of, 503
- before amendment of specification, 271
- before seal is obtained, 503
- after failure to pay fees and before enlargement of time, 333
- proof of, in action, 578
- threatened, 504
 - action may be maintained in respect of, 504
 - offer to supply an article alleged to be an infringement, 504
 - threats in relation to, and s. 32 of the Act 1883, 448
- how to consider the question of, 467
 - necessity for determination of exact invention protected, 466
 - importance of ascertaining the principle of the invention protected, 468, 472
 - adoption of principle of invention though with different details, 469
 - when an infringement, 469
 - when not, 469
 - relative importance of details, a question of evidence, 470
 - not lawful to take substance of invention without licence, 473
 - but may be lawful to take its "pith and marrow" in a sense, 473
- modes of,
 - breach of restrictions on sale or licence, 499
 - of a combination, 476
 - by taking its substance, 476
 - using separate components, 476
 - special claims for subsidiary parts, 478
 - by substitution of equivalents, 479
 - equivalents not known at date of patent, 480
 - effect of public knowledge on question of, 480
 - two classes of cases, 481
 - Curtis v. Platt as type of one class, 481
 - Proctor v. Bennis as type of the other class, 483
 - illustrations of difficulty in deciding in which class a particular case falls, 485

INFRINGEMENT—(continued)

modes of—(continued)

of a combination—(continued)

by substitution of equivalents—(continued)

correct application of doctrine of, a matter of difficulty in some cases, 490

illustrations, 491

facts in *Boyd v. Horrocks*, 491

facts in *Thomson v. Moore*, 491

chemical patents and infringement, 493

use of ingredients in proportions outside those claimed, 494

manufacture of separate parts, 495

sale of separate parts, 495

restoration of patented instrument, 495

grant of licence to work under an infringing patent, 495

importation, 497, 509

loan of patented article, 498

manufacture without proof of sale, 495

ordering the construction of patented article, 494

possession, 501

sale of patented article, 497

notwithstanding *locus* of manufacture, 497

manufacturer resident abroad who is also an importer, 509

exposure for sale, 498

by purchaser from unrestricted licensee, 498

in breach of conditions of a licence, 499

in this country to foreign customer, 497

transshipment of goods, 502

the property of a foreign sovereign, 502

Custom House agents and the, 503

use of patented article, 370, 500

at instigation of patentee no infringement, 494

if made under licence, is no infringement, 497

for purpose analogous to that specified by the patentee, 500

claim may be limited to a particular user, 500

for purpose totally distinct from that specified by the patentee, 500

in foreign vessels within jurisdiction of British Courts, 501, 653

notwithstanding authority to construct, 500

prior to sealing of the patent, 503

by way of *bonâ-fide* experiment is no infringement, 496

for advantage, 496

use for instruction of pupils is, 496

pecuniary profit is not condition precedent to liability. 497

INJUNCTION

in Scotland means "interdict," 655

interlocutory

in action of infringement

how obtained, 540

ex parte application, 544

rule in *Hill v. Thompson*, 544

usual course, 544

Court endeavours to keep things *in statu quo* on application for, 541

primâ-facie case of validity and infringement must be established on application for, 541

acquiescence disentitles to, 541

what amounts to, 545

delay may sometimes be explained, 542

examples, 542

defendant working under a patent of which plaintiff had knowledge before action brought, 543

defendant the agent of a person who could establish a case of *laches*, 542

INJUNCTION—(continued)

interlocutory—(continued)

in action of infringement—(continued)

validity of patent an important factor on application for, 544

patent recent and validity not established the injunction is refused, 545

presumption in favour of validity arises from long uninterrupted enjoyment, 545

no necessity to state patent has not been disputed, 546

but actual user must be proved, 546

and proved to have been uninterrupted, 546

length of uninterrupted active enjoyment sufficient to raise presumption of validity, 546

patent once established is regarded as valid, 548

appeal pending, 548

judgment wrongly obtained, 548

certificate of validity on judgment by default or consent, 548

prior interdict in Scotland, 548

award of an arbitrator, 548

degree of doubt as to fact of infringement an important factor on application for, 549

Court considers itself bound by construction of specification in prior proceedings, 549

injunction refused in cases of real doubt, 549

quantum of doubt and question of convenience or inconvenience to the parties, 549

affidavits made from information and belief and their effect, 550

is granted if infringement is established and presumption is in favour of validity, 550

indemnity of defendant by plaintiff as a condition of grant of, 551

inability of defendant to satisfy plaintiff's claim induces Court to grant, 551

procedure when there is an independent case against the grant of, 551

motion ordered to stand over till the trial, 552

on refusal of, defendant is usually ordered to keep an account, 552

not usually granted if defendant voluntarily offers to keep an account and is able to satisfy plaintiff's claim, 553

dissolved on application of defendant if action not prosecuted with due diligence, 553

form of notice of motion for, 791

in action to restrain threats, 455

how and when obtained, 455

perpetual

in action of infringement

successful plaintiff usually entitled to, 593

though not always, 596, 593

no intention on part of defendant to continue infringement, 594

by consent, 593

withdrawal of consent given under mistake or surprise, 593

acquiescence may induce the Court to refuse a, 593

laches though a bar to an interlocutory injunction may be none to a, 593

expiry of patent before conclusion of action, 593

specific infringements may be exempted from a, 594

e.g., articles ordered before action brought when plaintiff elects to take an account of profits, 595

obtained before amendment of specification cannot be enforced after, 274, 595

breach of,

is a contempt of Court, 596

INJUNCTION—(continued)

perpetual—(continued)

in action of infringement—(continued)

breach of—(continued)

motion to commit for, 596

proof necessary on, 596

expiry of patent an answer to, 597

solicitor and client's costs on, 598

justifiable under certain circumstances, 596

procedure to determine whether specific acts are a, 597

form of, 509

prior secret use cannot be restrained by, 461

threatened infringements may be restrained by, 595

stay of, pending appeal, 595

in action to restrain threats of legal proceedings, 441

INSPECTION

of complete specification, when possible, 303

in action of infringement, 562

not a matter of right, 562

objects of, 562

evidence necessary to obtain an order for, 563, 564

for purpose of preparing pleadings, 563

how obtained, 564

order for inspection may be made at any time, 564

usual form of order for, 564, 835

conditions of order for, 565

against licensee not a party to the action, 381, 565

delay no bar to, 564

power of Court to compel, 564

right to, may depend on prior determination of an issue, 564

trade secrets and, 565

samples may be ordered to be taken on, 566

of books, 566

of machines not belonging to but in power of either party, 566

independent inspector, 566

action founded solely on threats to infringe, 566

INSTITUTE OF PATENT AGENTS

prosecutes in case of infraction of Register of Patent Agents' rules, 291

INTENTION

of infringer is immaterial, 465

effect of, on costs of action, 465

INTERDICT

in Scotland means injunction, 655

prima-facie evidence of validity on application for interlocutory injunction,
548**INTEREST**

recovery of, on unpaid royalties, 385

INTERNATIONAL AND COLONIAL ARRANGEMENTS

provisions of Act of 1883 as to, 672

provisions for Colonies and India, 673

INTERNATIONAL CONVENTION for the protection of industrial property,

692

objects of, 693

plenipotentiaries, 693

articles agreed upon, 697

union for the protection of industrial property, 697

legal remedies, 697

rights of subjects of States not forming part of the union, 697

right of priority of person who has applied for a patent in one of the con-
tracting States, 697

importation and forfeiture, 699

registration of trade marks, 699

INTERNATIONAL CONVENTION—(*continued*)

- nature of goods is no obstacle to registration of trade mark, 699
- protection of trade name, 699
- seizure of goods illegally bearing a trade mark or trade name, 699
- goods falsely bearing name of a locality, 701
- protection of patentable invention, &c., at exhibitions, 701
- special government offices, 701
- international bureau, 701
- conferences, 703
- special arrangements between contracting parties, 703
- adherence to convention of other States, 703
- subordination of convention to laws of the contracting States, 703
- commencement of operation, 703
- ratification, 705
- “industrial property,” meaning of, 705
- “patents,” meaning of, 705
- expenses of international office, 707
- final protocol to form part of convention, 709
- accession of Her Majesty’s Government to the convention, 710
- declaration of acceptance of accession, 711

INTERNATIONAL EXHIBITION

See EXHIBITIONS

INTERROGATORIES

See DISCOVERY

INVENTION

- definition of, 17, 20, 655
- difference between, and discovery, 25
- classes of, held good subject-matter, 36
- is necessary to support a patent, 27
 - mere scintilla is sufficient, 27
- purely a question of fact, 33
 - decision in one case no guide to another, 33
 - essential considerations, 28
- may be the result of accident, 6, 27
 - example of accidental invention, 27
- may consist in
 - the omission of parts, 11
 - new application of old machine, 36
 - the apprehension of a new use of an old appliance, 73
 - the perception and utilisation of an unobserved result of an old combination, 98
 - the mere conception of an idea may be the merit of an, 28, 35
 - putting together items of common knowledge, 35
 - selection of a member of a class, 35
- mere adaptation of old idea is not, 36
- mere variation of proportions is not, 36
- mere alteration of shape is not, 36
- evidence of
 - new, better, or cheaper article as, 11
 - simplicity is not evidence of lack of invention, 34
 - demand for an article is not necessarily, 28
 - though demand was previously unsatisfied, 28
 - novelty and utility of an application is not conclusive, 34
- amount of, sufficient to support a patent, 27
 - mere scintilla of invention is sufficient, 27
 - authorities, 29
- assignable interest in an, before the grant of letters patent, 345
- covenants to assign future, 353
- effect of keeping an, secret, 342
- international arrangements for protection of, 672
 - in Colonies and India, 673

INVENTOR—*See* TRUE AND FIRST INVENTOR

- rights of an, as compared with those of an author, 341

INVENTOR (DECEASED)*See* DEATH**IRELAND**

reservation of remedies in, 675
 general saving of jurisdiction of Courts in, 675
 meaning in, of "summary conviction" in Patent Act of 1883, 677
 revocation of letters patent in, 390

ISLE OF MAN

application of Patent Acts to, 675
 penalties for statutory offences in, 299

ISSUES

fresh, may, on leave, be raised during progress of an action, 521
 right to discovery may depend on prior decision of certain, 557
 also right to inspection, 564
 trial of, separately in action of infringement, 583
 advantages of, 583
 direction of, on application for rectification of Register of Patents, 669

JOINT INVENTORS

must all be applicants, 12
 disagreement as to form of specification by, 302

JOURNAL

illustrated, of patents, publication of, 335, 652

JUDGMENT

in action of infringement
 motion for, on admission of facts, 588
 motion for, on determination of issues, 587
 by default, 588
 by consent, 588
 form of, after trial of action, 791
 form of, varied on appeal, 794

JUDICIAL COMMITTEE

See EXTENSION OF TERM OF PATENT ; PRIVY COUNCIL ; PRIVY COUNCIL
 RULES

JURISDICTION

See COURT OF APPEAL ; COURT OF COUNTY PALATINE OF LANCASTER ;
 COUNTY COURT ; HOUSE OF LORDS

JURY

trial of patent actions by, is rare, 582
 and not usually desirable, 582
 but may be had if fraud is alleged, 582

LACHES

disentitles plaintiff to an interlocutory injunction, 541
 what amounts to, 541
 delay may sometimes be explained, 542
 examples, 542
 defendant working under a patent of which plaintiff had know-
 ledge before action brought, 543
 defendant the agent of a person who could establish a case of
 laches, 543
 no bar to a perpetual injunction, 593
 effect of, on right to account or damages, 600

LANCASTER, COURT OF COUNTY PALATINE OF

jurisdiction of, to grant leave to apply to amend specifications pending
 action or petition, 283
 to grant an account of profits or inquiry as to damages, 605
 to certify as to particulars, 618
 to certify as to validity, 622
 to hear petition for revocation, 390

LAW OFFICER—See also LAW OFFICERS' RULES

- defined by Act of 1883 as Attorney-General or Solicitor-General for England, 677
- right of appeal from Comptroller to, 294, 302, 310
- statutory provisions as to proceedings and costs before, 652
- discretion of Crown as to grant of patents is exercised through, 289
- hearing by, of appeals from Comptroller in opposition to grant of letters patent, 310
- appeal to, from Comptroller on questions as to amendment of specifications, 258
- decision of, is final as to fact of enlargement of claim by a proposed amendment, 260
 - practice in doubtful cases, 261
- does not lightly over-rule Comptroller on question of *locus standi* of an opponent, 318
- discretion of, in matter of amendment of a specification, 259
- does not usually impose terms on application to amend under s. 19 of Act of 1883 if Court has not done so, 288
- form of appeal to, 769
- practice on appeal to, is regulated by LAW OFFICERS' RULES
- prohibition does not lie to, 259
- power of, to examine witnesses on oath, 652
 - make rules, &c., 652
 - impose conditions on grant of patent, 311
 - impose conditions on granting leave to apply to amend specifications, 271
 - allow slight amendments of specifications at hearing of application for patent, 312

LAW OFFICERS' RULES, 726

- notice of intention to appeal to law officer, 726
 - requirement of, 726
 - copies of, and to whom to be sent, 726
- papers to be remitted to law officer's clerk, 726
- time within which notice of appeal must be given, 726
- notice of time and place appointed for hearing, 726
 - to whom to be given, 726
- evidence on appeal to law officer, 727
- cross-examination of persons who have made declarations, 727
- payment of witnesses, 727
- power of law officer over costs, 727
- order for payment of costs under s. 38 of Act of 1883, 727
- regulations as to documentary evidence, 727
- sending notices or documents through the post, 727

LEGAL PROCEEDINGS—See ASSESSOR; PARTICULARS; INSPECTION; CERTIFICATES; THREATS OF LEGAL PROCEEDINGS

- Statutory provisions as to, 650
 - hearing with assessor, 650
 - delivery of particulars, 650
 - order for inspection, &c., in action, 650
 - certificate of validity questioned and costs thereon, 650
 - remedy in case of groundless threats of legal proceedings, 651
- expenses of, may be credited to petitioner on application for extension of term of patent, 434

LEGAL REPRESENTATIVE

- meaning of, in Patent Act, 1883, 313
- of deceased inventor may be patentee, 5
- how application for patent must be made by, 5
- time within which application for patent must be made by, 5

LEGISLATURE

- as defined by Patent Act, 1883, 677

LETTERS PATENT

- See PATENT

- LICENCE**—*See also* COMPULSORY LICENCE ; ROYALTIES
- origin of patentee's power to grant, 367
 - co-owner's power to grant, alone, 368
 - mortgagee's power to grant, 368
 - of original inventor may be necessary for use of an improvement, 66
 - assignee may be unable to use invention assigned without licence of a prior patentee, 360
 - agreement for, made prior to grant of patent, 369
 - classification of licences, 370
 - consideration for, no restriction as to, 378
 - Crown has right to use invention on terms, 377
 - Government contractors, 377
 - procedure to question Crown's right, 377
 - distinction between, to work under a foreign patent and unconditional sale of article made under both British and foreign patents, 379
 - stamps, 369
 - how may be granted, 368
 - under seal, 368
 - writing acted upon though not under seal, 369
 - necessity for deed a question of construction in cases of executory agreements, 369
 - parol agreement, 369
 - may be
 - assignable, 375
 - assignability depends on terms, 375
 - acceptance of royalties from assignee estops patentee from disputing assignability, 376
 - compulsory, 371
 - statutory provisions as to, 646
 - patentee may be compelled to grant, 371
 - appeal from decision of Board of Trade as to, 371
 - form of application for grant of, 756
 - petition for grant of, 757
 - opposition to grant of, 758
 - exclusive, 374
 - geographical area, 374
 - if irrevocable may operate as an assignment, 374
 - but not if any interest in the patent is reserved to the licensor, 375
 - grantor of, may be restrained from infringing the patent, 375
 - express, 370
 - general, 374
 - effect of unrestricted, 498
 - implied, 370
 - irrevocable, 372
 - limited, 374
 - sale or user in breach of a condition is an infringement, 499
 - restrictions as to user may be placed on purchase of patented article by the patentee, 499
 - user in breach with notice is an infringement, 499
 - non-assignable, 375
 - precedent of, 776
 - revocable, 372
 - licence coupled with an interest is not revocable at will, 372
 - mere licence is revocable at will, 372
 - provision for revocation, 372
 - by one party only, 373
 - deed not necessary for revocation, 373
 - contract not to exercise power of revocation, 373
 - voluntary, 371
 - covenants, 378
 - usual, 378
 - no, implied, 381, 382
 - absence of, for title and validity, 381
 - registration of, 336, 383
 - not notice to all the world, 338

LICENCE—(continued)

stamps on, 369
 assignment with notice of, 361
 purchase without notice of, 498

LICENSEE

assignee of share in profits entitled to account from, 352
 a competent witness for the patentee, 381, 568
 but not when action is for the benefit of the licensee, 568
 cannot sue alone in respect of infringements, 386
 unless licence amounts to an assignment, 387
 estoppel of, from denial of validity of patent against the licensor, 379
 in virtue of covenants or recitals implying validity of patent, 379
 no, if licence is not under seal, unless it is acted upon, 381
 no, against equitable assignee of exclusive licensee, 381
 no, against denial of ambit of licence, 379
 no, against denial of ambit of patentee's claim, 380
 right to dispute validity may be specially provided for, 381
 terminates with the licence, 380, 381, 382
 licence to construct only may create an, against a third party with
 notice using a patented article, 380
 exclusive
 right of, to restrain patentee from representing that articles sold are
 not made in accordance with the patent, 375
 should be co-petitioner on proceedings for extension of term of the
 patent, 413
 equitable assignee of, not estopped from denying validity against the
 patentee, 381
 inspection against a, not party to an action against his licensor, 381
 legal interest of a, compared with that of an assignee for a district, 348
 plea of determination of licence in defence to action to recover royalties,
 381
 recovery of royalties by, paid without knowledge of breach of covenant
 by licensor, 384
 rights of, in reference to threats of legal proceedings, 445
 rights of vendee of, 499

LICENSOR

not allowed to interfere with trade of licensee, 379
 may sue alone in respect of infringements, 386

LOAN

may amount to publication, 119

LORD ADVOCATE

revocation of patent in Scotland at instance of, 391
 revocation of patent in Scotland by persons authorised by, 391

LORD CHANCELLOR

saving of existing rules made by, 676

LOSS OR DESTRUCTION OF PATENT

provisions as to, 335

LOST ART

rediscovery of, as subject-matter, 104

LUNATIC

may be a patentee, 5
 statutory declaration may be made by committee of, 293

MACHINE

prior, as a publication of an invention, 138
 useless, is no publication of a useful one, 136

MANDAMUS

to enforce order for compulsory licence, 371

MANUFACTURE

- definition of, 21
- infringement by, 494, 495
 - articles which may be used for purpose of infringement, 495
 - parts of a combination, 495

MANUFACTURER

- effect of acceptance of agreed damages from, 608
- non-payment of damages by, 608
 - damages may be recovered from user, 608
 - and user may be sued in same action, 509

MARRIED WOMAN

- may be patentee, 4
- patent, separate estate of, 4

MASTER—See also SERVANT

- is not entitled to invention of his servant, 14
 - but is entitled to details worked out by his servant, 14
- effect of relationship of, and servant on issue of true and first invention, 12
 - cases illustrative of, 12
- liability of, for infringement committed by servant, 508

MASTER OF THE ROLLS

- jurisdiction of, to amend clerical errors in specifications, 269

MECHANICAL EQUIVALENTS

- See* EQUIVALENTS

“MISCHIEVOUS TO THE STATE,” &c.

- commentary on the words, as used in the Statute of Monopolies, 141

MISDEMEANOR

- falsification of entry, &c., in Register of Patents is, 340
- punishment for, in Isle of Man, 675

MODELS

- as evidence in action of infringement, 574
 - costs of, 627
- authority of Board of Trade to require, on payment, 653

MORTGAGE

- form of, of letters patent, 779

MORTGAGEE

- not necessary party to action of infringement by mortgagor, 507
- not entitled to petition for leave to amend specification, *query*, 277, 361
- can petition for extension, *query*, 361
- how entered on Register of Patents, 365
- licences granted by, in possession, 368

MORTGAGOR

- can maintain action of infringement without mortgagee, 507

MONOPOLIES—See also STATUTE OF MONOPOLIES

- object for which many, were created prior to statute of, 1
- oppressive, under Tudor sovereigns, 1
- suppression of illegal grants of, 1
 - by Statute of Monopolies, 2, 635
- in new and useful inventions exempted from Statute of Monopolies, 3
- remedy of persons aggrieved by illegal, 3
- Coke on, 23
- in inventions are created by grant of patent, 344

MOTION FOR JUDGMENT

- See* TRIAL ; judgment

MUNITIONS OF WAR

- assignment of patents for inventions of, to Secretary of State for War, 348

MUSEUM (PATENT)

- control and management of, 336
- models for, how obtained, 336

NEW TRIAL—*See also* TRIAL

- how obtained, 590
- particulars of objections on, 530
- power of Court of Appeal to order, 590
- course to pursue when judgment obtained by fraud, 590

NEW USE OF OLD APPLIANCE

- may be subject-matter, 71
 - if not merely analogous to previous uses, 85
 - result of the cases, 72
- novelty is not alone sufficient to support a patent for a, 73
 - nor is a mere advantage, 86
- cases of void patents for, 74
- cases of valid patents for, 87
- application of newly discovered quality of matter, 86

NOTICE

- of acceptance of application for patent, effect of, 298
- of acceptance of complete specification, effect of, 303
- of opposition to grant of patent, 308
- assignment with, of covenants and licences, 360, 361
- registration of licence not, to all the world, 338

NOTICE OF MOTION

- for leave to amend a specification pending action of infringement, 790
- for interlocutory injunction, 791

NOVELTY—*See also* ANTICIPATION ; PUBLICATION ; PUBLIC USE ; PUBLIC KNOWLEDGE

- consideration of, is entire, 98
 - partial failure of, is fatal to validity, 98
 - want of, in a material part is fatal, 99
 - want of, in subsidiary part not fatal, 101
- criterion of, and infringement is not the same, 475
- distinction between, and discovery, 102
- documentary publications and their effect, 124
 - always a question of fact, 125
 - different documents combined, 137
 - mosaic of extracts, 137
 - prior document to be fatal must disclose all essentials of the invention, 133
 - though actual user need not be proved, 129
- exhibition at industrial or international exhibitions, 117
- essential to validity, 92
- essential to every claim, 98
- fiduciary communications, 116, 123
- general statement as to a class, 136
- highly scientific inventions, 134
- importation of article made abroad and its effect on, 122
- loan of an article prior to application for a patent for it, 119
- manufacture by person confidentially related to patentee, 119
- not every, is subject-matter, 27, 94
- of application not conclusive evidence of invention, 34
- of result not necessarily conclusive evidence of novelty of process, 48
- personal communications made by the patentee and their effect, 123
- prior use
 - by persons other than patentee is fatal to validity, 94
 - in colony no publication, 120
 - of equivalents, 103
- proof of, in action of infringement, 572
- provisional specifications as means of publication, 127
- public knowledge, 95
 - meaning of, 95
- public use, 111
 - meaning of, 111
 - use in public as distinguished from use by the public, 113
 - cases, 113

NOVELTY—(continued)

- publication without actual user is fatal, 129
- rediscovery of lost art, 104
- requisite at common law, 92
 - declared by Statute of Monopolies, 94
- sale of article prior to application for a patent for it, 118
- secret use
 - effect of prior, by the patentee, 120
 - effect of prior, by persons other than the patentee, 121
- subsidiary claim to something old not necessarily fatal, 101
- suggestion of an invention is not necessarily publication, 129
- test of, 96
 - per Hatherley, L. C., 96
 - per Westbury, L. C., 97

OATH

- power of law officer to examine witnesses on, 652

OBTAINING PATENT, 289-340

- See* CROWN ; PATENT AGENTS ; APPLICATION ; SPECIFICATION ; OPPOSITION ; SEALING THE PATENT ; EXTENT AND DURATION OF PATENT

OFFENCES UNDER ACT OF 1883

- See* STATUTORY OFFENCES

OFFICERS AND CLERKS (PATENT OFFICE)

- appointment and removal of, 668
- salaries of, 668

OFFICIAL

- sometimes incapacitated from being patentee, 19

OMISSION

- of parts may constitute invention, 11

ONE INVENTION

- application for patent should comprise only, 293
 - inclusion of more than, does not affect validity of patent if granted, 294
- test of, 296
- examples of amendments required to limit application to, 297

OPPOSITION TO GRANT OF PATENT

- regulated by s. 11 of Act of 1883, 307
 - and Patent Rules 1890 as to, 719
- extension of time for, by fiat of Attorney-General, 308
- form of, 752
- notice of, 308
 - when and how to be given, 308
 - applicant is furnished with a copy of, by the Comptroller, 309
 - opposition limited to grounds stated in, 720
 - amendment of, 308
- evidence of opponent and applicant, 309, 719
 - times within which statutory declarations are to be left at the Patent Office, 309, 719
 - lists of statutory declarations to be delivered to opposite party, 309, 719
 - effect of filing multiplicity of unnecessary statutory declarations, 309
 - effect of not filing, 720
 - how copies of opposite party's declarations are to be obtained, 309, 719
 - closing of, 309, 719
 - limited to declarations filed in due course except with leave, 309
- hearing, 310
 - time for, fixed by Comptroller, 309
 - notice of, to be given to the parties, 309
 - application by either party to be heard is necessary, 310
 - decision when neither party applies to be heard, 310
 - limit of opposition at, 310
 - practice as to who begins, 310

OPPOSITION TO GRANT OF PATENT—(continued)

hearing—(continued)

notification to parties of Comptroller's decision, 310

appeal from Comptroller's decision to law officer, 310

evidence on, 310

assistance of expert on, 311

opponent not obliged to furnish applicant with copy of notice of appeal, 311

conditions may be imposed by Comptroller or law officer, 311

patent is only refused if ground of opposition is proved, 311

costs, 312

grounds of opposition, 308

only three, are possible, 308

(1) applicant has obtained the invention from the opponent or a person of whom he is the legal representative, 313

legal representative, 313

issue of true and first inventor is not open, 313

objection may succeed in part, 313

patent sealed if evidence conflicting, 313

employer and employed, 314

assignment of unpatented and unpublished inventions, 315

fraud committed abroad does not prejudice applicant in respect of a communicated invention, 315

rights of foreign inventor, 315

opponent may be made joint grantee, if he invented part, 316

concurrent applications, 316

condition that grantee shall assign a share may be required in the interests of justice, 316

condition that opponent be made a joint patentee, 316

separate patents to rival applicants, 316

applicant's invention only an improvement on opponent's, 316

fact that, may be required to be stated in applicant's specification, 317

(2) the invention has been patented in this country on an application of prior date, 317

particulars are requisite, 319

locus standi of opponent on this ground may be questioned, 317

only persons having a direct interest in prior patents have *locus standi*, 317

assignee under prior patent has *locus standi*, 318

person whose complete specification has been accepted has a *locus standi*, 318

mere agent of prior patentee has no *locus standi*, 317

person about to work under a prior patent has no *locus standi*, 318

person having a *locus standi* may rely on specifications other than his own, 317

if law officer overrules Comptroller on question of *locus standi* he does not lightly interfere with the result of his decision, 318

only question is whether the invention has been already patented, *i.e.*, claimed, 318, 320, 321

in doubtful cases patent is allowed, 318

prior description without claim is immaterial, 320

ambit of opponent's claim may be disputed, 321

patent is refused in cases of no appreciable difference between opponent's and applicant's claims.

321

mechanical equivalents, 322

question of infringement of prior patent is not considered, 319

validity of prior patent is immaterial, 319

OPPOSITION TO GRANT OF PATENT—(*continued*)grounds of opposition—(*continued*)only three, are possible—(*continued*)(2) the invention has been patented in this country on an application of prior date—(*continued*)

notice of this ground of opposition must be distinct, 319

claim by applicant to something not foreshadowed in provisional specification of prior patentee, 320

expiration of prior patent is immaterial, 320

means of giving effect to the principle that no claim is to be allowed which is wide enough to include something already claimed, 322

disallowing a claim or ordering its modification, 322, 328

general or special disclaimers, 322

grounds on which required, 323, 326

general disclaimers are more usual, 324, 326

special disclaimers, 325, 326, 327, 328

not allowed when opponent has a practically concurrent application, 325

appeal from Comptroller may be limited to question of special disclaimer, 329

agreement between parties as to the meaning of a specification, 328

(3) the complete specification describes and claims an invention other than that described in the provisional specification, and such other invention forms the subject of an application made by the opponent in the interval between the hearing of the provisional specification and the complete specification, 329

disconformity and this ground of opposition, 329

object and effect of this ground, 320

duties of Comptroller and law officer when this ground is raised, 320

illustration of this ground, 320

ORDER

conditions of, for inspection, 565

scope of, for account of profits, 601

for assessment of damages, 601

effect of, for revocation of patent, 403

form of, for revocation of patent, 833

for further and better particulars, 833

for leave to amend specification during action of infringement, 834

for leave to amend specification pending petition for revocation, 835

for inspection, 835

for reference to independent expert report to the Court during action of infringement, 836

for experiments before scientific expert and his report to the Court during action of infringement, 836

proper, when defendant has paid money into Court and plaintiff succeeds in action of infringement, 553

ORDER IN COUNCIL

retrospective effect of, under s. 103 of Act of 1883, 304

PALATINE COURT (LANCASTER)

See COURT OF COUNTY PALATINE OF LANCASTER

PARLIAMENT

rules to be laid before, 672

reports of Comptroller to be laid before, 672

special Act of, necessary to revive a lapsed patent, 333

PARTICULARS—See also CERTIFICATES; COSTS

of breaches

in action of infringement, 512

are necessary, 512

and must accompany statement of claim, 512

or be delivered, by order, subsequently, 512

evidence is restricted to, 512

unless leave of Court obtained, 512

amendment of, 512

further and better, 512

by order of Court or a Judge, 512

Court of Appeal, 512

must be reasonable and proper, 513

sufficient if with pleadings they give defendant notice of the case to be made against him, 513

must state how the patent has been infringed, 514

a user is entitled to fuller particulars than a manufacturer, 514

must specify which claims have been infringed, 514

if necessary by reference to pages and lines of the specification, 515

though the claims need not be specially referred to, 514

specific instances of infringement must be alleged, 515

but certain general words may be allowable, 515

by way of example and not limitation, 516

when action is based solely on threats to infringe, 516

precedents of, 785

in action to restrain threats of legal proceedings, 454

plaintiff may be entitled to, 454

of objections

on petition for revocation, 398

on petition for extension, are requisite, 419—see **EXTENSION OF TERM OF PATENT**

in action to restrain threats of legal proceedings, 454

defendant may be entitled to, 454

in action of infringement

are necessary

when novelty is disputed, 527, 650

or patent otherwise alleged to be invalid, 650

must be delivered with defence, 527

or by order, subsequently, 527

evidence limited to, 527

discretionary power of Court or a Judge to admit evidence not within, 527

do not stand in place of pleas, 518, 528

cannot go beyond pleas, 518, 528

must give more detailed information than the pleas, 518, 528

more detail is required in particulars of objections than in particulars of breaches, 528

amendment of, 528

terms usually imposed when leave given for, 530

further and better, 528

should be applied for without delay, 528

time for pleading after order for, 529

costs of, 529

form of order for, 833

fresh particulars cannot be given under an order for, 529

but can be given at any time by leave of the Court or a Judge, 529

on new trial, particulars may be given which were not raised at the first trial, 530

further evidence on appeal, 531

objects of, 532

requisites of, 532

as to true and first inventor, 532

as to subject-matter, 532

PARTICULARS—(continued)

of objections—(continued)

in action of infringement—(continued)

requisites of—(continued)

as to prior grant, 532

as to novelty, 532

must not be too general, 533

objections to general plea, 534

general user may be stated in general but not too indefinite terms, 534

common knowledge, 533

how objection should be raised, 533

specifications and rare books cannot be referred to under a plea of, 534

distinction between issue of, and prior publication, 534

specific prior users or publications, 536

difference between requisites of Acts of 1852 and 1883 respectively, 537

publication by prior specifications and printed books, 538

reference to pages and lines requisite, 538

as to disconformity, 531, 539

as to insufficiency of specification, 531, 539

greater detail required under Act of 1883 than formerly 540

as to non-payment of fees, 540

precedents of, 788-790

certificate as to,

is necessary on taxation of costs in action of infringement, 617

but not on petition for revocation, 404, 622

query in action to restrain threats, 458

omission to ask for, at the trial, 618

power of Court of Appeal and House of Lords as to, 618

practice of Court of County Palatine of Lancaster as to, 618

is granted (1) when particulars have been proven; (2) when in the opinion of the Court or a Judge they were reasonable and proper 619

when action is discontinued, 619

when action not tried out on all issues, 619

rule that Court will only certify such particulars as materials before the Court enable it to say are reasonable and proper, 620

illustrations of the working of the rule, 620

though validity is not decided, the certificate may be given on the ground that the particulars were necessary to fix the ambit of the claim, 621

action in respect of several patents, 621

PARTIES

petition for revocation, 398

action of infringement

all persons interested in the patent should be, before the Court, 507

all co-patentees should be made, in action at instance of one, 352, 507

misjoinder of, 507

nonjoinder of, 507

adding, 507

plaintiff, 507

agent, 507

assignee, 351, 360, 507

cestui que trust, 507

co-owner, 507

owner of distinct part, 507

licensor alone may be, 386

but not so a licensee, 386

unless the licence amounts to an assignment, 387

married woman, 507

PARTIES—(continued)

action of infringement—(continued)

plaintiff—(continued)

mortgagee, 507

mortgagor, 507

patentee, 507

trustee, 507

transfer of plaintiff's rights pending action, 508

person who has no right to sue cannot amend by joining person entitled to sue, 508

defendant, 508

agent, 508

any person who takes part in an infringement, 508

company, 509

consignee of goods shipped from abroad, 510

director of a company, 509

firm as distinct from a partner, 509

foreign sovereign, 502

foreigner, 509

who is not an importer, 509

manufacturer and purchaser may be made co-defendants, 509

master, 508

principal, 508

servant, 508

user, 509

when different infringers must be made, to different actions, 510

separate actions must be brought against infringers of separate patents, 510

person who has indemnified the, may be allowed to take part in the action, 510

PARTNER

estoppel of former, from disputing validity of patent, 525

rights of, in patented invention, 362

PARTNERSHIP

may be created by assignment of share in a patent, 362

"PASSING OFF"

goods as and for those of a patentee or other person, 461

right of action in respect of, 461

PATENT

a bargain between public and patentee, 178, 460

assignment of—*see* ASSIGNMENT

consideration necessary for grant of, 92, 98, 140, 146

confirmation of, 334

date of, 331

antedating, 332

definition of, 655

destruction of, 652

duplicate of, 335

form of application for, 763

effect of grant of, 92, 388

extent of, 644

extension of—*see* EXTENSION OF TERM OF PATENT

should be for one invention only, 651

form of, 741

how, is obtained—*see* OBTAINING PATENT

interpretation of, 460

former spirit of, 460

modern spirit of, 460

loss of, 652

pioneer, meaning of, 490

registration of—*see* REGISTER OF PATENTS

revival of lapsed, 333

revocation of—*see* REVOCATION

sealing of, 331

PATENT—(continued)

security of public against illegal, 463
 surrender of, 366
 term of, 332, 645
 conditional on payment of fees, 332

PATENT AGENT—See also AGENT

definition of, 684
 usually employed by applicants for patents, 290
 may sign documents other than the application, on behalf of applicant, 290
 qualifications of, 290
 registration of, 290, 291, 684, 734
 fees, in reference to, 838
 rules affecting—see REGISTER OF PATENT AGENTS' RULES
 communications between, and patentee are not privileged, 558

PATENT OFFICE

and proceedings thereat, 667
 officers and clerks, 668
 seal of, 668
 provision as to days for leaving documents at, 670
 provision for closing, on certain days, 670
 transmission of certified printed copies of specifications, &c., 671

PATENT RULES 1890. 712-725

short title, 712
 commencement, 712
 interpretation, 712
 fees, 712
 forms—see also FORMS
 alterations, 712
 application, 712
 specification, 712
 other, 713
 general
 hours of business, 713
 agency, 713
 statement of address, 713
 size, &c., of documents, 713
 exercise of discretionary power by Comptroller, 713
 notice of hearing by Comptroller, 713
 notice by applicant of intention to be heard, 714
 statement which Comptroller may require from applicant, 714
 decision of Comptroller to be notified to parties, 714
 industrial or international exhibitions, 714
 power of amendment, &c., 714
 manner in which, and persons before whom, declaration is to be made, 715
 application with provisional or complete specification
 order of recording applications, 715
 application for separate patents by way of amendment, 715
 application by representative of deceased inventor, 715
 notice and advertisement of acceptance, 716
 inspection on acceptance of complete specification, 716
 communication from abroad, 716
 sizes and methods of preparing drawings accompanying provisional or complete specifications, 717
 drawings for specifications, 717
 requirements as to paper, &c., 717
 size of drawings, 718
 quality of ink, 718
 scale of drawings, 718
 drawings to bear name of applicant, 718
 restrictions as to wood engravings, 718
 copies of drawings, 718
 provisional drawings used for complete specifications, 718
 opposition to grants of patents
 notice of opposition, 719

PATENT RULES, 1895—(continued)

opposition to grants of patents—(continued)

- copy for applicant, 719
- particulars of prior patent, 719
- opponent's evidence, 719
- applicant's evidence, 719
- evidence in reply, 719
- closing of evidence, 719
- notice of hearing, 719
- disallowance of opposition in certain cases, 720
- decision to be notified to parties, 720

certificates of payment on renewal

- payment of fees of £50 and £100 for continuance of patent, 720
- as to patents granted before commencement of Act of 1883, 720
- payment of annual fees in lieu of £50 and £100, 720
- certificate of payment, 720

enlargement of time

- enlargement of time for payments, 721
- extension of time for leaving and accepting complete specification,
721
- in other cases, 721

amendment of specification

- request for leave to amend, 721
- advertisement, 721
- notice of opposition, 721
- copy for applicant, 721
- opponent's evidence, 721
- further proceedings, 722
- requirements thereon, 722
- leave by order of Court, 722
- advertisement of amendment, 722

compulsory licences

- petition for compulsory grant of licences, 722
- to be left with evidence at Patent Office, 722
- directions as to further proceedings unless petition refused 722
- procedure, 722
- petitioner's evidence, 722
- evidence in reply, 722
- further proceedings, 723

register of patents

- request for entry of subsequent proprietorship, 723
- signature of request, 723
- particulars to be stated in request, 723
- production of documents of title and other proof, 723
- copies for Patent Office, 724
- body corporate, 724
- entry of orders of the Privy Council or of the Court 24
- entry of payment of fees on issue of certificate, 724
- entry of failure to pay fees, 724
- entry of licences, 724
- hours of inspection of register, 724
- certified copies of documents, 725

power to dispense with evidence, &c., 725

repeal, 725

PATENT MUSEUM

- control and management of, 336, 653
- models for, 653

PATENTEE

- definition of, 655
- who may be, 4
 - corporation, 18
 - sole, 19
 - foreigner, 4
 - infant, 4
 - legal representative of deceased inventor, 5

PATENTEE—(continued)

who may be—(continued)

lunatic, 5

married woman, 4

person other than true and first inventor, 4

several persons jointly, 4

true and first inventor, 4

persons incapable of being, 18

alien enemy, 19

clergyman, if beneficed, 19

corporation alone cannot be, patentee of an original invention, 19

corporation sole as such, 19

official persons sometimes, 19

Queen, the, 18

evidence of, who has assigned, 568

in respect of foreign application, 15, 303

not entitled to use word "patent" before his patent is sealed, 298

entitled to oppose grant of subsequent patent, 307, 317

on bankruptcy of, patent vests in trustee, 364

remedies of, for invasion of his rights, 460

communications between, and patent agent not privileged, 558

communications between, and solicitor privileged, 558

rights of co-patentees, 351

may use invention without liability to account, 352

power to grant licences, 368

query without liability to account, 368

all co-patentees should be made parties in action at instance of one, 352, 507

co-patentees cannot dispose of each other's rights, 353

damages in action at instance of one co-patentee, 352

patent is granted at peril of, 289

PATENTS ACTS—1883-1888

Patents Act of 1883, 640

Amendment Act of 1885, 680

Amendment Act of 1886, 682

Amendment Act of 1888, 684

PAYMENT OF FEES

See FEES

PAYMENT OUT OF COURT

proper order for, when defendant has paid money into court and plaintiff in infringement action is successful, 553

PENALTIES—*See also* STATUTORY OFFENCES

for practising as a patent agent without registration, 290

for representing an article as patented which is not so, 298, 684

for unauthorised use of royal arms, 299

for falsifying Register of Patents or copy therefrom, 340

PERSON

under Act of 1883, includes a body corporate, 676

PETITION

for extension of term of patent, 409, 413—*See* EXTENSION OF TERM OF PATENT

requisites of, 414

when, may be presented, 415

advertisement of, 415

affidavit of, 416

application for time for hearing, 416

proof of advertisements before hearing, 49

documents to be lodged with, 416

hearing of, 420

for revocation of letters patent, 388—*See* REVOCATION

who may present, 391

fiat of Attorney-General, when necessary for presentation of, 391, 392

how obtained, 393

may be given *nunc pro tunc*, 394

form of, 799

"PITH AND MARROW"

- infringement by taking, of invention protected, 469, 473
- objection to use of the term, 473
 - it may be lawful to take the, of an invention in one sense, 473
 - but never so to take its substance, 473

PITMAN'S CASE

- rule in, 433

PLEADINGS

- in action of infringement, 511
 - usual, 511
 - trial without, 511
 - inspection necessary for preparation of, 536
 - forms of, 782
- in action to restrain threats of legal proceedings, 453, 454
 - forms of, 796
- in petition for revocation, 398, 400
 - form of petition for revocation, 799

POSSESSION

- infringement by, 501

POST

- application for patent and notice by, 292, 670
- service by sending through, proof of, 670

PREROGATIVE OF CROWN

- saving for, by Act of 1883, 676

PRESCRIBED

- definition of, 676

PRESIDENT OF BOARD OF TRADE

- exercises powers of Board of Trade, 690
- certificate of, conclusive evidence, 690

PRICE

- reduction of, by patentee, effect on damages, 606
- reduction of, by defendant, effect on damages, 607

PRINCIPAL

- as defendant to action for infringement, 508

PRINCIPLE

- is not subject-matter, 37
- application of a, may be subject-matter, 38
 - illustrations, 40
 - if principle be new, means may be old, 45
 - if principle and means be both new, each may be claimed separately, 45
- distinction between a general arrangement and a, 43
- claim to all methods of application amounts to a claim to the principle, 39
- ambit of claim for carrying a new, into effect, 44
- ambit of claim for carrying an old, into effect, 46

PRINCIPLE OF THE INVENTION

- meaning of, 468
- importance of determining, in questions arising on the patent, 468

PRIVILEGED COMMUNICATIONS

- communications between patentee and patent agent not, 558

PRIVY COUNCIL

- revocation of patent by, 389
- power of, to call in aid of an assessor, 401
- petition to, referred to Judicial Committee, 410

PRIVY COUNCIL RULES

- RULES OF 1898, 731**
 - advertisement of intention to petition under s. 25 of the Act of 1883, 731
 - presentation of the petition and accompanying affidavits, 732

PRIVY COUNCIL RULES—(continued)

RULES OF 1898—(continued)

- documents to be lodged by petitioner at the Council Office, 732
- caveats*, when to be entered, 733
- service of petition, 733
- copies of opponent's grounds of objections, when to be lodged, 733
- obtaining copies of papers lodged at the Council Office, 733
- how documents are to be printed, 733
- costs, 733
- non-compliance with rules, 734
- right of audience of Attorney-General or other counsel for the Crown,

734

OLD RULES, 728

- advertisement of intention to petition under s. 2 of 5 & 6 Will. IV. c. 83,
- 728
- advertisement of intention to petition under s. 4 of 5 & 6 Will. IV. c. 83,
- 728
- time within which petition must be presented, 729
 - affidavits of advertisements to accompany petition, 729
 - service of petition, 729
 - notice of objections to be lodged at the Council Office, 729
 - obtaining copies of paper lodged at the Council Office, 729
 - costs, taxation of, 729
 - documents to be lodged at Council Office on petition for extension,
- 730
- Crown to be represented at hearing, 730

PROCESS

- may be subject-matter, 46, 52
- history of the cases, 46
 - Crane v. Price* settled the law, 48
 - but decision in, is doubtful on the facts, 48
 - which consists merely in the omission of a step hitherto thought to be necessary, 52
- not every novel, is good subject-matter, 48, 49
- consisting in application of hitherto hidden and unperceived property may be good subject-matter, 50
- examples, 50
- discovery of theory of a, formerly carried out empirically is not subject-matter, 49
- objection to the term "patentable process," 51
- ambit of claim for a, which achieves a new result, 53
- ambit of claim for a, which achieves an old result, 53
- rights of discoverer of secret, 461
- discovery as regards trade secret, 557, 565

PRODUCT

- may be good subject-matter, 55
 - when claim for a product is good, 55
 - when not, 55
- ambit of legitimate claim for new, 57
- ambit of claim for new means of producing an old, 58

PROFIT—See ACCOUNT OR DAMAGES

- does not render experimental user fatal to novelty, 110
- pecuniary, is not condition precedent to liability in respect of infringement, 497

PROLONGATION OF PATENTS

See EXTENSION OF TERM OF PATENT

PROPORTIONS

- mere variation of, no invention, 36
- effect of statement of, on sufficiency of specification, 186
- claim may embrace, not stated, 186
- claim may be limited to specific, stated, 186, 464

PROPRIETORS

See REGISTER OF PATENTS

PROVISIONAL PROTECTION—See also SPECIFICATIONS

- statutory provision for, 644
- nature and effect of, 165
- object of, 155
- applicant enjoys, against effects of publication, 116
 - foreign applicant, 117
- legitimate developments of the invention during period of, 166
 - always a question of fact, 168
 - improvements in detail, 167
 - when, should be claimed and when not, 210
 - better and different methods, 167

PROVISIONAL SPECIFICATION

See SPECIFICATIONS

PUBLIC

- protection of, against illegal patents, 463

PUBLIC USE

- meaning of, 111
 - use in public as distinguished from use by the public, 113
 - cases, 113
- applicant for patent is provisionally protected against, 116
- prior, of one specimen sufficient to invalidate a patent, 111
- prior, in colony no publication, 120
- what amounts to publication by, 105
- unsuccessful experimental, no publication, 105
- prior, of completed invention though discontinued is fatal to validity, 107, 116
- abandoned, *prima facie* presumed to have been incomplete, 107
 - illustrative cases, 107
- prior experimental, though profitable is not necessarily fatal, 110
- prior use whether public or not by persons other than patentee invalidates the patent, 94
- patentee cannot restrain a prior use public or otherwise, 461
- publication by description without actual, 129
- during period of provisional protection, 116

PUBLIC KNOWLEDGE

- meaning of, 95
 - per Jessel, M.R., 95
- test of novelty, 95
 - per Hatherley, L.C., 96
 - per Westbury, L.C., 97
- at date of specification determines its construction, 251, 253
- effect of, on question of infringement by substitution of equivalents, 480
 - i.e.*, affects ambit of patentee's claim, 481
- how objection of, should be raised; 533
 - specifications and rare books cannot be referred to under a general plea of, 534
 - distinction between plea of common knowledge and prior publication, 534

PUBLICATION—See also ANTICIPATION ; NOVELTY

- must be clear to invalidate a patent, 7
- applicant for a patent is protected against his own, 116
 - protection afforded to foreign applicant, 117
- distinction between a prior machine and a document as a means of, 138
- distinction between issue of common knowledge and, 534
- distinction between, and anticipation, 103
- documentary, 124, 138
 - always a question of fact, 125
 - unless all essential features are disclosed, a prior document is no, 133
 - sufficiency of description in a prior document necessary to render it
 - a, 130-131
 - rule in *Hill v. Evans*, 131
 - explained, 131
 - highly scientific inventions, 134

PUBLICATION—(continued)

documentary—(continued)

- document which points away from patentee's claim is no, 127
- description of a useless machine is no, of a useful one, 136
- general statement as to a class is no, of invention which consists in selecting a particular member, 136
- proof of actual use of invention described in a prior document is not necessary, 129
- proof that patentee saw document not necessary, 125
- document sometimes public property the moment it is written, 127
- suggestion merely in a document, 130
- terms of art may differ in meaning in different documents, 127
- foreign books as, 124
- prior provisional specifications, as, 127
 - power of Court to order production of, 128
- no publication of reports of Patent Office examiners, 301
- combined effect of different documents, 137
 - mosaic of extracts from different documents, 137
- drawing may be, 136
- exhibition at industrial or international exhibitions prior to application, 117
- by importation of article made abroad, 122
- what is not a, may narrow ambit of patentee's claim, 135
- what would be an infringement if of later date than a patent is not necessarily a, 135
- by loan, 119
- manufacture by person confidentially related to the patentee, 119
- by offering for sale, 118
- by personal communication, 123
- by prior experiment, 106
 - law as to, stated by Tindal, C.J., 106
 - a question of fact, 107
 - unsuccessful experiment, 105
 - abandoned user *prima facie* presumed to have been incomplete, 107
 - illustrative cases, 107
- by prior user, 105—*see also* PUBLIC USE
 - analogous, may or may not be, 102
 - prior user of equivalents as, 103
 - prior use in a Colony no, 120
 - prior public use though abandoned is fatal, 107. 116
 - prior secret though profitable user no, 110, 120

PURCHASE

- infringement by, 498

PURCHASER—See also VENDEE

- defendant to action of infringement, 498
- damages from, from manufacturer also party to action, 608
- rights of—*see* INFRINGEMENT—sale

QUEEN (THE)

- cannot be a patentee, 18

QUEEN'S BIRTHDAY

- Patent Office closed on, 713
- Register of Patents not open to inspection on, 724
- leaving documents, paying fees, &c., at Patent Office on 333, 670

RECITAL

- estoppel in virtue of, implying validity of patent, 379

RECTIFICATION OF REGISTER

- See* REGISTER OF PATENTS

REDISCOVERY

- query* of a lost art is subject-matter, 104

REDUCTION, ACTION OF

proceedings for revocation in Scotland are in the form of an, 390

REFEREE

questions in action of infringement which may be referred to a, 585
illustrations, 585

usual course as to report of a, and counsel's comments thereon, 586

REGISTER OF PATENT AGENTS' RULES, 1889, 735

register to be kept, 735

contents of register, 735

printed copies to be published annually, and to be evidence of contents of register, 735

registrar, 735

registration of persons who were patent agents prior to the passing of Act of 1888, 736

final qualifying examination for registration, 736

exemption of pupils and assistants from preliminary examination; 736

qualification of persons generally for registration, 736

final qualifying examination to be held by the Institute, 737

correction of names and addresses in the register, 737

erasure of names of deceased persons, 737

erasure of names of persons who have ceased to practise, 737

erasure of names for non-payment of fees, 738

registrar to act on evidence, 738

erasure of incorrect or fraudulent entries, 738

erasure of names of persons convicted of crimes, and persons found guilty of disgraceful conduct, 738

restoration of erased name, 738

inquiry by Board of Trade before erasure of name from register, 739

appeal to Board of Trade, 739

notice of appeal, 739

case on appeal, 739

transmission of notice of appeal to Board of Trade, 739

directions as to hearing of appeal, 739

notice of hearing of appeal, 739

hearing and decision of appeal, 739

fees, 739

alteration of regulations, 740

report to Board of Trade, 740

definitions, 740

commencement, 740

title, 740

Board of Trade powers as to, 291

validity of, 291

infraction of, 291

proper party to prosecute for, 291

form of, 772

particulars of preliminary examination, 773

REGISTER OF PATENTS

statutory provisions as to, 547

kept at the Patent Office, 336

former, to be deemed part of present, 336

prima-facie evidence of matters authorised to be entered thereon, 336

copies of documents affecting proprietorship of patents are to be supplied for entry on, 336

facts relating to ownership may be entered on, 339

but not legal inferences to be drawn therefrom, 339

registration of amendments, 336

notification of amendments of specifications to be entered on register, 336

registration of assignments, 364

should be immediate, 365

practice on, 365

quæry condition precedent to right to sue, 365

quæry has a retrospective effect, 366

REGISTER OF PATENTS—(continued)

- registration of licences, 383
 - all licences should be registered, 336, 383
 - not notice to all the world, 338
- registration of mortgages, 364
 - how mortgagees are entered on register, 365
- registration of orders
 - for extension of term of patent, 440
 - for revocation of patent, 403
- notices of trusts, as such, cannot be entered on, 337
 - but documents which affect the proprietorship, *e.g.*, equitable assignments can, 337
- documents which create neither legal nor equitable interests cannot be entered on, 337
- documents of earlier date than the patent, 338, 365
- not notice to all persons, 338
- fee for each entry on, 338—*see* FEES
- inspection of, 338
- evidence of entries on, 338
- rectification of, 339
 - order in Council for, 339
 - by Court or a Judge, 339
 - appeal from order for, made by, 339
 - extension of term of patent, 339
 - order affecting validity or proprietorship of patent, 339
 - in respect of proceedings in Scotland or Ireland, 340
- falsification of, 340
- form of request to enter name upon, 761
- form of request to enter notification of licence on, 762
- form of notice of alteration of address on, 767
- form of application for entry of order of Privy Council on, 768

REPEALED ACTS

- saving of past operation of, by Act of 1883, 675

REPORTS

- annual, of Comptroller
- of cases, publication and date of, 335
- of examiners
 - are not published, 301
 - power of Court to order production of, 301
 - effect in cases of rival applications, 301

RES JUDICATA

- when parties to subsequent action are same as to prior action, 274, 522
- but defendant may petition for revocation of patent, 523

REVIVAL

- of lapsed patent, 333

REVOCAION

- of licence, 372
 - provision for, 372
 - by one party only, 373
 - licence not coupled with an interest is revocable, 372
 - licence coupled with an interest is not revocable, 372
 - deed not necessary for, 373
 - contract not to exercise power of, 373
- of patent, 388-408
 - effect of, in part of United Kingdom, 390
 - amendment of specification pending proceedings for, 403
 - amendment of specification after order for, 274
 - certificate of validity when proceedings for, fail, 622
 - condition for, by sovereign on recommendation of Privy Council, 389
 - delivery up of revoked patent, 403
 - grant of fresh patent to petitioner, 397
 - order for, effect of, 403
 - form of, 275, 833
 - when all claims are bad, 275
 - when one or more claims are good, 275

REVOCACTION—(continued)**of patent—(continued)**

- registration of order for, 403
- statutory provision for, 648
 - in case of improvements in munitions of war, 391
- petition for, 388
 - substituted for older procedure by *scire facias*, 389
 - jurisdiction of Court of County Palatine of Lancaster, 390
 - in Scotland action of reduction takes the place of, in England, 390
 - form of, 799
- petitioner for, 391
 - who may be, 391
 - unsuccessful defendant to action for infringement may be, 523
 - when, must obtain the fiat of the Attorney-General in England or Ireland or the Lord Advocate in Scotland, 391, 392
 - procedure to obtain fiat of the Attorney-General, 393
 - costs, 394
 - patent may be granted to a, who succeeds on the ground that it was obtained in fraud of his rights, 397
- grounds for, 394
 - distinction between a false representation in the letters patent and a false statement in the specification, 396
 - inventions with the same objects, 396
 - cases of revocation on the ground of fraud on the petitioner's rights, 397
 - patent may be granted to a petitioner who succeeds on this ground, 397
- practice on petition for
 - parties, 398
 - particulars of objections, 398—*see also* PARTICULARS
 - at hearing evidence confined to, 398
 - amendment of, 398
 - certificate as to, not necessary on taxation, 399
 - interrogatories, 399—*see also* DISCOVERY ; INSPECTION
 - service of petition, 399
 - out of the jurisdiction, 399
 - hearing, 400
 - petition is an action and tried like other actions, 400
 - respondent's right to begin, 400
 - on affidavit evidence, 400
 - with witnesses, 400
 - with assessor, 401
 - without a jury, 401
 - at assizes, 401
 - when respondent consents to revocation, 401
 - when respondent does not appear, 401
 - joint petitioners must appear by same counsel, 401
 - old practice as to non-suits and postponements of actions of infringement pending *scire facias*, 402
 - fresh evidence on appeal, 403
 - stay of proceedings pending appeal, 403
 - costs, 404
 - effect of certificate of validity in former action on, 622

RIVAL APPLICATIONS

See APPLICANT ; APPLICATION

ROYAL ARMS

penalty for unauthorised use of, 299

ROYALTIES

- covenant to pay, can be enforced after declaration of invalidity of patent, 384
- acceptance of, from assignee estops patentee from disputing assignability of licence, 376

ROYALTIES—(continued)

- action to recover
 - may be founded on the contract, 383
 - even though the patent has been declared void, 384
 - fraud a defence to, 384
 - determination of licence a defence to, 381
 - relief in respect of infringement may be an alternative plea in, 385
 - interest on unpaid royalties, 385
 - when Court can only estimate royalties due, 385
 - discretion of taxing-master pending an appeal, 385
- paid after, and without knowledge of, breach of covenant by licensor may be recovered, 384
- paid under licence cannot be recovered in absence of fraud, 384
- patentee is not bound to accept same, from an infringer as from other persons, 608

RULES

- Judicial Committee, 728—*see* PRIVY COUNCIL RULES
- Law Officers', 726—*see* LAW OFFICERS' RULES
- Patent, 1890, 712—*see* PATENT RULES, 1890
- Register of Patent Agents, 735—*see* REGISTER OF PATENT AGENTS' RULES
- saving for, existing at date of Act of 1883, 676

SALARIES

- may be credited to petitioner on application for extension of term of patent, 434

SALE

- effect of, by patentee without restrictions, 370
- restrictions as to user may be imposed by patentee on, of patented article, 499
 - user in breach of restrictions is infringement, if with notice, 499
- when offering for, is publication, 118
- of goods in fraud of a patentee or other person, 461
- of article manufactured without licence of patentee an infringement, 497—*see* INFRINGEMENT
- of component parts of a combination, no infringement, 495—*see* INFRINGEMENT

SAMPLES

- order for inspection may authorise taking of, 566

SATURDAY

- leaving documents, paying fees, &c., at Patent Office, 670

SAVING OF JURISDICTION

- by Act of 1883
 - Courts in Scotland, 674
 - Courts generally, 675
 - remedies in Ireland, 575
 - past operation of repealed enactments, 675
- by Act of 1888
 - things done under Act of 1883 prior to Act of 1888, 691

SCIENCE AND ART DEPARTMENT

- controls Patent Museum, 336
- models may be required by, on payment, 336

SCIENTIFIC ASSESSOR

See ASSESSOR

SCIENTIFIC EVIDENCE

See EVIDENCE

SCIRE FACIAS

- petition for revocation substituted for, 389
- any ground on which patents could be repealed by, is a ground for revocation, 394
- grounds for, 394

SCOPE OF INVENTION

assignor not estopped from disputing, in action at instance of assignee, 355
importance in actions on the patent of ascertaining, claimed, 466

SCOTLAND

action of reduction is procedure for revocation of patent in, 390, 674
penalties for statutory offences in, 299
summary proceedings in respect of, 674
in, "injunction" means "interdict," 655
saving for Courts in, as to jurisdiction in patent matters, 674
general saving of jurisdiction of Courts in, 675

SEAL

of Patent Office, 668
is equivalent to great seal of United Kingdom, 330
time within which patents must be sealed with, 331

SEALING THE PATENT

time and manner of, 330

SECRET—See also TRADE SECRETS

effect of keeping an invention a, 342
assignment of, invention, 342

SECRET PROCESS

See PROCESS ; DISCOVERY ; INSPECTION

SECRET USE

effect on novelty of
prior, by patentee himself, 110, 120
prior, by persons other than patentee, 121
patentee cannot restrain a continuance of a, prior to date of patent, 461
subject of a, may be subject matter for a patent, 110, 120, 461
Court will not attempt to protect a, 342

SECRETARY OF STATE FOR WAR

assignment of patents for inventions of munitions of war to, 348, 653

SECRETARY TO BOARD OF TRADE

may exercise powers of Board of Trade, 690

SEED v. HIGGINS

rule in, 266

SELLERS v. DICKINSON

rule in, 480

SERVANT—See also MASTER

employment of, by an inventor, 12
invention of, does not belong to master, 14
even though made in employer's time and by use of employer's tools, 15
as defendant to action of infringement, 508
order of master does not justify, in infringing a patent, 508
liability of master for infringement committed by his, 508

SERVICE

of petition for extension of term of patent, 419
all opponents must be served, 419
of petition for revocation, 399
out of the jurisdiction, 399

SHAPE

mere alteration of, is not invention, 36
need not be described in specification, if form is not of the essence of the invention, 204

SHERIFF

sale of patent by, under *fi. fa.*, 364

SHERIFF COURT

prosecution for statutory offences under Patent Acts in, 299

SHIP

use of patented invention in foreign, 501

SHORTHAND NOTES

costs of, 628

usual agreement as to, 628

SLANDER

slandorous statements may be restrained apart from s. 32 of Act 1883, 442

SOLICITOR

communications between patentee and his, are privileged, 558

but not *qua* patent agent, 558

SOLICITOR-GENERAL

"law officer" includes, 677

SOLICITOR AND CLIENT'S COSTS

See COSTS

SOVEREIGN

cannot be a patentee, 18

infringement by foreign, 502

SPECIAL REFERENCE

See OPPOSITION TO GRANT OF PATENT

SPECIFICATIONS—*See also* AMENDMENT OF THE SPECIFICATIONS

origin of, 152

copies of, to be kept on sale, 335

if sealed, are evidence, 669

transmission of certified, to various places, 671

title, 154

virtually a concise statement of the invention, 154

defective, and validity, 154, 155

defect in, may be remedied in body of the specification, 155

should conform to certain rules, 154

must not be too extensive, 155

must not be too narrow, 156

must not be vague or ambiguous, 158

must not misdescribe the invention, 158

must not contain a false suggestion, 159

must be comprehensive enough to include the invention, 160

objection may be taken to, on application for a patent, 295—*see*

APPLICATION

provisional, 161

abandoned, is not published by the Patent Office, 127

power of Court to order production of, 128

effect of publication of, 128

difference between, and complete, 161

is optional, 161, 292

drawings may be required, 165

function of, 161

to avoid disputes as to what the invention was for which the patent was granted, 162

in case of dispute the question is whether the complete is excessive, 162

may go beyond the complete, 162

and cannot be impeached as too general, 292

and details referred to in provisional and complete may differ, 163

and subordinate matters be dropped in the complete, 163

no method of carrying the invention into effect need be stated in, 212

provisional protection afforded by, 165

nature and effect of, 165

object of, 165

legitimate development of the invention during, 166

always a question of fact, 168

better and different methods discovered during provisional protection, 167

improvements in details, 167, 210

SPECIFICATIONS—(continued)

provisional—(continued)

sufficiency of, 176

form of, 750

complete

acceptance of, no guarantee of validity, 302

advertisement of, 303

period in which acceptance must take place, 303

form of application for extension of time for acceptance, 771

effect of acceptance, 503, 644

amended, takes the place of original, 260

amendment of, before acceptance, 302

amendment of, after acceptance but before seal, 302

application abandoned before acceptance of, there is no publication of, by the Patent Office, 300

difficult to draft, 176

disagreement of joint applicants as to form of, 302

disconformity between, and provisional, 168

meaning of, 168

fatal to validity, 168

amended complete, 169

true way to decide questions of fact as to, 169

effect of detailing advantages in the provisional, 170

illustrations of patents held void for, 171

illustrations of cases in which the objection as to, failed, 173

legitimate developments of the invention, if included in complete do not produce, 166

subordinate matters may be abandoned in complete, 163

details in complete may differ from those in provisional, 163

improvements in details, 167, 210

better and different methods not mentioned in provisional, 167, 210

drawings may be required, 165, 641

same drawings may accompany both specifications, 682

complete may refer to drawings which accompany provisional, 682

form of, 751

must be filed within nine, or, upon leave, ten months from date of application, 299

form of application for extension of time for filing, 770

open to public inspection after advertisement of acceptance, 303

proof of sufficiency of, 577

reference of, to an examiner before acceptance, 300

duties of examiner on, 300

refusal of, on report of an examiner unless amendment be made, 300

object of, 175

requisites of, 177

must be *bonâ fide*, 178

must not mislead by commission or omission, 178, 195, 196

false suggestion, effect of, 180

must not describe or include methods or things which will not answer, 178, 184, 188, 196

distinction between a false method and something useless, 179

mis-statement of materiality of parts, 181

must not give problems to be solved, 180

though experiments may be necessary before succeeding, 189, 198

invention must be useful for object stated, 180

statement that invention is useful for purposes not specified, 181

illustrative cases, 181

must not be ambiguous, 183

want of clearness, or studied ambiguity, 183

perfect precision in language not possible, 183

meaning of terms is liable to change, 184

SPECIFICATIONS—(continued)

complete—(continued)

requisites of—(continued)

must not be ambiguous—(continued)

meaning of terms is liable to change—(continued)

meaning at date of patent is the important point, 184

sufficiency of description a question of fact, 185, 195, 196

must not include what will not answer the purpose in view, 178, 184, 188, 196

e.g., proportions of substances mentioned, 186

statement of requisite proportions of ingredients, 187

test of sufficiency, 188

when patentee is agent of foreign inventor, 18

when patentee is importer and also actual inventor, 18

ambiguity may be cured by disclaimer, 265

but insufficiency cannot be cured by disclaimer, 265

query, however, in cases of communicate inventions, 265

when necessity for experiments before succeeding is fatal and when not, 189, 198

drawings may aid the description, 254

must be intelligible to an ordinary workman, 191

meaning of "ordinary workman" test, 191

statement of law as to ordinary workman test in a particular case, 192

per Parke, B., 192

per Jessel, M.R., 193

per Maule, J., 194

inventions which can be appreciated only by persons of great skill and knowledge, 194

sufficiency when persons of great skill and knowledge would be left in doubt, but others less skilled would succeed, 194

specifications are not addressed to persons wholly ignorant of the subject-matter, 195

persons to whom specifications are addressed are presumed to possess all the existing knowledge common to the trade, 194

but not more, 195

inaccurate use of words may be explained by context, 196

errors which an ordinary workman would perceive and correct, 197, 255

errors not apparent, 197, 255

errors which amount to a false suggestion, 255

must particularly describe and ascertain the nature of the invention and how the same is to be performed, 199

a statutory as well as a common law requisite, 199

object of the invention must be disclosed, 201

disclosure as far as patentee's knowledge at the time extends is sufficient, 201

invention consisting of several parts, 202

must disclose the best method known to the patentee of carrying out the invention, 205

best method within patentee's knowledge, 205

not necessarily the best possible method, 206

nothing essential must be suppressed, 207

examples of specifications bad for suppression of essentials, 208

if invention is communicated from abroad best method communicated to patentee must be stated, 18

not necessarily best method known to foreign inventor, 18

all processes claimed need not be equally successful, 210

no objection that patentee himself does not know which is commercially best, 210

SPECIFICATIONS—(continued)

complete—(continued)

requisites of—(continued)

must disclose the best method known to the patentee of carrying out the invention—(continued)

when improvement discovered during period of provisional protection should be included and when not, 210

must distinguish what is old from what is new and claim only the latter, 214

if a combination is new, it is not necessary to distinguish new from old parts, 214

if subject matter is an improvement, it must be distinguished from old parts, 214

i.e., specification must condescend upon the improvement and claim that only, 215

effect of not distinguishing new from old parts when both fall within the claim, 215

need not mention everything which will produce the desired result, 213

need not describe any step or process which is necessarily implied, 203

need not describe minutely any known thing to which it refers, 203

need not describe the form of a part referred to if form is not of the essence of the invention, 204

signature of, 300

claim, 220

ambit of

may be expressly limited, 464

does not extend to what might be, but is not claimed, 229

illustration, 228

proportions not specifically stated may be within, 186

for carrying a new principle into effect, 44

for carrying an old principle into effect, 46

legitimate claim for new product, 57

legitimate claim for new means of producing an old product, 58

documents not amounting to publication may narrow, 135

effect of public knowledge on, 481

claim is by implication a disclaimer, 221, 464

effect of omitting an essential part, 222

distinct, is in practice required, but not absolutely necessary, 220

security for the patentee, 221

may be drafted as patentee pleases so long as he does not interfere with existing rights, 328

"distinct statement of the invention claimed," meaning of, 220

essence of invention should be referred to in, 249

extension of, by amendment of specification, 259-262

for anything old is fatal, 214

apparently and not really for something old, 214

but not when appendant as distinct from in gross, 101, 232

examples, 232

though some subordinate claims are fatal, 236

for a combination or process protects all parts new and material, 219

but distinct subordinate parts are not protected unless specifically claimed, 228

for use of old thing in a new combination, 61

for an improvement must not include the original, 67, 202, 214

for improvement in old things and combinations of old parts, nature of valid claim, 214

rule in *Foxwell v. Bostock*, 216

explanation of, 217

for every mode of carrying out a principle is, to the principle itself, 39

for general arrangement as distinguished from claim to a principle, 43

for a new thing is not vitiated by a further claim to a use not itself subject matter, 236

improvements not known at the date of the patent, not included in a general claim, 213

SPECIFICATIONS—(continued)

claim—(continued)

object of, 221

“pioneer claim,” meaning of, 490

rules to be observed in drafting, 222

requisites of, 222

statement of method of performing the invention in the form of a claim, 243

speculative claim may be fatal, 226

ambiguity which includes what will not answer is fatal, 227

examples, 227

too extensive a claim may be fatal, 222

claim to what patentee has not invented is fatal, 222

claim to something useless is fatal, 224, 226

but not so a claim to something of small utility, 224

claim apparently for a class may by context be limited to certain members only, 225

description of advantages common to what patentee has and has not invented, 225

claim to use of apparatus for analogous purposes, 225

construction of

necessity for, in legal proceedings, 237

is for the Court; sufficiency is for the jury, 237

adopted in prior proceedings binds Court of equal jurisdiction, 549, 579

opinion of scientific witness as to, 467, 570, 578

of language used in specification, 237

terms of art and technical terms, 237

evidence to explain, 238

variation in meaning of, 239

effect of state of public knowledge at date of the patent on, 251

question is what language used would lead a person to whom it is addressed to do, 251

i.e., when there is an ambiguity, 252

interest of patentee is immaterial to, 240

must be logical, fair, and impartial, 240

doctrine that patentee would not intend to claim anything which would make the patent bad, 241

limit of, 242

Court not astute to find flaws, 243

benevolent construction, doctrine of, 244

ut res magis valeat quam pereat, 245, 246

limits of, 245

when claim can be interpreted in two ways Court adopts meaning which supports validity in preference to one which does not, 246, 253

i.e., in case of ambiguity Court endeavours to give effect to patentee's intention, 243

terms used in popular sense are not construed in accordance with their exact meaning, 247

claims are construed with reference to body of specification, 247

and after a consideration of it, 224

distinct effective meaning is if possible given to each claim, 248

redundant claims do not vitiate the patent, 249

essence of invention may be protected without specific mention in the claims, 249

claims by implication, 250

effect of such words as “substantially as described,” &c., 250

disclaimer no aid to, of residue, 268

drawings in relation to, 253

how far they may aid the description, 254

errors corrected by context, 255

which are apparent, 255

which are not apparent, 255

which amount to a false suggestion, 255

prior publications, effect on, 253

SPECIFICATIONS—(continued)

construction of—(continued)

provisional cannot be called in aid of the, of the complete, 250
or read to supply an omission from it, 164

STAMP

exemption of statutory declaration for use in patent office from, 293
licences, 369

STATEMENT OF ADDRESS

must accompany application, 713
also notice of opposition, 719

STATEMENT OF CLAIM

action of infringement, 511
allegation of grant and title, 511
not necessary to allege novelty in, 511
or validity, 511
or to set out the specifications, 512
disclaimer should be stated in, 512
must disclose case sufficient to justify the relief asked for, 512
precedents of, 782-785
action to restrain threats of legal proceedings, precedent of, 796

STATUTE OF MONOPOLIES

a declaration of the common law as to patents for inventions, 1, 3
unrepealed portions of, 635
epitome of, 2
twofold effect of s. 6, 20
meaning of "manufacture" in, 21
defines subject-matter, 20

STATUTES

Statute of Monopolies, 635
Patent Designs and Trade Marks Act, 1883, 640
Patent Designs and Trade Marks (Amendment) Act, 1885, 680
Patents Act, 1886, 682
Patent Designs and Trade Marks Act, 1888, 684
repealed by Act of 1883, 678

STATUTORY DECLARATIONS

how, are to be made and subscribed for use in the Patent Office, 293
exempt from stamp duty, 293
on opposition to grant of patent
times for leaving, at Patent Office, 309
list of, to be furnished to opposite party, 309
copies of, how obtained by opposite party, 309

STATUTORY OFFENCES, 289, 674

falsifying Register of Patents, or copy therefrom, 340
representation that an article is patented, when no patent has been
granted, 298
no offence if complete specification has been accepted, 298
no offence when patent has expired, 299
modes of representation, 299
unauthorised use of the royal arms, 299
penalties, 299
in Scotland, 299
in Isle of Man, 299

STAY OF PROCEEDINGS

pending appeal, 630
not usual, 630
application for, 630
costs of, 631
when granted, 631

SUBJECT-MATTER—See COMBINATION ; COMMUNICATION ; IMPROVEMENT ;

NEW USE OF OLD APPLIANCES ; PRINCIPLES ; PROCESS ; PRODUCT
adaptation of old idea without invention, is not, 36
alteration of shape, 36

SUBJECT-MATTER—(continued)

- amount of invention and, 27
 - some invention must have been expended, 27
 - mere scintilla sufficient, 27
 - presumption of expenditure of invention sufficient, 27, 28
 - accidental discovery, 27
 - unsatisfied demand, 28
 - conception of an idea, 28, 35
 - simplicity 10 bar, 34
 - selection of a member of a class, 35
 - new application, 36
 - mere adaptation, 36
 - mere alteration of shape or proportions, 36
- any manner of new manufacture, 20
- combinations of parts as, 58
 - when result is new, better, or cheaper article, 60
 - whether parts are new or old, 58
 - immateriality of novelty of parts, 62
 - merit largely depends on result produced, 58
 - ratio decidendi* of the cases, 58
 - new combination may consist in
 - omission, 62
 - addition, 62
 - or substitution, 63
 - or rearrangement of parts, 61, 63
 - substitution of equivalents for parts in old combination, 63, 64
- common law authorities as to, 25
- conception of an idea may be, 28, 35
- defined by Jac. I., c. 3, s. 6, 20
 - Courts and early text writers, 22
 - exhaustive definition not possible, 25
- discovery of what was formerly done empirically is not, 49
- essential considerations as to, 28
- general arrangement may be, 43
 - distinction between, and a principle, 43
- improvement may be, 65
 - may consist in addition to, omission from, or rearrangement of old parts, 65
 - mere working direction is not a patentable improvement, 68
 - mere use of existing machine in a more beneficial manner is not a patentable improvement, 69
 - mere adaptation of a well-known idea is not a patentable improvement, 69
- new, better, or cheaper article as, 11
- new use of old appliance may be, 36, 171
 - apprehension of, may be invention, 73
 - novelty of, is not alone sufficient to support a patent for a, 73
 - result of the cases, 72
 - examples of void patents for, 76
 - examples of valid patents for, 87
- must be an art, 21
 - producing vendible articles, 22
 - not to be used for illegal purposes, 22
- not every new and useful discovery is, 25
- principles *per se* are not, 37
 - applications of principles may be, 38
 - illustrations, 40
- process may be, 46, 52
 - history of the cases, 46
 - law settled by *Crane v. Price*, 48
 - decision doubtful on the facts, 48
 - not every novel process is subject-matter, 48, 49
 - application of hidden or unperceived property of previously known thing, 50
 - examples, 50
- product may be, 55

SUBJECT-MATTER—(continued)

product may be—(continued)

when claim for, is good, 55

when claim for, is bad, 55

ambit of legitimate claim for new, 57

ambit of legitimate claim for new means of producing old, 58

proof of issue of, in action of infringement, 571

proportion, mere variation of, is not, 36

putting together items of common knowledge may be, 35

rediscovery of lost art may be, 104

selection of a member of a class may be, 35

“SUBSTANTIALLY AS DESCRIBED”

effect of, and similar words in a claiming clause, 250

SUCCESS—See also COMMERCIAL SUCCESS

a test of invention, 9, 11

not necessarily evidence of utility, 577

want of commercial, not necessarily evidence of non-utility, 576

SUFFICIENCY*See* SPECIFICATIONS**SUGGESTION**

mere, is not publication, 129

SUMMARY CONVICTION

definition of, in Ireland, 677

SUNDAY

leaving documents, paying fees, &c., at Patent Office, 670

SURRENDER

of patent, may be made to the Crown, 366

effect of, 366

how to be made, 366

TAXATION OF COSTS*See* COSTS**TENNANT'S CASE**

authority on law of true and first inventor, 8

result of, and Dolland's case, 8

contrasted with Dolland's case and Arkwright's case, 102

TERM

of patent, 332

extension of,

see EXTENSION OF TERM OF PATENT**TERMS OF ART**

may differ in meaning in different documents, 127

expert evidence admissible to explain, 570

interpretation of, 127, 237, 238, 239, 251, 570

THANKSGIVING DAY (PUBLIC)

Patent Office closed on, 713

Register of Patents not open to inspection on, 724

leaving documents, paying fees, &c., at Patent Office on, 333, 670

THREATS OF LEGAL PROCEEDINGS—See also SLANDER

action to restrain, 441

damages to be recoverable must result directly from the threat, 457

law prior to Act of 1883 as to threats, 442

bona fides, 443

still governs cases within either of the saving clauses of s. 32 of the Act of 1883, 442

plaintiff may rely on old law or on right created by s. 32 of Act of 1883, 443

if on old law his case as to *mal'a fides* should be disclosed on motion for injunction, 443

THREATS OF LEGAL PROCEEDINGS—(continued)

- action to restrain—(continued)
 - statutory right created by s. 32 of Act of 1883, 441
 - bona fides* of patentee is immaterial in action founded on, 444
 - burden of proof, 444
 - person aggrieved, who is, 445
 - licensees and persons having only limited interests, 445
 - what is a threat within, 445
 - evil which s. 32 was intended to guard against, 445
 - effect of "or otherwise" as used in s. 32, 446
 - nature of threats held to be within s. 32, 446
 - notice by plaintiff to customers of defendant in an infringement action, 448
 - general warning to infringers, 449
 - to effect that article made abroad is an infringement of British patent, 379
 - may become a threat, 449
 - when use in a particular manner is not complained of, 449
 - threat not withdrawn, 449
 - continuance of threats after action for infringement commenced, 447
 - query* threat relating to something intended to be done is within s. 32, 448
 - query* threats made by licensees and persons having only a limited interest are not within the section, 445
 - the proviso to s. 32, 449
 - nature of infringement action which will secure the benefit of, 450
 - against whom it must be brought, 450
 - due diligence, 451
 - action commenced before issue of threats, 451
 - delay caused by negotiations, 452
 - action discontinued by consent, 452
 - action abandoned, 452
 - action unsuccessful, 452
 - action originally in respect of several patents but dropped as to some, 452
 - action in respect of "passing off" turned into action for infringement, 453
- practice, 453
 - issues, 453
 - infringement, 453
 - of any legal rights of person making the threats, 445, 453
 - patentee who has obtained leave to amend under s. 19 of Act 1883, 445
 - patentee who has applied but not actually obtained an amendment of specification, 445
 - validity of defendant's patent, 453
 - how pleaded, 454
 - certificate as to, 458
 - query* can be given in the action, 458
 - pleadings, 453
 - precedent of endorsement of writ, 796
 - statement of claim, 796
 - defence, 797
 - particulars, 454—*see also* PARTICULARS
 - of breaches, plaintiff may be entitled to, 454
 - of objections, defendant may be entitled to, 454
 - of alleged threats, 454
 - of patents relied on to support threats, 454
 - of agents by whom threats are alleged to have been made, 455
 - certificate as to, 458
 - query* necessary on taxation, 458

THREATS OF LEGAL PROCEEDINGS—(continued)

action to restrain—(continued)

statutory right created by s. 32 of Act of 1883—(continued)

interlocutory injunction

prima-facie case as to non-infringement or invalidity of defendant's patent must be made out on application for, 455

otherwise Court does not consider the balance of convenience to the parties, 456

considerations which influence the Court on applications for, 457

usual course where defendant brings an action for infringement, 455

ex parte applications for, 455

costs, 459

ordinary jurisdiction of the Court applies to the general, 459

query certificate of particulars is necessary on taxation of, 458

TINDAL, C.J.

law as to true and first inventor stated by, 7

TITLE

See SPECIFICATIONS

TRADE

covenants by assignor in restraint of, legality of, 349

TRADE SECRET

discovery leading to disclosure of, 557

inspection leading to disclosure of, 565

defence that alleged infringement is a, evidence may be taken *in camera*, 581

TRANSHIPMENT

See INFRINGEMENT

TRANSMISSION

of patent by deed, 346

of patent by act and operation of law, 363

of certified copies of specifications to various centres, 671

TREASURY

in Act of 1883 means the Commissioners of Her Majesty's Treasury, 677

TRIAL

action of infringement, 581

acceleration of, 587

at assizes, 586

by Court alone, usual, 582

jury rare, 582

e.g., when there is an allegation of fraud, 582

aid of an assessor, 583

reference to a referee, 585

issues tried separately, 583

advantages of, 585

judgment

motion for, on determination of a separate issue, 587

on admission of facts, 588

by default, 588

by consent, 588

effect of, against validity of patent, 403

form of, 791, 794

certificates which should be asked for at the conclusion of, 588

TRUE AND FIRST INVENTOR

agent of foreign inventor may be, 18

applicant within the realm having made an application for a patent abroad,

17

applicant is not, if invention was previously used, 6

or if it was taken from any published source of information, 6

TRUE AND FIRST INVENTOR—(continued)

- communicator of invention made in the real, first is, 15
- communicator of invention made abroad, first is, 15, 17
- corporation, 18
 - sole, 19
- declaration as to, on application, 4, 292
- discovery made by several persons concurrently, 8
- failure of others as evidence on issue of, 11
- importer from abroad if first is, 16
 - need not be meritorious importer, 18
- servant as distinct from master as, 14
- master as distinct from servant as, 12, 14
 - assistants may be employed, 12
 - when master is, and when servant is, 12, 14
- may be disqualified from being a patentee, 18
- meaning of, 6
- must have invented all for which he claims protection, 6
- patent invalid unless, is a grantee, 4, 5, 292
- patents with similarity of object no objection on issue of, 10
- person who first discloses an invention is, 6
- person who first produces a successful result, 9
- person who first communicates what has not been enjoyed before is not necessarily, 7
- application in fraud of, 335
- distinction between issue of, and prior use, 94
 - pleas must be raised separately, 94
- interest of, in an invention for which he intends to apply for a patent, 345
- proof of issue of, in action of infringement, 571

TRUST

- notice of, as such, cannot be entered on Register of Patents, 337
 - but documents affecting proprietorship can, 337
- validity of patent granted in, for alien enemy, 19

TRUSTEE

- right of, to sue in respect of infringements of patents, 353
- may be a patentee, 353

TRUSTEE IN BANKRUPTCY

- actions of infringement by, 364
- patent vests in, 364

TUDOR SOVEREIGNS

- oppressive monopolies under, 1

TWEEDALE'S INVENTION

- as illustrating doctrine of infringement by use of equivalents, 485, 486

UNION FOR THE PROTECTION OF INDUSTRIAL PROPERTY

See INTERNATIONAL CONVENTION FOR THE PROTECTION OF INDUSTRIAL PROPERTY

- States constituting the, 303
- provisions of s. 103 of Act of 1884 enabling British Government to join, 303

UNPATENTED INVENTION

- interest of an inventor in, before grant of a patent, 345
- death of person possessed of, 363
- secret use of, by the inventor, 461
- use of, by person other than the inventor, 462

USE—*See also* EXPERIMENTAL USE ; PUBLIC USE ; SECRET USE

- prior, by persons other than the patentee invalidates the patent, 94
 - even though it was secret, 461
- effect on validity of prior secret, by the patentee himself, 110, 120
- when, is an infringement, 370
- patentee cannot restrain the continuation of a prior, secret or otherwise, 461
- as evidence of utility, 576

USER

damages for infringement may be recovered from a, or manufacturer or both until the full measure is obtained, 608

UTILITY

requisite to validity at common law, 139
 preserved by Statute of Monopolies, 141
 failure of, a ground of revocation, 395
 different inventions included in one patent must each possess, 147
 meaning of, in law, 143
 not abstract utility, 143
 or improvement from all points of view, 143
 i.e., not comparative utility, 143
 not necessarily commercial utility, 143
 invention is useless unless it does what patentee states it will do, 180, 144
 and is useful in the form specified, 144
 lack of utility in an essential part is fatal, 146
 lack of utility in a non-essential part is no bar to validity, 146, 149
 examples, 147
 lack of utility for one purpose within a general statement is not necessarily fatal, 149
 quantum of utility is immaterial, 146
 slight utility sufficient to support validity, 146
 all modes or processes claimed need not be equally useful, 144, 210
 essential parts may differ in utility, 149
 of prior invention does not affect validity of patent for an improvement, 150
 not always conclusive evidence of invention, 34
 patents used solely for obstructing improvements, 142
 patent for an improvement not proof of want of, in original invention, 67
 proof of issue of, in action of infringement, 575

VALIDITY

amount of invention does not affect, 27
 amount of improvement does not affect, 69, 146
 certificate of, 622—*see also* COSTS
 effect of, on costs of subsequent action, 622
 meaning of "subsequent action," 625
 discretion of the Court or a Judge as to allowing solicitor and client's costs in a subsequent action, 624
 illustrations of the exercise of the discretion, 626
 when defendant does not dispute validity, 627
 effect of, on costs of subsequent petition for revocation, 622
 when may be given, 622
 after expiry of patent, 622
 in absence of evidence on issue of validity, 623
 where plaintiff fails on issue of infringement, 624
 where defendant admits validity on a certain construction of the specification, 624
 jurisdiction of Court of Appeal, 622
 Court of County Palatine of Lancaster, 622
 House of Lords, 622
 query can be given in action to restrain threats of legal proceedings, 458
 estoppel against licensee from disputing, 379-383
 leave to amend specification no guarantee of, 259
 novelty essential to, of patent, 92
 of patents used solely for obstructing improvements, 142
 of prior patent relied on in opposition to grant of subsequent patent is immaterial, 319
 proper specification essential to—*see* SPECIFICATIONS
 title, effect of defective on, 154, 155
 utility essential to, 139

VARIANCE

See SPECIFICATIONS—disconformity—IMPROVEMENT

VENDEE—See also SALE

defendant to action of infringement, 498
rights of, without restrictions, 370
of licensee, right to resell, 499
damages recovered from, and also vendor, 608

VESSEL

use of patented inventions in foreign, 501

WAR

Secretary of State for, empowered to acquire patents for certain inventions by assignment, 348, 653
special provisions for revocation of patents for improvements in munitions of, 391
Secretary of State for, may order specifications of inventions assigned to him to be kept secret, 348

WAR OFFICE MEMORANDUM FOR INVENTORS

text of, 842

WARRANTY

on assignment of letters patent, 357
may be express or implied, 357
in absence of, doctrine of *caveat emptor* applies, 358
no implied warranty that an assignee will be able to use the invention without licence of a third party, 360
statement that a patent is valuable and valid, 359

WATER TABBIES

accidental discovery of, 27

WITNESS

See EVIDENCE; LAW OFFICER; LICENSEE; OATH

WORKMAN

employment of, by an inventor, 12
no necessary confidential relationship between a, and his fellow, 15
test of sufficiency of specification, 191, 195, 196

WRIT

forms of indorsement on, in action of infringement, 732
in action to restrain threats of legal proceedings, 795
service of, in action of reduction, 674

E. G. M. B.