



**RULES REGULATING THE PRACTICE AND PROCEDURE  
ON APPEALS TO THE LAW OFFICERS.**

Notice of  
appeal.

I. When any person intends to appeal to the law officer from a decision of the Comptroller in any case in which such appeal is given by the Act, he shall within 14 days from the date of the decision appealed against file in the Patent Office, a notice of such his intention.

Requisites of  
notice of  
appeal.

II. Such notice shall state the nature of the decision appealed against, and whether the appeal is from the whole, or part only, and if so, what part of such decision.

Copies of  
notice of  
appeal to be  
sent.

III. A copy of such notice of intention to appeal shall be sent by the party so intending to appeal to the Chief Clerk, Law Officers' Department, at Room 549, Royal Courts of Justice, London; and when there has been an opposition before the Comptroller, to the opponent or applicant as the case may be.

Comptroller  
to transmit  
papers to law  
officers' clerk.

IV. Upon notice of appeal being filed, the Comptroller shall forthwith transmit to the Chief Clerk, Law Officers' Department, all the papers relating to the matter of the application in respect of which such appeal is made.

Notice of  
appeal not  
given in  
specified time.

V. No appeal shall be entertained of which notice is not given within 14 days from the date of the decision appealed against, or such further time as the Comptroller may allow, except by special leave upon application to the law officer.

Seven days'  
notice of  
hearing.

VI. Seven days' notice, at least, of the time and place appointed for the hearing of any appeal, shall be given by the Chief Clerk, Law Officers' Department, unless special leave be given by the law officer that any shorter notice be given.

To whom  
notice of hear-  
ing is to be  
given.

VII. Such notice shall in all cases be given to the Comptroller and the appellant; and, when there has been an opposition before the Comptroller, to the opponent or applicant, as the case may be.

Evidence.

VIII. The evidence used on appeal to the law officer shall be the same as that used at the hearing before the Comptroller; and no further evidence shall be given, except with the leave of the law officer upon application for that purpose.

Cross-  
examination.

IX. The law officer shall at the request of either party, order the attendance at the hearing on appeal, for the purpose of being cross-examined, of any person, who has made a declaration, in the matter to which the appeal relates, unless in the opinion of the law officer, there is good ground for not making such order.

X. Any person requiring the attendance of a witness for cross-examination shall tender to the witness whose attendance is required a reasonable sum for conduct money.

Conduct  
money.

XI. Where the law officer orders that costs shall be paid by any party to another, he may fix the amount of such costs, and if he shall not think fit to fix the amount thereof, he shall direct by whom and in what manner the amount of such costs shall be ascertained.

Amount of  
costs to be  
fixed.

XII. If any costs so ordered to be paid be not paid within 14 days after the amount thereof has been so fixed or ascertained or such shorter period as shall be directed by the law officer, the party to whom the costs are to be paid may apply to the law officer for an order for payment under the provisions of section 40 of the Act.

Order for pay-  
ment of costs.

XIII. All documentary evidence required, or allowed by the law officer to be filed, shall be subject to the same regulations, in all respects, as apply to the procedure before the Comptroller, and shall be filed in the Law Officers' Department, unless the law officer shall order to the contrary.

Documentary  
evidence.

XIV. Any notice or other document required to be given to the Chief Clerk, Law Officers' Department, under these Rules, may be sent by a prepaid letter through the post.

Sending  
notice or other  
documents by  
post.

JOHN L. WALTON,  
Attorney-General.

W. S. ROBSON,  
Solicitor-General.

Law Officers' Department,  
11 December, 1907.

## STATUTORY RULES AND ORDERS, 1908.

No. 951.

### PATENTS.

REGISTER OF PATENT AGENTS RULES, 1908. DATED  
DECEMBER 17, 1907.

By virtue of the provisions of the Patents and Designs Act, 1907, hereinafter referred to as the Act, the Board of Trade, hereinafter referred to as the "Board," do hereby make the following Rules:—

1. These Rules may be cited as the Register of Patent Agents Rules, 1908.

Register to be kept.

2. A Register of Patent Agents shall be kept by the Chartered Institute of Patent Agents (hereinafter called the Institute), subject to the provisions of these Rules and to the Orders of the Board, for the registration of patent agents in pursuance of Section 84 of the Act. The Register of Patent Agents existing at the commencement of the Act shall be incorporated with and form part of the Register of Patent Agents under the Act.

Contents of Register.

3. The Register shall contain in one list all patent agents who are registered under the Act and these Rules.

Such list shall be made out according to the surnames of the registered persons, and shall also contain the full name of each registered person, with his address, the date of registration, and a mention of any honours, memberships, or other additions to the name of the registered person which the Council of the Institute may consider worthy of mention in the Register. The Register shall be in the Form 1 in Appendix A., with such variations as may be required.

Printed copies to be published annually, and to be evidence of contents of Register.

4. The Institute shall cause a correct copy of the Register, but with the names arranged alphabetically, to be printed under their direction and published and placed on sale. Such correct copy shall be printed and published not later than the end of February in each year. A copy of the Register for the time being purporting to be so printed and published shall be admissible as evidence of all matters stated therein, and the absence of the name of any person from the Register shall be evidence, until the contrary is made to appear, that such person is not registered in pursuance of the Act or any Act repealed by the Act.

5. The Institute shall continue in office or appoint a Registrar, who shall keep the Register in accordance with the provisions of the Act and these Rules, and, subject thereto, shall act under the directions of the Institute, and the Board.

Registrar.

6. A person who is desirous of being registered in pursuance of the Act, on the ground that prior to the 24th day of December, 1888, he had been *bonâ fide* practising as a patent agent, shall produce or transmit to the Board a statutory declaration in the Form 2 in Appendix A.; provided that the Board may, in any case in which they shall think fit, require further or other proof that the person had prior to the passing of the Act been *bonâ fide* practising as a patent agent. Upon the receipt of such statutory declaration, or of such further or other proof to their satisfaction, as the case may be, the Board shall transmit to the Registrar a certificate that the person therein named is entitled to be registered in pursuance of the Act, and the Registrar shall on the receipt of such certificate cause the name of such person to be entered in the Register.

Registration of persons who were patent agents prior to the passing of this Act.

7. Subject to the provisions of the Act in favour of every person who proves to the satisfaction of the Board that prior to the 24th day of December, 1888, he had been *bonâ fide* practising as a patent agent, no person shall be entitled to be registered as a patent agent unless he has passed, and produces or transmits to the Registrar a certificate under the seal of the Institute that he has passed, such final examination as to his knowledge of patent law and practice and of the duties of a patent agent as the Institute shall from time to time prescribe.

Final qualifying examination for registration.

8. Any person who has been for at least five years engaged as a pupil or technical assistant to one or more registered patent agents, and any person for the time being entitled to practise as a Solicitor of the Supreme Court of Judicature in England or Ireland, or as a law agent before the Court of Session in Scotland, shall be entitled to be registered without passing any examination other than the final examination provided for in the last preceding Rule.

Exemption of pupils and assistants from preliminary examination.

9. Any person who is not qualified under Rule 8 must, in order to be entitled to present himself for the final qualifying examination, be—

Qualifications of persons generally for registration.

A person who has passed one of the preliminary examinations which the Institute shall by regulation prescribe.

10. The Institute shall hold at least once in every year, a final qualifying examination, which shall be the final qualifying examination required under Rules 7 and 8; and the Institute shall, subject to these Rules, have the entire management and control

Final qualifying examinations to be held by the Institute.

of all such examinations, and may from time to time make regulations with respect to all or any of the following matters, that is to say,

- (a) The subjects for and the mode of conducting the examination of candidates;
- (b) The times and places of the examinations, and the notices to be given of the examinations;
- (c) The certificates to be given to persons of their having passed the examinations;
- (d) The appointment and removal of examiners, and the remuneration, by fees or otherwise, of the examiners so appointed; and
- (e) Any other matter or thing as to which the Institute may think it necessary to make regulations for the purpose of carrying out this Rule.

Correction of names and addresses in Register.

11. The Registrar shall from time to time insert in the Register any alteration which may come to his knowledge in the name and address of any person registered.

Erasure of names of deceased persons.

12. The Registrar shall erase from the Register the name of any registered person who is dead.

Erasure of names of persons who have ceased to practise.

13. The Registrar may erase from the Register the name of any registered person who has ceased to practise as a patent agent, but not (save as hereinafter provided) without the consent of that person. For the purposes of this Rule the Registrar may send by post to a registered person to his registered address a notice inquiring whether or not he has ceased to practise or has changed his residence, and if the Registrar does not within three months after sending the notice receive an answer thereto from the said person, he may, within fourteen days after the expiration of the three months, send him by post to his registered address another notice referring to the first notice, and stating that no answer has been received by the Registrar; and if the Registrar either before the second notice is sent receives the first notice back from the dead letter office of the Postmaster-General, or receives the second notice back from that office, or does not within three months after sending the second notice receive any answer thereto from the said person, that person shall, for the purpose of this Rule, be deemed to have ceased to practise, and his name may be erased accordingly.

Erasure of name for non-payment of fees.

14. If any registered person shall not, within one month from the day on which his annual registration fee becomes payable, pay such fee, the Registrar may send to such registered person to his registered address a notice requiring him, on or before a day to be named in the notice, to pay his annual registration fee; and

if such registered patent agent shall not within one month from the day named in such notice pay the registration fee so due from him, the Registrar may erase his name from the Register: Provided that the name of a person erased from the Register under this rule may be restored to the Register by direction of the Institute or the Board on payment by such person of the fee or fees due from him, together with such further sum of money, not exceeding in amount the annual registration fee, as the Institute or the Board (as the case may be) may in each particular case direct.

15. In the execution of his duties the Registrar shall, subject to these Rules, in each case act on such evidence as appears to him sufficient. **Registrar to act on evidence.**

16. The Board may order the Registrar to erase from the Register any entry therein which is proved to their satisfaction to have been incorrectly or fraudulently inserted. **Erasure of incorrect or fraudulent entries.**

17. If any registered person shall be convicted in His Majesty's dominions or elsewhere of an offence which, if committed in England, would be a felony or misdemeanor, or after due inquiry, is proved to the satisfaction of the Board to have been guilty of disgraceful professional conduct, or having been entitled to practise as a Solicitor or Law Agent shall have ceased to be so entitled, the Board may order the Registrar to erase from the Register the name of such person. Provided that no person shall be adjudged by the Board to have been guilty of disgraceful professional conduct unless such person has received notice of, and had an opportunity of defending himself from, any charge brought against him. **Erasure of names of persons convicted of crimes, and persons found guilty of disgraceful conduct.**

18. Where the Board direct the erasure from the Register of a name of any person, or of any other entry, the name of the person or the entry shall not be again entered in the Register, except by order of the Board. **Restoration by Board of erased name.**

The Board may in any case in which they think fit restore to the Register such name or entry erased therefrom either without fee, or on payment of such fee, not exceeding the registration fee, as the Board may from time to time fix, and the Registrar shall restore the name accordingly.

19. For the purpose of exercising in any case the powers of erasing from and of restoring to the Register the name of a person, or an entry, the Board may appoint a committee consisting of such persons as they shall think fit. Every application to the Board for the erasure from, or restoration to, the Register of the name of any patent agent shall be referred for hearing and inquiry to the committee, who shall report thereon to the Board, and a **Inquiry by Board of Trade before erasure of name from Register.**

report of the committee shall be conclusive as to the facts for the purpose of the exercise of the said powers by the Board.

Restoration  
by Institute of  
erased name.

20. The name of any person erased from the Register at the request or with the consent of such person shall, unless it might, if not so erased, have been erased by order of the Board, be restored to the Register by the Registrar on his application and on payment of such fee, not exceeding the registration fee, as the Institute shall from time to time fix.

Appeal to  
Board of  
Trade.  
Notice of  
appeal.

21. Any person aggrieved by any order, direction, or refusal of the Institute or Registrar may appeal to the Board.

22. A person who intends to appeal to the Board under these Rules (in these Rules referred to as the appellant) shall, within 14 days from the date of the making or giving of the order, direction, or refusal complained of, leave at the office of the Institute a notice in writing signed by him of such his intention.

Case on  
appeal.

23. The notice of intention to appeal shall be accompanied by a statement in writing of the grounds of the appeal, and of the case of the appellant in support thereof.

Transmission  
of notice of  
appeal to  
Board of  
Trade.

24. The appellant shall also immediately after leaving his notice of appeal at the Institute send by post a copy thereof with a copy of the appellant's case in support thereof addressed to the Secretary of the Board of Trade, 7, Whitehall Gardens, London.

Directions as  
to hearing  
appeal.

25. The Board may thereupon give such directions (if any) as they may think fit for the purpose of the hearing of the appeal.

Notice of  
hearing of  
appeal.

26. Seven days' notice, or such shorter notice as the Board may in any particular case direct, of the time and place appointed for the hearing of the appeal shall be given to the appellant and the Institute and the Registrar.

Hearing and  
decision of  
appeal.

27. The appeal may be heard and decided by the Board, and such decision may be given or order made in reference to the subject-matter of the appeal as the case may require.

Fees.

28. The fees set forth in Appendix B. to these Rules shall be paid in respect of the several matters, and at the times and in the manner therein mentioned. The Board may from time to time, alter any of, or add to, the fees payable under these Rules.

Alteration of  
regulations.

29. Any regulation made by the Institute under these Rules may be altered or revoked by a subsequent regulation. Copies of all regulations made by the Institute under these Rules shall, within twenty-eight days of the date of their being made, be transmitted to the Board, and if within twenty-eight days after a copy of any regulation has been so transmitted, the Board by an order signify their disapproval thereof, such regulation shall be of no force or effect; and if, after any regulation under these



Rules has come into force, the Board signify in manner aforesaid their disapproval thereof, such regulation shall immediately cease to be of any force or effect.

30. The Institute shall once every year in the month of March transmit to the Board a report stating the number of applications for registration which have been made in the preceding twelve months, the nature and results of the final examinations which have been held, and the amount of fees received by the Institute under these Rules, and such other matters in relation to the provisions of these Rules as the Board may from time to time require.

Report to Board of Trade.

31. These Rules shall come into operation from and immediately after the 31st December, 1907, and all general rules relative to the Register of Patent Agents in force on the 31st December, 1907, shall be and are hereby repealed as from that date without prejudice nevertheless to any thing done under such Rules or to any application or other matter then pending.

Commencement.

Dated the 17th day of December, 1907.

D. LLOYD GEORGE.  
President of the Board of Trade.

APPENDIX A.

FORM 1.

FORM OF REGISTER.

Name.	Designation.	Address.	Date of Registration.

## APPENDIX.

## FORM 2.

## FORM OF STATUTORY DECLARATION.

## PATENTS AND DESIGNS ACT, 1907.

*Register of Patent Agents pursuant to Section 84.*

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 \_\_\_\_\_

## APPENDIX B.

## FEES.

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

Dated the 17th day of December, 1907.

D. LLOYD GEORGE.  
President of the Board of Trade.

RULES OF THE SUPREME COURT (PATENTS AND  
DESIGNS), 1908. DATED JUNE 3, 1908.

ORDER LIIIA.

*Procedure in Actions for Infringements of Patents and under  
the Patents and Designs Act, 1907.*

1. In this Order:—

Definitions.

“The Act” means the Patents and Designs Act, 1907.

“The Comptroller” means the Comptroller-General of Patents Designs and Trade Marks.

“The Court” includes the Judge of the High Court for the time being selected by the Lord Chancellor as the Court for the purpose of hearing appeals and petitions under the Act.

2. The Rules of the Supreme Court for the time being in force shall apply, so far as may be practicable (unless by the Act or by these Rules otherwise expressly provided), to all proceedings before the Court under the Act. In particular, if the Court is for the time being a Judge of the Chancery Division, the provisions of Order 5, Rule 9 (A) shall apply to all such proceedings, as being business assigned to the Court within the meaning of that Rule.

Rules of Supreme Court for time being applicable to proceedings before the Court under the Act.

3. In the case of Petitions for extension of the term of a patent under Section 18 of the Act, the following Rules shall apply:—

Extension of term of patent.

- (a) A party intending to apply by Petition under Section 18 of the Act shall give public notice by advertising three times in the “London Gazette” and once at least in a London Daily newspaper, the price of which is not less than one penny.
- (b) If the Applicant’s principal place of business is situated in the United Kingdom at a distance of 15 miles or more from Charing Cross he shall also advertise once at least in some local newspaper published or circulating in the town or district where such place of business is situated. If the Applicant has no such place of business, then if he carries on the manufacture of anything made under his specification in the United Kingdom at a distance of 15 miles or more from Charing Cross he shall

## APPENDIX.

advertise once at least in some local newspaper published or circulating in the town or district where he carries on such manufacture. If he has no such place of business and carries on no such manufacture in the United Kingdom, then if he resides in the United Kingdom at a distance of 50 miles or more from Charing Cross he shall advertise once at least in some newspaper published or circulating in the town or district where he resides.

- (c) The Applicant shall in his advertisements state the object of his Petition and shall give notice of the day (which if the Court is for the time being a Judge of the Chancery Division shall be an ordinary Petition day) on which he intends to apply to the Court for a day to be fixed before which the Petition shall not be in the paper for hearing (hereinafter called "the appointed day"), which first mentioned day shall not be less than four weeks from the date of the publication of the last of the advertisements to be inserted in the "London Gazette." Every such advertisement shall state an address within the United Kingdom for service on the applicant of any document requiring service under this rule. He shall also give notice that notices of objection must be lodged as hereinafter provided before such day so named in the said advertisements. A copy of such advertisement shall be forwarded by the Applicant to the Solicitor for the Board of Trade at the same time as the first advertisement is sent to the "London Gazette" and the Board of Trade shall thereupon cause such advertisement to be inserted in the three following issues of the Illustrated Official Journal (Patents).
- (d) A Petition under Section 18 of the Act must be presented within one week from the publication of the last of the advertisements required to be published in the "London Gazette" and a copy of the Petition must within the same time be furnished to the Solicitor to the Board of Trade. Such Petition shall be made returnable for the day named in the advertisements.
- (e) The Petition must be accompanied by an affidavit or affidavits of advertisements having been published by the Petitioner according to the requirements of Rules (a), (b), and (c) hereof. The statements contained in such affidavit or affidavits may be disputed upon the hearing.
- (f) Upon the day named in the advertisements the Petition

shall appear in the Court List, and the Petitioner shall apply to the Court to fix the appointed day.

- (g) The Petitioner shall forthwith after the appointed day has been fixed give public notice of the same by advertising once at least in the "London Gazette."
- (h) A party presenting a Petition under Section 18 of the Act must lodge as hereinafter provided a copy thereof with two printed copies of the Specification of his Patent.
- (i) The Petitioner shall also lodge as hereinafter provided, not less than three weeks before the appointed day, two copies of the balance sheet of expenditure and receipts relating to the patent in question which accounts are to be proved on oath before the Court at the hearing. He shall also at the same time furnish three copies of the specification and of the said balance sheet to the Solicitor to the Board of Trade, and shall upon receiving two days' notice give the Solicitor to the Board of Trade or any person deputed by him for the purpose reasonable facilities for inspecting and taking extracts from the books of account by reference to which he proposes to verify the said balance sheet or from which the materials for making up the said balance sheet have been derived.
- (j) Any person desirous of opposing the prayer of a Petition under Section 18 of the Act shall lodge as hereinafter provided a notice that he intends so to oppose and giving an address in the United Kingdom for service of any document requiring service under this rule. Such person shall at the same time serve upon the Petitioner a copy of such notice. Such notices shall be respectively lodged and served before the day named in the Petitioner's advertisements as that on which he intends to apply to the Court for the appointed day to be fixed.
- (k) The Petitioner shall forthwith upon receipt of such notice serve a copy of his Petition upon each person giving such notice.
- (l) Every person giving such notice as aforesaid shall within three weeks after service of the Petition upon him lodge as hereinafter provided two copies and serve upon the Petitioner one copy and lodge with the Solicitor of the Board of Trade three copies in writing of Particulars of the Objections upon which he intends to rely against the granting of the Prayer of the Petition.
- (m) Any person who shall not within the said three weeks



of the grounds of any objection he may think fit to take or of any evidence which he may think fit to place before the Court.

- (u) The Court may in cases where opposition has been entered to the prayer of a Petition under Section 18 of the Act give costs to or against such opponents.
- (v) In the event of the Court refusing the prayer of the Petition the Court shall not except under special circumstances give more than one set of costs amongst all the opponents.
- (w) The Comptroller-General and the Board of Trade shall not be entitled to any costs on or in relation to their appearance on or opposition to the granting of the prayer of a Petition.
- (x) Service of any document requiring service under this rule may be made by enclosing such document in a prepaid registered letter and posting such letter to the person required to be served at his address for service.

4. All Appeals to the Court from any decision of the Comptroller under Sections 20, 26, or 27 of the Act shall be brought by Petition presented to the Court within one calendar month of the decision of the Comptroller or within such further time as the Court may under special circumstances allow. Each such Petition shall state the nature of the decision appealed against, and whether the appeal is from the whole, or part only, and if so, what part of such decision. It shall also state concisely the grounds of the appeal, and no grounds, other than those so stated, shall, except with the leave of the Court to be given on such terms and conditions as may seem just, be allowed to be taken by the Appellant at the hearing.

Appeals to the Court from decisions of Comptroller under sects. 20, 26 or 27 of the Act.

5. Every appeal to the Court under Sections 20, 26, or 27 of the Act shall, if and so long as the Court is a Judge of the Chancery Division, and subject to any direction of the Court to the contrary, be set down in the same manner as if it were a Witness Action assigned to such Judge and be heard and disposed of in due course.

6. In all proceedings before the Court under Sections 20, 26, and 27 of the Act, the evidence used shall be the same as that used at the hearing before the Comptroller and no further evidence shall be given except by the leave of the Court on application to be made to the Court at or before the hearing.

7. In all Petitions referred by the Board of Trade to the Court under Section 24 of the Act the following Rules shall apply:—

Petitions referred by Board of Trade to the

- (a) No evidence shall be given upon any issues other than those

Court under  
sect. 24 of  
the Act.

raised upon the original Petition before the Board of Trade.

- (b) Every person who has given notice of opposition in accordance with the Patent Rules, 1908, shall be entitled to be heard on such Petition and the Court may direct the Petition to be served or notice thereof to be given to such other person or persons as may be thought desirable.
- (c) The Petition shall if and so long as the Court be a Judge of the Chancery Division and subject to any direction of the Court to the contrary be set down in the same manner as if it were a Witness Action assigned to such Judge.
- (d) The Petition shall be heard by the Court as a Witness Action and shall come on in due course in the Witness List.

Court has all  
powers vested  
in Comptroller by  
the Act.

8. In all proceedings before the Court under the Act the Court shall have all the powers by the Act vested in the Comptroller and may make any Order which might, or ought to, have been made by the Comptroller.

Costs in  
discretion of  
the Court.

9. In all proceedings before the Court under the Act the costs of and incident thereto, including the costs of hearings before the Comptroller or the Board of Trade, as the case may be, shall be in the discretion of the Court (except as hereinbefore expressly provided in the case of Petitions under Section 18 of the Act).

Defence  
under sect. 38  
of the Act.

10. If a Defendant in an action for infringement of a patent intends to rely as a defence to such action on the insertion by the Patentee in any contract or contracts of any condition which by virtue of Section 38 of the Act is null and void, he shall deliver with his defence full particulars of the dates of and parties to all contracts on which he intends to rely as containing any such condition, and of the particular conditions in any such contracts on which he intends to rely as being by virtue of that section null and void, and save as appears from such particulars, no defence shall be available to him in such action under sub-section (4) of that Section. Provided that particulars delivered under this rule may be from time to time amended by leave of the Court.

Particulars of  
objections to  
be delivered  
with petition  
under sect. 25  
of the Act.

11. Any person presenting a Petition for the revocation of a Patent under Section 25 of the Act must deliver with his Petition Particulars of the Objections to the validity of the patent on which he means to rely and no evidence shall, except by leave of the Court, be admitted in proof of any objection of which particulars are not so delivered.

Respondent  
to petition  
under sect. 25  
of the Act

12. The Respondent to a Petition for the revocation of a Patent under Section 25 of the Act shall be entitled to begin and give evidence in support of the patent and if the Petitioner gives evi-



- dence impeaching the validity of the patent the Respondent shall be entitled to reply. entitled to begin.
13. In an action for infringement of a patent the Plaintiff must deliver with his Statement of Claim particulars of the breaches relied upon. Particulars of breaches in action for infringement.
14. In an action for infringement of a patent the Defendant if he disputes the validity of the patent must deliver with his Defence, Particulars of the Objections on which he relies in support of such invalidity. Particulars of objections in action for infringement.
15. A defendant in an action for infringement of a patent who under Section 32 of the Act counterclaims in the action for the revocation of the patent shall with his counterclaim deliver Particulars of any Objection to the validity of the patent on which he relies in support of his counterclaim. Particulars of objections with counter-claim.
16. Particulars of Breaches shall specify which of the claims in the Specification of the patent sued upon are alleged to be infringed and shall give at least one instance of each type of infringement of which complaint is made. Requisites of particulars of breaches.
17. Particulars of Objections (whether delivered with the Defence in an action for infringement of patent or with a Petition for Revocation under Section 25 of the Act or with a Counterclaim for Revocation under Section 32 of the Act) must state every ground upon which the validity of the patent is disputed and must give such particulars as will clearly define every issue which it is intended to raise. Requisites of particulars of objections.
18. If one of the objections taken in the Particulars of Objections be want of novelty the Particulars must state the time and place of the previous publication or user alleged, and if it be alleged that the invention has been used prior to the date of the patent must also specify the names of the persons or person who are alleged to have made such prior user and whether such prior user is alleged to have continued down to the date of the patent, and if not, the earliest and latest dates on which such prior user is alleged to have taken place, and shall also contain a description (accompanied by drawings if necessary) sufficient to identify such alleged prior user, and if such user relates to any machinery or apparatus shall specify whether the same is in existence and where the same can be inspected.
- No evidence at variance with any statement contained in the Particulars shall be given in support of any objection, and no evidence as to any machinery or apparatus which is alleged to have been used prior to the date of the patent and which is in existence at the date of the delivery of the Particulars shall be receivable unless it be proved that the party relying on such prior

user has, if such machinery or apparatus be in his own possession, offered inspection of the same, or if not in his own possession, has used his best endeavours to obtain inspection of the same for the other parties to the proceedings.

Amendment of particulars of breaches and objections.

Further and better particulars.

Evidence not raised in the particulars.

Taxation of costs.

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

Application for leave to amend specification under sect. 22 of the Act.

19. Particulars of Breaches and Particulars of Objection may from time to time be amended by leave of the Court upon such terms as may be just.

20. Further and better Particulars of Breaches or Particulars of Objections may at any time be ordered by the Court.

21. At the hearing of any Action, Petition or Counterclaim relating to a patent no evidence shall except by leave of the Court (to be given upon such terms as to the Court may seem just) be admitted in proof of any alleged infringement or objection not raised in the Particulars of Breaches or Objections respectively.

22. On taxation of costs in any action or counterclaim for infringement of patent or in any Petition for Revocation of a patent under Section 25 of the Act or in any Counterclaim for Revocation of a patent under Section 32 of the Act the following provision shall apply, that is to say:—

If the Action Petition or Counterclaim proceeds to trial on any patent no costs shall be allowed in respect of any issues raised in the Particulars of Breaches or Particulars of Objections and relating to that patent to the parties delivering the same respectively except in so far as such Particulars are certified by the Court to have been proven or to have been reasonable and proper without regard to the general costs of the case but subject as aforesaid the costs of the issues raised by the Particulars of Breaches and the Particulars of Objections shall be in the discretion of the Taxing Master.

23. Where an application is made by a Patentee for leave to amend his Specification by way of disclaimer under Section 22 of the Act, the following rules shall apply:—

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

(b) On the hearing of such motion the Court shall decide whether and on what terms as to costs or otherwise the application shall be allowed to proceed and if the application be allowed to proceed shall give directions

- as to whether such application shall be heard on oral or Affidavit evidence and if on Affidavit evidence shall fix the times within which Affidavits shall be filed by the parties respectively and by any other person entitled to be heard under the Act or these rules.
- (c) If the application be allowed to proceed the Applicant shall forthwith serve the Comptroller with a copy of the notice of motion together with such copy Specification as aforesaid and also a copy of the order allowing the application to proceed, and also with the name and address of the Applicant's Solicitor and the proposed amendment shall be advertised in the Illustrated Official Journal (Patents), such advertisement stating that any person desiring to oppose the amendment must within fourteen days of the issue of the advertisement give notice in writing of such desire to the Applicant's Solicitor, whose name and address for that purpose shall be also stated in the advertisement. Any person giving such notice shall be entitled to be heard upon the hearing of the motion.
- (d) Within seven days after the receipt of any such notice the Applicant shall, if the person giving such notice shall have stated therein an address for service within the United Kingdom, serve on such person a copy of the notice of motion together with such copy of the Specification as aforesaid, and also a copy of the order allowing the application to proceed. Such service may be made by prepaid registered letter sent to such person through the post at his address for service.
- (e) In the case of an application directed to be heard on oral evidence the Applicant shall as soon as he shall have complied with the requirements of the preceding rules set the same down for hearing in the witness list and in the case of an application directed to be heard on Affidavit evidence the Applicant shall after such compliance as aforesaid and after the times fixed for filing evidence have expired set the same down for hearing in the non-witness list and the application so set down shall be heard and disposed of in due course.
- (f) Where the Court allows a Specification to be amended the Applicant shall forthwith lodge with the Comptroller an office copy of the order allowing such amendment, and the Comptroller shall advertise the same once at least in the Illustrated Official Journal (Patents). He shall also if required so to do by the Court or by the

Comptroller leave at the Patent Office a new Specification and Drawings as amended, the same being prepared as far as may be in accordance with the rules of the Patent Office for the time being in force.

Title.

24. These Rules may be cited as the Rules of the Supreme Court (Patents and Designs), 1908, and shall be read with the Rules of the Supreme Court, 1883.

LOREBURN, C.

ALVERSTONE, C.J.

H. H. COZENS-HARDY, M.R.

ROLAND L. VAUGHAN-WILLIAMS, L.J.

J. GORELL BARNES, P.

R. J. PARKER, J.

CHRISTOPHER JAMES.

The 3rd day of June, 1908.

ASSIGNMENT OF LETTERS PATENT TOGETHER  
WITH THE BENEFIT OF FUTURE IMPROVE-  
MENTS.

THIS INDENTURE, made the                    day of                    , 19    , Parties.  
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 first inventor Recitals.  
of an invention of [*title of invention*]. AND WHEREAS by letters True and first  
patent dated the                    day of                    , 19    , and numbered inventor.  
                  , the sole and exclusive licence and authority of making, Patents.  
using, exercising, and vending in the United Kingdom of Great  
Britain and Ireland 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                    19    , subject  
to the payment of the fees and the conditions for making void the  
same as therein provided. AND WHEREAS the assignor has agreed Agreement  
with the assignee to sell to him for the sum of £                    the said for sale.  
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 improvements 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  
THIS INDENTURE WITNESSETH, that in pursuance of the Assignment.  
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 extensions 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 promises unto the assignee, his exe-  
cutors, administrators, and assigns, absolutely. AND the assignor Covenant as  
doth hereby covenant with the assignee, his executors, adminis- to validity.  
trators, 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.

Covenant to  
assign future  
improve-  
ments.

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 to  
assign exten-  
sion of terms  
of patents.

In Witness, &c.

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

THIS INDENTURE, made the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, Parties.  
 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 \_\_\_\_\_, 19\_\_\_\_, and numbered \_\_\_\_\_, the sole and exclusive  
 licence and authority of making, using, exercising, and vending Recital of  
 in the United Kingdom of Great Britain and Ireland and the Isle grant of  
 of Man the said invention of improvements, &c. [*title of patent*], patent.  
 were granted to the licensor, his executors, administrators, and  
 assigns, for the term of fourteen years from the date thereof, sub-  
 ject to the payment of the fees, and the conditions for making  
 void the same, as therein provided. AND WHEREAS the licensor Recital of  
 has agreed to grant the licensee a licence to use and exercise the agreement for  
 said invention within the district hereinafter described, upon the licence.  
 terms hereinafter appearing. NOW THIS INDENTURE WIT- Grant of  
 NESSETH that in pursuance of the said agreement, and in con- licence.  
 sideration 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 invention  
 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 abso-  
 lute use and benefit. AND it is hereby mutually covenanted and Covenants.  
 agreed between and by the parties hereto as follows, namely:—  
 1. The licensee shall, and will, pay to the licensor, his executors, Payment of  
 administrators, and assigns, yearly during the said term of royalties.  
 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.

Accounts.

2. The licensee shall, and will, at all times during the continuance 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.

Statements of accounts.

3. The licensee shall, and will, at the end of each half-year in the first paragraph mentioned, deliver or send to the licensor, his executors, 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.

Inspection of premises.

4. The licensor, his executors, administrators, or assigns, shall be at liberty, at any time during the continuance of this licence, to enter 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.

Assistance from licensor.

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



ment, 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.

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

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. Alienation.

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. Termination.

In Witness, &c.

## MORTGAGE OF LETTERS PATENT.

Parties. THIS INDENTURE, made the                    day of                    , 19    ,  
 BETWEEN A. B. (hereinafter called the mortgagor, which expres-  
 sion 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 exe-  
 cutors, administrators, and assigns where the context so admits),  
 Recitals. of the other part. WHEREAS the mortgagor was the true and first  
 inventor of certain improvements in, &c. [*title of invention*]. AND  
 True and first inventor. WHEREAS, by letters patent dated the                    day of                    , 19    ,  
 and numbered                    , the sole and exclusive licence and autho-  
 Grant of patent. rity of making, using, exercising, and vending in the United  
 Kingdom of Great Britain and Ireland 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 from the  
 date thereof, subject to the payment of the fees and the condi-  
 tions for making void the same as therein mentioned. AND  
 Request for loan. WHEREAS the mortgagor has applied to the mortgagee for a loan  
 of £                    , and the mortgagee has agreed to lend to the mort-  
 gagor the said sum of £                    upon having the repayment  
 thereof, together with interest thereon at the rate hereinafter men-  
 tioned, 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 mort-  
 gagor 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*],  
 Assignment. in every year. AND THIS INDENTURE ALSO WITNESS-  
 ETH, 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 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 mortgagee shall at any time thereafter, upon the request and at the cost of the mortgagor, reassign the said premises hereinbefore assigned, 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 the same respectively, and will do all other acts and 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 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

Habendum.

Covenants.

Payment of fees.

Infringements.

Power to mortgagee to pay fees.

Power to  
mortgagor to  
use invention.

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.

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 19 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*).

The defendant has infringed the plaintiff's patent No. 14,084 Infringement. 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.

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

Particulars of breaches are delivered herewith.

Place of trial Durham.

(Signed)

Delivered

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

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

## ANOTHER FORM.

19 —K—No.

In the High Court of Justice  
 King's Bench Division  
 [or Chancery Division  
 Mr. Justice ——]  
 Writ issued  
 Between A. B.,

Plaintiff

and

C. D.,

Defendant.

## STATEMENT OF CLAIM.

Infringe-  
ment.

The defendant has infringed and threatens and intends to infringe the plaintiff's patent No. \_\_\_\_\_ of A.D. \_\_\_\_\_ granted for the term of fourteen years from the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ for certain improvements in \_\_\_\_\_ whereof E. F. therein named was the true and first inventor.

Injunction.

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

Damages or  
account.

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

Payment of  
amount found  
due.

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

Delivery up.

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

Costs.

5. Costs.

(Signed)

Particulars of breaches are delivered herewith.

Delivered this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ by  
 of \_\_\_\_\_ solicitor for the plaintiff.







PARTICULARS OF BREACHES (c).

19 —A—No.

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

Between A. B.,

Plaintiff

and

C. D.,

Defendant.

PARTICULARS OF BREACHES.

Delivered with the Statement of Claim in this Action.

The following are the particulars of breaches of which the plaintiffs complain in this action:—

1. The defendants have subsequently to the granting of the letters patent in the statement of claim referred to and subsequently to the amendment of the complete specification of the said letters patent on the of 19 and prior to the issue of the writ in this action used constructed in accordance with the invention disclosed in the said specification of the said letters patent. Infringements at divers times subsequent to the date of plaintiff's patent.

2. The so used by the defendants are constructed and operate substantially in accordance with the invention described in the specification of the plaintiffs' said letters patent and claimed in the and claiming clauses thereof.

3. The plaintiffs in particular complain of the use by the defendants of bearing the name of and believed by the plaintiffs to be constructed by Specific infringements.  
Such are used by the defendants for the purpose

The defendant sold a to one of on the day of 19 .  
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. Number and date of other infringements not known to the plaintiff.

(Signed)

Delivered this day of 19 by  
of solicitor for the plaintiff.

(c) As to the objects and requisites of particulars of breaches, see Vol. I. p. 401.



DEFENCE.

1. The defendant denies the allegations made in paragraphs and of the statement of claim. Denial of certain allegations.
2. The defendants have not infringed or threatened to infringe the said letters patent. Non-infringement.
3. The said letters patent are and always have been void and of no effect for the reasons stated in the particulars of objections delivered herewith. Invalidity.
4. Under and by virtue of the Patents and Designs Act, 1907, the said letters patent were liable to be revoked by the Comptroller on the ground that at and prior to the time of the issue of the writ in this action and at a time not less than four years after the date of the said letters patent and not less than one year after the passing of the said Act the patented articles and process to which the said letters patent relate were manufactured and carried on exclusively or mainly outside the United Kingdom. The said patented articles and process were during the period aforesaid manufactured and carried on if at all [*add particulars: see Vol. I., pp. 414, 479*]. Patent liable to revocation by the Comptroller.
5. At the date of the issue of the writ in this action the said letters patent were liable to be revoked as an alternative to the grant of a compulsory licence on the ground that the reasonable requirements of the public with respect to the patented invention had not been satisfied inasmuch as [*add particulars sufficient to define the issues. As to the nature of the facts which should be alleged, see p. 185, ante*]. Or as an alternative to the grant of a compulsory licence.
6. At the date of the issue of the writ in this action a certain contract made the day of between the plaintiff of the one part and of of the other part was in force. The said contract contains the following conditions namely [*set out the conditions. As to the nature of conditions which can be relied on under this plea, see pp. 196—198, ante*]. Existence of a contract containing illegal conditions.
7. The said letters patent were granted after the commencement of the Patents and Designs Act, 1907, and at the date of the alleged infringement complained of in this action the defendant The defendant relies on these matters as a defence to this action under section 28 sub-section 2 of the said Act.
8. The defendant relies on these matters as a defence to this action under section 25 sub-section 2 of the Patents and Designs Act, 1907.
9. The defendant relies on these matters as a defence to this action under section 38 sub-section 4 of the Patents and Designs Act, 1907.
10. The said letters patent were granted after the commencement of the Patents and Designs Act, 1907, and at the date of the alleged infringement complained of in this action the defendant Ignorance of the existence of the patent,



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:—

1. The said [*the grantee of the patent*] referred to in the statement of claim was not the true and first inventor of the said invention. True and first inventor.

2. 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 19 [*the plaintiff's patent*] to A. R. by letters patent No. of 19 . The grant of the said letters patent No. of 19 to A. R. is available by way of defence to this action under sect. 25 of the Patents and Designs Act, 1907. Prior grant.

3. The alleged invention is not the proper subject-matter for a patent, or Subject-matter.

The alleged invention was not subject-matter for valid letters patent by reason of the common and/or public knowledge at the date of the said letters patent. The defendant proposes to refer to all the prior publications set out in paragraph hereof as disclosing part of the public knowledge and to allege that it was common general knowledge that [*add particulars*].

The defendant will contend that the plaintiff's alleged invention is a mere particular application involving no invention of such public or common general knowledge.

4. 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.

Name.	No. and date.	Part relied on.	Claims of plaintiffs' patent published.
John Jones	1262 of 1902	The whole	No. 3
William Brown	5842 of 1876	p. 2, ll. 20-25	All

[*Add other specifications.*]

5. The alleged invention was published within this realm prior to the date of the said letters patent by the deposit in the library Publication by prior books.

of the British Museum and public sales of the following printed books:—

(Title)	edition	page	line	to line	.
(Title)	edition	page	line	to page	line .

[Add other books.]

Publication  
by prior  
reports and  
drawings.

6. 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            19            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            .

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.]

Publication  
by prior  
machines.

7. 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 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 19            .

(b) By Messrs. H. H. & Co. of            at            in 19            .

The said machines are still in existence and may be inspected by the plaintiff at            [or, state other facts necessary to satisfy R. S. C., Ord. LIII. r. 18].

Other  
instances of  
publication.

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

Discon-  
formity.

9. The provisional specification of the alleged invention does not describe the nature thereof and the invention claimed in the said complete specification [if the specification has been amended add 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] and the said further and different invention was not novel at the date when the said complete specification was put in but had been published [state particulars of publication] and the said [grantee of the patent] was not the first and true inventor thereof.

10. 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— Insufficiency of complete specification.

- (a) It is not possible by following out the directions given to achieve a useful result.
- (b) The claiming clause of the said complete specification does not distinguish matters mentioned in the said specification which are old from matters mentioned in the said specification which are new and claim only the latter. The said matters which are old are [*add particulars*].
- (c) 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.
- (d) The said complete specification is ambiguous and calculated to mislead in that [*add particulars*].
- (e) 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*].
- (f) 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                      19                      by  
of    solicitor for the defendant.

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                      19                      , 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.:—

- 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. Portions of invention alleged to have been published.

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.

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#### ORDER FOR AMENDMENT OF PARTICULARS OF OBJECTIONS BY ADDING FURTHER OBJECTIONS (f).

Upon motion, &c., on behalf of the defendants. Let the plaintiff, within six weeks from the date of this order, elect whether he will discontinue this suit, and if the plaintiff shall elect to discontinue this suit, and shall give notice thereof to the defendants within six weeks from the date of this order, refer it to Taxing Master to tax the defendants their costs up to and including the 23rd of February, 1875 [*delivery of the original particulars of objection*], and to tax the plaintiff's costs of this suit subsequently to the said 23rd of February, 1875, to the date of this order, and the Taxing Master is to set off the costs of the plaintiff and of the defendants to be so respectively taxed, and certify to which of them the balance after such set-off is due. And let such balance be paid by the party from whom to the party to whom the same shall be certified to be due. And if the plaintiff shall not give notice to the defendants of his discontinuance of this suit within the time aforesaid, let the defendants be at liberty to add to the particulars of objections to the validity of the plaintiff's letters patent, &c. which have been already delivered by the defendants, the following further objections to be relied on by the defendants at the hearing of this cause, viz.: [*particulars of new objections proposed to be introduced by amendment*]. And let defendants, Moule's, &c. Company, pay to the plaintiff, A. F. Baird, his costs of this application, to be taxed, &c. Liberty to apply.

(f) This Order was settled by Jessel, M.R., in *Baird v. Moule's Patent Earth Closet Co., Ltd.*, L. R. 17 Ch. D. 139 n.

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NOTICE OF MOTION FOR AMENDMENT OF A COMPLETE SPECIFICATION PENDING ACTION FOR INFRINGEMENT.

TAKE NOTICE that this Honourable Court will be moved before his lordship, Mr. Justice —, on the day of 19 , 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 the complete specification filed in pursuance of the letters patent No. of be amended by way of disclaimer as indicated in red ink on the king's printer's copy of the said specification delivered herewith, 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.

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ORDER ALLOWING APPLICATION FOR AMENDMENT OF A COMPLETE SPECIFICATION PENDING ACTION FOR INFRINGEMENT TO PROCEED.

This motion coming before this Court on the day of 19 and upon hearing counsel for the plaintiff and counsel for the defendant and upon reading a king's printer's copy of the complete specification filed in pursuance of letters patent No. of with proposed amendments indicated thereon in red ink this Court doth order that the application of the plaintiff be allowed to proceed and that this motion shall stand for hearing in the [witness or non-witness] list on the day of 19 .

And the costs of this motion up to and including this order shall be [as directed by the Court] (g).

(g) The requirements of R. S. C., Ord. LIIIA. r. 23 (c), (d) and (e) (see p. 441, *ante*), must be complied with.

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ADVERTISEMENT IN THE ILLUSTRATED OFFICIAL  
JOURNAL (PATENTS) OF APPLICATION FOR LEAVE  
TO AMEND SPECIFICATION PENDING ACTION FOR  
INFRINGEMENT.

19 [add letter and number of action].

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

In the Matter of Letters Patent granted to \_\_\_\_\_,  
and numbered \_\_\_\_\_ of 19 \_\_\_\_\_,  
and  
In the Matter of the Patents and Designs Act, 1907.

Whereas A. B. (the patentee) has applied to the Court, under section 22 of the above-mentioned Act, for leave to amend the specification of letters patent No. \_\_\_\_\_ of 19 \_\_\_\_\_, in the manner hereinafter set forth.

And whereas the Honourable Mr. Justice — has directed that the application shall be allowed to proceed.

Notice is hereby given, in pursuance of rule 23 (c) of the Rules of the Supreme Court (Patents and Designs), 1908, that the said A. B. seeks leave to amend the said specification for "Improvements in, &c." as follows [printed copy of the specification referred to]:—

[Set out the proposed amendments thus:—

On page \_\_\_\_\_

Line \_\_\_\_ . By inserting after the word "——" the following:  
[add the proposed new matter].]

And notice is hereby further given that any person desirous of opposing the foregoing amendment must, within fourteen days from the date of this Journal, give notice in writing of such desire to the applicant's solicitors, Messrs. \_\_\_\_\_ of \_\_\_\_\_.

(Signed)

Comptroller-General.

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FINAL ORDER FOR AMENDMENT OF COMPLETE SPECIFICATION DURING ACTION OF INFRINGEMENT.

This motion coming on for final hearing in the [witness or non-witness] list this            day of            , 19    , and upon hearing counsel for the plaintiff, counsel for the defendant, counsel for A. B. [*an opponent to the application*], and counsel on behalf of the Comptroller-General of Patents, and upon reading the specification and proposed amendments and the pleadings and particulars in this action, and upon hearing the evidence of the several persons named in the schedule hereto on their examinations taken orally [or and upon reading the affidavits of B., C., and D. filed respectively the            day of            , the            day of            , and the            day of            ]: it is ordered that the complete specification of letters patent, No.            of the year 19    , be amended by [*set out amendments*]. And it is ordered that the plaintiff may within            days amend his statement of claim so as to limit this action to the amended specification of the said letters 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 plaintiff to the defendant. And it is ordered that the costs of the defendant of this application, and of and occasioned by such last-mentioned amendment, be his costs in any event, and be borne by the plaintiff. And it is ordered that the plaintiff do pay to the Comptroller-General of Patents his costs of this application. And it is ordered that, in the event of this action proceeding, all other costs be reserved (*h*).

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NOTICE OF MOTION FOR INTERLOCUTORY INJUNCTION.

TAKE NOTICE that this Honourable Court will be moved before his lordship, Mr. Justice —, on the            day of            , 19    , or so soon thereafter as counsel can be heard, by 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            , 19    , and numbered            , from making, selling, supplying, using, or putting in practice

(*h*) For an order under different circumstances, see Seton.

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.

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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 (i).

(i) For an order under different circumstances, see Seton.

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

*Badische Anilin und Soda Fabrik v. Levinstein (k).*

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.

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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., Jan. 1, 1888).*

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

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(k) (1865), 2 R. P. C. 77.



of J. H. J., in the pleadings named, was and is not proper subject-matter for which letters patent can be validly granted: 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 of 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 \_\_\_\_\_, 19\_\_\_\_; 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.

Injunction.

Account to be taken.

Delivery up.

Deposit of  
documents,  
&c.

Appeal.

Application.

Certificate of  
validity.

Certificate as  
to particulars  
of breaches.

Payment of  
costs.

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 this Court certifies pursuant to the 35th section of the Patents and Designs Act, 1907, that upon the trial of this action the validity of the said            patent came in question. And this Court certifies that in the trial of this action the plaintiffs proved the particulars of breaches delivered by them. 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.

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**JUDGMENT FOR DEFENDANT AFTER TRIAL OF  
ACTION.**

19 —C—No.

In the High Court of Justice,

Chancery Division,

Mr. Justice —

Mr. —, Reg.

Friday the

day of 19 .

    Fo. 88.

Between A. B.,

Plaintiffs

and

C. D.,

Defendants.

This action coming on for trial on the  
                    days of            19    before this Court in the presence  
of counsel for the plaintiffs and for the defendants and upon



hearing the pleadings in this action the particulars of breaches delivered with the statement of claim and re-amended particulars of objections delivered on the \_\_\_\_\_ of 19 \_\_\_\_ read and the evidence of the several persons named in the Schedule A. hereto on their examinations taken orally before this Court on the days mentioned in the second column and upon production to them of the exhibits specified in the third column of the said schedule and what was alleged by counsel on both sides. This Court did order that this action should stand for judgment and the same standing in the paper for judgment this day accordingly in the presence of counsel for the plaintiffs and for the defendants.

This Court doth order and adjudge that this action do stand dismissed out of this Court with costs to be taxed by the Taxing Master on the higher scale and the Taxing Master is to allow the defendants three counsel and (by consent) to include the costs of taking transcribing and printing the shorthand-writers' notes.

And it is ordered that the plaintiffs A. B. \_\_\_\_\_ do pay to the defendants C. D. \_\_\_\_\_ the amount of their said costs when taxed.

And this Court certifies that the defendants' following objections were reasonable and proper that is to say Objections No. 1, No. 3, No. 4, Objection No. 5 except \_\_\_\_\_ and Objection No. 6 except \_\_\_\_\_.

THE SCHEDULE A.

No.	Names of witnesses.	Date of Examination, May, 19 ____	Exhibits.
1	G. H.	8th and 9th	G.H. 1. Plaintiffs' apparatus with weight. G.H. 2. Plaintiffs' meter. G.H. 3. Small model dynamo. G.H. 4. Alleged infringement. G.H. 5. Defendants' wooden model of bar magnets. G.H. 6. A model Barlow wheel. G.H. 7. A model of Abel magnet. G.H. 8. Another model Barlow wheel made prior to 1884.

## APPENDIX.

## NOTICE OF APPEAL TO COURT OF APPEAL.

In the Court of Appeal,  
Between A. B.,

Plaintiffs

and

C. D.,

Defendants.

Take notice that the Court of Appeal will be moved on Monday the        day of        19    at 10.30 o'clock in the forenoon or so soon thereafter as counsel can be heard by counsel for the plaintiffs and on their behalf that the judgment of Mr. Justice made in this action and dated the        day of        19    may be reversed in so far as it is adjudged that the defendants did not infringe the plaintiffs' patent No.        of        and that judgment may be entered herein for the plaintiffs on the above issue with costs in the Court of Appeal and in the Court below.

Dated the        day of        19    .

Solicitors for the plaintiffs

To the defendants and to their  
solicitors.

JUDGMENT OF COURT OF APPEAL AFFIRMING THE  
JUDGMENT OF THE COURT BELOW.

In the Court of Appeal,  
Mr. K—, Registrar.

Friday the        day of        , 19    .

Between A. B.,

Plaintiffs

and

C. D.,

Defendants.

Upon motion by way of appeal from the judgment of Mr. Justice        dated the        May, 19    made unto this Court on the        and        days of        19    by counsel for the plaintiffs and upon motion of the plaintiffs made unto this Court at the same time to be at liberty to adduce fresh evidence. And upon hearing counsel for the defendants and upon reading the said judgment an affidavit of G. H. an affidavit of S. H. H. an affidavit of D. C. and an affidavit of J. S. all filed April 19    . And upon hearing the evidence of J. S. taken upon

his oral examination on the \_\_\_\_\_ day of November 19 \_\_\_\_\_ before this Court.

-This Court did order that the said appeal should stand for judgment and the said appeal standing for judgment this day in the paper in the presence of counsel for the plaintiffs and for the defendants.

This Court doth order that the said judgment of Mr. Justice dated \_\_\_\_\_ May, 19 \_\_\_\_\_ be affirmed.

And it is ordered that the plaintiffs A. B. \_\_\_\_\_ do pay unto the defendants C. D. their costs occasioned by the said appeal including their costs of the said motion for leave to adduce fresh evidence and including a moiety of the costs of taking transcribing and printing the shorthand-writers' notes of the hearing of this appeal such costs to be taxed by the Taxing Master.

JUDGMENT OF COURT OF APPEAL VARYING THE JUDGMENT OF THE COURT BELOW.

ORDER OF THE COURT OF APPEAL.

Dated \_\_\_\_\_ 19 \_\_\_\_\_ .

Court of Appeal,

19 \_\_\_\_\_—B—No. \_\_\_\_\_ .

Saturday, the \_\_\_\_\_ day of \_\_\_\_\_ , 19 \_\_\_\_\_ .

Mr. C., Repr.

Between B. A., &c.

Plaintiffs

and

I. L., &c.

Defendants.

Upon motion by way of appeal on the \_\_\_\_\_ of Novembor, and the \_\_\_\_\_ of December, 19 \_\_\_\_\_, made unto this Court by counsel for the defendants, from the judgment dated the June 19 \_\_\_\_\_, 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, 19 \_\_\_\_\_, and this day in the paper for judgment, in the presence of counsel on both sides:

This Court doth order that the said judgment be reversed. Judgment reversed.

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

And it is ordered that the plaintiffs, B. A., &c., do repay the defendants, I. L., &c., the sum of £ \_\_\_\_\_, being the amount of Repayment of costs.

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, 19   , but including in the defendants' costs the costs of transcribing and printing the shorthand-writers' notes in the Court below, and the costs 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.

Set-off.

And it is ordered that such costs of the plaintiffs, and the sum of £                     , the taxed costs of the plaintiffs of the motion made on the                      November, 19   , 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.

Payment of balance.

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

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#### CERTIFICATE OF VALIDITY.

I hereby certify, pursuant to the 35th section of the Patents and Designs Act, 1907 (7 Edw. 7, c. 29), that upon the trial of this action, the validity of the letters patent, in the pleadings mentioned, dated the                      day of                     , 19   , and numbered                     , granted to A. B., amended by disclaimer allowed the                      day of                     , 19   , and now vested in [*the legal owner*], came into question.

Dated this                      day of                     , 19   .

[*Signature of Judge.*]

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 infringement of the defendant's patent, dated the day of \_\_\_\_\_, 19\_\_\_\_, 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.

19 \_\_\_\_A—No.

In the High Court of Justice,  
King's Bench Division  
[or Chancery Division  
Mr. Justice \_\_\_\_]

Between A. B.,

Plaintiff

and

C. D.,

Defendant.

STATEMENT OF CLAIM.

1. On the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_ the defendant by [set out particulars] claiming to be the patentee of an invention for [state the title of the invention] threatened the plaintiff [or E. F., who was a customer of the plaintiff] with legal proceedings in respect of infringement of letters patent for the said invention by the sale [or purchase or use] by the plaintiff [or the said E. F.] of certain [add particulars] to [add particulars].

2. The plaintiff was aggrieved by reason of such threats and injured in his business, and in consequence of the said threats [add particulars of injury].

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

4. 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.

5. 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 [or purchased or used] 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 [or purchase or use] 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 [or constructing or purchasing or using *the articles in question*] or that it is their intention to take any proceedings to restrain the plaintiff from selling his [or constructing or purchasing or using *the articles in question*].

3. Damages.

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

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DEFENCE.

19 —A—No.

In the High Court of Justice  
 King'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 plain-  
 tiff with any legal proceedings in respect of the sale by the plain-  
 tiff 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 defendant denies that the plaintiff was a person aggrieved  
 within the meaning of sect. 36 of the Patents and Designs Act,  
 1907, and that he has suffered any damage by reason of the  
 alleged threats.

3. The invention referred to in paragraph        of the statement  
 of claim was the subject of letters patent granted to        No.  
 of 19        which expired in 19        . 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 19        was well known to the persons  
 to whom the letters complained of by the plaintiff were addressed.

4. 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.*]

5. 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 19        of which the defendant is the regis-  
 tered legal owner and the said letters are and always have been

## APPENDIX:

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.

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

7. On the \_\_\_\_\_ day of \_\_\_\_\_ the defendant commenced an action [*add the title of the infringement action*] for the infringement 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.

## REPLY.

19 —A—No.

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

Between A. B.,

Plaintiff

and

C. D.,

Defendant.

## REPLY.

1. As to paragraphs \_\_\_\_\_ and \_\_\_\_\_ of the defence the plaintiff joins issue thereon.

2. As to paragraph \_\_\_\_\_ of the defence the plaintiff says and will contend that—

(a) he has not infringed the defendant's letters patent No. \_\_\_\_\_ of \_\_\_\_\_ as alleged or at all;

(b) the said letters patent were at the date of the alleged threats complained of by the plaintiff and are at the present date invalid for the reasons set forth in the particulars of objection delivered herewith.

3. At the date of the said threats the letters patent in paragraph \_\_\_\_\_ of the statement of claim referred to were invalid to the knowledge of the defendant, and since the date of the said threats the defendant has amended his specification filed in respect of such letters patent and the plaintiff will contend that by reason of the



said amendment the defendant is estopped from alleging that at the date of the said threats the said letters patent were valid and subsisting letters patent.

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REJOINDER.

19 --A--No.

In the High Court of Justice  
 King's Bench Division  
 [or Chancery Division  
 Mr. Justice —]  
 Between A. B.,

Plaintiff

and

C. D.,

Defendant.

REJOINDER.

1. The defendant denies that at the date of the alleged threats complained of the said letters patent No.      of      were invalid, or that they are at the present time invalid, or that they were at any time known to him to be invalid.

2. The defendant joins issue with the plaintiff on his reply.



ferred 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. 19   . 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 rule 12 of the Rules of the Supreme Court (Patents and Designs), 1908.

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 Court relating to the matters herein referred to.

Your petitioner therefore humbly prays for the revocation of letters patent No.           A.D. 19   , 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.

(Signed)           S. Z.



7. Your memorialist desires to apply in accordance with the Rules of the Supreme Court by way of Counterclaim in the said pending action for infringement for the revocation of the said letters patent No.            of 19   , under the terms and provisions of sect. 32 of the Patents and Designs Act, 1907, but by reason that he is not entitled to present a petition to the Court for revocation of the said letters patent No.            of 19   , under the provisions of sect. 25, subsect. 3 (b) of the said Act he is not entitled to apply as aforesaid unless by obtaining your authority he can bring himself within the provisions of sect. 25, subsect. 3 (a) of the said Act. It is the intention of your memorialist if authorised by your fiat to present a petition to the Court for revocation of the said letters patent No.            of 19    to proceed by way of counterclaim in the said action for infringement under the provisions of sect. 32 of the Patents and Designs Act, 1907 (*l*).

Your memorialist therefore prays that you will be pleased to grant leave to him to present a petition to His Majesty's High Court of Justice for the revocation of the said letters patent No.            of           , granted to the said A. B.

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ORDER FOR REVOCATION OF LETTERS PATENT.

Upon the petition of S. Z., in the            on the            day of           , 19   , preferred unto this Court, and upon hearing counsel for the petitioner and for the respondent, L. G., on the            day of           , 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 mentioned 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 respondent: this Court doth order that the letters patent No. 4362, A.D. 1882, in the petition mentioned,

(*l*) In addition to the documents referred to, Vol. I., p. 293, a short statement in writing by an expert as to the nature and effect of each of the prior specifications and other publications referred to in the particulars of objections is frequently required by the Law Officers' Department.

## APPENDIX.

granted to L. G., be revoked. And this Court certifies that the respondent's following objections No. , No. , and No. , were proven [*or*, were reasonable and proper]. And it is ordered that the respondent, L. G., pay to the petitioner, S. Z., his costs of the said petition, to be taxed by the taxing master on the higher scale.

## SCHEDULE.

EXTENSION OF LETTERS PATENT.

ADVERTISEMENT OF INTENTION TO PRESENT PETITION FOR EXTENSION OF LETTERS PATENT

In the Matter of Letters Patent granted to \_\_\_\_\_, of \_\_\_\_\_, and bearing date the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and numbered \_\_\_\_\_

and

In the Matter of the Patents and Designs Act, 1907.

Notice is hereby given, that it is the intention of \_\_\_\_\_, of \_\_\_\_\_ [add if such is the case as assignee of the above patent], to present a petition to His Majesty's High Court of Justice praying that the term of the said letters patent may be extended. And notice is hereby further given, that on the \_\_\_\_\_ day of \_\_\_\_\_ next, or on such subsequent day as the Court shall appoint for that purpose, application will be made to the said Court that a day may be fixed before which the petition will not be in the paper for hearing, and any person desirous of being heard in opposition to the said petition must lodge notice of his objection in the Chambers of Mr. Justice \_\_\_\_\_ on or before the said day of \_\_\_\_\_ next.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Solicitor for the Petitioner.

NOTICE OF OPPOSITION.

In the Matter of Letters Patent granted to \_\_\_\_\_ of \_\_\_\_\_, and bearing date the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and numbered \_\_\_\_\_

and

In the Matter of the Patents and Designs Act, 1907.

Notice is hereby given that C. D. of \_\_\_\_\_ intends to oppose the petition of A. B. for the extension of the said letters patent returnable the \_\_\_\_\_ day of \_\_\_\_\_ next. And notice is hereby further given that \_\_\_\_\_ is the address for service upon the said C. D. of any documents requiring service upon him in accordance with Rules of the Supreme Court (Patents and Designs), 1908, rule 3 (j).

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

(Signed)

Solicitor for the said C. D.

ADVERTISEMENT OF DAY BEFORE WHICH THE PETITION SHALL NOT BE IN THE PAPER FOR HEARING, *i.e.*, "THE APPOINTED DAY."

PETITION FOR EXTENSION OF TERM OF PATENT.

In the High Court of Justice.

Mr. Justice ———.

In the Matter of Letters Patent granted to A. B. of \_\_\_\_\_, and bearing date the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and numbered \_\_\_\_\_

and

In the Matter of the Patents and Designs Act, 1907.

NOTICE is hereby given, that his Lordship Mr. Justice \_\_\_\_\_ has directed that the matter of the petition of the said A. B., for an extension of the term of the above-mentioned letters patent, be heard not before \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at half-past ten in the forenoon.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

(Signed)

Solicitor for the Petitioner.

PETITION FOR EXTENSION OF LETTERS PATENT.

In the High Court of Justice,  
Chancery Division.

Mr. Justice ———.

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 \_\_\_\_\_, 19\_\_\_\_

and

In the Matter of the Patents and Designs Act, 1907.

To His Majesty's High Court of Justice.

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 per-



sonal 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.

2. That His Majesty was graciously pleased, by letters patent hearing date the            day of           , 19   , to grant unto your petitioner R. R., his executors, administrators, and assigns, the sole privilege and authority to use the said invention within the United Kingdom, the Channel Islands, and the Isle of Man for the term of fourteen years from the date of the said letters patent

Grant of letters patent.

3. 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.

4. 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.

5. That your petitioner met with an accident while travelling on the South-Eastern Railway between London Bridge and Cannon Street on the            day of           , 19   , and in consequence thereof was confined to his bed until nearly the end of the year 19   .

Accident to petitioner.

6. That your petitioner would have presented this his petition earlier, and about the            day of           , 19   , when he proposed to take steps to present 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.

7. 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.

8. 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.

9. That your petitioner's invention was tried practically, and with great success, in the month of           , 19   , on board H.M.S. *Polyphemus*, at Portsmouth, before Lord            and others, when the use of the invention for the saving of life was most amply demonstrated.

Merits of invention.

10. That your petitioner exhibited a model of his invention at the            Exhibition held in London in 19   , when he was awarded a gold medal; and at the            Exhibition held

Medals awarded for invention.

at the Agricultural Hall, Islington, in , 19 , when he was awarded the first prize of 100 guineas.

Seven years extension not sufficient.

11. 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.

Advertisements.

12. 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 Rules of the Supreme Court (Patents and Designs), 1908, in that case made and provided, that it is his intention to apply to this Honourable Court that the said letters patent may be extended for a further term.

Prayer.

Your petitioner therefore humbly prays that the said letters patent may be extended for a further term of fourteen years, or for such other term as to this Honourable Court shall seem fit.

And your petitioner will ever pray.

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

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### ANOTHER FORM.

In the High Court of Justice,  
Chancery Division.

Mr. Justice —.

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 furnaces with fuel," bearing date the day of , 19 , No.

and

In the Matter of the Patents and Designs Act, 1907.

To His Majesty's High Court of Justice.

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

SHEWETH:—

Invention.

1. That your petitioner the above-named W. A. M., previously 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 His Majesty was graciously pleased, by letters patent bearing date the            day of            , 19    , 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.

Grants of letters patent.

3. That your petitioner W. A. M. also obtained letters patent or brevets d'invention for his said invention in the Empire of France, dated the            day of            , 19    ; in the Dominion of Canada, dated the            day of            , 19    ; and in the Kingdom of Norway, dated the            day of            , 19    .

Foreign patent rights.

4. That letters patent, dated the            day of            , 19    , 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            , 19    , 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            , 19    .

5. That by an indenture dated the            day of            , 19    , 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.

Licences granted.

6. That on the            of            , 19    , 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 19    ) 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.

7. 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            , 19    .

Object of invention.

8. 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 invention.

9. 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.

Improvements produced by invention.

10. That previously to the time when your petitioner W. A. M. turned his attention to the subject, the smoke-consuming apparatus then known were ineffectual 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            , 19    , 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 \_\_\_\_\_, 19\_\_\_\_, 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 \_\_\_\_\_, 19\_\_\_\_, 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.

11. That your petitioner W. A. M. also, in conjunction with one E. W., obtained provisional protection dated \_\_\_\_\_, 19\_\_\_\_, and letters patent dated \_\_\_\_\_, 19\_\_\_\_, 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 \_\_\_\_\_, 19\_\_\_\_, the subject of this 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 per-

Prior patents for allied but unsuccessful inventions.

fectly developed before leaving the furnace, an effect which may be compared with a glass chimney on a lamp.

Assignment  
of patent.

12. That by an indenture dated the                    day of                   , 19                   , 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                   , 19                   , to your petitioner W. M. for all the residue of the term of the said letters patent.

Non-payment  
of purchase-  
money.

13. 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                   , 19                   , although vested under the assignment aforesaid in your petitioner W. M., are, and ever since the year 19                    have been, worked for the sole benefit of your petitioner W. A. M.

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

14. 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, advertised 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.

Insufficient  
remuneration.

15. 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                   , 19                   , 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 19    and 19    , 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 19    and 19    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.

16. 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    , 19    . 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    , 19    , 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.

17. 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.

18. 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 His 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 His Majesty's Dockyard at Portsmouth, where they are now in use. Under the circumstances aforesaid, the

Utility of invention.

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 sus-  
tained by  
petitioner.

19. 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.

20. 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  
not sufficient.

21. 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 Rules of the Supreme Court (Patents and Designs), 1908, in that case made and provided, that it is their intention to apply to this Honourable Court for a prolongation of the term of sole using and vending the said invention.

Prayer.

Your petitioners therefore humbly pray that the said letters patent may be extended for a further term of fourteen years, or for such other term as to this Honourable Court shall seem fit, and that new letters patent for the said invention may be granted to your petitioners for such term as to this Honourable Court 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.



PARTICULARS OF OBJECTIONS TO EXTENSION OF  
TERM OF PATENT.

In the High Court of Justice,  
Chancery Division.

Mr. Justice ———.

In the Matter of Letters Patent granted to A. B., of  
, in the County of , for the Inven-  
tion of "Improvements in the manufacture, &c.,"  
bearing date the day of , 19 , and  
numbered ,

In the Matter of the Patents and Designs Act, 1907,  
and

In the Matter of the Petition of for an  
extension of the term of the said letters patent.

The grounds of objection of , of , to the  
granting of the prayer of the above-mentioned petition are  
the following, viz.:—

- |  |                                 |
|--|---------------------------------|
| 1. The alleged invention was not new at the date of the said letters patent.   | Novelty denied.                 |
| 2. The alleged invention was not useful.   | Utility denied.                 |
| 3. The alleged invention never has been, and is not likely to be, of great advantage to the public.  | Merit denied.                   |
| 4. The petitioner has already received a full and adequate reward for the said alleged invention, and also large trade profits from the manufacture of under the monopoly created by the said letters patent.                        | Sufficient remuneration.        |
| 5. If the petitioner has not been adequately rewarded, his want of proper remuneration has been caused by his own acts in not advertising and pushing the said invention, and in refusing to grant licences for the use of the same. | Laches of petitioner.           |
| 6. The petitioner has permitted infringements of the said letters patent, and never brought actions to restrain such infringements.  | Infringe-ments.                 |
| 7. The allegations contained in the said petition are incapable of proof.  | Allegations incapable of proof. |

Dated this day of , 19 .

Solicitor for .

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