

An injunction having been granted to restrain the defendant from infringing a patent for the manufacture of telephones, it was held to be a breach of the injunction to sell the separate parts of the patented telephones which anyone might put together (*k*).

Positive acquiescence will bar the right of the patentee to apply for an injunction (*l*). But such acquiescence must amount to a representation to the defendant. Otherwise it is the general impression that laches do not bar the right to a perpetual injunction, although they certainly will prevent a plaintiff from obtaining an interlocutory order. **Acquiescence and delay.**

**Damages.**—In addition to an injunction, the plaintiff may be entitled, when there has been actual infringement as distinguished from an intention to infringe, either to damages or to an account of sales and profits. **Damages or account.**

He is not entitled to both damages and an account, but he must elect which he will take (*m*).

In taking an account of profits, the plaintiff condones the infringement and does not complain of it, but claims all the profits as though they had been made by a trustee for him (*n*). **Different from account of profits.**

The measure of damage is not the profit made by the infringer, but is the loss which the plaintiff has actually sustained (*o*). The question of damages is not synonymous with an account of profits, the basis of calculation being entirely different. **Measure of damage.**

“The loss must be the natural and direct consequence of the respondent’s acts” (*p*); consequently the damages will be the estimated loss of profit incurred by the plaintiff by reason of the sale by the defendant of articles which infringed the plaintiff’s patent. Such a question must be one of considerable

(*k*) *United Telephone Co. v. Dale*, 1884, L. R. 25 Ch. D. 778.

(*l*) *Procter v. Bennis*, 1887, 36 Ch. D. at p. 759.

(*m*) *Neilson v. Betts*, 1871, L. R. 5 H. L. at p. 22; *De Vitre v. Betts*, 1873, L. R. 6 H. L. 319; *United Horsenail Co. v. Stewart*, 1886, 3 R. P. C. at p. 143; 5 R. P. C. at p. 266.

(*n*) See note (*m*) and *The Saccharin Corporation v. Chemicals Co.*, 1900, 17 R. P. C. 615.

(*o*) *United Horsenail Co. v. Stewart*, 1886, 3 R. P. C. at p. 143; 5 R. P. C. at p. 267.

(*p*) Per Lord Macnaghten, *United Horsenail Co. v. Stewart*, 1883, 5 R. P. C. at p. 268; 7 R. P. C. 152.

difficulty, and can only be decided by a fair businesslike view of all the circumstances of the case.

**Commercial  
competition.**

A probable result of the sale by the defendant of articles which infringe the plaintiff's patent is a reduction in price owing to the commercial competition, and a consequent loss of profit to the plaintiff; whether this source of damage may or may not be taken into consideration will depend upon the circumstances of the case.

There may be cases in which the whole profit of the plaintiff is derived from the granting of licences, and in such a case the damages might very properly be fixed at the amount which the defendants would have had to pay in royalties, as in such a case there could be no loss by reason of competition (*q*).

In the case of a patentee who is also a manufacturer the question of damages is more difficult, the use of royalties as a measure not being available and the profits of the defendant being immaterial. As Lord Watson said in *The United Horseshoe Nail Co. v. Stewart* (1888, 5 R. P. C. at p. 267): "In that case the profit made by the infringer is a matter of no consequence. However large his gains, he is only liable in nominal damages so long as his illegal sales do not injure the trade of the patentee; and however great his loss, he cannot escape from liability to make full compensation for the injury which his competition may have occasioned."

In *The United Horseshoe and Nail Co. v. Stewart* (1886, 3 R. P. C. 139; 4 R. P. C. 130; 5 R. P. C. 260) loss of profit arising from such competition was not allowed. In that case the patent in question was one for a machine to produce horseshoe nails more cheaply than had been done before. Consequently any one else could make nails in competition with the plaintiffs; they were only restrained from making them by means of that particular description of machine, and further the plaintiffs had always gone a little before the

(*q*) *Penn v. Pack*, 1867, L. R. 5 Eq. 81; *English and American Machinery Co. v. Union Boot and Shoe Machine Co.*, 1896, 13 R. P. C. 64; *The Pneumatic Tyre Co., Ltd. v. Puncture Proof Pneumatic Tyre Co., Ltd.*, 1899, 16 R. P. C. 209; *The British Motor Syndicate v. John Taylor & Sons, Ltd.*, 1900, 17 R. P. C. 723.

defendants in reducing their price, and so continually kept the price lower than that quoted by the defendants.

When it is sought to recover damages on account of the reduction in prices, it must be clear that the reduction in the plaintiff's prices has been the result of the defendant's competition, and not of the ordinary exigencies of trade (r).

In *The American Braided Wire Co. v. Thomson* (1890, 7 R. P. C. 152) the patent infringed was one for the manufacture of a particular form of bustle; no one else being able to put a similar bustle on the market without infringing that patent, the plaintiffs did not reduce their prices until compelled to do so by the defendants, and then only reduced them to the level quoted by the defendants. The official referee in his finding said: "But for the defendants' competition and their selling at lower prices, the plaintiffs would, subject to the allowances mentioned in paragraphs 2, 3, and 4, have made the sales made by the plaintiffs and also those made by the defendants at the plaintiffs' original prices." Taking all these circumstances into consideration, the Court of Appeal held that the finding of the official referee was reasonable and fair, and that the plaintiffs were entitled to the full amount so found, including the loss of profit arising from the competition of the defendants.

In *The Leeds Forge Co., Ltd. v. Deighton's Patent Flue Co.* (1908, 25 R. P. C. 209) it was held that in arriving at the damages due to competition, regard should be had to the fact that had the plaintiffs received the orders which in fact went to the defendants, they would have been able to make a profit larger than the profit actually made by themselves on similar articles, or by the defendants on the articles actually made in infringement, since the proportion borne on account of establishment charges by each article made would have been materially reduced.

Regard had to plaintiff's establishment charges.

In estimating the amount of damage by competition, or by injuring the reputation of the plaintiff's goods, it is of course impossible to name any precise sum, and it will always be a matter largely for individual judgment and discretion.

In *Ungar v. Sugg* (1891, 8 R. P. C. at p. 388), Wright, J.,

(r) *Alexander v. Henry*, 1895, 12 R. P. C. at p. 367.

said: "No one can doubt that in this case there was substantial damage, and the difficulty and impossibility of stating the precise ground for assessing it at any particular figure does not seem to be a sufficient reason for giving only a nominal sum"; and Lord Esher, M.R., in the Court of Appeal, said (1892, 9 R. P. C. at p. 117): "They were problematical damages, and had to be what is called guessed at: that is, not a mere guess, as if you were tossing up for the thing, but it must come to a mere question of what, in the mind of the person who has to estimate them, was a fair sum."

The fact that only part of the machine is an infringement is immaterial, since each thing produced by the assistance of such part is itself an infringement of the plaintiff's patent, and to that extent occasions damage by interfering with the plaintiff's trade (s).

Users liable for damages as well as manufacturers.

The fact that a patentee has recovered judgment and damages against a manufacturer of infringing articles does not preclude him from taking further proceedings against the purchasers of infringing articles from such manufacturer (t). But the damages recoverable in respect of each infringement must be confined to that infringement only. Therefore, as the damages recoverable from the user may be a merely nominal amount, it may be wiser to take an account of profits in this case (u).

Innocent infringers.

By sect. 33 of the Act of 1907, provision is made for the better protection of innocent infringers.

*"A patentee shall not be entitled to recover any damages in respect of any infringement of a patent granted after the commencement of this Act from any defendant who proves that at the date of the infringement he was not aware, nor had reasonable means of making himself aware, of the existence of the patent, and the marking of an article with the word "patent," "patented," or any word or words expressing or implying that a patent has been obtained for the article, stamped, engraved, impressed on, or otherwise applied to the article, shall not be deemed to constitute*

(s) *The United Horsenail Co. v. Stewart*, 1886, 3 R. P. C. at p. 143; cf. *United Telephone Co. v. Walker*, 1887, 4 R. P. C. 63.

(t) *United Telephone Co. v. Walker*, 1887, 4 R. P. C. 63.

(u) See *Garioli v. Shepherd*, 1900, 17 R. P. C. 157.

*notice of the existence of the patent unless the word or words are accompanied by the year and number of the patent:*

*“ Provided that nothing in this section shall affect any proceedings for an injunction.”*

The section applies only to patents granted after January 1, 1908.

Prior to this Act it had been the law that ignorance of the existence of a patent was no excuse for infringement, and the infringer was liable to an injunction and to pay damages for such infringement.

The effect of the section is merely to affect the right of the patentee in so far as his remedy is concerned.

It is to be noticed that the part of the section referring to the marking of the patented article with the number and year of the patent does not necessarily make the fact of such marking notice to the whole world that there is a patent for the article—the circumstances of the infringer are the true criterion. A manufacturer of an infringement of a patent for a costly machine might induce an innocent purchaser to use that machine; the purchaser might never before have seen such a machine, although those sold by the patentee were properly marked. But the whole burden of proof is on the infringer, who is *primâ facie* liable to damages, and we submit that in the case of infringement by the use of tools in well-defined trades, the burden will not easily be discharged.

Burden of proof on infringer.

In aid of the inquiry as to damages, directed by the judgment for a perpetual injunction, the defendant must give full discovery, and will be required to set out the names and addresses of the persons to whom machines, made in infringement of the patent, have been sold (*x*); but not the names of the agents concerned in the transaction (*y*).

Discovery on inquiry as to damages.

**Account of sales and profits.**—In cases where it is deemed to the advantage of the plaintiff, he may elect, in lieu of damages, to take an account of sales and profits; that is, to condone the

Nature of account.

(*x*) *Murray v. Clayton*, 1872, L. R. 15 Eq. 115; *American Braided Wire Co. v. Thomson*, 1888, 5 R. P. C. 375; *Saccharin Corporation v. Chemicals Co.*, 1900, 17 R. P. C. 612.  
 (*y*) *Murray v. Clayton*, 1872, L. R. 15 Eq. 115.

infringement upon the footing that the defendant has been acting as the plaintiff's agent in selling or using the invention (z).

An inquiry as to profits is one which involves many questions of great difficulty, and in consequence is usually attended by a great expenditure both of time and money; "therefore, although the law is that a patentee has a right to elect which course he will take, as a matter of business he would generally be inclined to take an inquiry as to damages rather than launch upon an inquiry as to profits" (a).

The plaintiff will not be allowed to claim an account if he has tacitly permitted the defendant to infringe his patent, relying upon an ultimate account of profits. In *Crossley v. The Derby Gas Light Co.* (1 W. P. C. at p. 120) Lord Brougham said: "It is a principle of equity, that a party who claims a right should not lie by, and by his silence or acquiescence induce another to go on spending his money and incurring risk, and afterwards, if profit has been made, come and claim a share in that profit without having ever been exposed to share in the losses which might have been sustained. Upon this the defendants rely; but it was to be considered, on the other hand, whether the plaintiff did not explain the delay which has taken place, and whether the conduct of the defendants has not been such as to lull the plaintiff's suspicions to sleep."

Where it appears at the trial that the defendant has made no profit, although the plaintiff may be entitled to damages, he will not be entitled to an account (b).

Innocence of  
infringer.

Where the defendant has acted in ignorance of the patent, and before action has offered to submit to an account and to pay to the plaintiff the amount of profits, the Court should exercise its discretion in disallowing costs (c), although it may grant the injunction. In such a case the plaintiff will proceed to an account at his peril, running the risk of nothing being found due.

(z) See p. 373, *ante*.

(a) Per Lindley, L.J., in *Siddell v. Vickers*, 9 R. P. C. at p. 163. And see Romer, J., in *The Automatic Coal Gas Retort Co. v. Salford*, 1897, 14 R. P. C. at p.

471.

(b) *Bacon v. Spottiswoode*, 1839, 1 Beav. 387.

(c) *Nunn v. D'Albuquerque*, 1865, 34 Beav. 595; *Redges v. Mulliner*, 1893, 10 R. P. C. 21, 28.

Sect. 33, set forth above (p. 376), will not excuse an innocent infringer from liability to account for profits.

Prior to the Judicature Acts it was held a rule in courts of equity that, in consequence of the terms of 21 & 22 Vict. c. 27, no relief could be awarded for damages or an account, unless an injunction could be granted at the same time; all other relief being merely incidental to the injunction (*d*). Thus, where a patent had expired after bill filed, but before an injunction could be granted, the Court declined to consider the question of damages (*e*). But now, in pursuance of sect. 24, sub-sect. 6, of the Judicature Act, 1873, a court of equity may give full relief; and so, wherever a court of law would, prior to the passing of the Act, have granted damages or an account, similar orders will be made by either branch of the High Court of Justice, irrespective of the question of injunction.

Innocence will not excuse liability to account.

After trial, and in pursuance of the terms of the judgment, if the plaintiff has been successful he is entitled to interrogate the defendant, or to require that the defendant should make and file an affidavit stating how many machines he has made or sold of the same construction as that supplied by him to A. or B., including such machines as are in his possession or power. The answer or affidavit of the defendant must be complete. In *Murray v. Clayton* (1872, L. R. 15 Eq. 115), a patentee of improvements in brick-cutting machines, who was a manufacturer of the machines by an agent at the agent's works and not a licensor, having obtained a perpetual injunction against the defendants (who were also manufacturers of brick-cutting machines) from infringement, the defendants were ordered to file an affidavit stating the number of machines made by them since the date of the patent, and the names and addresses of the persons to whom the same had been sold and of the agents concerned in the transactions. Upon motion to vary the order, it was held that the plaintiff was entitled to have discovery of the names and addresses of the purchasers, but not of the agents concerned,

Discovery to aid account.

(*d*) *Price's Patent Candle Co. v. Bauwen's Patent Candle Co.*, 1858, 4 K. & J. 727.      (*e*) *Betts v. Gallas*, 1870, L. R. 10 Eq. 392.

there being nothing to show that any agents had been employed.

In *Saccharin Corporation v. Chemicals Co.* (1900, 17 R. P. C. 612) the Court of Appeal decided that the plaintiff may demand discovery of the names of the defendants' customers, whether on an order for an account of profits or on inquiry as to damages.

It was held in *Watson v. Holliday* (1882, L. R. 20 Ch. D. 780) that the amount due on an account of profits could be proved in the bankruptcy of the defendant, although under sect. 31 of the Bankruptcy Act, 1869, a claim for damages could not.

Order for  
delivery up.

**Order for delivery up or destruction.**—After trial and judgment, and upon application for a perpetual injunction, when the nature of the infringing matter will permit of it, an order will be made that the articles (machinery or otherwise) be delivered up to the plaintiff or destroyed (*f*). This was done in *Plimpton v. Malcolmson* (ref. M.R., January 28, 1876, B. 381) (*supra*). But where by reason of the nature of the invention such an order would be unreasonable, it will not be granted (*g*). An inquiry will, when necessary, be directed as to the articles manufactured which are in the defendant's possession, and an order will be made that they be destroyed (*Betts v. De Vitre* (ref. V.-C. W., 1865, A. 119)). The defendant will also be ordered to make discovery upon oath of the articles or machinery which he may have in his possession, and which infringe the plaintiff's patent, so that they may be delivered up and destroyed (*h*). The right of property in the articles which infringe the patent remains in the infringer, although the Court may order the articles to be destroyed (*i*).

These mandatory orders are never made except after trial, and when the plaintiff has fully established to the satisfaction of the Court the validity of his patent and the fact of the defendant's infringement.

(*f*) *Frearson v. Loe*, L. R. 9 Ch. D. at p. 67.

(*g*) *United Telephone Co. v. London and Globe Co.*, 1884, L. R. 26 Ch. D. 776; *Siddell v. Vickers*, 1888, 5 R. P. C. 101.

(*h*) *Westinghouse v. Lancashire*

*and Yorkshire Rail. Co.*, 1884, 1 R. P. C. at p. 253; *Edison-Bell Phonograph Co. v. Smith*, 1894, 11 R. P. C. at p. 406.

(*i*) *Vavasseur v. Krupp*, 1878, L. R. 9 Ch. D. 351.



## VII. THE TRIAL.

The constitution of the Court which is to hear and determine actions for infringement is provided for by sect. 31 of the Act of 1907 (substantially similar to sect. 28 of the Act of 1883):

Constitution  
of Court.

“(1) *In an action or proceeding for infringement or revocation of a patent, the Court may, if it think fit, and shall on the request of either of the parties to the proceeding, call in the aid of an assessor specially qualified, and try the case wholly or partially with his assistance; the action shall be tried without a jury unless the Court otherwise directs.*

“(2) *The Court of Appeal may, if they think fit, in any proceeding before them call in the aid of an assessor as aforesaid.*

“(3) *The remuneration, if any, to be paid to an assessor under this section shall be determined by the Court or the Court of Appeal, as the case may be, and be paid as part of the expenses of the execution of this Act.*”

Prior to the Act of 1883 either party had an absolute right to have the questions of fact decided by a jury, and the Court had no power to deprive them of this right (a).

In the case of *Saxby v. The Gloucester Wagon Co.* (1880, W. N. 28) Hawkins, J., ordered a patent case to be tried before an official referee, it being a case involving a “prolonged scientific examination,” and in his opinion within sect. 57 of the Judicature Act, 1873. This practice has never been followed.

Actions for infringement and petitions for revocation are now almost invariably tried in the Chancery Division, although there is no rule of practice to prevent them from being tried in the King's Bench Division. It is to be noticed that it is only certain special matters that are to be tried before the selected judge. Actions for infringement are tried before any judge before whom the action comes in the ordinary way.

In *Hattersley v. Hodgson* (1905, 22 R. P. C. 229), an action in the King's Bench Division, an assessor was employed to assist the judge. When the case went to the Court of Appeal

Assessor.

(a) *Sugg v. Silber*, 1876, L. R. 1 Q. B. D. 362.

(at p. 240) the written statement of the assessor was read to the Court.

Independent experts have also been employed to make experiments and report to the Court in matters in which there was a conflict of testimony (*b*). "His duty is, instead of determining issues of fact, or of law, to find the materials upon which the Court is to act" (*c*).

Where the defendant alleged a secret process in an action for infringement, the hearing was conducted *in camerâ* and the shorthand notes of the trial impounded by order of the Court (*d*).

Jury.

The grounds of application for a trial by jury would be that the evidence shows a conflict of testimony in material parts, or that grave questions of credibility are likely to arise, or that a charge of fraud is made against either party (*e*).

Cases have occasionally been tried before a jury at assizes (*f*), but the practice is not successful, and it is hardly likely to be followed in the future.

Mr. Hindmarch, at p. 291 of his celebrated work, says: "Few causes require so much care and industry in preparing for trial as patent actions, in which very nice points of law and difficult questions of fact must often be decided between the parties; and it will frequently happen that a party will succeed or fail in obtaining a verdict according to the industry with which he has got up his case for trial. Properly to understand the questions raised in such actions and prepare the necessary proofs, a competent knowledge, not only of law, but also of science in general and the useful arts, is essentially requisite" (*g*).

(*b*) *Badische Anilin und Soda Fabrik v. Levinstein*, 1883, L. R. 24 Ch. D. 156; *Moore v. Bennett*, 1884, 1 R. P. C. 129; *North British Rubber Co. v. Macintosh*, 1894, 11 R. P. C. 477.

(*c*) Bramwell, L.J., in *Mellin v. Monico*, 1877, L. R. 3 C. P. D. at p. 149.

(*d*) *Badische Anilin und Soda Fabrik v. Levinstein*, 1883, L. R.

24 Ch. D. 156.

(*e*) *Lucas v. Miller*, 1900, 17 R. P. C. 165.

(*f*) *Westley v. Tolley*, 1894, 11 R. P. C. 602; *Alfred Appleby's Chain, Ltd. v. Albert Eadie Chain Co.*, 1899, 16 R. P. C. 618.

(*g*) See also Selborne, L.C., in *Patent Marine Inventions Co. v. Chadburn*, 1873, L. R. 16 Eq. at p. 448.

The Chancery of Lancaster Act, 1890, s. 3, enacts:—

“From and after the passing of this Act the Court of Chancery of the County Palatine of Lancaster (in this Act called the Lancaster Chancery Court), shall, as regards all persons, bodies corporate, and property within or becoming subject to its jurisdiction, have and exercise the like powers and jurisdiction, and in a similar manner, and subject to the same restrictions in all respects, as the High Court in its Chancery Division now has and exercises, or may, under or by virtue of any Act of Parliament hereafter passed, and not expressly enacting to the contrary hereof, have and exercise, in respect of all persons, bodies corporate, and property within its jurisdiction.”

Palatine  
Court.

The effect of this Act is to extend the meaning of the word “Court” in the Patents, &c. Acts, to the Palatine Court so far as it relates to actions for infringement.

A grant of letters patent gives to the patentee a right which extends over the whole of the United Kingdom, and only a small portion of that right lies in the district which is within the jurisdiction of the Palatine Court, consequently the Chancery of Lancaster Act, 1890, does not give to that Court power to adjudicate upon a petition for revocation of letters patent, since the whole of the property which is the subject of the petition does not lie within its jurisdiction.

A county court has no jurisdiction to try an action for infringement when the validity of the patent is in dispute (*h*). County court.

In an action for infringement the plaintiff has the right of beginning and of replying, notwithstanding that the burden of proof may really be on the defendant, as, for instance, where the case principally turns upon questions of prior user or prior publication, which are introduced by the defendant. It sometimes happened that this privilege, particularly in cases of conflicting evidence, was of great value, and for the purpose of snatching it from the plaintiff the defendant did not wait for the plaintiff to commence his action, but commenced proceedings himself by *scire facias* to repeal the patent, so as to place himself in the position of plaintiff. But, by sect. 26, Right to begin.

(*h*) *R. v. County Court Judge of Halifax*, 1891, 1 Q. B. 793; 1891, 2 Q. B. 263; 8 R. P. C. 338.

sub-sect. 7, of the Act of 1883, it was provided that in cases where it is sought to revoke a patent, "*The defendant shall be entitled to begin and give evidence in support of the patent, and if the plaintiff gives evidence impeaching the validity of the patent, the defendant shall be entitled to reply.*" This rule of practice is continued by Rule 12 of Order LIIIA.

Counterclaim  
for revocation.

The defendant now has a right to counterclaim for revocation. By sect. 32, "*A defendant in an action for infringement of a patent, if entitled to present a petition to the Court for the revocation of the patent, may, without presenting such a petition, apply in accordance with the Rules of the Supreme Court by way of counterclaim in the action for the revocation of the patent.*"

In such a case the plaintiff naturally begins and has a right of reply. It must be remembered that a defendant is not obliged to counterclaim; he may if he so desires present an independent petition to revoke, but it has always been held that it is no ground for postponing the trial of an action for infringement that a petition has been presented by the defendant or any other person under sect. 26 to revoke the patent.

We have seen that proceedings for revocation are similar to, and for the same purpose as, *scire facias* prior to the Act of 1883. In *Muntz v. Foster* (1843, 2 W. P. C. 93, n.) it had been held that the fact of a writ of *scire facias* being pending was no ground for staying the action for infringement. Tindal, C.J., said: "As a general rule, a plaintiff has a right to have his cause go on for trial according to the ordinary course of business. Special circumstances may exist upon which the Court may see fit to interfere; but the present does not appear to us to be a case in which we ought to interfere by staying the proceedings in the action."

The ground of this decision was that the plaintiff in the action for infringement, being defendant in the proceedings by *scire facias*, had not the conduct of those proceedings, and that the defendant in the action for infringement might delay them; but where, in *Patteson v. Holland* (Hindmarch, 293), an action for infringement had been tried, and a rule *nisi* for a new trial

had been obtained and argued, and it appeared that another action was pending in that Court for another infringement of the same patent, and that a *scire facias* had been sued out to repeal the patent, the Court suspended their judgment upon the rule for a new trial, and ordered the trial of the other action to be postponed until after the trial of the *scire facias*.

And where a verdict had already gone for the Crown on *scire facias*, but a new trial was pending, the plaintiff was not permitted to proceed to trial with his action for infringement until the rule for the new trial in *scire facias* had been disposed of (i).

In *Westley Richards v. Perkes* (1893, 10 R. P. C. 181) the fact of infringement was admitted, and the case turned upon the validity of the plaintiff's patent. Kay, L.J., stopped the plaintiff's counsel after having made out a *prima facie* case, the burden of proof as to invalidity being on the shoulders of the defendant, and in that case the learned judge gave leave to the defendant's counsel to reply on the whole case. Probably this was owing to the fact that the point that the alleged anticipation was never published was not taken by the plaintiff's counsel until he replied generally to the defendant's case.

The plaintiff must give evidence of the issues which he is bound to prove. He must prove his patent if the grant be denied. (In practice it is always admitted.) This is done by producing the patent itself, with the seal of the Patent Office attached to it. He must also prove the specifications (these are also always admitted in practice). Sect. 14, sub-sect. 1, provides that, "*A patent sealed with the seal of the Patent Office shall have the same effect as if it were sealed with the Great Seal of the United Kingdom*"; or under sect. 79, if it be not convenient or possible to produce the original, "*Printed or written copies or extracts, purporting to be certified by the Comptroller and sealed with the seal of the Patent Office, of or from patents, specifications, and other documents in the Patent Office, and of or from registers and other books kept there shall be admitted in evidence in all Courts in His Majesty's dominions,*

Burden of proof

(i) *Smith v. Upton*, 1843, 6 M. & G. 251.

*and in all proceedings, without further proof or production of the originals."*

And in Ireland or Scotland where it may be inconvenient to obtain certified copies from the Patent Office recourse may be had to the provisions of sect. 80, "*(1) Copies of all specifications, drawings, and amendments left at the Patent Office after the commencement of this Act, printed for and sealed with the seal of the Patent Office, shall be transmitted to the Edinburgh Museum of Science and Art, and to the Enrolments Office of the Chancery Division in Ireland, and to the Rolls Office in the Isle of Man, within twenty-one days after they have been accepted or allowed at the Patent Office.*

*"(2) Certified copies of or extracts from any such documents and of any documents so transmitted in pursuance of any enactment repealed by this Act shall be given to any person on payment of the prescribed fee; and any such copy or extract shall be admitted in evidence in all Courts in Scotland and Ireland and in the Isle of Man without further proof or production of the originals."*

If the plaintiff sues as assignee, or under any derivative title, and his title is denied, the entry from the register of patents may be proved in the manner suggested by the 78th section.

Under the 96th section "*a certificate purporting to be under the hand of the Comptroller as to any entry, matter, or thing which he is authorised by this Act, or any general rules made thereunder, to make or do, shall be primâ facie evidence of the entry having been made, and of the contents thereof, and of the matter or thing having been done or left undone.*"

For instance, if an entry in the register is denied by the defendant, he may prove its omission by a certificate under the 96th section.

If the fact of infringement is denied, the plaintiff must be ready with evidence that the defendant has made, used, or sold the articles or process, and any one of these acts, as we have already seen, will satisfy the allegation of infringement (*k*).

The burden of proving infringement is strictly on the plaintiff, and if he does not satisfactorily prove it there is no

(*k*) See p. 303, ante.

necessity for entering upon the defendant's case on other matters. The plaintiff must always give evidence, when the alleged infringement is the sale or use of an article, that it was not made by himself or his agents (*l*).

As to the burden of proof of the validity of the patent, when the defendant pleads that the grantee of the letters patent was not the true and first inventor, the onus of proof is entirely on him, and no evidence need be given by the plaintiff to establish a *prima facie* case (*m*).

True and first inventor.

If it be pleaded that the invention was not new, it will be sufficient if the plaintiff gives some *prima facie* evidence of novelty (*n*). It will be sufficient to call one or two persons acquainted practically with the trade to which the invention refers, to say that they never heard of it, or saw or heard of its having been put in practice or published before the date of the patent. Gibbs, C.J., said: "The first witness, a man of considerable experience, had never seen locks with the lips so perforated; *prima facie* that is good evidence; but when the question is, whether this had existence previous to the patent, fifty witnesses proving that they never saw it before would be of no avail if one was called who had seen it and practised it" (*o*).

Novelty.

The plaintiff having given this *prima facie* evidence, the burden of proof as to prior user or prior publication is shifted to the defendant, and if he would invalidate the patent he must prove his case.

We have previously discussed what amounts to prior user and prior publication (*p*). The evidence which the defendant brings must be complete and satisfactory, and the question is one of fact.

If the defendant has succeeded in establishing a case against the plaintiff, the latter will be permitted, before the defendant sums up, to adduce rebutting evidence. In *Penn v. Jack and Others* (1866, L. R. 2 Eq., at p. 317) Sir W. Page-Wood, V.-C., said: "I think the plaintiff is entitled to adduce evidence, in

(*l*) *Betts v. Willmott*, L. R. 6 Ch. 239.

*Westley Richards v. Perkes*, 1893, 10 R. P. C. at p. 186.

(*m*) *Ward v. Hill*, 1901, 18 R. P. C. at p. 490.

(*o*) *Manton v. Manton*, 1815, Dav. P. C. at p. 350.

(*n*) *Turner v. Winter*, 1787, 1 T. R. 606; 1 W. P. C. at p. 81;

(*p*) See Ch. IV.

reply, for the purpose of rebutting the case set up by the defendants; and for this reason, that it is quite impossible for him to know what is the nature of the evidence which is to be produced. The defendants, who contest the validity of the invention, have in effect put in a plea denying the novelty of the plaintiff's patent; and the affirmative of the issue just raised in reality rests with the defendants, who are not obliged to give the names of their witnesses. How can the plaintiff possibly meet such a case until he hears the evidence for the defence, and knows what their witnesses will prove? I should be very sorry to have to put the parties to all the expense and delay of a new trial, which I should have to direct, if this evidence were excluded. Besides which, the witnesses are at hand and ready, and the sensible and obvious course is to examine them now. The practice at common law is stated in Taylor on Evidence; and it appears that where, as here, several issues are joined, the plaintiff may content himself with adducing evidence in support of those issues which he is bound to prove, reserving the right of rebutting his adversary's proofs, in the event of the defendant establishing a *prima facie* case with respect to the issues which lie upon him. In support of this proposition, *Shaw v. Beck* (1853, 8 Ex. 392) is cited, where Parke, B., used the following expression: 'But Abbott, C.J., laid down what appears to me to be a more reasonable rule, by holding that the defendant was bound to prove his plea, and that the plaintiff might answer it by additional evidence.' Other instances are also mentioned, all showing the wide discretion given to the judge in allowing evidence to be given by the plaintiff in reply. The plaintiff has put in his letters patent as formal evidence of his title. The defendants then plead want of novelty, and give, in proof of the issues thus raised by them, special evidence, which the plaintiff is entitled to rebut, by evidence in reply. Regarding this case as one of an affirmative plea, the burden of proving which rests on the defendants, I feel bound to admit the evidence proposed to be given by the plaintiff in reply" (q).

(q) See also *Westley Richards & Co. v. Perkes*, 1893, 10 R. P. C. at p. 187.



Although the plaintiff may, as of right, rebut the case made by the defendant upon any issue which rests with the defendant, where the plaintiff has given such rebutting evidence, the defendant will not be allowed to strengthen the case which he had made by adducing further evidence; and this will apply with greater force when the defendant's counsel has summed up the evidence which has been offered (*r*).

When the defendant alleges that there is a defect or insufficiency in the specification, the burden of proving that there is such a defect is on the defendant, after the plaintiff has given *prima facie* evidence that the specification is sufficient.

Defect in  
specification.

We have seen that it is for the jury to say whether a specification is sufficient or intelligible or not; it is for the Court to place a construction upon the language used in the specification. The plaintiff must therefore be prepared with evidence as to the sufficiency of the specification; and in selecting this evidence the plaintiff cannot be better guided (as to the principle applicable) than by the judgment of Sir George Jessel in *Plimpton v. Malcolmson* (1876, L. R. 3 C. D. 531, see also pp. 103 et seq.). He must not select eminent engineers or celebrated chemists as the persons to whom the specification must be intelligible, but he must choose "ordinary workmen" in the particular branch of trade to which the invention refers—"not a careless man, but a careful man, though not possessed of that great scientific knowledge or power of invention which would enable him by himself unaided to supplement a defective description or correct an erroneous description." He may, of course, call eminent engineers, but their evidence can only be, "placing myself in the position of an ordinary workman I think it would or would not be intelligible or sufficient to me." As a matter of practice an expert engineer is nearly always called for the plaintiff and is asked in examination-in-chief whether "speaking as an ordinary workman" he considers the specification sufficient. When the witness has stated in his examination that an ordinary workman would make a certain machine from the description contained in the specification, it

(*r*) *Penn v. Pack*, 1866, L. R. 2 Eq. at p. 318.

is open to the counsel on the other side to cross-examine him upon the specification, taking it line by line for the purpose of showing that what he said in the first instance was incorrect, although that method of questioning would not be permitted on examination-in-chief. If the specification be not sufficiently clear to be understood by an ordinary workman, witnesses will not be allowed to be called to explain the intention of the patentee. The words "ordinary workman" are further explained at pp. 103, 115, *supra*.

**Functions of expert witness.**

An expert witness cannot be asked his opinion as to whether or not there has been infringement. That is a question for the jury, or the Court in the absence of a jury. But the expert may explain the nature of what the defendants have done, and he may be asked whether the elements claimed in the patentee's specification (as construed by the Court) are to be found in the defendants' apparatus (*s*).

An expert cannot be asked whether any given invention is "subject-matter," for this is a question of law (*t*), but he may be asked whether the problem solved by the patentee involved any and what difficulties, and whether the solution offered is satisfactory. An expert may not be asked the "nature of the invention," i.e., the ambit of the claim, for this is a question of construction for the Court alone (*u*).

The function of an expert was very clearly explained by Lindley, L.J., in *Brookes v. Steele and Currie* (1897, 14 R. P. C. at p. 73). "It is necessary to examine the patent, and to ascertain first what the patented invention really is; and secondly whether the defendants have used that invention. In this, as in all cases, the nature of the invention must be ascertained from the specification, the interpretation of which is for the judge, and not for any expert. The judge may, and indeed generally must, be assisted by expert evidence to explain technical terms, to show the practical working of machinery described or drawn, and to point out what is old and what is new in the specification. Expert evidence is also admissible

(*s*) See judgment of Lord Wensleydale, in *Seed v. Higgins*, 1860, 8 H. L. Cas. at p. 550.

(*t*) See p. 39, ante.

(*u*) See pp. 104, 105, ante.

and is often required to show the particulars in which an alleged invention has been used by an alleged infringer, and the real importance of whatever differences there may be between the plaintiff's invention and whatever is done by the defendant. But, after all, the nature of the invention for which a patent is granted must be ascertained from the specification, and has to be determined by the judge and not by a jury, nor by any expert or other witness. This is familiar law, although apparently often disregarded when witnesses are being examined."

#### QUESTIONS OF LAW AND QUESTIONS OF FACT.

(A summary.) (x)

We have seen that, as a rule, actions for the infringement of letters patent are directed to be tried before the Court without a jury. Still, under special circumstances, the parties, or either of them, may obtain an order to try before a jury. Under these circumstances it will be useful to consider again what are the questions which the Court should leave to the jury as matters of fact, and what are left to the decision of the Court as matters of law.

Questions of  
law and fact.

As to the **specification**. The construction is for the Court. The ambit of the claim is for the Court, and the rules of construction are similar to those which govern the construction of other documents.

It is for the jury to say whether the specification is **intelligible** or not, and it is for the Court to direct the jury as to the class of persons to whom it must be intelligible.

It is for the jury to say whether the specification is **sufficient** or not: that is, whether it contains a sufficient description of the invention; but it is for the Court to inform the jury the degree of sufficiency which the law requires in specifications.

The **novelty** of the invention is a question for the jury.

(x) See Index for separate headings.

Questions of prior user or prior publication are always questions of fact, and it is for the jury to compare what has been done before and what is set up as being new, and to say whether or not they are identical. And so any document which is said to amount to prior publication must be construed by the Court, but it is for the jury to compare it with the specification and to say whether the described matter is the same or not.

Subject-matter is a question of law for the Court.

The utility of the invention is also for the jury, subject to the directions of the Court as to the degree of utility which the law requires for the purpose of supporting the validity of a patent.

The question of infringement is a mixed question of law and fact. In *Seed v. Higgins* (1860, 8 H. L. C. at p. 565) Lord Wensleydale said: "The question of infringement is one of mixed law and fact. The construction of the specification is for the Court, with the aid of such facts as are admissible to explain written documents. In deciding whether there has been an infringement, there is a question of fact wholly for the jury, viz., what the defendants have done; and if scientific evidence is necessary fully to elucidate the case on either side, it is no doubt admissible, and in determining the question of infringement the judge must apply what the jurymen find to be true. . . . The opinion of scientific witnesses is only admissible as proof of fact." In *De la Rue v. Dickenson* (1857, 7 E. & B. 755) Campbell, C.J., said: "There may well be a case where the judge may and ought to take upon himself to say that the plaintiff has offered no evidence to be left to the jury to prove infringement, as if there were a patent for a chemical composition, and the evidence was that the defendant had constructed and used a machine for combing wool. But if the evidence has a tendency to show that the defendant has used substantially the same means to obtain the same result as specified by the plaintiff, and scientific witnesses have sworn that the defendant actually has used such means, the question becomes one of fact, mixed with law, which the judge is bound to submit to the jury."

## VIII.—CERTIFICATE OF VALIDITY.

Sect. 35 of the Act of 1907 is as follows :—

“*In an action for infringement of a patent, the Court may certify that the validity of the patent came in question ; and if the Court so certifies, then in any subsequent action for infringement the plaintiff in that action on obtaining a final order or judgment in his favour shall, unless the Court trying the action otherwise directs, have his full costs, charges, and expenses as between solicitor and client.*”

Certificate of validity.

Similar provisions were contained in 5 & 6 Will. IV. c. 83, in sect. 43 of the Patent Law Amendment Act, 1852, and in sect. 31 of the Act of 1883.

The object of these sections is to prevent patentees of important inventions being ruined by successive actions which they might be obliged to bring to restrain infringements, manufacturers banding themselves together to defeat a patentee's rights in this manner.

The Act of William IV. cited above gave the patentee a right to treble costs, but this was taken away by 5 & 6 Vict. c. 97, which gave him full costs; and now, as we have seen, costs as between solicitor and client are substituted for full costs.

To acquire the protection of the section a certificate is requisite, and this should be applied for at the trial of the action, and the application must be made to the Court or judge who has tried the cause.

The Court has no power under the section to order full costs upon the first trial in which the validity of the patent came in question, the words of the statute being “in any subsequent action for infringement” (a).

When a certificate of validity has once been granted there is no need for another in a subsequent action upon the same patent (b).

But if the specification is amended after the granting of the

(a) *Penn v. Fernie*, 1866, L. R. 3 Eq. 308.

(b) *Edison v. Holland*, 1889, 6 R. P. C. 243.

*Blatchford v. Bong & Grundy. x x x VIII R.P.C 412.*

certificate, the certificate will no longer hold good, and a new one must be applied for in any subsequent action (c).

Upon the trial of the second action the record of the first action with the endorsement must be produced, but not before the verdict, in such a manner as to prejudice the second trial (d).

It does not appear clear whether or not a certificate might be granted in an action to restrain threats that the validity of the patent came in question. This point arose in *Crampton v. The Patents Investments Co.* (1888, 5 R. P. C. 382), which was an action under sect. 32. In that case it was held that the defendant's patent was valid, and had been infringed; application was made by the counsel for the defendant for a certificate under sect. 31. Field, J. (p. 404), said: "I entertain great doubt whether I have jurisdiction, and I think the safer course will be for me to give a certificate without prejudice to the validity of it, if it should come into operation."

Court will  
protect the  
public.

In obtaining this certificate the plaintiff and the country are the parties, not the defendant, and the judge is bound to protect the interests of the country and to see that the certificate is not given when the validity of the patent has not in fact been proved to the satisfaction of the Court; otherwise there is nothing to prevent collusive actions being merely brought for the purpose of obtaining this valuable privilege—a privilege which can be used as an enormous lever, preventing persons from incurring the risk of a conflict with the patentee (e).

When  
granted.

The practice seems to be to grant the certificate where the plaintiff is quite ready to fight the validity of the patent, even though the fight should not actually take place through the non-appearance or the submission of the defendant; but the Court ought to be satisfied that the withdrawal of the defendant from the contest is not the result of collusion, and *prima facie* evidence should be given in such cases.

In *Haydock v. Bradbury* (1887, 4 R. P. C. 74) the validity

(c) *Brooks & Co., Ltd. v. Rendall*, I. T. 20.  
*Underwood & Co., Ltd.*, 1907, 24 R. P. C. 17. (e) *Stocker v. Rogers*, 1843, 1 C. & K. 99; see also *Peroni v. Hudson*, 1 R. P. C. 261.  
 (d) *Newall v. Wilkins*, 1851, 17

of the patent was put in issue by the defence, but the defendant not appearing at the trial, the validity of the patent was not seriously contested. *Prima facie* evidence of validity was given, and judgment was given for the plaintiff and a certificate of validity granted (*f*).

In *The Delta Metal Co. v. Maxim Nordenfelt Co.* (1891, 8 R. P. C. 248), after the trial had been in progress for some days, the parties agreed to a compromise in the following terms:—"Judgment for plaintiffs on validity of patent. Plaintiffs to be at liberty to ask the judge for a certificate. Judgment for defendants on infringement. Plaintiffs to pay 300*l.* towards the defendants' costs. No other action to be brought on plaintiffs' patent against defendants or their customers."

Judgment was given upon the terms of the compromise. In answer to an application of plaintiffs' counsel for a certificate of validity, Collins, J., said: "I am not asked to pronounce any opinion, and I do not pronounce any opinion. It has unquestionably been brought in question, and you have arranged between yourselves how it is to be decided. You will hand the terms in—I do not do anything. I simply give judgment in accordance with the terms of your consent; that is all." Certificate granted.

In *Chadburn's Telegraph Co. v. Robinson* (1905, 22 R. P. C. 468) the action was brought upon two patents. As to one of them, the defendants submitted to an injunction before any evidence was given. Evidence was then given in support of the validity of both patents, and the witnesses were not cross-examined. The defendants then submitted, as the result of a compromise, to pay a fixed sum as damages and to become the licensees of the plaintiffs. Farwell, J., granted a certificate in respect of each patent.

In *Cloughten v. Foster* (1904, 21 R. P. C. 17), the defendant agreed to take a licence from the plaintiff, and the certificate was refused.

(*f*) Also *United Phonograph Co. v. Young*, 1894, 11 R. P. C. 489; *Acetylene Illuminating Co. v. Midland Acetylene Syndicate*, 1900, 17 R. P. C. 534; *Brooks v. Lycett*, 1903, 20 R. P. C. 390; *Consolidated Pneumatic Tool Co. v. Churchill*, 1905, 22 R. P. C. 367.

In *Morris and Bastert v. Young* (1895, 12 R. P. C. 455) the defendants attacked the validity of the patent only on the assumption that it was wide enough to cover what they were doing. The House of Lords held that there was no infringement, and that the patent was valid on a narrow construction, and therefore refused a certificate of validity.

The meaning of the section was explained by Buckley, J., in *The New Inverted Gas Lamp Co., Ltd. v. Cope & Timmins, Ltd.* (1906, 23 R. P. C. at p. 116): "The section is one which simply empowers the Court to do something. . . . Of course that power is to be exercised upon judicial grounds, and I can quite understand that if a judge who finds it unnecessary to determine the validity because he finds no infringement, has, in point of fact, satisfied himself that the patent is valid, he might be induced by that to give a certificate that the validity came in question. It may be that if he, on the other hand, had found the opinion, although it was not necessary to decide it, that the patent was invalid, he would refuse it."

In that case, however, the learned judge refused a certificate of validity although he certified that the objections were reasonable and proper.

No certificate that the validity has come into question will be granted when the Court has declared that the patent is invalid (*g*).

No appeal will lie from a granting or refusing to grant a certificate that the validity of the patent came in question; such appeal not being from a judgment or order within sect. 19 of the Judicature Act (*h*).

"In any subsequent action for infringement": A certificate of validity granted in one action will not affect the costs in another, although decided at a later date, provided that the latter proceedings were instituted before the grant of the certificate in the earlier action (*i*).

(*g*) *Acetylene Illuminating Co. v. United Alkali Co.*, 1902, 19 R. P. C. 213.

(*h*) *Haslam v. Hall*, 1888, L. R. 20 Q. B. D. 491; 5 R. P. C. 144.

(*i*) *The Automatic Weighing*

*Machine Co. v. The International Hygienic Soc.*, 1889, 6 R. P. C. at p. 480; *Saccharin Corp. v. Anglo-Continental Co.*, 1900, 17 R. P. C. at p. 320.

The subsequent action.

*See also* . . . . .



“Unless the Court or judge trying the action certifies that he ought not to have the same.” This clause gives unlimited discretion to the judge, a discretion which is exercised in view of the facts of each particular case ; so where the second action was vexatious (*k*), or where litigation was the natural consequence of the vague and lax manner in which the specification had been drawn up (*l*), costs as between solicitor and client were refused (*m*).

In *Otto v. Steel* (1886, 3 R. P. C. at p. 120) solicitor and client costs were refused on the ground that the validity of the patent was attacked on new grounds entirely ; but it is unlikely that that case will be followed at the present day (*n*).

The burden is on the defendant to show cause why he should not pay solicitor and client costs under this section (*o*).

The fact that the validity of the patent was not brought into question in the second action is merely one of the circumstances to be considered by the judge in exercising his discretion, and will not preclude the granting of solicitor and client costs. This is now decided, although in some older cases it had been doubted.

In two cases, however, where the issue in the second action was merely one of infringement, solicitor and client costs were refused by Farwell, J. (*p*).

#### IX. CERTIFICATES AS TO PARTICULARS.

*Rule 22 of Order LIIIa. re-enacts, with certain modifications, sub-sect. 6 of sect. 29 of the Act of 1883. The rule is as follows :—On taxation of costs in any action or counterclaims* The new rule.

(*k*) *Proctor v. Sutton Lodge Chemical Co.*, 1888, 5 R. P. C. 184. *terson*, 1889, 6 R. P. C. 142 ; see also *United Telephone Co. v. St. George*, 1886, 3 R. P. C. at p. 339 ;

(*l*) *Automatic Weighing Machine Co. v. National Exhibitions Association*, 1891, 8 R. P. C. at p. 352. *The Welsbach Incandescent Gas Light Co. v. The Daylight Incandescent Mantle Co.*, 1899, 16 R. P. C. at p. 354.

(*m*) See also *Boyd v. The Tootal Broadhurst Lee Co.*, 1894, 11 R. P. C. at p. 185.

(*n*) See *Fabrique de Produits Chimiques v. Lafitte*, 1899, 16 R. P. C. 68.

(*o*) *United Telephone Co. v. Pat-*

(*p*) *Saccharin Corporation v. Dawson*, 1902, 19 R. P. C. at p. 173 ; *Edison-Bell Phonograph Co. v. Waterfield*, 1902, 19 R. P. C. at p. 330.

for infringement of patent, or in any petition for revocation of a patent under sect. 25 of the Act, or in any counterclaim for revocation of a patent under sect. 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. This may be compared with sub-sect. 6 of sect. 29 of the Act of 1883, now repealed, which was as follows :—  
“ On taxation of costs regard shall be had to the particulars delivered by the plaintiff and by the defendant, and they respectively shall not be allowed any costs in respect of any particular delivered by them unless the same is certified by the Court or a judge to have been proven, or to have been reasonable and proper, without regard to the general costs of the case.”

Changes  
effected  
thereby.

Two principal changes have been effected, viz., (1) Certificates are now required in petitions for revocation as well as in actions for infringement (a), and (2) It is no longer necessary for the action to proceed to trial for the successful party to obtain the costs of his particulars (b).

It is important, therefore, to ask for a certificate that the particulars of breaches or of objections, as the case may be, were reasonable and proper. The application should be made at the conclusion of the trial, although the omission to do so does not preclude the successful party from obtaining it, provided he applies within a reasonable time, and he is subject to the costs incurred by the delay (c).

(a) *Gaulard and Gibb's Patent*, 5 R. P. C. at p. 537. *Equipment Co.*, 1906, 23 R. P. C. 606.

(b) See *Middleton v. Bradley*, 1895, 12 R. P. C. at p. 392; *Cooper Patent Rail Joint Co. v. British Electric* (c) *Rowcliffe v. Morris*, 1886, 3 R. P. C. 145; *Duckett v. Sankey*, 1899, 16 R. P. C. 367.

As to the particulars of objections, the practice is now well settled that when the action goes to trial, the Court will not certify unless the defendants can actually show that they are reasonable and proper ; and so, where the action came on for hearing, and the plaintiff's case broke down by reason of certain of the particulars, the Court would not go through all the particulars with a view to ascertaining whether they were reasonable and proper, and a certificate was granted only as to those upon which the action was decided (*d*). And when the defendant succeeds on the issue of infringement and the issue of validity is not considered, the particulars of objections will not be certified.

Particulars of objections.

But in some cases it may be reasonable that a number of specifications may be put to a witness *en bloc*, and if thereupon he concedes the point the certificate may allow each specification (*e*).

Where one of the items in the particulars of objections is relied on as an anticipation, but fails in this capacity, the Court may nevertheless certify for it, if it has been useful in illustrating the state of the art or otherwise (*f*).

And it may occur that costs incurred by a defendant in respect of an investigation into prior knowledge may be allowed as part of the costs of his defence in limiting the plaintiff's claim, although no certificate as to the particulars of the objections may have been granted (*g*).

Care must be taken at the trial to ask the judge to certify as to each particular breach mentioned in the particulars of breaches, and as to each particular objection ; and no costs of witnesses, or of and incidental to such breach of objection as is not specially certified for, will be allowed (*h*).

Particulars of breaches.

The certificates granted under this rule must not be confused

(*d*) *Boyd v. Horrocks*, 1889, 6 R. P. C. p. 162 ; *Longbottom v. Shaw*, 1889, 6 R. P. C. 143, 510 ; *Acetylene Illuminating Co. v. United Alkali Co.*, 1902, 19 R. P. C. at p. 233 ; *Peter Pilkington, Ltd. v. Massey*, 1904, 21 R. P. C. 712.

(*e*) Per Swinfen-Eady, J., in *The Cooper Patent Anchor Rail Joint Co., Ltd. v. London County Council*, 1906, 23 R. P. C. at p. 297.

(*f*) *The Castner-Kellner Alkali Co. v. Commercial Development Co.*, 1899, 16 R. P. C. at p. 276.

(*g*) *Piggott & Co., Ltd. v. Corporation of Hanley*, 1906, 23 R. P. C. 639.

(*h*) *Honiball v. Bloomer*, 1854, 10 Exch. 538 ; see also *Losh v. Hague*, 1839, 5 M. & W. 387 ; *Longbottom v. Shaw*, 1889, 6 R. P. C. 510.

with the certificate under sect. 35. The object of the rule is to provide what costs shall be payable in the action itself, and the object of sect. 35 is to provide for the costs of future actions.

If the action does not proceed to trial the costs of the particulars are now in the discretion of the taxing master.

Where the defendant does not appear at the trial, there is little difficulty concerning the particulars of breaches, and the Court will usually certify apparently on the ground that the non-appearance is evidence that they are reasonable (i).

Apportionment of costs,

Where the plaintiff is successful on some issues and the defendant on some, the costs should be apportioned, the plaintiff receiving a certificate as to the particulars of breaches and the defendant as to the particulars of objections. In *Badische Anilin Fabrik v. Levinstein* (1885, L. R. 29 C. D. at p. 418; 2 R. P. C. at p. 118), in the Court of Appeal, Bowen, L.J., said: "I am of opinion in this case that the plaintiffs should have the costs occasioned by the issues raised by the particulars of breaches, and that in respect of all the other costs the costs in the action should follow the usual result and be awarded to the successful party. It seems to me that without laying down any hard-and-fast line, or trying to fetter our discretion at a future period in any other case, we are acting on a sensible and sound principle, namely, the principle that the parties ought not, even if right in the action, to add to the expenses of an action by fighting issues in which they are in the wrong. It may be very reasonable with regard to their own interest, and may help them in the conduct of the action, that they should raise issues in which, in the end, they are defeated, but the defendant who does so does it in his own interest, and I think he ought to do it at his own expense. The order, therefore, I think ought to be as I have stated."

Costs will be apportioned both where the patent is held to be invalid and the acts alleged to be infringements proved (k),

(i) *Brooks v. Hall*, 1904, 21 R. P. C. at p. 85; *Binnington v. Hill*, 1891, 8 R. P. C. at p. 332; *Saccharin Corporation v. Skidmore*, 1904, 21 R. P. C. 21. *Cassel Gold Extracting Co. v. Cyanide*

(k) *Ibid.* See also *Young v. Rosinthal*, 1884, 1 R. P. C. at p. 41; *Phillips v. Ivel Cycle Co.*, 1890, 7 R. P. C. at p. 653.

and where the plaintiff fails on the issue of infringement and succeeds in upholding his patent (*l*), but in each of these cases the issues must be perfectly distinct (*m*), because in theory there is only one issue, viz., the infringement of the plaintiff's legal right (*n*).

In *Kaye v. Chubb* (1887, 4 R. P. C. at p. 300) Lord Esher, M.R., said: "Where a plaintiff brings an action on a patent and there is a real struggle, and an expensive struggle, as to whether there is an infringement or not, and the plaintiff proves the infringement, but fails because his patent is a bad one, I am not going to say that the person who has proved the infringement is not to have the costs of that issue; but in this particular case I cannot see that there are any material costs different from the costs of the cause which the defendants would be entitled to under the opinion to which I have finally come."

In cases of great difficulty the apportionment has been much simplified by the judge at the trial making an order that the entire taxed costs are to be divided between the parties in definite proportions (*o*).

Where the act of infringement was admitted before the trial the plaintiffs were not allowed any costs on that issue, their patent being held to be invalid (*p*).

Where the plaintiffs brought an action for infringement of two patents, but abandoned their case as to one of them at the trial of the action, it was held that the plaintiffs should pay all costs incurred by the defendants so far as occasioned by the claim to the patent so abandoned, although successful in the remainder of their action (*q*). And a similar apportionment may be made

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| <p>(<i>l</i>) <i>Tweedale v. Ashworth</i>, 1890, 7 R. P. C. at p. 435; <i>The Sunlight Incandescent Gas Light Co. v. The Incandescent Gas Light Co.</i>, 1897, 14 R. P. C. at p. 775; <i>Dunlop Pneumatic Tyre Co. v. Wapshare Tube Co.</i>, 1900, 17 R. P. C. at p. 458; <i>Pilkington v. Massey</i>, 1904, 21 R. P. C. at p. 712.</p> <p>(<i>m</i>) <i>Kaye v. Chubb</i>, 1887, 4 R. P. C. at p. 300; <i>Robertson v. Purdey</i>,</p> | <p>1907, 24 R. P. C. at p. 302.</p> <p>(<i>n</i>) <i>Haskell Golf Ball Co. v. Hutchinson</i>, 1906, 22 R. P. C. 125.</p> <p>(<i>o</i>) <i>Incandescent Gas Light Co. v. Sunlight Incandescent Co.</i>, 1896, R. P. C. at p. 345; <i>Monnet v. Beck</i>, 1897, 14 R. P. C. at p. 850.</p> <p>(<i>p</i>) <i>Westley Richards v. Perkes</i>, 1893, 10 R. P. C. at p. 194.</p> <p>(<i>q</i>) <i>Hocking v. Fraser</i>, 1886, 3 R. P. C. 3.</p> |
|---|--|

where the plaintiff succeeds on one patent and fails on another (*r*), or even where the plaintiff succeeds on one claim of a single patent and fails on the others (*s*).

Costs on  
higher scale.

Costs on the higher scale are only allowed in cases of exceptional difficulty (*t*).

In *Gadd v. The Mayor, &c. of Manchester* (1892, 9 R. P. C. at p. 535), Lindley, L.J., said: "I think costs on the higher scale ought not only to be given where there are cases of very unusual difficulty and skill—antiquarian research and things of that kind. The idea of giving costs on the higher scale in all patent cases is one that I will not sanction."

In *The Wenham Gas Co. v. The Champion Gas Co.* (1891, 8 R. P. C. at p. 320) costs on the higher scale were refused on the ground that the necessity for scientific evidence was largely due to the unfortunate wording of the specification.

Three  
counsel.

The principle upon which costs on the higher scale should be allowed and the costs of briefing three counsel were discussed, and the authorities considered, by Buckley, J., in *The Dunlop Pneumatic Tyre Co. v. The Wapshare Tube Co.* (1900, 17 R. P. C. at p. 459) (*u*), where both were allowed. But in the majority of cases in recent times they have been refused (*x*).

The practice has now arisen of leaving the question of allowing three counsel to the taxing master (*y*).

Costs of short-  
hand notes.

The costs of the shorthand notes are usually agreed between the parties before the trial commences, but in default of such an arrangement they will not be allowed unless they have been of material assistance to the Court in shortening the amount of time the case has taken, or otherwise (*z*).

(*r*) *Brooks v. Lamplugh*, 1898, 15 R. P. C. at p. 52.

(*s*) *Mouchel v. Coignet*, 1906, 23 R. P. C. 649.

(*t*) *Farbenfabriken vorm. F. Bayer & Co. v. Bowker*, 1891, 8 R. P. C. 389, 397; *Hopkinson v. St. James' Electric Light Co.*, 1893, 10 R. P. C. 46, 62.

(*u*) And see *Muirhead v. Commercial Cable Co.*, 1895, 12 R. P. C. at p. 64.

(*x*) On this point, see the list of authorities cited in *Bradford Dyers' Association v. Bury*, 1902, 19 R. P. C. 125.

(*y*) *Andrews' Patent*, 1907, R. P. C. at p. 378.

(*z*) See, e.g., *Castner-Kellner Alkali Co. v. Commercial Development Co.*, 1889, 16 R. P. C. at p. 275; *The Palmer Tyre Co., Ltd. v. Pneumatic Tyre Co., Ltd.*, 1889, 16 R. P. C. at p. 496.

Under the Public Authorities Protection Act, 56 & 57 Vict. c. 61, a public authority is entitled to costs as between solicitor and client, and this applies to actions for infringement (a).

Public  
Authorities  
Protection  
Act.

Sect. 49 of the Judicature Act, 1873, provides that there shall be no appeal as to costs; but this was held not to apply where the costs were a matter of right, and not discretionary (b). Under the Rules of Court which were in operation prior to October 24, 1883, the question of higher or lower scale was a matter of right (c). Hence, in *Re Terrell* (1882, L. R. 22 C. D. 473) the Court of Appeal held that there was an appeal; but now it will be observed that the order is in the absolute discretion of the judge, and therefore it is submitted there is no appeal.

No appeal as  
to costs.

The directors of a limited company, whose servants have infringed a patent, may be ordered to pay costs personally.

Directors of  
companies.

In *Spencer v. The Ancoats Vale Co.* (1889, 6 R. P. C. 46) it was ordered that costs on the higher scale should be paid by the defendant company, and by the directors in the event of the company not paying (d).

Where an action is brought against two defendants and the case against one of them is settled, and the action proceeds against the other and judgment is recovered, then unless a special order as to costs is made no deduction on taxation will be made from the general costs of the action to represent the amount incurred as against the defendant whose case was settled (e).

Judgment having been recovered, minutes of judgment should be prepared. The minutes will be in accordance with one or other of the precedents given hereafter. We have drawn attention in previous pages to those points which should be

(a) *Chamberlain and Hookham v. Bradford*, 1900, 17 R. P. C. 762;  
*British Thomson-Houston Co. v. Manchester*, 1903, 20 R. P. C. at p. 471; cf. *New Conveyor Co. v. Edinburgh Commissioners*, 1904, 21 R. P. C. 147.

L. R. 20 Ch. D. 303, C. A.

(c) Rules of S. C., 1875.

(d) See also *Betts v. De Vitre*, 1868, L. R. 3 Ch. 429.

(e) *Kelly's Directories, Ltd. v. Garin and Lloyds*, 1901, 2 Ch. 763;  
*Badische Anilin und Soda Fabrik v. Hickson*, 1906, 23 R. P. C. 149.

(b) *Turner v. Hancock*, 1879,

*v. Hickson*, 1906, 23 R. P. C. 149.

attended to in preparing these minutes. Care should be exercised, when an account is directed to be taken, that provision be made for the payment of costs to the plaintiff up to and including the hearing, otherwise the payment of all costs will be delayed until the final account has been taken, which in some cases has been known to amount to a delay of years.

Stay of judgment.

A stay will be put upon a judgment pending appeal when the matter at issue is of great importance, and when in the event of the judgment being reversed great injury would otherwise be incurred by the defendant; but in such cases the defendant is ordered to keep an account, and to bring his appeal without delay (*f*).

The usual course with regard to costs is for the solicitor to the successful party to give an undertaking to return the costs in the event of a successful appeal (*g*). In *Ackroyd & Best v. Thomas* (1904, 21 R. P. C. at p. 412), where the solicitors refused the undertaking, Joyce, J., stayed the payment of the costs, but refused to stay the taxation.

#### PRACTICE ON APPEAL.

Under Order LVIII. r. 4, the Court of Appeal has all the powers and duties as to amendment and otherwise of the High Court, together with full discretionary power to receive further evidence upon questions of fact, such evidence to be either by oral examination in Court, by affidavit, or by deposition taken before an examiner or commissioner. Such further evidence may be given without special leave upon interlocutory application, or in any case as to matters which have occurred after the date of the decision from which the appeal is brought. Upon appeals from a judgment after trial or hearing of any cause or matter upon the merits, such further evidence (save as to

(*f*) *The North British Rubber Co. v. Macintosh*, 1894, 11 R. P. C. 477, 489; see also *Hocking v. Fraser*, 1886, 3 R. P. C. 3; *Kaye v. Chubb*, 1887, 4 R. P. C. 23; *Proctor v. Bennis*, 1887, 4 R. P. C. at p. 363; *Lyon v. Goddard*, 1893, 10 R. P. C. at p. 135; *Ducketts v. Whitehead*, 1895, 12 R. P. C. at p. 191. For form of order, see *Lyon v. Goddard*, 1893, 10 R. P. C. at p. 136.

(*g*) *The Ticket Punch Register Co. v. Colley's Patents, Ltd.*, 1895, 12 R. P. C. at p. 10.



matters subsequent as aforesaid) shall be admitted on special grounds only, and not without special leave of the Court.

As to further evidence, in *Hinde v. Osborne* (1885, 2 R. P. C. at p. 47), Lindley, L.J., said:—"The power given to the Court of Appeal to hear fresh evidence is an extremely valuable one, and is given by Order LVIII. r. 4. I cannot understand that as meaning that the Court of Appeal ought to grant leave to adduce fresh evidence, simply because a man has failed at the trial and he thinks he can get more evidence which, if he had got it before, would have enabled him to succeed on the trial. That cannot be. There must be some ground shown to satisfy the Court that there is some evidence now forthcoming, which with due diligence he could not have got; and it must therefore, in accordance with the usual practice, be evidence, not merely swearing by affidavits or anything of that kind, but something in the nature of the production of a lost document, or something of that sort, which will not expose the parties to a mere flood of affidavits made up to meet the blots and defects which have been disclosed upon the first trial" (*h*).

As to amendment of pleadings and particulars, in *Cropper v. Smith* (1884, L. R. 26 C. D. at p. 710) Bowen, L.J., said: "Now, I think it is a well established principle that the object of Courts is to decide the rights of the parties, and not to punish them for mistakes they make in the conduct of their cases by deciding otherwise than in accordance with their rights. Speaking for myself, and in conformity with what I have heard laid down by the other Division of the Court of Appeal, and by myself as a member of it, I know of no kind of error or mistake which, if not fraudulent or intended to overreach, the Court ought not to correct, if it can be done without injustice to the other party. Courts do not exist for the sake of discipline, but for the sake of deciding matters in controversy, and I do not regard such amendment as a matter of favour or of grace."

(*h*) And see *Nadel v. Martin*, 5 R. P. C. 226; *Spencer v. Ancoats Rubber Co.*, 1889, 6 R. P. C. 46; *Blakey v. Latham*, 1889, 6 R. P. C. at p. 186.

In *The Shoe Machinery Co. v. Cutlan* (1895, 12 R. P. C. 530) the Court of Appeal refused to allow amendment of the particulars of objections by adding seven new anticipating specifications. They based their decision on the fact that no satisfactory explanation was forthcoming as to why these specifications had not been found before. But in *Pirrie v. York St. Spinning Co.* (1894, 11 R. P. C. at p. 431) the Court allowed a similar application, which was supported, however, by affidavits by the applicant's patent agents, that a diligent and careful search had been made, and that the new specifications could not have been discovered in spite of proper care.

On appeal to the House of Lords, it was held in a case where the Court of Appeal had held the specification bad and for the defendant on the infringement issue, but the House had reversed the decision on the specification and upheld it on the infringement issue, that each party must pay its own costs of the appeal (i).

(i) *Moore v. Bennett*, 1884, 1 R. P. C. at p. 148; *Griff. P. C.* at p. 161; see also as to costs on reversal of decision of C. A. by House of Lords, *The United Horse-nail Co. v. Stewart*, 1888, 5 R. P. C. 260, 269.

Judgment by consent should be by order after motion  
in open Court.

J. J. Smith & Jones v. Sarnes Rice & Co  
XXI R.P.C. 319.

Admissibility of evidence given in previous  
case B. T. H. v. British Insulated Cable Co. XLI R.P.C. 350.

Sec 38 A Act 1919

"Special". XXXIX R.P.C. 261.

Patent Agent: 29 R.P.C. 683.

Judgment in default of appearance of def  
XLII R.P.C.

Order should be (1) struck an enquiry as to dam  
(2) reserve costs of enquiry (3) liberty to apply.  
Notice for judgment in ch. div. also drawn and given.

? writs of prohibition v C.G. 1931 2Ch. 272  
In re Wingate.

## APPENDIX.

### STATUTES.

#### STATUTE OF MONOPOLIES (1623).

[21 JAC. I. c. 3.]

*An Act concerning Monopolies and Dispensations of Penal Laws and the Forfeitures thereof.*

FOR as much as your most excellent Majesty, in your royal judgment, and of your blessed disposition to the weal and quiet of your subjects, did in the year of our Lord God 1610, publish in print to the whole realm, and to all posterity, that all grants and monopolies and of the benefit of any penal laws, or of power to dispense with the law, or to compound for the forfeiture, are contrary to your Majesty's laws, which your Majesty's declaration is truly consonant, and agreeable to the ancient and fundamental laws of this your realm. And whereas your Majesty was further graciously pleased expressly to command that no suitor should presume to move your Majesty for matters of that nature: yet, nevertheless, upon misinformations and untrue pretences of public good many such grants have been unduly obtained and unlawfully put in execution, to the great grievance and inconvenience of your Majesty's subjects contrary to the laws of this your realm, and contrary to your Majesty's most royal and blessed intention, so published as aforesaid: For avoiding whereof and preventing of the like in time to come, be it enacted, that all monopolies and all commissions, grants, licences, charters, and letters patent heretofore made or granted, or hereafter to be made or granted, to any person or persons, bodies politic or corporate whatsoever, of or for the sole buying, selling, making, working, or using of anything within this realm or the dominion of Wales, or of any other monopolies, or of power, liberty, or faculty, to dispense with any others, or to give licence or toleration to do, use, or exercise anything against the tenor or purport of any law or statute; or to give or make any warrant for any such

All monopolies, &c., shall be void.

dispensation, licence, or toleration to be had or made; or to agree or compound with any others for any penalty or forfeiture limited by any statute; or of any grant or promise of the benefit, profit, or commodity of any forfeiture, penalty, or sum of money that is or shall be due by any statute before judgment thereupon had; and all proclamations, inhibitions, restraints, warrants of assistance, and all other matters and things whatsoever, any way tending to the instituting, erecting, strengthening, furthering, or countenancing of the same, or any of them, are altogether contrary to the laws of this realm, and so are and shall be utterly void and of none effect, and in no wise to be put in use or execution.

Monopolies, &c., shall be tried by the common laws of this realm.

2. That all monopolies, and all such commissions, grants, licences, charters, letters patent, proclamations, inhibitions, restraints, warrants of assistance, and all other matters and things tending as aforesaid, and the force and validity of them, and of every of them, ought to be, and shall be for ever hereafter examined, heard, tried, and determined, by and according to the common laws of this realm, and not otherwise.

All persons disabled to use monopolies, &c.

3. That all person and persons, bodies politic and corporate whatsoever, which now or hereafter shall be, shall stand and be disabled, and incapable to have, use, exercise or put in use any monopoly, or any such commission, grant, licence, charter, letters patent, proclamation, inhibition, restraint, warrant of assistance, or other matter or thing tending as aforesaid, or any liberty, power, or faculty grounded or pretended to be grounded upon them, or any of them.

The party grieved by pretext of a monopoly, &c., shall recover treble damages and double costs.

4. That if any person or persons at any time after the end of forty days next after the end of this present session of parliament shall be hindered, grieved, or disturbed, or disquieted, or his or their goods or chattels any way seized, attached, distrained, taken, carried away, or detained by occasion or pretext of any monopoly, or of any such commission, grant, licence, power, liberty, faculty, letters patent, proclamation, inhibition, restraint, warrant of assistance, or other matter or thing tending as aforesaid, and will sue to be relieved in or for any of the premises, that then and in every such case the same person and persons shall and may have his and their remedy for the same at the common law by any action or actions to be grounded upon this statute; the same action and actions to be heard and determined in the Courts of King's Bench, Common Pleas, and Exchequer, or in any of them, against him or them by whom he or they shall be so hindered, grieved, disturbed or disquieted, or against him or them by whom his or their goods or chattels shall be so seized, attached, distrained, taken, carried away, or detained; wherein all and every such person and persons

which shall be so hindered, grieved, disturbed, or disquieted, or whose goods or chattels shall be so seized, attached, distrained, taken, carried away, or detained, shall recover three times so much as the damages which he or they sustained by means or occasion of being so hindered, grieved, disturbed or disquieted, or by means of having his or their goods or chattels seized, attached, distrained, taken, carried away, or detained, and double costs: and in such suits or for the staying or delaying thereof, no essoign, protection, wager of law, aid; prayer, privilege, injunction, or order of restraint, shall be in any wise prayed, granted, admitted, or allowed, nor any more than one imparlance; and if any person or persons shall after notice given that the action depending is grounded upon this statute, cause or procure any action at the common law grounded upon this statute, to be stayed or delayed before judgment by colour or means of any order, warrant, power, or authority, save only of the court wherein such action as aforesaid shall be brought and depending, or after judgment had upon such action shall cause or procure the execution of or upon any such judgment to be stayed or delayed by colour or means of any order, warrant, power, or authority, save only by writ of error or attain; and then the said person and persons so offending shall incur and sustain the pains, penalties, and forfeitures ordained and provided by the statute of provision and præmunire made in the sixteenth year of the reign of King Richard the Second.

6. Provided also, that any declaration before mentioned shall not extend to any letters patent and grants of privilege for the term of fourteen years or under, hereafter to be made, of the sole working or making of any manner of new manufactures within this realm to the true and first inventor and inventors of such manufactures, which others at the time of making such letters patent and grants shall not use, so as also they be not contrary to the law nor mischievous to the State by raising prices of commodities at home, or hurt of trade, or generally inconvenient: the said fourteen years to be accounted from the date of the first letters patent or grants of such privilege hereafter to be made, but that the same shall be of such force as they should be if this Act had never been made, and of none other.

What new patents to be good.

7. Provided also, that this Act or anything therein contained shall not in anywise extend or be prejudicial to any grant or privilege, power, or authority whatsoever heretofore made, granted, allowed, or confirmed by any Act of Parliament now in force, so long as the same shall so continue in force.

Proviso.

8. Provided also, that this Act shall not extend to any warrant or privy seal made or directed, or to be made or directed, by His

Warrants granted to justices saved.

Majesty, his heirs or successors, to the justices of the Courts of the King's Bench or Common Pleas and barons of the Exchequer, justices of assize, justices of oyer and terminer and gaol delivery, justices of the peace, and other justices for the time being, having power to hear and determine offences done against any penal statute, to compound for the forfeitures of any penal statute depending in suit and question before them, or any of them respectively, after plea pleaded by the party defendant.

Charters  
granted to  
corporations  
saved.

9. Provided also, that this Act or anything therein contained shall not in anywise extend or be prejudicial unto the city of London, or to any city, borough, or town corporate within this realm, for or concerning any grants, charters, or letters patent to them, or any of them made or granted, or for or concerning any custom or customs used by or within them or any of them; or unto any corporation, companies, or fellowships of any art, trade, occupation, or mystery, or to any companies or societies of merchants within this realm erected for the maintenance, enlargement, or ordering of any trade or merchandise; but that the same charters, customs, corporations, companies, fellowships, and societies, and their liberties, privileges, powers, and immunities, shall be and continue of such force and effect as they were before the making of this Act, and of none other; anything before in this Act contained to the contrary in any wise notwithstanding.

PATENTS AND DESIGNS ACT, 1907.

[7 EDW. VII., c. 29.]

ARRANGEMENT OF SECTIONS.

PART I.—PATENTS.

*Application for and Grant of Patent.*

SECT.

1. Application.
2. Specifications.
3. Proceedings upon application.
4. Provisional protection.
5. Time for leaving complete specification.
6. Comparison of provisional and complete specification.
7. Investigation of previous specifications in United Kingdom on applications for patents.
8. Investigation of specifications published subsequently to application.
9. Advertisement on acceptance of complete specification.
10. Effect of acceptance of complete specification.
11. Opposition to grant of patent.
12. Grant and sealing of patent.
13. Date of patent.
14. Effect, extent, and form of patent.
15. Fraudulent applications for patents.
16. Single patent for cognate inventions.

*Term of Patent.*

17. Term of patent.
18. Extension of term of patent.
19. Patents of addition.

*Restoration of lapsed Patents.*

20. Restoration of lapsed patents.

*Amendment of Specification.*

21. Amendment of specification by Comptroller.
22. Amendment of specification by the Court.

SECT.

23. Restriction on recovery of damages.

*Compulsory Licences and Revocation.*

24. Compulsory licences and revocation.
25. Revocation of patent.
26. Power of Comptroller to revoke patents on certain grounds.
27. Revocation of patents worked outside the United Kingdom.

*Register of Patents.*

28. Register of patents.

*Crown.*

29. Patent to bind Crown.
30. Assignment to Secretary for War or the Admiralty of certain inventions.

*Legal Proceedings.*

31. Hearing with assessor.
32. Power to counterclaim for revocation in an action for infringement.
33. Exemption of innocent infringer from liability for damages.
34. Order for inspection, &c., in action.
35. Certificate of validity questioned and costs thereon.
36. Remedy in case of groundless threats of legal proceedings.

*Miscellaneous.*

37. Grant of patents to two or more persons.
38. Avoidance of certain conditions attached to the sale, &c., of patented articles.
39. Costs and security for costs.
40. Procedure on appeal to law officer.
41. Provision as to anticipation.



## SECT.

- 42. Disconformity.
- 43. Patent on application of representative of deceased inventor.
- 44. Loss or destruction of patent.
- 45. Provisions as to exhibitions.
- 46. Publication of illustrated journal, indexes, &c.
- 47. Patent Museum.
- 48. Foreign vessels in British waters.

## PART II.—DESIGNS.

*Registration of Designs.*

- 49. Application for registration of designs.
- 50. Registration of designs in new classes.
- 51. Certificate of registration.
- 52. Register of designs.

*Copyright in Registered Designs.*

- 53. Copyright on registration.
- 54. Requirements before delivery on sale.
- 55. Effect of disclosure on copyright.
- 56. Inspection of registered designs.
- 57. Information as to existence of copyright.
- 58. Cancellation of registration of designs used wholly or mainly abroad.

*Industrial and International Exhibitions.*

- 59. Provisions as to exhibitions.

*Legal Proceedings.*

- 60. Piracy of registered designs.
- 61. Application of certain provisions of the Act as to patents to designs.

## PART III.—GENERAL.

*Patent Office and Proceedings thereat.*

- 62. Patent Office.
- 63. Officers and clerks.
- 64. Seal of Patent Office.

*Fees.*

- 65. Fees.

*Provisions as to Registers and other Documents in Patent Office.*

- 66. Trust not to be entered in registers.

## SECT.

- 67. Inspection of and extracts from registers.
- 68. Privilege of reports of examiners.
- 69. Prohibition of publication of specification, drawings, &c. where application abandoned, &c.
- 70. Power for Comptroller to correct clerical errors.
- 71. Entry of assignments and transmissions in registers.
- 72. Rectification of registers by Court.

*Powers and Duties of Comptroller.*

- 73. Exercise of discretionary power by Comptroller.
- 74. Power of Comptroller to take directions of law officers.
- 75. Refusal to grant patent, &c. in certain cases.
- 76. Annual reports of Comptroller.

*Evidence.*

- 77. Evidence before Comptroller.
- 78. Certificate of Comptroller to be evidence.
- 79. Evidence of documents in Patent Office.
- 80. Transmission of certified printed copies of specifications, &c.
- 81. Applications and notices by post.
- 82. Excluded days.
- 83. Declaration by infant, lunatic, &c.

*Register of Patent Agents.*

- 84. Register of patent agents.
- 85. Agents for patents.

*Powers, &c. of Board of Trade.*

- 86. Power for Board of Trade to make general rules.
- 87. Proceedings of the Board of Trade.
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*Offences.*

- 89. Offences.
- 90. Unauthorised assumption of Royal arms.

*International and Colonial Arrangements.*

- 91. International and colonial arrangements.

<p><i>Definitions.</i></p> <p>SECT. 92. Provisions as to "the Court." 93. Definitions.</p> <p><i>Application to Scotland, Ireland, and the Isle of Man.</i></p> <p>94. Application to Scotland.</p>	<p>SECT. 95. Application to Ireland. 96. Isle of Man.</p> <p><i>Repeal, Savings, and Short Title.</i></p> <p>97. Saving for prerogative. 98. Repeal and savings. 99. Short title and commencement.</p> <p>SCHEDULES.</p>
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*An Act to consolidate the enactments relating to Patents for Inventions and the registration of Designs and certain enactments relating to Trade Marks.*

[28th August, 1907.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I.—PATENTS.

*Application for and Grant of Patent.*

1.—(1) An application for a patent may be made by any person Application. who claims to be the true and first inventor of an invention, whether he is a British subject or not, and whether alone or jointly with any other person (**Act of 1883, sect. 4, sub-sects. 1 and 2, and Act of 1885, sect. 5**). *15.*

(2) The application must be made in the prescribed form, and must be left at, or sent by post to, the Patent Office in the prescribed manner (**Act of 1883, sect. 5, sub-sect. 1**). *133.*

(3) The application must contain a declaration to the effect that the applicant is in possession of an invention, whereof he, or in the case of a joint application one at least of the applicants, claims to be the true and first inventor, and for which he desires to obtain a patent, and must be accompanied by either a provisional or complete specification (**Act of 1883, sect. 5, sub-sect. 2**). *134.*

(4) The declaration required by this section may be either a statutory declaration or not, as may be prescribed (**Act of 1885, sect. 2**). *135.*

2.—(1) A provisional specification must describe the nature of the invention (**Act of 1883, sect. 5, sub-sect. 3**). *92, 96, 138.*

*N.B.—Figures printed in italic type refer to the pages of the text in which the subject-matter of the section or sub-section is dealt with.*

Specifica-  
tions.

(2) A complete specification must particularly describe and ascertain the nature of the invention and the manner in which the same is to be performed (**Act of 1883, sect. 5, sub-sect. 4**). *92, 102.*

(3) In the case of any provisional or complete specification, where the Comptroller deems it desirable he may require that suitable drawings shall be supplied with the specification, or at any time before the acceptance of the same, and such drawings shall be deemed to form part of the said specification (**Act of 1883, sects. 3 and 4, and Act of 1886, sect. 2**). *125, 126, 138.*

(4) A specification, whether provisional or complete, must commence with the title, and in the case of a complete specification must end with a distinct statement of the invention claimed (**Act of 1883, sect. 5, sub-sect. 5**). *93—95, 126, 138.*

(5) Where the invention in respect of which an application is made is a chemical invention, such typical samples and specimens as may be prescribed shall, if in any particular case the Comptroller considers it desirable so to require, be furnished before the acceptance of the complete specification (**New**). *147.*

Proceedings  
upon appli-  
cation.

**3.—**(1) The Comptroller-General of Patents, Designs, and Trade Marks (hereinafter referred to as the Comptroller) shall refer every application to an examiner (**Act of 1883, sect. 6**). *135.*

(2) If the examiner reports that the nature of the invention is not fairly described, or that the application, specification, or drawings have not been prepared in the prescribed manner, or that the title does not sufficiently indicate the subject-matter of the invention, the Comptroller may refuse to accept the application or require that the application, specification, or drawings be amended before he proceeds with the application; and in the latter case the application shall, if the Comptroller so directs, bear date as from the time when the requirement is complied with (**Act of 1888, sect. 2**). *139.*

(3) Where the Comptroller refuses to accept an application or requires an amendment, the applicant may appeal from his decision to the law officer, who shall, if required, hear the applicant and the Comptroller, and may make an order determining whether and subject to what conditions (if any) the application shall be accepted (**Act of 1888, sect. 2, sub-sects. 2 and 3**). *140.*

(4) The Comptroller shall, when an application has been accepted, give notice thereof to the applicant (**Act of 1888, sect. 4**). *140.*

Provisional  
protection.

**4.** Where an application for a patent in respect of an invention has been accepted, the invention may during the period between the date of the application and the date of sealing such patent be used and published without prejudice to the patent to be granted for the

*N.B.—Figures printed in italic type refer to the pages of the text in which the subject-matter of the section or sub-section is dealt with.*

invention ; and such protection from the consequences of use and publication is in this Act referred to as provisional protection (**Act of 1883, sect. 14**). *95, 148.*

5.—(1) If the applicant does not leave a complete specification with his application, he may leave it at any subsequent time within six months from the date of the application (**Act of 1883, sect. 8, sub-sect. 1 ; Act of 1902, sect. 1, sub-sect. 8**).

Time for leaving complete specification.

Provided that where an application is made for an extension of the time for leaving a complete specification, the Comptroller shall, on payment of the prescribed fee, grant an extension of time to the extent applied for, but not exceeding one month (cf. **Act of 1885, sect. 3 ; and Act of 1902, sect. 1, sub-sect. 8**). *145.*

(2) Unless a complete specification is so left the application shall be deemed to be abandoned (**Act of 1883, sect. 8, sub-sect. 2**). *146.*

6.—(1) Where a complete specification is left after a provisional specification, the Comptroller shall refer both specifications to an examiner (**Act of 1883, sect. 9, sub-sect. 1**). *140.*

Comparison of provisional and complete specification.

(2) If the examiner reports that the complete specification has not been prepared in the prescribed manner, the Comptroller may refuse to accept the complete specification until it has been amended to his satisfaction (**Act of 1883, sect. 9, sub-sects. 1 and 2**). *140.*

(3) If the examiner reports that the invention particularly described in the complete specification is not substantially the same as that which is described in the provisional specification the Comptroller may—

- (a) refuse to accept the complete specification until it has been amended to his satisfaction ; or
- (b) (with the consent of the applicant) cancel the provisional specification and treat the application as having been made on the date at which the complete specification was left, and the application shall have effect as if made on that date :

Provided that where the complete specification includes an invention not included in the provisional specification, the Comptroller may allow the original application to proceed so far as the invention included both in the provisional and in the complete specification is concerned, and treat the claim for the additional invention included in the complete specification as an application for that invention made on the date at which the complete specification was left (**Partly new, cf. Act of 1883, sect. 9, sub-sects. 1 and 2**). *141.*

(4) A refusal of the Comptroller to accept a complete specification

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shall be subject to appeal to the law officer, who shall, if required, hear the applicant and the Comptroller, and may make an order determining whether and subject to what conditions (if any) the complete specification shall be accepted (**Act of 1883, sect. 9, sub-sect. 3**).

(5) Unless a complete specification is accepted within twelve months from the date of the application, the application shall (except where an appeal has been lodged) become void (**Act of 1883, sect. 9, sub-sect. 4**). *146.*

Provided that where an application is made for an extension of time for the acceptance of a complete specification, the Comptroller shall, on payment of the prescribed fee, grant an extension of time to the extent applied for, but not exceeding three months (*cf. Act of 1885, sect. 3*). *146.*

Investigation  
of previous  
specifications  
in United  
Kingdom  
on applica-  
tions for  
patents.

7.—(1) Where an application for a patent has been made and a complete specification has been left, the examiner shall, in addition to the other inquiries which he is directed to make by this Act, make a further investigation for the purpose of ascertaining whether the invention claimed has been wholly or in part claimed or described in any specification (other than a provisional specification not followed by a complete specification) published before the date of the application, and left pursuant to any application for a patent made in the United Kingdom within fifty years next before the date of the application (**Act of 1902, sect. 1, sub-sect. 1**). *141.*

(2) If on investigation it appears that the invention has been wholly or in part claimed or described in any such specification, the applicant shall be informed thereof, and the applicant may, within such time as may be prescribed, amend his specification, and the amended specification shall be investigated in like manner as the original specification (**Act of 1902, sect. 1, sub-sect. 2**). *141.*

(3) If the Comptroller is satisfied that no objection exists to the specification on the ground that the invention claimed thereby has been wholly or in part claimed or described in a previous specification as before mentioned, he shall, in the absence of any other lawful ground of objection, accept the specification (**Act of 1902, sect. 1, sub-sect. 5**). *141.*

(4) If the Comptroller is not so satisfied, he shall, after hearing the applicant, and unless the objection is removed by amending the specification to the satisfaction of the Comptroller, determine whether a reference to any, and, if so, what, prior specifications ought to be made in the specification by way of notice to the public (**Act of 1902, sect. 1, sub-sect. 6**). *142.*

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Provided that the Comptroller, if satisfied that the invention claimed has been wholly and specifically claimed in any specification to which the investigation has extended, may, in lieu of requiring references to be made in the applicant's specification as aforesaid, refuse to grant a patent (**New**). *142, 143.*

(5) An appeal shall lie from the decision of the Comptroller under this section to the law officer (**Act of 1902, sect. 1, sub-sect. 7**). *145, 169, 170.*

(6) The investigations and reports required by this section shall not be held in any way to guarantee the validity of any patent, and no liability shall be incurred by the Board of Trade or any officer thereof by reason of, or in connexion with, any such investigation or report, or any proceeding consequent thereon (**Act of 1902, sect. 1, sub-sect. 9**).

8.—(1) An investigation under the last preceding section shall extend to specifications published after the date of the application in respect of which the investigation is made, and being specifications which have been deposited pursuant to prior applications; and that section shall, subject to rules under this Act, have effect accordingly (**The whole of this section is new**). *144.*

Investigation of specifications published subsequently to application.

(2) Where, on such an extended investigation, it appears that the invention claimed in the specification deposited pursuant to an application is wholly or in part claimed in any published specification deposited pursuant to a prior application, the applicant shall, whether or not his specification has been accepted or a patent granted to him, be afforded such facilities as may be prescribed for amending his specification, and in the event of his failing to do so the Comptroller shall, in accordance with such procedure as may be prescribed, determine what reference, if any, to other specifications ought to be made in his specification by way of notice to the public. *144.*

(3) For the purposes of this section an application shall be deemed to be prior to another application if the patent applied for when granted would be of prior date to the patent granted pursuant to that other application. *144.*

(4) This section shall come into operation at such date as the Board of Trade may by order direct, and shall apply only to applications made after that date, and the order shall be laid before both Houses of Parliament. *145.*

9. On the acceptance of the complete specification the Comptroller shall advertise the acceptance; and the application and specifications, with the drawings (if any), shall be open to public inspection (**Act of 1883, sect. 10**).

Advertisement on acceptance of complete specification.

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Effect of acceptance of complete specification.

10. After the acceptance of a complete specification and until the date of sealing a patent in respect thereof, or the expiration of the time for sealing, the applicant shall have the like privileges and rights as if a patent for the invention had been sealed on the date of the acceptance of the complete specification. Provided that an applicant shall not be entitled to institute any proceeding for infringement until a patent for the invention has been granted to him (**Act of 1883, sect. 15**). *95, 148.*

Opposition to grant of patent.

11.—(1) Any person may at any time within two months from the date of the advertisement of the acceptance of a complete specification give notice at the Patent Office of opposition to the grant of the patent on any of the following grounds:— *155, 168*

- (a) that the applicant obtained the invention from him, or from a person of whom he is the legal representative; or (**Act of 1883, sect. 11, sub-sect. 1**), *156, 158*
- (b) that the invention has been claimed in any complete specification for a British patent which is or will be of prior date to the patent the grant of which is opposed, other than a specification deposited pursuant to an application made more than fifty years before the date of the application for such last-mentioned patent; or (cf. **Act of 1883, sect. 11, sub-sect. 1**), *156, 160*
- (c) that the nature of the invention or the manner in which it is to be performed is not sufficiently or fairly described and ascertained in the complete specification; or (**New**), *157, 167*
- (d) that the complete specification describes or claims an invention other than that described in the provisional specification, and that such other invention forms the subject of an application made by the opponent in the interval between the leaving of the provisional specification and the leaving of the complete specification, (**Act of 1888, sect. 4**), *156, 167*

but on no other ground.

(2) Where such notice is given the Comptroller shall give notice of the opposition to the applicant, and shall, on the expiration of those two months, after hearing the applicant and the opponent, if desirous of being heard, decide on the case (**Act of 1883, sect. 11, sub-sect. 2**). *168.*

(3) The decision of the Comptroller shall be subject to appeal to the law officer, who shall, if required, hear the applicant and the opponent, if the opponent is, in his opinion, a person entitled to be heard in opposition to the grant of the patent, and shall decide the case; and the law officer may, if he thinks fit, obtain the assistance of an expert, who shall be paid such remuneration as the law officer

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with the consent of the Treasury may determine (**Act of 1883, sect. 11, sub-sect. 304**). *170.*

12.—(1) If there is no opposition, or, in case of opposition, if the determination is in favour of the grant of a patent, a patent shall, on payment of the prescribed fee, be granted to the applicant, or in the case of a joint application, to the applicants jointly, and the Comptroller shall cause the patent to be sealed with the seal of the Patent Office (**Act of 1883, sect. 12, sub-sect. 1**). Grant and sealing of patent.

(2) A patent shall be sealed as soon as may be, and not after the expiration of fifteen months from the date of application, provided that—(**Act of 1883, sect. 12, sub-sect. 3**)

(a) Where the Comptroller has allowed an extension of the time within which a complete specification may be left or accepted, a further extension of four months after the said fifteen months shall be allowed for the sealing of the patent : (**Act of 1885, sect. 3**)

(b) Where the sealing is delayed by an appeal to the law officer, or by opposition to the grant of the patent, the patent may be sealed at such time as the law officer may direct : (**Act of 1883, sect. 12, sub-sect. 3 (a)**)

(c) Where the patent is granted to the legal representative of an applicant who has died before the expiration of the time which would otherwise be allowed for sealing the patent, the patent may be sealed at any time within twelve months after the date of his death : (**Act of 1883, sect. 12, sub-sect. 3 (b)**)

(d) Where in consequence of the neglect or failure of the applicant to pay any fee a patent cannot be sealed within the period allowed by this section, that period may, on payment of the prescribed fee and on compliance with the prescribed conditions, be extended to such an extent as may be prescribed, and this provision shall, in such cases as may be prescribed and subject to the prescribed conditions, apply where the period allowed for the sealing of the patent has expired before the commencement of this Act (**New**).

13. Except as otherwise expressly provided by this Act, a patent shall be dated and sealed as of the date of the application. Provided that no proceedings shall be taken in respect of an infringement committed before the publication of the complete specification (**Act of 1883, sect. 13**). *149.* Date of patent.

14.—(1) A patent sealed with the seal of the Patent Office shall have the same effect as if it were sealed with the Great Seal of the Effect, extent, and form of patent.

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United Kingdom, and shall have effect throughout the United Kingdom and the Isle of Man (**Act of 1883, sect. 12, sub-sect. 2; sect. 16**). 7, 385.

Provided that a patentee may assign his patent for any place in or part of the United Kingdom, or Isle of Man, as effectually as if the patent were originally granted to extend to that place or part only (**Act of 1883, sect. 36**). 190.

(2) Every patent may be in the prescribed form (7) and shall be granted for one invention only (135), but the specification may contain more than one claim; and it shall not be competent for any person in an action or other proceeding to take any objection to a patent on the ground that it has been granted for more than one invention (**Act of 1883, sect. 33**).

Fraudulent applications for patents.

15.—(1) A patent granted to the true and first inventor shall not be invalidated by an application in fraud of him, or by provisional protection obtained thereon, or by any use or publication of the invention subsequent to that fraudulent application during the period of provisional protection (**Act of 1883, sect. 35**). 28.

(2) Where a patent has been revoked on the ground of fraud, the Comptroller may, on the application of the true inventor made in accordance with the provisions of this Act, grant to him a patent in lieu of and bearing the same date as the patent so revoked (cf. **Act of 1883, sect. 26, sub-sect. 8**). 28.

Provided that no action shall be brought for any infringement of the patent so granted committed before the actual date when such patent was granted (**New**). 28.

Single patent for cognate inventions.

16.—(1) Where the same applicant has put in two or more provisional specifications for inventions which are cognate or modifications one of the other, and has obtained thereby concurrent provisional protection for the same, and the Comptroller is of opinion that the whole of such inventions are such as to constitute a single invention and may properly be included in one patent, he may accept one complete specification in respect of the whole of such applications and grant a single patent thereon (**New**). 136.

(2) Such patent shall bear the date of the earliest of such applications, but in considering the validity of the same and for the purpose of the provisions of this Act with respect to oppositions to the grant of patents, the Court or the Comptroller, as the case may be, shall have regard to the respective dates of the provisional specifications relating to the several matters claimed therein (**New**). 136.

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*Term of Patent.*

17.—(1) The term limited in every patent for the duration thereof shall, save as otherwise expressly provided by this Act, be fourteen years from its date (**Act of 1883, sect. 17, sub-sect. 1**). Term of patent.

(2) A patent shall, notwithstanding anything therein or in this Act, cease if the patentee fails to pay the prescribed fees within the prescribed times; (**Act of 1883, sect. 17, sub-sect. 2**) provided that the Comptroller, upon the application of the patentee, shall, on receipt of such additional fee, not exceeding ten pounds, as may be prescribed, enlarge the time to such an extent as may be applied for, but not exceeding three months (**cf. Act of 1883, sect. 17, sub-sects. 3 and 4**). *12.*

(3) If any proceeding is taken in respect of an infringement of the patent committed after a failure to pay any fee within the prescribed time, and before any enlargement thereof, the Court before which the proceeding is proposed to be taken may, if it thinks fit, refuse to award any damages in respect of such infringement (**Act of 1883, sect. 17, sub-sect. 4 (b)**).

18.—(1) A patentee may, after advertising in manner provided by Rules of the Supreme Court his intention to do so, present a petition to the Court praying that his patent may be extended for a further term, but such petition must be presented at least six months before the time limited for the expiration of the patent (**cf. Act of 1883, sect. 25, sub-sect. 1**). *219.* Extension of term of patent.

(2) Any person may give notice to the Court of objection to the extension (**cf. Act of 1883, sect. 25, sub-sect. 2**). *239.*

(3) On the hearing of any petition under this section the patentee and any person who has given such notice of objection shall be made parties to the proceeding, and the Comptroller shall be entitled to appear and be heard, and shall appear if so directed by the Court (**cf. Act of 1883, sect. 25, sub-sect. 3**) *239.*

(4) The Court, in considering its decision, shall have regard to the nature and merits of the invention in relation to the public, to the profits made by the patentee as such, and to all the circumstances of the case (**cf. Act of 1883, sect. 25, sub-sect. 4**). *220 et seq.*

(5) If it appears to the Court that the patentee has been inadequately remunerated by his patent, the Court may by order extend the term of the patent for a further term not exceeding seven, or, in exceptional cases (*227*), fourteen years, or may order the grant of a new patent for such term as may be specified in the order and

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containing any restriction, conditions, and provisions the Court may think fit (cf. Act of 1883, sect. 25, sub-sect. 5).

Patents of addition.

19.—(1) Where a patent for an invention has been applied for or granted, and the applicant or the patentee, as the case may be, applies for a further patent in respect of any improvement in or modification of the invention, he may, if he thinks fit, in his application for the further patent, request that the term limited in that patent for the duration thereof be the same as that of the original patent or so much of that term as is unexpired (**The whole of this section is new**). 64, 147.

(2) Where an application containing such a request is made, a patent (hereinafter referred to as a patent of addition) may be granted for such term as aforesaid. 147.

(3) A patent of addition shall remain in force so long as the patent for the original invention remains in force, but no longer, and in respect of a patent of addition no fees shall be payable for renewal. 147.

(4) The grant of a patent of addition shall be conclusive evidence that the invention is a proper subject for a patent of addition, and the validity of the patent shall not be questioned on the ground that the invention ought to have been the subject of an independent patent. 64.

*Restoration of lapsed Patents.*

Restoration of lapsed patents.

20.—(1) Where any patent has become void owing to the failure of the patentee to pay any prescribed fee within the prescribed time, the patentee may apply to the Comptroller in the prescribed manner for an order for the restoration of the patent (**The whole of this section is new**). 151.

(2) Every such application shall contain a statement of the circumstances which have led to the omission of the payment of the prescribed fee. 152.

(3) If it appears from such statement that the omission was unintentional and that no undue delay has occurred in the making of the application, the Comptroller shall advertise the application in the prescribed manner, and within such time as may be prescribed any person may give notice of opposition at the Patent Office. 152.

(4) Where such notice is given the Comptroller shall notify the applicant thereof. 152.

(5) After the expiration of the prescribed period the Comptroller shall hear the case and, subject to an appeal to the Court, issue an order either restoring the patent or dismissing the application: Provided that in every order under this section restoring a patent such

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provisions as may be prescribed shall be inserted for the protection of persons who may have availed themselves of the subject-matter of the patent after the patent had been announced as void in the illustrated official journal. *153.*

*Amendment of Specification.*

21.—(1) An applicant or a patentee may at any time, by request in writing left at the Patent Office, seek leave to amend his specification, including drawings forming part thereof, by way of disclaimer, correction, or explanation, stating the nature of, and the reasons for, the proposed amendment (**Act of 1883, sect. 18, sub-sect. 1**). *174.*

Amendment  
of specifica-  
tion by  
Comptroller.

(2) The request and the nature of the proposed amendment shall be advertised in the prescribed manner, and at any time within one month from its first advertisement any person may give notice at the Patent Office of opposition to the amendment (**Act of 1883, sect. 18, sub-sect. 2**). *181.*

(3) Where such a notice is given the Comptroller shall give notice of the opposition to the person making the request, and shall hear and decide the case (**Act of 1883, sect. 18, sub-sect. 3**). *181.*

(4) Where no notice of opposition is given, or the person so giving notice of opposition does not appear, the Comptroller shall determine whether and subject to what conditions, if any, the amendment ought to be allowed (**Act of 1883, sect. 18, sub-sect. 5**). *181.*

(5) The decision of the Comptroller in either case shall be subject to an appeal to the law officer, who shall, if required, hear the person making the request to amend and, where notice of opposition has been given, the person giving that notice, if he is, in the opinion of the law officer, entitled to be heard in opposition to the request, and, where there is no opposition, the Comptroller, and may make an order determining whether and subject to what conditions (if any) the amendment ought to be allowed (**Act of 1883, sect. 18, sub-sects. 3 and 4**).

(6) No amendment shall be allowed that would make the specification, as amended, claim an invention substantially larger than or substantially different from the invention claimed by the specification as it stood before amendment (**Act of 1883, sect. 18, sub-sect. 8**). *174.*

(7) Leave to amend shall be conclusive as to the right of the party to make the amendment allowed, except in case of fraud; and the amendment shall be advertised in the prescribed manner, and shall in all Courts and for all purposes be deemed to form part of the specification (cf. **Act of 1883, sect. 18, sub-sect. 9**). *184.*

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(8) This section shall not apply when and so long as any action for infringement or proceeding before the Court for the revocation of a patent is pending (**Act of 1888, sect. 5**). 186.

Amendment  
of specifica-  
tion by the  
Court.

**22.** In any action for infringement of a patent or proceedings before a Court for the revocation of a patent the Court may by order allow the patentee to amend his specification by way of disclaimer in such manner, and subject to such terms as to costs, advertisement or otherwise, as the Court may think fit : 186

Provided that no amendment shall be so allowed that would make the specification, as amended, claim an invention substantially larger than, or substantially different from, the invention claimed by the specification as it stood before the amendment, and where an application for such an order is made to the Court, notice of the application shall be given to the Comptroller, and the Comptroller shall have the right to appear and be heard, and shall appear if so directed by the Court (*cf. Act of 1883, sect. 19*). 174, 186.

Restriction on  
recovery of  
damages.

**23.** Where an amendment of a specification by way of disclaimer, correction, or explanation, has been allowed under this Act, no damages shall be given in any action in respect of the use of the invention before the disclaimer, correction, or explanation, unless the patentee establishes to the satisfaction of the Court that his original claim was framed in good faith and with reasonable skill and knowledge (**Act of 1883, sect. 20**). 189.

#### *Compulsory Licences and Revocation.*

Compulsory  
licences and  
revocation.

**24.—(1)** Any person interested may present a petition to the Board of Trade alleging that the reasonable requirements of the public with respect to a patented invention have not been satisfied, and praying for the grant of a compulsory licence, or, in the alternative, for the revocation of the patent (**Act of 1902, sect. 3, subsect. 1**). 244.

(2) The Board of Trade shall consider the petition, and if the parties do not come to an arrangement between themselves the Board of Trade, if satisfied that a *prima facie* case has been made out, shall refer the petition to the Court, and, if the Board are not so satisfied, they may dismiss the petition (*cf. Act of 1902, sect. 3, subsect. 2*). 244.

(3) Where any such petition is referred by the Board of Trade to the Court, and it is proved to the satisfaction of the Court that the reasonable requirements of the public with reference to the patented invention have not been satisfied, the patentee may be ordered by the Court to grant licences on such terms as the Court may think just, or,

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if the Court is of opinion that the reasonable requirements of the public will not be satisfied by the grant of licences, the patent may be revoked by order of the Court :

Provided that an order of revocation shall not be made before the expiration of three years from the date of the patent, or if the patentee gives satisfactory reasons for his default (cf. **Act of 1902, sect. 3, sub-sect. 3**). 246.

(4) On the hearing of any petition under this section the patentee, and any person claiming an interest in the patent as exclusive licensee or otherwise, shall be made parties to the proceeding, and the law officer or such other counsel as he may appoint shall be entitled to appear and be heard (**Act of 1902, sect. 3, sub-sect. 4**). 247.

(5) For the purposes of this section the reasonable requirements of the public shall not be deemed to have been satisfied—

(a) if by reason of the default of the patentee to manufacture to an adequate extent and supply on reasonable terms the patented article, or any parts thereof which are necessary for its efficient working, or to carry on the patented process to an adequate extent or to grant licences on reasonable terms, any existing trade or industry, or the establishment of any new trade or industry in the United Kingdom is unfairly prejudiced, or the demand for the patented article or the article produced by the patented process is not reasonably met; (cf. **Act of 1902, sect. 3, sub-sects. 5 and 6**) or 245

(b) if any trade or industry in the United Kingdom is unfairly prejudiced by the conditions attached by the patentee before or after the passing of this Act to the purchase, hire, or use of the patented article or to the using or working of the patented process (**New**). 245.

(6) An order of the Court directing the grant of any licence under this section shall, without prejudice to any other method of enforcement, operate as if it were embodied in a deed granting a licence and made between the parties to the proceeding (**Act of 1902, sect. 3, sub-sect. 7**). 247.

25.—(1) Revocation of a patent may be obtained on petition to the Court. 248. Revocation  
of patent

(2) Every ground on which—

(a) a patent might, immediately before the first day of January, one thousand eight hundred and eighty-four, have been repealed by scire facias (**Act of 1883, sect. 26, sub-sect. 3**); (248) or

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(b) a patent may be revoked under this Act either by the Comptroller or as an alternative to the grant of a compulsory licence ; **(New)**

shall be available by way of defence to an action of infringement and shall also be a ground of revocation under this section. *248, 249, 329.*

(3) A petition for revocation for a patent may be presented—

(a) by the Attorney-General or any person authorised by him ; *(251)* or

(b) by any person alleging—

(i) that the patent was obtained in fraud of his rights, or of the rights of any person under or through whom he claims ; or

(ii) that he, or any person under or through whom he claims, was the true inventor of any invention included in the claim of the patentee ; or

(iii) that he, or any person under or through whom he claims an interest in any trade, business, or manufacture, had publicly manufactured, used, or sold, within this realm, before the date of the patent, anything claimed by the patentee as his invention (**Act of 1883, sect. 26, sub-sect. 4**). *250.*

**26.**—(1) Any person who would have been entitled to oppose the grant of a patent, or is the successor in interest of a person who was so entitled, may, within two years from the date of the patent, in the prescribed manner apply to the Comptroller for an order revoking the patent on any one or more of the grounds on which the grant of the patent might have been opposed (**The whole of this section is new**). *258.*

Provided that when an action for infringement or proceedings for the revocation of the patent are pending in any Court, an application under this section shall not be made except with the leave of the Court.

(2) The Comptroller shall give notice of the application to the patentee, and after hearing the parties, if desirous of being heard, may make an order revoking the patent or requiring the specification relating thereto to be amended by disclaimer, correction, or explanation, or dismissing the application ; but the Comptroller shall not make an order revoking the patent unless the circumstances are such as would have justified him in refusing to grant the patent had the proceedings been proceedings in an opposition to the grant of a patent. *259.*

(3) A patentee may at any time, by giving notice in the prescribed manner to the Comptroller, offer to surrender his patent, and the Comptroller may, if after giving notice of the offer and hearing all

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Power of  
Comptroller  
to revoke  
patents on  
certain  
grounds.

parties who desire to be heard he thinks fit, accept the offer, and thereupon make an order for the revocation of the patent. 257.

(4) Any decision of the Comptroller under this section shall be subject to appeal to the Court. 258.

27.—(1) At any time not less than four years after the date of a patent and not less than one year after the passing of this Act, any person may apply to the Comptroller for the revocation of the patent on the ground that the patented article or process is manufactured or carried on exclusively or mainly outside the United Kingdom (The whole of this section is new, but cf. Act of 1902, sect. 3, subsect. 5). 260 *et seq.*

Revocation of patents worked outside the United Kingdom.

(2) The Comptroller shall consider the application, and, if after inquiry he is satisfied that the allegations contained therein are correct, then, subject to the provisions of this section, and unless the patentee proves that the patented article or process is manufactured or carried on to an adequate extent in the United Kingdom, or gives satisfactory reasons why the article or process is not so manufactured or carried on, the Comptroller may make an order revoking the patent either—

(a) forthwith; or

(b) after such reasonable interval as may be specified in the order, unless in the meantime it is shown to his satisfaction that the patented article or process is manufactured or carried on within the United Kingdom to an adequate extent:

Provided that no such order shall be made which is at variance with any treaty, convention, arrangement, or engagement with any foreign country or British possession.

(3) If within the time limited in the order the patented article or process is not manufactured or carried on within the United Kingdom to an adequate extent, but the patentee gives satisfactory reasons why it is not so manufactured or carried on, the Comptroller may extend the period mentioned in the previous order for such period not exceeding twelve months as may be specified in the subsequent order.

(4) Any decision of the Comptroller under this section shall be subject to appeal to the Court, and on any such appeal the law officer or such other counsel as he may appoint shall be entitled to appear and be heard.

#### *Register of Patents.*

28.—(1) There shall be kept at the Patent Office a book called the register of patents, wherein shall be entered the names and

Register of patents.

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addresses of grantees of patents, notifications of assignments and of transmissions of patents, of licences under patents, and of amendments, extensions, and revocations of patents, and such other matters affecting the validity or proprietorship of patents as may be prescribed (**Act of 1883, sect. 23, sub-sect. 1**). 215.

(2) The register of patents existing at the commencement of this Act shall be incorporated with and form part of the register of patents under this Act.

(3) The register of patents shall be *primâ facie* evidence of any matters by this Act directed or authorised to be inserted therein (**Act of 1883, sect. 23, sub-sect. 2**). 215, 385 (*and see sect. 79*).

(4) Copies of deeds, licences, and any other documents affecting the proprietorship in any letters patent or in any licence thereunder, must be supplied to the Comptroller in the prescribed manner for filing in the Patent Office (**Act of 1883, sect. 23, sub-sect. 3**). 215.

*Crown.*

Patent to  
bind Crown.

**29.** A patent shall have to all intents the like effect as against His Majesty the King as it has against a subject :

Provided that any Government Department may, by themselves, their agents, contractors, or others, at any time after the application, use the invention for the services of the Crown on such terms as may, either before or after the use thereof, be agreed on, with the approval of the Treasury, between the department and the patentee, or, in default of agreement, as may be settled by the Treasury after hearing all parties interested (**Act of 1883, sect. 27**). 12.

Assignment  
to Secretary  
for War or  
the Admiralty  
of certain  
inventions.

**30.**—(1) The inventor of any improvement in instruments or munitions of war may (either for or without valuable consideration) assign to the Secretary of State for War or the Admiralty on behalf of His Majesty all the benefit of the invention and of any patent obtained or to be obtained for the invention ; and the Secretary of State or the Admiralty may be a party to the assignment (cf. **Act of 1883, sect. 44, as to the whole of this section**). 13.

(2) The assignment shall effectually vest the benefit of the invention and patent in the Secretary of State or the Admiralty on behalf of His Majesty, and all covenants and agreements therein contained for keeping the invention secret and otherwise shall be valid and effectual (notwithstanding any want of valuable consideration), and may be enforced accordingly by the Secretary of State or the Admiralty (**Act of 1883, sect. 44, sub-sect. 2**).

*N.B.*—*Figures printed in italic type refer to the pages of the text in which the subject-matter of the section or sub-section is dealt with.*

(3) Where any such assignment has been made, the Secretary of State or the Admiralty may at any time before the publication of the complete specification certify to the Comptroller that, in the interest of the public service, the particulars of the invention and of the manner in which it is to be performed should be kept secret (**Act of 1883, sect. 44, sub-sect. 3**).

(4) If the Secretary of State or the Admiralty so certify the application and specifications, with the drawings (if any), and any amendment of the complete specification, and any copies of such documents and drawings shall, instead of being left in the ordinary manner at the Patent Office, be delivered to the Comptroller in a packet sealed by authority of the Secretary of State or the Admiralty (**Act of 1883, sect. 44, sub-sect. 4**).

(5) The packet shall, until the expiration of the term during which a patent for the invention may be in force, be kept sealed by the Comptroller, and shall not be opened save under the authority of an order of the Secretary of State or the Admiralty or of the law officer (**Act of 1883, sect. 44, sub-sect. 5**).

(6) The sealed packet shall be delivered at any time during the continuance of the patent to any person authorised by the Secretary of State or the Admiralty to receive it, and shall if returned to the Comptroller be again kept sealed by him (**Act of 1883, sect. 44, sub-sect. 6**).

(7) On the expiration of the term of the patent, the sealed packet shall be delivered to the Secretary of State or the Admiralty (**Act of 1883, sect. 44, sub-sect. 7**).

(8) Where the Secretary of State or the Admiralty certify as aforesaid, after an application for a patent has been left at the Patent Office, but before the publication of the complete specification, the application and specifications, with the drawings (if any), shall be forthwith placed in a packet sealed by authority of the Comptroller, and the packet shall be subject to the foregoing provisions respecting a packet sealed by authority of the Secretary of State or the Admiralty (**Act of 1883, sect. 44, sub-sect. 8**).

(9) No proceeding by petition or otherwise shall lie for revocation of a patent granted for an invention in relation to which a certificate has been given by the Secretary of State or the Admiralty as aforesaid (**Act of 1883, sect. 44, sub-sect. 9**).

(10) No copy of any specification or other document or drawing, by this section required to be placed in a sealed packet, shall in any manner whatever be published or open to the inspection of the public, but, save as in this section otherwise directed, the provisions

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of this Act shall apply in respect of any such invention and patent as aforesaid (**Act of 1883, sect. 44, sub-sect. 10**).

(11) The Secretary of State or the Admiralty may at any time waive the benefit of this section with respect to any particular invention, and the specifications, documents, and drawings shall be thenceforth kept and dealt with in the ordinary way (**Act of 1883, sect. 44, sub-sect. 11**).

(12) The communication of any invention for any improvement in instruments or munitions of war to the Secretary of State or the Admiralty, or to any person or persons authorised by the Secretary of State or the Admiralty to investigate the same or the merits thereof, shall not, nor shall anything done for the purposes of the investigation, be deemed use or publication of such invention so as to prejudice the grant or validity of any patent for the same (**Act of 1883, sect. 44, sub-sect. 12**).

(13) Rules may be made under this Act, after consultation with the Secretary of State and the Admiralty, for the purpose of ensuring secrecy with respect to patents to which this section applies, and those rules may modify any of the provisions of this Act in their application to such patents as aforesaid so far as may appear necessary for the purpose aforesaid (**New**).

#### *Legal Proceedings.*

Hearing with  
assessor.

**31.**—(1) In an action or proceeding for infringement or revocation of a patent, the Court may, if it think fit, and shall on the request of either of the parties to the proceeding, call in the aid of an assessor specially qualified, and try the case wholly or partially with his assistance; the action shall be tried without a jury, unless the Court otherwise directs (**Act of 1883, sect. 28, sub-sect. 1**). 381.

(2) The Court of Appeal may, if they think fit, in any proceeding before them, call in the aid of an assessor as aforesaid (**Act of 1883, sect. 28, sub-sect. 2**).

(3) The remuneration, if any, to be paid to an assessor under this section shall be determined by the Court or the Court of Appeal, as the case may be, and be paid as part of the expenses of the execution of this Act (**Act of 1883, sect. 28, sub-sect. 3**).

Power to  
counterclaim  
for revoca-  
tion in an  
action for  
infringe-  
ment.

**32.** A defendant in an action for infringement of a patent, if entitled to present a petition to the Court for the revocation of the patent, may, without presenting such a petition, apply in accordance with the Rules of the Supreme Court by way of counterclaim in the action for the revocation of the patent (**New**). 253.

Exemption  
of innocent

**33.** A patentee shall not be entitled to recover any damages in

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respect of any infringement of a patent granted after the commencement of this Act from any defendant who proves that at the date of the infringement he was not aware, nor had reasonable means of making himself aware, of the existence of the patent, and the marking of an article with the word "patent," "patented," or any word or words expressing or implying that a patent has been obtained for the article, stamped, engraved, impressed on, or otherwise applied to the article, shall not be deemed to constitute notice of the existence of the patent unless the word or words are accompanied by the year and number of the patent.

infringer from liability for damages.

Provided that nothing in this section shall affect any proceedings for an injunction (**New**). 376.

34. In an action for infringement of a patent, the Court may on the application of either party make such order for an injunction, inspection or account, and impose such terms and give such directions respecting the same and the proceedings thereon as the Court may see fit (**Act of 1883, sect. 30**). 359.

Order for inspection, &c., in action.

35. In an action for infringement of a patent, the Court may certify that the validity of the patent came in question; and, if the Court so certifies, then in any subsequent action for infringement the plaintiff in that action on obtaining a final order or judgment in his favour shall, unless the Court trying the action otherwise directs, have his full costs, charges, and expenses as between solicitor and client (**Act of 1883, sect. 31**). 393.

Certificate of validity questioned and costs thereon.

36. Where any person claiming to be the patentee of an invention, by circulars, advertisements, or otherwise, threatens any other person with any legal proceedings or liability in respect of any alleged infringement of the patent, any person aggrieved thereby may bring an action against him, and may obtain an injunction against the continuance of such threats, and may recover such damage (if any) as he has sustained thereby, if the alleged infringement to which the threats related was not in fact an infringement of any legal rights of the person making such threats:

Remedy in case of groundless threats of legal proceedings.

Provided that this section shall not apply if the person making such threats with due diligence commences and prosecutes an action for infringement of his patent (**Act of 1883, sect. 32**). 268.

*Miscellaneous.*

37. Where, after the commencement of this Act, a patent is granted to two or more persons jointly, they shall, unless otherwise specified in the patent, be treated for the purpose of the devolution of the legal interest therein as joint tenants, but, subject to any

Grant of patents to two or more persons.

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contract to the contrary, each of such persons shall be entitled to use the invention for his own profit without accounting to the others, but shall not be entitled to grant a licence without their consent, and, if any such person dies, his beneficial interest in the patent shall devolve on his personal representatives as part of his personal estate (New). 197.

Avoidance of certain conditions attached to the sale, &c. of patented articles.

38.—(1) It shall not be lawful in any contract made after the passing of this Act in relation to the sale or lease of, or licence to use or work, any article or process protected by a patent to insert a condition the effect of which will be—

(a) to prohibit or restrict the purchaser, lessee, or licensee from using any article or class of articles, whether patented or not, or any patented process, supplied or owned by any person other than the seller, lessor, or licensor or his nominees; or

(b) to require the purchaser, lessee, or licensee to acquire from the seller, lessor, or licensor, or his nominees, any article or class of articles not protected by the patent;

and any such condition shall be null and void, as being in restraint of trade and contrary to public policy (The whole of this section is new). 211.

Provided that this sub-section shall not apply if—

(i) the seller, lessor, or licensor proves that at the time the contract was entered into the purchaser, lessee, or licensee had the option of purchasing the article or obtaining a lease or licence on reasonable terms, without such conditions as aforesaid; and

(ii) the contract entitles the purchaser, lessee, or licensee to relieve himself of his liability to observe any such condition on giving the other party three months' notice in writing and on payment in compensation for such relief in the case of a purchase of such sum, or in the case of a lease or licence of such rent or royalty for the residue of the term of the contract, as may be fixed by an arbitrator appointed by the Board of Trade. 213.

(2) Any contract relating to the lease of or licence to use or work any patented article or patented process, whether made before or after the passing of this Act, may at any time after the patent or all the patents by which the article or process was protected at the time of the making of the contract has or have ceased to be in force, and notwithstanding anything in the same or in any other contract to the contrary, be determined by either party on giving

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three months' notice in writing to the other party; but where any such notice is given determining any contract made before the passing of this Act, the party giving the notice shall be liable to pay such compensation as failing agreement may be awarded by an arbitrator appointed by the Board of Trade. *213.*

(3) Any contract made before the passing of this Act relating to the lease of or licence to use or work any patented article or process and containing any condition which, had the contract been made after the passing of this Act, would by virtue of this section have been null and void may, at any time before the contract is determinable under the last preceding sub-section, and notwithstanding anything in the same or any other contract to the contrary, be determined by either party on giving three months' notice in writing to the other party, but where any such notice is given the party giving the notice shall be liable to pay such compensation as, failing agreement, may be awarded by an arbitrator appointed by the Board of Trade. *214.*

(4) The insertion by the patentee in a contract made after the passing of this Act of any condition which by virtue of this section is null and void shall be available as a defence to an action for infringement of the patent to which the contract relates brought while that contract is in force. *215, 334.*

(5) Nothing in this section shall—

- (a) affect any condition in a contract whereby a person is prohibited from selling any goods other than those of a particular person; or
- (b) be construed as validating any contract which would, apart from this section, be invalid; or
- (c) affect any right of determining a contract or condition in a contract exerciseable independently of this section; or
- (d) affect any condition in a contract for the lease of or licence to use a patented article, whereby the lessor or licensor reserves to himself or his nominees the right to supply such new parts of the patented article as may be required to put or keep it in repair. *212.*

39.—(1) The Comptroller shall, in proceedings relating to an opposition to the grant of a patent or to an application for the amendment of a specification or the revocation of a patent, have power by order to award to any party such costs as he may consider reasonable, and to direct how and by what parties they are to be paid, and any such order may be made a rule of the Court (New). *169.*

Costs and security for costs.

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(2) If a party giving notice of opposition to the grant of a patent or to the amendment of a specification, or applying to the Comptroller for the revocation of a patent, or giving notice of appeal from any decision of the Comptroller, neither resides nor carries on business in the United Kingdom or the Isle of Man, the Comptroller, or, in case of appeal to the law officer, the law officer, may require such party to give security for costs of the proceedings or appeal, and in default of such security being given may treat the proceedings or appeal as abandoned (**New**). 170.

Procedure on appeal to law officer.

40. The law officer may examine witnesses on oath and administer oaths for that purpose, and may make rules regulating references and appeals to the law officer and the practice and procedure before him under this Part of this Act; and in any proceeding before the law officer under this Part of this Act, the law officer may order costs to be paid by either party, and any such order may be made a rule of the Court (**Act of 1883, sect. 38**). 169.

Provisions as to anticipation.

41.—(1) An invention covered by any patent applied for on or after the first day of January One thousand nine hundred and five shall not be deemed to have been anticipated by reason only of its publication in a specification left pursuant to an application made in the United Kingdom not less than fifty years before the date of the application for the patent, or of its publication in a provisional specification of any date not followed by a complete specification (**Act of 1902, sect. 2**). 80.

(2) A patent shall not be held to be invalid by reason only of the invention in respect of which the patent was granted, or any part thereof, having been published prior to the date of the patent, if the patentee proves to the satisfaction of the Court that the publication was made without his knowledge and consent, and that the matter published was derived or obtained from him, and, if he learnt of the publication before the date of his application for the patent, that he applied for and obtained protection for his invention with all reasonable diligence after learning of the publication (**New**). 74.

Disconformity.

42. A patent shall not be held to be invalid on the ground that the complete specification claims a further or different invention to that contained in the provisional, if the invention therein claimed, so far as it is not contained in the provisional, was novel at the date when the complete specification was put in, and the applicant was the first and true inventor thereof (**New**). 100.

Patent on application of representative of deceased inventor.

43.—(1) If the person claiming to be inventor of an invention dies without making an application for a patent for the invention, application may be made by, and a patent for the invention

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granted to, his legal representative (*Act of 1883, sect. 34, sub-sect. 1.* 15, 134.

(2) Every such application must contain a declaration by the legal representative that he believes him to be the true and first inventor of the invention (*cf. Act of 1883, sect. 34, sub-sect. 2.* 134.

44. If a patent is lost or destroyed, or its non-production is accounted for to the satisfaction of the Comptroller, the Comptroller may at any time seal a duplicate thereof (*Act of 1883, sect 37.* Loss or destruction of patent.

45.—(1) The exhibition of an invention at an industrial or international exhibition, certified as such by the Board of Trade, or the publication of any description of the invention during the period of the holding of the exhibition, or the use of the invention for the purpose of the exhibition in the place where the exhibition is held, or the use of the invention during the period of the holding of the exhibition by any person elsewhere, without the privity or consent of the inventor, shall not prejudice the right of the inventor to apply for and obtain a patent in respect of the invention or the validity of any patent granted on the application, provided that— Provisions as to exhibitions.

(a) the exhibitor, before exhibiting the invention, gives the Comptroller the prescribed notice of his intention to do so; and

(b) the application for a patent is made before or within six months from the date of the opening of the exhibition (*Act of 1883, sect. 39, sub-sect. 1.*)

(2) His Majesty may by Order in Council apply this section to any exhibition mentioned in the Order in like manner as if it were an industrial or international exhibition certified as such by the Board of Trade, and any such Order may provide that the exhibitor shall be relieved from the condition of giving notice to the Comptroller of his intention to exhibit, and shall be so relieved either absolutely or upon such terms and conditions as may be stated in the Order (*Act of 1886, sect. 3.* 85.

46.—(1) The Comptroller shall issue periodically an illustrated journal of patented inventions, as well as reports of patent cases decided by courts of law, and any other information that he may deem generally useful or important (*Act of 1883, sect. 40, sub-sect. 1.* Publication of illustrated journal, indexes, &c.

(2) Provision shall be made by the Comptroller for keeping on sale copies of such journal, and also of all complete specifications of patents in force, with any accompanying drawings (*Act of 1883, sect. 40, sub-sect. 2.*)

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(3) The Comptroller shall continue, in such form as he deems expedient, the indexes and abridgments of specifications hitherto published, and shall prepare and publish such other indexes, abridgments of specifications, catalogues, and other works relating to inventions, as he thinks fit (**Act of 1883, sect. 40, sub-sect. 3**).

Patent  
Museum.

47.—(1) The control and management of the Patent Museum and its contents shall remain vested in the Board of Education, subject to such directions as His Majesty in Council may think fit to give (cf. **Act of 1883, sect. 41**).

(2) The Board of Education may at any time require a patentee to furnish them with a model of his invention on payment to the patentee of the cost of the manufacture of the model, the amount to be settled, in case of dispute, by the Board of Trade (cf. **Act of 1883, sect. 42**).

Foreign  
vessels in  
British  
waters.

48.—(1) A patent shall not prevent the use of an invention for the purposes of the navigation of a foreign vessel within the jurisdiction of any of His Majesty's Courts in the United Kingdom, or Isle of Man, or the use of an invention in a foreign vessel within that jurisdiction, provided it is not used therein for or in connection with the manufacture or preparation of anything intended to be sold in or exported from the United Kingdom or Isle of Man (**Act of 1883, sect. 43, sub-sect. 1**).

(2) This section shall not extend to vessels of any foreign State of which the laws do not confer corresponding rights with respect to the use of inventions in British while in the ports of that State, or in the waters within the jurisdiction of its Courts (**Act of 1883, sect. 43, sub-sect. 2**). 315.

#### PART II.—DESIGNS.

*(This Part of the Act is not relevant to this Work.)*

#### PART III.—GENERAL.

##### *Patent Office and Proceedings thereat.*

Patent Office.  
5 Edw. 7,  
c. 15.

62.—(1) The Treasury may continue to provide, for the purposes of this Act and the Trade Marks Act, 1905, an office with all requisite buildings and conveniences, which shall be called, and is in this Act referred to as, the Patent Office (**Act of 1883, sect. 82, sub-sect. 1**).

(2) The Patent Office shall be under the immediate control of the

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Comptroller, who shall act under the superintendence and direction of the Board of Trade (**Act of 1883, sect. 82, sub-sect. 3**).

(3) Any act or thing directed to be done by or to the Comptroller may be done by or to any officer authorised by the Board of Trade (**Act of 1883, sect. 82, sub-sect. 4; and Act of 1902, sect. 4**).

(4) Rules under this Act may provide for the establishment of branch offices for designs at Manchester or elsewhere, and for any document or thing required by this Act to be sent to or done at the Patent Office being sent to or done at any branch office which may be established (**New**).

63.—(1) There shall continue to be a Comptroller-General of patents, designs, and trade marks, and the Board of Trade may, subject to the approval of the Treasury, appoint the Comptroller, and so many examiners and other officers and clerks, with such designations and duties as the Board of Trade think fit, and may remove any of those officers and clerks (**Act of 1883, sect. 83, sub-sect. 1**).

Officers and clerks.

(2) The salaries of those officers and clerks shall be appointed by the Board of Trade, with the concurrence of the Treasury, and those salaries and the other expenses of the execution of this Act and the Trade Marks Act, 1905, shall continue to be paid out of money provided by Parliament (**Act of 1883, sect. 83, sub-sect. 2**).

64. Impressions of the seal of the Patent Office shall be judicially noticed and admitted in evidence (**Act of 1883, sect. 84**).

Seal of Patent Office.

*Fees.*

65. There shall be paid in respect of the grant of patents and the registration of designs, and applications therefor, and in respect of other matters with relation to patents and designs under this Act, such fees as may be, with the sanction of the Treasury, prescribed by the Board of Trade; so, however, that the fees prescribed in respect of the instruments and matters mentioned in the First Schedule to this Act shall not exceed those specified in that Schedule (**Act of 1883, sects. 24 and 56**).

Fees.

*Provisions as to Registers and other Documents in Patent Office.*

66. There shall not be entered in any register kept under this Act, or be receivable by the Comptroller, any notice of any trust expressed, implied or constructive (**Act of 1883, sect. 85**). 215.

Trust not to be entered in registers.

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Inspection of  
and extracts  
from registers.

**67.** Every register kept under this Act shall at all convenient times be open to the inspection of the public, subject to the provisions of this Act and to such regulations as may be prescribed ; and certified copies, sealed with the seal of the Patent Office, of any entry in any such register shall be given to any person requiring the same on payment of the prescribed fee (**Act of 1883, sect. 88 ; and Act of 1888, sect. 22**).

Privilege of  
reports of  
examiners.

**68.** Reports of examiners made under this Act shall not in any case be published or be open to public inspection, and shall not be liable to production or inspection in any legal proceeding, unless the Court or officer having power to order discovery in such legal proceeding certifies that such production or inspection is desirable in the interests of justice, and ought to be allowed (**Act of 1883, sect. 9, sub-sect. 5 ; and Act of 1888, sect. 3**).

Prohibition  
of publication  
of specifica-  
tion, draw-  
ings, &c.  
where appli-  
cation aban-  
doned, &c.

**69.**—(1) Where an application for a patent has been abandoned, or become void, the specifications and drawings (if any) accompanying or left in connection with such application, shall not, save as otherwise expressly provided by this Act, at any time be open to public inspection or be published by the Comptroller (**Act of 1885, sect. 4 ; and Act of 1901, sect. 1, sub-sect. 2 ; and see sect. 91, sub-sect. 3 of this Act**). *146.*

(2) Where an application for a design has been abandoned or refused the application and any drawings, photographs, tracings, representations, or specimens left in connexion with the application shall not at any time be open to public inspection or be published by the Comptroller (**New**).

Power for  
Comptroller  
to correct  
clerical  
errors.

**70.** The Comptroller may, on request in writing accompanied by the prescribed fee,—

- (a) correct any clerical error in or in connexion with an application for a patent or in any patent or any specification ;
- (b) cancel the registration of a design either wholly or in respect of any particular goods in connexion with which the design is registered.
- (c) correct any clerical error in the representation of a design or in the name or address of the proprietor of any patent or design, or in any other matter which is entered upon the register of patents or the register or designs (*cf. Act of 1883, sect. 91, as to the whole of this section*).

Entry of  
assignments  
and trans-  
missions in  
registers.

**71.**—(1) Where a person becomes entitled by assignment, transmission, or other operation of law to a patent, or to the copyright in a registered design, the Comptroller shall, on request and on

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proof of title to his satisfaction, register him as the proprietor of a patent or design (**Act of 1883, sect. 87**).

(2) Where any person becomes entitled as mortgagee, licensee, or otherwise to any interest in a patent or design, the Comptroller shall, on request and on proof of title to his satisfaction, cause notice of the interest to be entered in the prescribed manner in the register of patents or designs, as the case may be (**New**).

(3) The person registered as the proprietor of a patent or design shall, subject to the provisions of this Act and to any rights appearing from the register to be vested in any other person have power absolutely to assign, grant licences as to, or otherwise deal with, the patent or design and to give effectual receipts for any consideration for any such assignment, licence, or dealing: Provided that any equities in respect of the patent or design may be enforced in like manner as in respect of any other personal property (**Act of 1883, sect. 87**). 216.

72.—(1) The Court may, on the application in the prescribed manner of any person aggrieved by the non-insertion in or omission from the register of patents or designs of any entry, or by any entry made in either such register without sufficient cause, or by any entry wrongly remaining on either such register, or by an error or defect in any entry in either such register, make such order for making, expunging, or varying such entry as it may think fit. 217.

Rectification  
of registers  
by Court.

(2) The Court may in any proceeding under this section decide any question that it may be necessary or expedient to decide in connexion with the rectification of a register.

(3) The prescribed notice of any application under this section shall be given to the Comptroller, who shall have the right to appear and be heard thereon, and shall appear if so directed by the Court.

(4) Any order of the Court rectifying a register shall direct that notice of the rectification be served on the Comptroller in the prescribed manner, who shall upon the receipt of such notice rectify the register accordingly (cf. **Act of 1883, sect. 90**; and **Act of 1888, sect. 23**, as to the whole of this section).

#### *Powers and Duties of Comptroller.*

73. Where any discretionary power is by or under this Act given to the Comptroller, he shall not exercise that power adversely to the applicant for a patent, or for amendment of a specification, or for registration of a design, without (if so required within the prescribed time by the applicant) giving the applicant an opportunity of being heard (**Act of 1883, sect. 94**; and **Trade Marks Act, 1905, sect. 73**).

Exercise of  
discretionary  
power by  
Comptroller.

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Power of Comptroller to take directions of law officers.

74. The Comptroller may, in any case of doubt or difficulty arising in the administration of any of the provisions of this Act, apply to a law officer for directions in the matter (**Act of 1883, sect. 95**).

Refusal to grant patent, &c., in certain cases.

75. The Comptroller may refuse to grant a patent for an invention, or to register a design, of which the use would, in his opinion, be contrary to law or morality (**Act of 1883, sect. 86**).

Annual reports of Comptroller.

76. The Comptroller shall, before the first day of June in every year, cause a report respecting the execution by or under him of this Act to be laid before both Houses of Parliament, and therein shall include for the year to which the report relates all general rules made in that year under or for the purposes of this Act, and an account of all fees, salaries, and allowances, and other money received and paid under this Act (**Act of 1883, sect. 102**).

*Evidence, &c.*

Evidence before Comptroller.

77.—(1) Subject to rules under this Act in any proceeding under this Act before the Comptroller, the evidence shall be given by statutory declaration, in the absence of directions to the contrary; but in any case in which the Comptroller thinks it right so to do, he may take evidence *vivâ voce* in lieu of or in addition to evidence by declaration, or allow any declarant to be cross-examined on his declaration. Any such statutory declaration may in the case of appeal be used before the Court in lieu of evidence by affidavit, but if so used shall have all the incidents and consequences of evidence by affidavit. 168.

(2) In case any part of the evidence is taken *vivâ voce*, the Comptroller shall, in respect of requiring the attendance of witnesses and taking evidence on oath, be in the same position in all respects as an official referee of the Supreme Court (**The whole of this section is new**). 169.

Certificate of Comptroller to be evidence.

78. A certificate purporting to be under the hand of the Comptroller as to any entry, matter, or thing which he is authorised by this Act, or any general rules made thereunder, to make or do, shall be *primâ facie* evidence of the entry having been made, and of the contents thereof, and of the matter or thing having been done or left undone (**Act of 1883, sect. 96; and Trade Marks Act, 1905, sect. 73**). 386.

Evidence of documents in Patent Office.

79. Printed or written copies or extracts, purporting to be certified by the Comptroller and sealed with the seal of the Patent Office, of or from patents, specifications, and other documents in the Patent

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Office, and of or from registers and other books kept there, shall be admitted in evidence in all Courts in His Majesty's dominions, and in all proceedings, without further proof or production of the originals (**Act of 1883, sect. 89; and Trade Marks Act, 1905, sect. 73**). 385.

80.—(1) Copies of all specifications, drawings, and amendments left at the Patent Office after the commencement of this Act, printed for and sealed with the seal of the Patent Office, shall be transmitted to the Edinburgh Museum of Science and Art and to the Enrolments Office of the Chancery Division in Ireland, and to the Rolls Office in the Isle of Man, within twenty-one days after they have been accepted or allowed at the Patent Office. 386.

Transmission of certified printed copies of specifications, &c.

(2) Certified copies of or extracts from any such documents and of any documents so transmitted in pursuance of any enactment repealed by this Act shall be given to any person on payment of the prescribed fee; and any such copy or extract shall be admitted in evidence in all Courts in Scotland and Ireland and in the Isle of Man without further proof or production of the originals (**Act of 1883, sect. 100**). 386.

81. Any application, notice, or other document authorised or required to be left, made, or given at the Patent Office or to the Comptroller, or to any other person under this Act, may be sent by post (**Act of 1883, sect. 97**). 134.

Applications and notices by post.

82. Where the last day fixed by this Act for doing anything under this Act falls on any day specified in rules under this Act as an excluded day, the rules may provide for the thing being done on the next following day not being an excluded day (**Act of 1883, sect. 98**).

Excluded days.

83.—(1) If any person is, by reason of infancy, lunacy, or other disability, incapable of making any declaration or doing anything required or permitted by or under this Act, the guardian or committee (if any) of the person subject to the disability, or, if there be none, any person appointed by any court possessing jurisdiction in respect of his property, may make such declaration, or a declaration as nearly corresponding thereto as circumstances permit, and do such thing in the name and on behalf of the person subject to the disability. 135.

Declaration by infant, lunatic, &c.

(2) An appointment may be made by the Court for the purposes of this section upon the petition of any person acting on behalf of the person subject to the disability or of any other person interested in the making of the declaration or the doing of the thing (**Act of 1883, sect. 99**). 135.

*N.B.—Figures printed in italic type refer to the pages of the text in which the subject-matter of the section or sub-section is dealt with.*

*Register of Patent Agents.*

Register  
of patent  
agents.

**84.**—(1) A person shall not be entitled to describe himself as a patent agent, whether by advertisement, by description on his place of business, by any document issued by him or otherwise, unless he is registered as a patent agent in pursuance of this Act or an Act repealed by this Act (**Act of 1888, sect. 1, sub-sect. 1**).

(2) Every person who proves to the satisfaction of the Board of Trade that prior to the twenty-fourth day of December, One thousand eight hundred and eighty-eight, he had been *bonâ fide* practising as a patent agent, shall be entitled to be registered as a patent agent in pursuance of this Act (**Act of 1888, sect. 1, sub-sect. 3**).

(3) If any person knowingly describes himself as a patent agent in contravention of this section, he shall be liable on conviction under the Summary Jurisdiction Acts to a fine not exceeding twenty pounds (**Act of 1888, sect. 1, sub-sect. 4**).

(4) In this section “patent agent” means exclusively an agent for obtaining patents in the United Kingdom (**Act of 1888, sect. 1, sub-sect. 5**).

Agents for  
patents.

**85.**—(1) Rules under this Act may authorise the Comptroller to refuse to recognise as agent in respect of any business under this Act any person whose name has been erased from the register of patent agents, or who is proved to the satisfaction of the Board of Trade, after being given an opportunity of being heard, to have been convicted of such an offence, or to have been guilty of such misconduct as would have rendered him liable, if his name had been on the register of patent agents, to have his name erased therefrom, and may authorise the Comptroller to refuse to recognise as agent in respect of any business under this Act any company which, if it had been an individual, the Comptroller could refuse to recognise as such agent.

(2) Where a company or firm acts as agents, such rules as aforesaid may authorise the Comptroller to refuse to recognise the company or firm as agent if any person whom the Comptroller could refuse to recognise as an agent acts as director or manager of the company or is a partner in the firm.

(3) The Comptroller shall refuse to recognise as agent in respect of any business under this Act any person who neither resides nor has a place of business in the United Kingdom or the Isle of Man (**The whole of this section is new**).

*N.B.*—*Figures printed in italic type refer to the pages of the text in which the subject-matter of the section or sub-section is dealt with.*

*Powers, &c., of Board of Trade.*

86.—(1) The Board of Trade may make such general rules and do such things as they think expedient, subject to the provisions of this Act—

Power for Board of Trade to make general rules.

- (a) For regulating the practice of registration under this Act :
- (b) For classifying goods for the purposes of designs :
- (c) For making or requiring duplicates of specifications, drawings, and other documents :
- (d) For securing and regulating the publishing and selling of copies, at such prices and in such manner as the Board of Trade think fit, of specifications, drawings, and other documents :
- (e) For securing and regulating the making, printing, publishing, and selling of indexes to, and abridgments of, specifications, and other documents in the Patent Office ; and providing for the inspection of indexes and abridgments and other documents :
- (f) For regulating (with the approval of the Treasury) the presentation of copies of Patent Office publications to patentees and to public authorities, bodies, and institutions at home and abroad :
- (g) For regulating the keeping of the register of patent agents under this Act :
- (h) generally for regulating the business of the Patent Office, and all things by this Act placed under the direction or control of the Comptroller, or of the Board of Trade.

(2) General rules shall whilst in force be of the same effect as if they were contained in this Act.

(3) Any rules made in pursuance of this section shall be advertised twice in the official journal to be issued by the Comptroller, and shall be laid before both Houses of Parliament as soon as practicable after they are made, and if either House of Parliament, within the next forty days after any rules have been so laid before that House, resolves that the rules or any of them ought to be annulled, the rules or those to which the resolution applies shall after the date of such resolution be of no effect, without prejudice to the validity of anything done in the meantime under the rules or to the making of any new rules (Act of 1883, sect. 101 ; and Act of 1888, sect. 1, sub-sect. 2).

87.—(1) All things required or authorised under this Act to be done by, to, or before the Board of Trade, may be done by, to, or

Proceedings of the Board of Trade.

*N.B.—Figures printed in italic type refer to the pages of the text in which the subject-matter of the section or sub-section is dealt with.*



before the President or a secretary or an assistant secretary of the Board.

(2) All documents purporting to be orders made by the Board of Trade and to be sealed with the seal of the Board, or to be signed by a secretary or assistant secretary of the Board, or by any person authorised in that behalf by the President of the Board, shall be received in evidence, and shall be deemed to be such orders without further proof unless the contrary is shown.

(3) A certificate, signed by the President of the Board of Trade, that any order made or act done is the order or act of the Board, shall be conclusive evidence of the fact so certified (**Act of 1883, sect. 25**).

Provision as  
to Order in  
Council.

**88.** An Order in Council under this Act shall, from a date to be mentioned for the purpose in the Order, take effect as if it had been contained in this Act; but may be revoked or varied by a subsequent Order (**Act of 1883, sect. 104, sub-sect. 2**).

#### *Offences.*

Offences.

**89.**—(1) If any person makes or causes to be made a false entry in any register kept under this Act, or a writing falsely purporting to be a copy of an entry in any such register, or produces or tenders or causes to be produced or tendered in evidence any such writing, knowing the entry or writing to be false, he shall be guilty of a misdemeanor (**Act of 1883, sect. 93**).

(2) If any person falsely represents that any article sold by him is a patented article, or falsely describes any design applied to any article sold by him as registered, he shall be liable for every offence, on conviction under the Summary Jurisdiction Acts, to a fine not exceeding five pounds (**Act of 1883, sect. 105, sub-sect. 1**). 149.

(3) If any person sells an article having stamped, engraved, or impressed thereon or otherwise applied thereto the word "patent," "patented," "registered," or any other word expressing or implying that the article is patented or that the design applied thereto is registered, he shall be deemed for the purposes of this section to represent that the article is a patented article or that the design applied thereto is a registered design (**Act of 1883, sect. 105, sub-sect. 2**). 149.

(4) Any person who, after the copyright in a design has expired, puts or causes to be put on any article to which the design has been applied the word "registered," or any word or words implying that there is a subsisting copyright in the design, shall be liable on con-

*N.B.*—*Figures printed in italic type refer to the pages of the text in which the subject-matter of the section or sub-section is dealt with.*

viction under the Summary Jurisdiction Acts to a fine not exceeding five pounds (**New**).

(5) If any person uses on his place of business, or on any document issued by him, or otherwise, the words "Patent Office," or any other words suggesting that his place of business is officially connected with, or is, the Patent Office, he shall be liable on conviction under the Summary Jurisdiction Acts to a fine not exceeding twenty pounds (**New**).

90.—(1) The grant of a patent under this Act shall not be deemed to authorise the patentee to use the Royal Arms or to place the Royal Arms on any patented article (**New**).

Unauthorised  
assumption of  
Royal Arms.

(2) If any person, without the authority of His Majesty, uses in connection with any business, trade, calling or profession the Royal Arms (or arms so nearly resembling them as to be calculated to deceive) in such manner as to be calculated to lead to the belief that he is duly authorised to use the Royal Arms, he shall be liable on conviction under the Summary Jurisdiction Acts to a fine not exceeding twenty pounds.

Provided that nothing in this section shall be construed as affecting the right, if any, of the proprietor of a trade mark containing such Arms to continue to use such trade mark (**Act of 1883, sect. 106**).

*International and Colonial Arrangements.*

91.—(1) If His Majesty is pleased to make any arrangement with the Government of any foreign State for mutual protection of inventions, or designs, or trade marks, then any person who has applied for protection for any invention, design, or trade mark in that State shall be entitled to a patent for his invention or to registration of his design or trade mark under this Act or the Trade Marks Act, 1905, in priority to other applicants; and the patent or registration shall have the same date as the date of the application in the foreign State.

International  
and Colonial  
arrangements.

Provided that—

(a) The application is made, in the case of a patent within twelve months, and in the case of a design or trade mark within four months, from the application for protection in the foreign State; and

(b) Nothing in this section shall entitle the patentee or proprietor of the design or trade mark to recover damages for infringements happening prior to the actual date on which his complete specification is accepted, or his design or trade mark is registered, in this country. 32.

*N.B.—Figures printed in italic type refer to the pages of the text in which the subject-matter of the section or sub-section is dealt with.*

(2) The patent granted for the invention or the registration of a design or trade mark shall not be invalidated—

(a) in the case of a patent, by reason only of the publication of a description of, or use of, the invention ; or

(b) in the case of a design, by reason only of the exhibition or use of, or the publication of a description or representation of, the design ; or

(c) in the case of a trade mark, by reason only of the use of the trade mark,

in the United Kingdom or the Isle of Man during the period specified in this section as that within which the application may be made.

(3) The application for the grant of a patent, or the registration of a design, or the registration of a trade mark under this section, must be made in the same manner as an ordinary application under this Act or the Trade Marks Act, 1905 : Provided that—

(a) In the case of patents the application shall be accompanied by a complete specification, which, if it is not accepted within the twelve months from the application for protection in the foreign State, shall with the drawings (if any) be open to public inspection at the expiration of that period : and

(b) In the case of trade marks, any trade mark the registration of which has been duly applied for in the country of origin may be registered under the Trade Marks Act, 1905.

(4) The provisions of this section shall apply only in the case of those foreign States with respect to which His Majesty by Order in Council declares them to be applicable, and so long only in the case of each State as the Order in Council continues in force with respect to that State (*Sub-sects 1, 2, 3, and 4 correspond with Act of 1883, sect. 103; Act of 1885, sect. 6; and Act of 1901, sect. 1, sub-sect. 2).*

(5) Where it is made to appear to His Majesty that the legislature of any British possession has made satisfactory provision for the protection of inventions, designs, and trade marks, patented or registered in this country, it shall be lawful for His Majesty, by Order in Council, to apply the provisions of this section to that possession, with such variations or additions, if any, as may be stated in the order (*Act of 1883, sect. 104, sub-sect. 1).*

#### *Definitions.*

92.—(1) In this Act, unless the context otherwise requires, “the Court” means, subject to the provisions as to Scotland, Ireland, and

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Provisions as to “the Court.”

the Isle of Man, the High Court in England (**Act of 1883, sect. 117, sub-sect. 1**).

(2) Where by virtue of this Act a decision of the Comptroller is subject to an appeal to the Court, or a petition may be referred or presented to the Court, the appeal shall, subject to and in accordance with Rules of the Supreme Court, be made and the petition referred or presented to such judge of the High Court as the Lord Chancellor may select for the purpose, and the decision of that judge shall be final (**see the Patents Act, 1908, p. 453**), except in the case of an appeal from a decision of the Comptroller revoking a patent on any ground on which the grant of such patent might have been opposed (**New**).

**93.** In this Act, unless the context otherwise requires,—

Definitions.

“Law Officer” means the Attorney-General or Solicitor-General for England (**Act of 1883, sect. 93**):

“Prescribed” means prescribed by general rules under this Act (**Act of 1883, sect. 93**):

“British possession” does not include the Isle of Man or the Channel Islands (**Act of 1883, sect. 93**):

“Patent” means letters patent for an invention (**Act of 1883, sect. 93**):

“Patentee” means the person for the time being entitled to the benefit of a patent (**Act of 1883, sect. 93**):

“Invention” means any manner of new manufacture the subject of letters patent and grant of privilege within section six of the Statute of Monopolies (that is, the Act of the twenty-first year of the reign of King James the First, chapter three, intituled “An Act concerning monopolies and dispensations with penal laws and the forfeiture thereof”), and includes an alleged invention (**Act of 1883, sect. 93**):

“Inventor” and “applicant” shall, subject to the provisions of this Act, include the legal representative of a deceased inventor or applicant (**Act of 1883, sect. 93**):

“Design” means any design (not being a design for a sculpture or other thing within the protection of the Sculpture Copyright Act, 1814) applicable to any article, whether the design is applicable for the pattern, or for the shape or configuration, or for the ornament thereof, or for any two or more of such purposes, and by whatever means it is applicable, whether by printing, painting, embroidering, weaving, sewing, modelling, casting, embossing, engraving, staining, or any other means whatever, manual, mechanical, or chemical, separate or combined (**Act of 1883, sect. 93**):

54 Geo. 3,  
c. 56.

*N.B.—Figures printed in italic type refer to the pages of the text in which the subject-matter of the section or sub-section is dealt with.*

“Article” means (as respects designs) any article of manufacture and any substance artificial or natural, or partly artificial and partly natural (**Act of 1883, sect. 93**):

“Copyright” means the exclusive right to apply a design to any article in any class in which the design is registered (**Act of 1883, sect. 93**):

“Proprietor of a new and original design,”—

(a) Where the author of the design, for good consideration, executes the work for some other person, means the person for whom the design is so executed; and

(b) Where any person acquires the design or the right to apply the design to any article, either exclusively of any person or otherwise, means, in the respect and to the extent in and to which the design or right has been so acquired, the person by whom the design or right is so acquired; and

(c) In any other case, means the author of the design; and where the property in, or the right to apply, the design has devolved from the original proprietor upon any other person, includes that other person (**Act of 1883, sect. 93**).

*Application to Scotland, Ireland, and the Isle of Man.*

Application  
to Scotland.

**94.** In the application of this Act to Scotland—

(1) In any action for infringement of a patent in Scotland the provisions of this Act with respect to calling in the aid of an assessor shall apply, and the action shall be tried without a jury, unless the Court otherwise direct, but otherwise nothing shall affect the jurisdiction and forms of process of the Courts in Scotland in such an action or in any action or proceeding respecting a patent hitherto competent to those Courts; and for the purposes of the provisions so applied “Court of Appeal” shall mean any Court to which such action is appealed (**Act of 1883, sect. 107**):

(2) Any offence under this Act declared to be punishable on conviction under the Summary Jurisdiction Acts may be prosecuted in the sheriff Court (**Act of 1883, sect. 108**):

(3) Proceedings for revocation of a patent shall be in the form of an action of reduction at the instance of the Lord Advocate, or at the instance of a party having interest with his concurrence, which concurrence may be given on just cause shown only, and service of all writs and summonses in that action shall be made according to the forms and practice

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existing at the commencement of this Act: (**Act of 1883, sect. 109, sub-sect. 1**)

- (4) The provisions of this Act conferring a special jurisdiction on the Court as defined by this Act, shall not, except so far as the jurisdiction extends, affect the jurisdiction of any Court in Scotland in any proceedings relating to patents or to designs; and with reference to any such proceedings, the term "the Court" shall mean any Lord Ordinary of the Court of Session, and the term "Court of Appeal" shall mean either Division of that Court: (**Act of 1883, sect. 111, sub-sect. 1**)
- (5) Notwithstanding anything in this Act, the expression "the Court" shall, as respects petitions for compulsory licences or revocation which are referred by the Board of Trade to the Court in Scotland, mean any Lord Ordinary of the Court of Session, and shall in reference to proceedings in Scotland for the extension of the term of a patent mean such Lord Ordinary: (**New**)
- (6) The expression "Rules of the Supreme Court" shall, except in section ninety-two of this Act, mean Act of sederunt: (**New**)
- (7) If any rectification of a register under this Act is required in pursuance of any proceeding in a Court, a copy of the order, decree, or other authority for the rectification, shall be served on the Comptroller, and he shall rectify the register accordingly: (**Act of 1883, sect. 111, sub-sect. 2**)
- (8) The expression "injunction" means "interdict" (**Act of 1883, sect. 46**).

95. In the application of this Act to Ireland—

Application  
to Ireland.

- (1) All parties shall, notwithstanding anything in this Act, have in Ireland their remedies under or in respect of a patent as if the same had been granted to extend to Ireland only: (**Act of 1883, sect. 110**)
- (2) The provisions of this Act conferring a special jurisdiction on the Court, as defined by this Act, shall not, except so far as the jurisdiction extends, affect the jurisdiction of any Court in Ireland in any proceedings relating to patents or to designs; and with reference to any such proceedings the term "the Court" means the High Court in Ireland: (**Act of 1883, sect. 111, sub-sect. 1**)
- (3) If any rectification of a register under this Act is required in pursuance of any proceeding in a Court, a copy of the order,

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decree, or other authority for the rectification shall be served on the Comptroller, and he shall rectify the register accordingly: (**Act of 1883, sect. 111, sub-sect. 2**)

Isle of Man,

**96.** This Act shall extend to the Isle of Man, subject to the following modifications:—

- (1) Nothing in this Act shall affect the jurisdiction of the Courts in the Isle of Man in proceedings for infringement, or in any action or proceeding respecting a patent or design competent to those Courts:
- (2) The punishment for a misdemeanour under this Act in the Isle of Man shall be imprisonment for any term not exceeding two years, with or without hard labour, and with or without a fine not exceeding one hundred pounds, at the discretion of the Court:
- (3) Any offence under this Act committed in the Isle of Man which would in England be punishable on summary conviction may be prosecuted, and any fine in respect thereof recovered, at the instance of any person aggrieved, in the manner in which offences punishable on summary conviction may for the time being be prosecuted (**Act of 1883, sect. 112**).

*Repeal, Savings, and Short Title.*

Saving for prerogative.

**97.** Nothing in this Act shall take away, abridge, or prejudicially affect the prerogative of the Crown in relation to the granting of any letters patent or to the withholding of a grant thereof (**Act of 1883, sect. 117**).

Repeal and savings.

**98.**—(1) The enactments mentioned in the Second Schedule to this Act are hereby repealed to the extent specified in the third column of that schedule—

- (a) As respects the enactments mentioned in Part I. of that Schedule, as from the commencement of this Act;
- (b) As respects the enactments mentioned in Part II. of that Schedule, as from the date when Rules of the Supreme Court regulating the matters dealt with in those enactments come into operation;
- (c) As respects the enactments mentioned in Part III. of that schedule, as from the date when rules under this Act regulating the matters dealt with in those enactments come into operation;

and the enactments mentioned in Part II. and Part III. of that

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Schedule shall, until so repealed, have effect as if they formed part of this Act :

Provided that this repeal shall not affect any convention, Order in Council, rule, or table of fees having effect under any enactment so repealed, but any such convention, Order in Council, rule, or table of fees in force at the commencement of this Act shall continue in force, and may be repealed, altered or amended, as if it had been made under this Act.

(2) Except where otherwise expressly provided, this Act shall extend to patents granted and all designs registered before the commencement of this Act, and to applications then pending, in substitution for such enactments as would have applied thereto if this Act had not been passed.

99. This Act may be cited as the Patents and Designs Act, 1907, and shall, save as otherwise expressly provided, come into operation on the first day of January one thousand nine hundred and eight. Short title and commencement.

SCHEDULES.

Section 65.

FIRST SCHEDULE.

FEES ON INSTRUMENTS FOR OBTAINING PATENTS AND RENEWAL.

(a) *Up to sealing.*

	£	s.	d.	£	s.	d.
On application for provisional protection .....	1	0	0			
On filing complete specification .....	3	0	0			
				4	0	0

*or*

On filing complete specification with first application .....	4	0	0
On the sealing of the patent in respect of investigations as to anticipation .....	1	0	0

(b) *Further before end of four years from date of patent.*

On certificate of renewal.....	50	0	0
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(c) *Further before end of eight years from date of patent.*

On certificate of renewal.....	100	0	0
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Or in lieu of the fees of £50 and £100 the following annual fees :—

Before the expiration of the 4th year from the date of the patent ...	10	0	0
"    "    5th    "    "    "    ..."	10	0	0
"    "    6th    "    "    "    ..."	10	0	0
"    "    7th    "    "    "    ..."	10	0	0
"    "    8th    "    "    "    ..."	15	0	0
"    "    9th    "    "    "    ..."	15	0	0
"    "    10th  "    "    "    ..."	20	0	0
"    "    11th  "    "    "    ..."	20	0	0
"    "    12th  "    "    "    ..."	20	0	0
"    "    13th  "    "    "    ..."	20	0	0

*N.B.—Figures printed in italic type refer to the pages of the text in which the subject-matter of the section or sub-section is dealt with.*



## SECOND SCHEDULE.

## ENACTMENTS REPEALED.

## PART I.

Session and Chapter.	Short Title.	Extent of Repeal.
46 & 47 Vict. c. 57.	The Patents, Designs, and Trade Marks Act, 1883.	The whole Act, except sub-sections (5), (6), and (7) of section twenty-six, section twenty-nine, sub-sections (2) and (3) of section forty-seven, and section forty-eight.
48 & 49 Vict. c. 63.	The Patents, Designs, and Trade Marks (Amendment) Act, 1885.	The whole Act.
49 & 50 Vict. c. 37.	The Patents Act, 1886 -	The whole Act.
51 & 52 Vict. c. 50.	The Patents, Designs, and Trade Marks Act, 1888.	The whole Act.
1 Edw. 7, c. 18.	The Patents Act, 1901 -	The whole Act.
2 Edw. 7, c. 34.	The Patents Act, 1902 -	The whole Act.
7 Edw. 7, c. 28.	The Patents and Designs (Amendment) Act, 1907.	The whole Act.

## PART II.

Session and Chapter.	Short Title.	Extent of Repeal.
46 & 47 Vict. c. 57.	The Patents, Designs, and Trade Marks Act, 1883.	Sub-sections (5), (6), and (7) of section twenty-six, and section twenty-nine.

## PART III.

Session and Chapter.	Short Title.	Extent of Repeal.
46 & 47 Vict. c. 57.	The Patents, Designs, and Trade Marks Act, 1883.	Sub-sections (2) and (3) of section forty-seven and section forty-eight.

*N.B.—Figures printed in italic type refer to the pages of the text in which the subject-matter of the section or sub-section is dealt with.*

## THE PATENTS AND DESIGNS ACT, 1908.

*An Act to explain section ninety-two of the Patents and Designs Act, 1907.* [1st August, 1908.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. It is hereby declared that so much of sub-section (2) of section ninety-two of the Patents and Designs Act, 1907, as provides that the decision of a judge of the High Court to whom a petition is presented by virtue of that Act is to be final does not apply in the case of a petition for the revocation of a patent under section twenty-five of that Act.

Explanation  
of 7 Edw. 7.  
c. 29, s. 92.

2. This Act may be cited as the Patents and Designs Act, 1908. Short title.

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PATENTS, DESIGNS AND TRADE MARKS ACTS,  
1883—1902, CONSOLIDATED.

(TO SHOW THE STATE OF THE LAW PRIOR TO THE ACT OF 1907.)

*Being—*

46 & 47 Vict. c. 57.—An Act to amend and consolidate the Law relating to Patents for Inventions, Registration of Designs, and of Trade Marks.

48 & 49 Vict. c. 63.—An Act to amend the Patents, Designs, and Trade Marks Act, 1883.

49 and 50 Vict. c. 37.—An Act to remove certain doubts respecting the construction of the Patents, Designs, and Trade Marks Act, 1883, so far as respects the drawings by which specifications are required to be accompanied, and as respects exhibitions.

51 & 52 Vict. c. 50.—An Act to amend the Patents, Designs, and Trade Marks Acts, 1883.

1 Ed. VII. c. 18.—An Act to amend the law with reference to International Arrangements for Patents.

2 Ed. VII. c. 34.—An Act to amend the law with reference to applications for patents and compulsory licences, and other matters connected therewith.

NOTE.—The general test of the Act of 1883 is adhered to. The repealed parts are printed in italics, and the additions in heavier type. The amending Act and section are quoted in the margin.

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords, spiritual and temporal, and Commons, in the present Parliament assembled, and by the authority of the same, as follows:—

PART I.—PRELIMINARY.

Short title.

1. This Act may be cited as the Patents, Designs, and Trade Marks Act, 1883.

Division of Act into parts.

2. This Act is divided into parts, as follows:—

PART I.—Preliminary.

PART II.—Patents.

PART III.—Designs.

PART IV.—Trade Marks.

PART V.—General.

3. This Act, except where it is otherwise expressed, shall commence from and immediately after the 31st day of December, 1883. Commencement of Act.

PART II.—PATENTS.

*Application for and Grant of Patent.*

4.—(1) Any person, whether a British subject or not, may make an application for a patent. Persons entitled to apply for patent.

(2) Two or more persons may make a joint application for a patent, and a patent may be granted to them jointly. Joint application.

Whereas doubts have arisen whether under the principal Act a patent may lawfully be granted to several persons jointly, some or one of whom only are or is the true and first inventors or inventor; be it therefore enacted and declared that it has been and is lawful under the principal Act to grant such a patent. Act, 1885, s. 5.

5.—(1) An application for a patent must be made in the form set forth in the first schedule to this Act, or in such other form as may be from time to time prescribed; and must be left at, or sent by post to, the Patent Office in the prescribed manner. Application and specification.

(2) An application must contain a declaration to the effect that the applicant is in possession of an invention, whereof he, or in the case of a joint application, one or more of the applicants, claims or claim to be the true and first inventor or inventors, and for which he or they desires or desire to obtain a patent; and must be accompanied by either a provisional or complete specification. Declaration.

The declaration may be either a statutory declaration under the Statutory Declarations Act, 1835, or not, as may be from time to time prescribed. Act, 1885, s. 2.

(3) A provisional specification must describe the nature of the invention, and be accompanied by drawings, if required. Provisional specification.

(4) A complete specification, whether left on application or subsequently, must particularly describe and ascertain the nature of the invention, and in what manner it is to be performed, and must be accompanied by drawings, if required. Complete specification.

The requirement of this sub-section as to drawings shall not be deemed to be insufficiently complied with by reason only that instead of being accompanied by drawings the complete specification refers to the drawings which accompanied the provisional specification. And no patent heretofore sealed shall be invalid by reason only that the complete specification was not accompanied by drawings, but referred to those which accompanied the provisional specification. The same drawings may accompany both specifications. Act, 1886, s. 2.

(5) A specification, whether provisional or complete, must com-

mence with the title, and in the case of a complete specification must end with a distinct statement of the invention claimed.

Reference of application to examiner.

6. The Comptroller shall refer every application to an examiner, who shall ascertain and report to the Comptroller whether the nature of the invention has been fairly described, and the application, specification, and drawings (if any) have been prepared in the prescribed manner, and the title sufficiently indicates the subject-matter of the invention.

Power for Comptroller to refuse application or require amendment.  
Repealed Act, 1888, s. 2.

[7.—(1) *If the examiner reports that the nature of the invention is not fairly described, or that the application, specification, or drawings has not or have not been prepared in the prescribed manner, or that the title does not sufficiently indicate the subject-matter of the invention, the Comptroller may require that the application, specification, or drawings be amended before he proceeds with the application.*

(2) *Where the Comptroller requires an amendment, the applicant may appeal from his decision to the law officer.*

(3) *The law officer shall, if required, hear the applicant and the Comptroller, and may make an order determining whether and subject to what conditions, if any, the application shall be accepted.*

(4) *The Comptroller shall, when an application has been accepted, give notice thereof to the applicant.*

(5) *If after an application has been made, but before a patent has been sealed, an application is made, accompanied by a specification bearing the same or a similar title, it shall be the duty of the examiner to report to the Comptroller whether the specification appears to him to comprise the same invention; and, if he reports in the affirmative, the Comptroller shall give notice to the applicants that he has so reported.*

(6) *Where the examiner reports in the affirmative, the Comptroller may determine, subject to an appeal to the law officer, whether the invention comprised in both applications is the same, and if so he may refuse to seal a patent on the application of the second applicant.]*

Power of Comptroller to refuse application or require amendment.  
Act, 1888, s. 2.

7.—(1) **If the examiner reports that the nature of the invention is not fairly described, or that the application, specification, or drawings has not, or have not, been prepared in the prescribed manner, or that the title does not sufficiently indicate the subject-matter of the invention, the Comptroller may refuse to accept the application, or require that the application, specification or drawings be amended before he proceeds with the application; and in the latter case the application shall, if the Comptroller so directs, bear date as from the time when the requirement is complied with.**

(2) **When the Comptroller refuses to accept an application or**

requires an amendment, the applicant may appeal from his decision to the law officer.

(3) The law officer shall, if required, hear the applicant and Comptroller, and may make an order determining whether, and subject to what conditions (if any), the application shall be accepted.

(4) The Comptroller shall, when an application has been accepted, give notice thereof to the applicant.

(5) If, after an application for a patent has been made, but before the patent thereon has been sealed, another application for a patent is made, accompanied by a specification bearing the same or a similar title, the Comptroller, if he thinks fit, on the request of the second applicant, or of his legal representative, may, within two months of the grant of a patent on the first application, either decline to proceed with the second application or allow the surrender of the patent, if any, granted thereon.

8.—(1) If the applicant does not leave a complete specification with his application, he may leave it at any subsequent time within (*nine*) six months from the date of application.

Time for leaving complete specification.

A complete specification may be left within such extended time, not exceeding one month after the said (*nine*) six months, as the Comptroller may on payment of the prescribed fee allow. (Time reduced to six months by Act, 1902, section one, subsection eight.)

Act, 1885, s. 3.

(2) Unless a complete specification is left within that time the application shall be deemed to be abandoned.

When specification deemed abandoned.

9.—(1) Where a complete specification is left after a provisional specification, the Comptroller shall refer both specifications to an examiner for the purpose of ascertaining whether the complete specification has been prepared in the prescribed manner, and whether the invention particularly described in the complete specification is substantially the same as that which is described in the provisional specification.

Comparison of provisional and complete specification.

(2) If the examiner reports that the conditions hereinbefore contained have not been complied with, the Comptroller may refuse to accept the complete specification unless and until the same shall have been amended to his satisfaction; but any such refusal shall be subject to appeal to the law officer.

Power of Comptroller to refuse until amended.

(3) The law officer shall, if required, hear the applicant and the comptroller, and may make an order determining whether and subject to what conditions, if any, the complete specification shall be accepted.

Power of law officer.

(4) Unless a complete specification is accepted within twelve

When specification void.

months from the date of application, then (save in the case of an appeal having been lodged against the refusal to accept) the application shall, at the expiration of those twelve months, become void.

*Act 1885, s. 3.* A complete specification may be accepted within such extended time, not exceeding three months after the said twelve months, as the Comptroller may on payment of the prescribed fee allow.

Reports of examiners to be private.  
*Act, 1888, s. 3.*

(5) Reports of examiners shall not in any case be published or be open to public inspection, and shall not be liable to production or inspection in any legal proceeding [*other than an appeal to the law officer under this Act*], unless the Court or officer having power to order discovery in such legal proceeding shall certify that such production or inspection is desirable in the interests of justice, and ought to be allowed.

The Act of 1902.

1.—(1) Where an application for a patent has been made and a complete specification has been deposited by the applicant, the examiner shall forthwith, in addition to the inquiries which he is directed to make by the Patents, Designs, and Trade Marks Act, 1883 (in this Act referred to as the principal Act), make a further investigation for the purpose of ascertaining whether the invention claimed has been wholly or in part claimed or described in any specification (other than a provisional specification not followed by a complete specification) published before the date of the application and deposited pursuant to any application for a patent made in the United Kingdom within fifty years next before the date of the application.

(2) If on investigation it appears that the invention has been wholly or in part claimed or described in any such specification, the applicant shall be informed thereof, and the applicant may, within such time as may be prescribed, amend his specification, and the amended specification shall be investigated in like manner as the original specification.

(3) The examiner shall report to the Comptroller the result of his investigations in such manner as the Board of Trade may direct.

(4) The provisions of sub-section five of section nine of the principal Act, as amended by any subsequent enactment, shall apply to reports under this section.

(5) If the Comptroller is satisfied that no objection exists to the specification on the ground that the invention claimed thereby has been wholly or in part claimed or described in a previous specification as before mentioned, he shall, in the absence of any other lawful ground of objection, accept the specification.

(6) If the Comptroller is not so satisfied, he shall, after hearing

the applicant, and unless the objection be removed by amending the specification to the satisfaction of the Comptroller, determine whether a reference to any, and, if so, what, prior specifications ought to be made in the specification by way of notice to the public.

(7) An appeal shall lie from the decision of the Comptroller under this section to the law officer.

(8) Section eight of the principal Act and section three of the Patents, Designs, and Trade Marks (Amendment) Act, 1885 (which regulate the time for depositing a complete specification), shall have effect as if references therein to the period of nine months were references to the period of six months.

(9) The investigations and reports required by this section shall not be held in any way to guarantee the validity of any patent, and no liability shall be incurred by the Board of Trade or any officer thereof by reason of, or in connexion with, any such investigation or report, or any proceeding consequent thereon.

(10) The Board of Trade, with the sanction of the Treasury, may prescribe an additional fee not exceeding one pound in respect of the investigation mentioned in this section, which shall be payable on the sealing of the patent.

(11) This section shall come into operation at such date as the Board of Trade may by order direct, and shall apply only to applications made after that date, and the order shall be laid before both Houses of Parliament.

2. An invention covered by any patent granted on an application to which section one of this Act applies shall not be deemed to have been anticipated by reason only of its publication in a specification deposited pursuant to an application made in the United Kingdom not less than fifty years before the date of the application for a patent therefor, or of its publication in a provisional specification of any date not followed by a complete specification.

Limitation as to anticipation.

10. On the acceptance of the complete specification the Comptroller shall advertise the acceptance; and the application and specification or specifications with the drawings (if any) shall be open to public inspection.

Advertisement on acceptance of complete specification.

11.—(1) Any person may at any time within two months from the date of the advertisement ~~set~~ of the acceptance of a complete specification give notice at the Patent Office of opposition to the grant of the patent on the ground of the applicant having obtained the invention from him, or from a person of whom he is the legal representative, or on the ground that the invention has been patented in this country on an application of prior date [*or on the*

Opposition to grant of patent.

Time and grounds for.

Repealed Act, 1888, s. 4.



*ground of an examiner having reported to the Comptroller that the specification appears to him to comprise the same invention as is comprised in a specification bearing the same or a similar title and accompanying a previous application], or on the ground that the complete specification describes or claims an invention other than that described in the provisional specification, and that such other invention forms the subject of an application made by the opponent in the interval between the leaving of the provisional specification and the leaving of the complete specification, but on no other ground.*

After notice  
Comptroller  
to decide.

(2) Where such notice is given the Comptroller shall give notice of the opposition to the applicant, and shall, on the expiration of those two months, after hearing the applicant and the person so giving notice, if desirous of being heard, decide on the case, but subject to appeal to the law officer.

Or on appeal,  
law officer.

(3) The law officer shall, if required, hear the applicant and any person so giving notice and being, in the opinion of the law officer, entitled to be heard in opposition to the grant, and shall determine whether the grant ought or ought not to be made.

Who may  
obtain  
expert's  
assistance.

(4) The law officer may, if he thinks fit, obtain the assistance of an expert, who shall be paid such remuneration as the law officer, with the consent of the Treasury, shall appoint.

Sealing of  
patent.  
When sealed.

**12.—**(1) If there is no opposition, or, in case of opposition, if the determination is in favour of the grant of a patent, the Comptroller shall cause a patent to be sealed with the ser<sup>l</sup> of the Patent Office.

Great Seal  
abolished for  
patents.

(2) A patent so sealed shall have the same effect as if it were sealed with the Great Seal of the United Kingdom.

Time for  
sealing.

(3) A patent shall be sealed as soon as may be, and not after the expiration of fifteen months from the date of the application, except in the cases hereinafter mentioned, that is to say—

Exceptions to  
limit.

(a) For legal  
proceedings.

(a) Where the sealing is delayed by an appeal to the law officer, or by opposition to the grant of the patent, the patent may be sealed at such time as the law officer may direct.

(b) When ap-  
plicant dead.

(b) If the person making the application dies before the expiration of the fifteen months aforesaid, the patent may be granted to his legal representative and sealed at any time within twelve months after the death of the applicant.

Extension of  
time for  
sealing.

*Act, 1885, s. 3.*

A complete specification may be left and accepted within such extended times, not exceeding one month and three months respectively after the said nine months and twelve months respectively, as the Comptroller may, on payment of the prescribed fee, allow, and where such extension of time has been allowed, a further extension of four months after the said fifteen months shall be

allowed for the sealing of the patent; and the principal Act shall have effect as if any time so allowed were added to the said periods specified in the principal Act.

13. Every patent shall be dated and sealed as of the day of the application: provided that no proceedings shall be taken in respect of an infringement committed before the publication of the complete specification: provided also, that in case of more than one application for a patent for the same invention, the sealing of a patent on one of those applications shall not prevent the sealing of a patent on an earlier application.

Date of patent.

When an application for a patent has been abandoned, or become void, the specification or specifications and drawings (if any) accompanying or left in connection with such application, shall not at any time be open to public inspection or be published by the Comptroller [*this did not apply to applications under sect. 103; see Edw. VII. c. 181 (1)*].

Application abandoned, specification not to be published.  
*Act, 1885, s. 4.*

*Provisional Protection.*

14. Where an application for a patent in respect of an invention has been accepted, the invention may during the period between the date of the application and the date of sealing such patent be used and published without prejudice to the patent to be granted for the same; and such protection from the consequences of use and publication is in this Act referred to as provisional protection.

Provisional protection.

*Protection by Complete Specification.*

15. After the acceptance of a complete specification and until the date of sealing a patent in respect thereof, or the expiration of the time for sealing, the applicant shall have the like privileges and rights as if a patent for the invention had been sealed on the date of the acceptance of the complete specification: provided that an applicant shall not be entitled to institute any proceeding for infringement unless and until a patent for the invention has been granted to him.

Effect of acceptance of complete specification.

*Patent.*

16. Every patent when sealed shall have effect throughout the United Kingdom and the Isle of Man.

Extent of patent

17.—(1) The term limited in every patent for the duration thereof shall be fourteen years from its date.

Term of patent.

(2) But every patent shall, notwithstanding anything therein or in this Act, cease if the patentee fails to make the prescribed payments within the prescribed times.

Ceases on failure of payments.

- Exception by application to Comptroller. (3) If, nevertheless, in any case, by accident, mistake or inadvertence, a patentee fails to make any prescribed payment within the prescribed time he may apply to the Comptroller for an enlargement of the time for making that payment.
- Extension of time for payment upon terms. (4) Thereupon the Comptroller shall, if satisfied that the failure has arisen from any of the above-mentioned causes, on receipt of the prescribed fee for enlargement, not exceeding ten pounds, enlarge the time accordingly, subject to the following conditions :
- (a) Period of extension. (a) The time for making any payment shall not in any case be enlarged for more than three months.
- (b) Damages for infringement in the interval. (b) If any proceeding shall be taken in respect of an infringement of the patent committed after a failure to make any payment within the prescribed time, and before the enlargement thereof, the Court before which the proceeding is proposed to be taken may, if it shall think fit, refuse to award or give any damages in respect of such infringement.

*Amendment of Specification.*

- Amendment of specification. 18.—(1) An applicant or a patentee may, from time to time, by request in writing left at the Patent Office, seek leave to amend his specification, including drawings forming part thereof by way of disclaimer, correction, or explanation, stating the nature of such amendment and his reasons for the same.
- Advertisement of amendment and notice of opposition to be given. (2) The request and the nature of such proposed amendment shall be advertised in the prescribed manner, and at any time within one month from its first advertisement any person may give notice at the Patent Office of opposition to the amendment.
- Where notice given Comptroller decides. (3) Where such notice is given the Comptroller shall give notice of the opposition to the person making the request, and shall hear and decide the case subject to an appeal to the law officer.
- Appeal to law officer. (4) The law officer shall, if required, hear the person making the request and the person so giving notice, and being in the opinion of the law officer entitled to be heard in opposition to the request and shall determine whether and subject to what conditions, if any, the amendment ought to be allowed.
- Where no notice Comptroller determines conditions of amendment. (5) Where no notice of opposition is given, or the person so giving notice does not appear, the Comptroller shall determine whether and subject to what conditions, if any, the amendment ought to be allowed.
- (6) When leave to amend is refused by the Comptroller, the person making the request may appeal from his decision to the law officer.

(7) The law officer shall, if required, hear the person making the request, and the Comptroller, and may make an order determining whether, and subject to what conditions, if any, the amendment ought to be allowed.

Appeal to law officer.

(8) No amendment shall be allowed that would make the specification, as amended, claim an invention substantially larger than or substantially different from the invention claimed by the specification as it stood before amendment.

No amendment allowed so as to enlarge or alter materially specification.

(9) Leave to amend shall be conclusive as to the right of the party to make the amendment allowed, except in case of fraud; and the amendment shall in all courts and for all purposes be deemed to form part of the specification.

Leave conclusive except in case of fraud; amendment forms part of specification.

(10) [*The foregoing provisions of this section do not apply when and so long as any action for infringement or other legal proceeding in relation to a patent is pending.*]

Repealed Act, 1888, s. 5.

(10) **The foregoing provisions of this section do not apply when and so long as any action for infringement or proceeding for revocation of a patent is pending.**

Proceedings pending. Act, 1888, s. 5.

19.—(1) In an action for infringement of a patent, and in a proceeding for revocation of a patent, the Court or a judge may at any time order that the patentee shall, subject to such terms as to costs and otherwise as the Court or judge may impose, be at liberty to apply at the Patent Office for leave to amend his specification by way of disclaimer, and may direct that in the meantime the trial or hearing of the action shall be postponed.

Power to disclaim part of invention during action, &c.

20. Where an amendment by way of disclaimer, correction, or explanation has been allowed under this Act, no damages shall be given in any action in respect of the use of the invention before the disclaimer, correction or explanation, unless the patentee establishes to the satisfaction of the Court that his original claim was framed in good faith and with reasonable skill and knowledge.

Restriction on recovery of damages.

21. Every amendment of a specification shall be advertised in the prescribed manner.

Advertisement of amendment.

### *Compulsory Licences.*

22. *If on the petition of any person interested it is proved to the Board of Trade that by reason of the default of a patentee to grant licences on reasonable terms—*

Repealed. See Act of 1902, s. 3, substituted therefor.

(a) *The patent is not being worked in the United Kingdom; or*

(b) *The reasonable requirements of the public with respect to the invention cannot be supplied; or*

(c) *Any person is prevented from working or using to the best advantage an invention of which he is possessed,*

*the Board may order the patentee to grant licences on such terms as to the amount of royalties, security for payment, or otherwise, as the Board, having regard to the nature of the invention and the circumstances of the case, may deem just, and any such order may be enforced by mandamus.*

The Act of 1902.

3. Section twenty-two of the principal Act (relating to the grant of compulsory licences by the Board of Trade) is hereby repealed, and the following provisions shall be substituted therefor:—

Amendment of law relating to compulsory licences.

- (1) Any person interested may present a petition to the Board of Trade alleging that the reasonable requirements of the public with respect to a patented invention have not been satisfied, and praying for the grant of a compulsory licence, or, in the alternative, for the revocation of the patent;
- (2) The Board of Trade shall consider the petition, and if the parties do not come to an arrangement between themselves, the Board of Trade, if satisfied that a *prima facie* case has been made out, shall refer the petition to the Judicial Committee of the Privy Council, and if the Board are not satisfied, they may dismiss the petition;
- (3) Where any such petition is referred by the Board of Trade to the Judicial Committee, and it is proved to the satisfaction of the Judicial Committee that the reasonable requirements of the public with reference to the patented invention have not been satisfied, the patentee may be ordered by an Order in Council to grant licences on such terms as the said Committee may think just, or, if the Judicial Committee are of opinion that the reasonable requirements of the public will not be satisfied by the grant of licences, the patent may be revoked by Order in Council:  
 Provided that no order of revocation shall be made before the expiration of three years from the date of the patent, or if the patentee gives satisfactory reasons for his default;
- (4) On the hearing of any petition under this section the patentee and any person claiming an interest in the patent as exclusive licensee or otherwise, shall be made parties to the proceeding, and the law officer or such other counsel as he may appoint shall be entitled to appear and be heard;
- (5) If it is proved to the satisfaction of the Judicial Committee that the patent is worked or that the patented article is,

manufactured exclusively or mainly outside the United Kingdom, then, unless the patentee can show that the reasonable requirements of the public have been satisfied the petitioner shall be entitled either to an order for a compulsory licence or, subject to the above proviso, to an order for the revocation of the patent ;

- (6) For the purposes of this section the reasonable requirements of the public shall not be deemed to have been satisfied if, by reason of the default of the patentee to work his patent or to manufacture the patented article in the United Kingdom to an adequate extent, or to grant licences on reasonable terms, (a) any existing industry or the establishment of any new industry is unfairly prejudiced, or (b) the demand for the patented article is not reasonably met ;
- (7) An Order in Council directing the grant of any licence under this section shall, without prejudice to any other method of enforcement, operate as if it were embodied in a deed granting a licence and made between the parties to the proceedings ;
- (8) His Majesty in Council may make rules of procedure and practice for regulating proceedings before the Judicial Committee under this section, and, subject thereto, such proceedings shall be regulated according to the existing procedure and practice in patent matters. Any Order in Council or any order made by the Judicial Committee under this Act may be enforced by the High Court as if it were an order of the High Court ;
- (9) The costs of and incidental to all proceedings under this section shall be in the discretion of the Judicial Committee, but in awarding costs on any application for the grant of a licence the Judicial Committee may have regard to any previous request for, or offer of, a licence made either before or after the application to the Committee ;
- (10) For the purposes of this section three members of the Judicial Committee shall constitute a quorum ;
- (11) This section shall apply to patents granted before as well as after the commencement of this Act.

*Register of Patents.*

23.—(1) There shall be kept at the Patent Office a book called Register of the Register of Patents, wherein shall be entered the names and patents.

Where to be kept, and contents. addresses of grantees of patents, notifications of assignments and of transmissions of patents, of licences under patents, and of amendments, extensions, and revocations of patents and such other matters affecting the validity or proprietorship of patents as may from time to time be prescribed.

Is evidence. (2) The register of patents shall be *prima facie* evidence of any matters by this Act directed or authorised to be inserted therein.

Copies for filing. (3) Copies of deeds, licences, and any other documents affecting the proprietorship in any letters patent or in any licence thereunder, must be supplied to the Comptroller in the prescribed manner for filing in the Patent Office.

*Fees* (see "Instructions to Applicants" and the Patents Rules, 1903 and 1905).

Fees payable. **24.**—(1) There shall be paid in respect of the several instruments described in the second schedule to this Act, the fees in that schedule mentioned, and there shall likewise be paid, in respect of other matters under this part of the Act, such fees as may be from time to time, with the sanction of the Treasury, prescribed by the Board of Trade; and such fees shall be levied and paid to the account of her Majesty's exchequer in such manner as the Treasury may from time to time direct.

Power to reduce fees. (2) The Board of Trade may from time to time, if they think fit, with the consent of the Treasury, reduce any of those fees.

*Extension of Term of Patent.*

Extension of term of patent on petition to Queen in Council. **25.**—(1) A patentee may, after advertising in manner directed by any rules made under this section his intention to do so, present a petition to her Majesty in Council, praying that his patent may be extended for a further term; but such petition must be presented at least six months before the time limited for the expiration of the patent.

Entry of caveat. (2) Any person may enter a caveat, addressed to the registrar of the Council at the Council office, against the extension.

Privy Council jurisdiction. (3) If her Majesty shall be pleased to refer any such petition to the Judicial Committee of the Privy Council, the said committee shall proceed to consider the same, and the petitioner and any person who has entered a caveat shall be entitled to be heard by himself or by counsel on the petition.

Powers of Judicial Committee. (4) The Judicial Committee shall, in considering their decision, have regard to the nature and merits of the invention in relation to the public, to the profits made by the patentee as such, and to all the circumstances of the case.

(5) If the Judicial Committee report that the patentee has been inadequately remunerated by his patent, it shall be lawful for her Majesty in Council to extend the term of the patent for a further term, not exceeding seven, or in exceptional cases fourteen, years; or to order the grant of a new patent for the term therein mentioned, and containing any restrictions, conditions, and provisions that the Judicial Committee may think fit.

On their report extension granted on conditions.

(6) It shall be lawful for her Majesty in Council to make, from time to time, rules of procedure and practice for regulating proceedings on such petitions, and subject thereto such proceedings shall be regulated according to the existing procedure and practice in patent matters of the Judicial Committee.

Power to make rules for such proceedings.

(7) The costs of all parties of and incident to such proceedings shall be in the discretion of the Judicial Committee; and the orders of the committee respecting costs shall be enforceable as if they were orders of a division of the High Court of Justice.

Costs.

*Revocation.*

26.—(1) The proceeding by scire facias to repeal a patent is hereby abolished.

Abolition of scire facias.

(2) Revocation of a patent may be obtained on petition to the Court.

Revocation of patent.

(3) Every ground on which a patent might, at the commencement of this Act, be repealed by scire facias shall be available by way of defence to an action of infringement, and shall also be a ground of revocation.

How revocation obtained. Grounds of revocation.

(4) A petition for revocation of a patent may be presented by—

Petition for revocation, who may present.

(a) The Attorney-General in England or Ireland, or the Lord Advocate in Scotland :

(b) Any person authorised by the Attorney-General in England or Ireland, or the Lord Advocate in Scotland :

(c) Any person alleging that the patent was obtained in fraud of his rights, or of the rights of any person under or through whom he claims :

(d) Any person alleging that he, or any person under or through whom he claims, was the true inventor of any invention included in the claim of the patentee :

(e) Any person alleging that he, or any person under or through whom he claims an interest in any trade, business, or manufacture, had publicly manufactured, used or sold, within this realm, before the date of the patent, anything claimed by the patentee as his invention.

(5) The plaintiff must deliver with his petition particulars of the

Plaintiff must deliver and be



bound by particulars.

objections on which he means to rely, and no evidence shall, except by leave of the Court or a judge, be admitted in proof of any objection of which particulars are not so delivered.

Amendment of particulars.

(6) Particulars may be from time to time amended by leave of the Court or a judge.

Patentee though defendant has privileges of plaintiff at trial.

(7) The defendant shall be entitled to begin, and give evidence in support of the patent, and if the plaintiff gives evidence impeaching the validity of the patent, the defendant shall be entitled to reply.

Where patent revoked for fraud, first true inventor may obtain patent.

(8) Where a patent has been revoked on the ground of fraud, the Comptroller may, on the application of the true inventor, made in accordance with the provision of this Act, grant to him a patent in lieu of and bearing the same date as the date of revocation of the patent so revoked, but the patent so granted shall cease on the expiration of the term for which the revoked patent was granted.

#### *Crown.*

Patent to bind Crown.

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

Exceptions.

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

#### *Legal Proceedings.*

Hearing with assessor. By Court.

28.—(1) In an action or proceeding for infringement or revocation of a patent, the Court may, if it thinks fit, and shall, on the request of either of the parties to the proceeding, call in the aid of an assessor specially qualified, and try and hear the case wholly or partially with his assistance; the action shall be tried without a jury unless the Court shall otherwise direct.

Court of Appeal or Privy Council may sit with assessors.

(2) The Court of Appeal or the Judicial Committee of the Privy Council may, if they see fit, in any proceeding before them respectively, call in the aid of an assessor as aforesaid.

Assessor's fees.

(3) The remuneration, if any, to be paid to an assessor under this section shall be determined by the Court or the Court of Appeal or Judicial Committee, as the case may be, and be paid in the same manner as the other expenses of the execution of this Act.

29.—(1) In an action for infringement of a patent the plaintiff must deliver with his statement of claim, or by order of the Court or the judge, at any subsequent time, particulars of the breaches complained of. Delivery of particulars of breaches ;

(2) The defendant must deliver, with his statement of defence, or, by order of the Court or a judge, at, any subsequent time, particulars of any objections on which he relies in support thereof. of objections.

(3) If the defendant disputes the validity of the patent, the particulars delivered by him must state on what grounds he disputes it, and if one of those grounds is want of novelty, must state the time and place of the previous publication or user alleged by him. Grounds must be stated.

(4) At the hearing no evidence shall, except by leave of the Court or a judge, be admitted in proof of any alleged infringement or objection of which particulars are not so delivered. Evidence must not go beyond particulars.

(5) Particulars delivered may be, from time to time, amended, by leave of the Court or a judge. Amendment.

(6) On taxation of costs, regard shall be had to the particulars delivered by the plaintiff and by the defendant ; and they respectively shall not be allowed any costs in respect of any particular delivered by them, unless the same is certified by the Court or a judge to have been proven, or to have been reasonable and proper, without regard to the general costs of the case. Costs.

30. In an action for infringement of a patent, the Court or a judge may, on the application of either party, make such order for an injunction, inspection, or account, and impose such terms and give such directions respecting the same and the proceedings thereon, as the Court or a judge may see fit. Order for inspection, &c. in action.

31. In an action for infringement of a patent, the Court or a judge may certify that the validity of a patent came in question ; and if the Court or a judge so certifies, then in any subsequent action for infringement, the plaintiff in that action, on obtaining a final order or judgment in his favour, shall have his full costs, charges, and expenses, as between solicitor and client, unless the Court or judge trying the action certifies that he ought not to have the same. Certificate? and validity questioned.

32. Where any person claiming to be the patentee of an invention by circulars, advertisements, or otherwise, threatens any other person with any legal proceedings or liability in respect of any alleged manufacture, use, sale, or purchase of the invention, any person or persons aggrieved thereby may bring an action against him, and may obtain an injunction against the continuance of such threats, and may recover such damage (if any) as may have been sustained thereby, if the alleged manufacture, use, sale, or purchase to which the threats related was not, in fact, an infringement of any legal rights of the Remedy in case of groundless threats of legal proceedings.

person making such threats: Provided that this section shall not apply if the person making such threats with due diligence commences and prosecutes an action for infringement of his patent.

*Miscellaneous.*

- Patent for one invention only. **33.** Every patent may be in the form in the first schedule to this Act, and shall be granted for one invention only, but may contain more than one claim; but it shall not be competent for any person in any action or other proceeding to take any objection to a patent on the ground that it comprises more than one invention.
- Patent on application of representative of deceased inventor. **34.**—(1) If a person possessed of an invention dies without making application for a patent for the invention, application may be made by, and a patent for the invention granted to, his legal representative.
- Time and contents of application. (2) Every such application must be made within six months of the decease of such person, and must contain a declaration by the legal representative that he believes such person to be the true and first inventor of the invention.
- Patent to first inventor not invalidated by application in fraud of him. **35.** A patent granted to the true and first inventor shall not be invalidated by an application in fraud of him, or by provisional protection obtained thereon, or by any use or publication of the invention subsequent to that fraudulent application during the period of provisional protection.
- Assignment for particular places. **36.** A patentee may assign his patent for any place in or part of the United Kingdom, or Isle of Man, as effectually as if the patent were originally granted to extend to that place, or part only.
- Loss or destruction of patent. **37.** If a patent is lost or destroyed, or its non-production is accounted for to the satisfaction of the Comptroller, the Comptroller may, at any time, cause a duplicate thereof to be sealed.
- Proceedings and costs before law officer. **38.** The law officers may examine witnesses on oath and administer oaths for that purpose under this part of this Act, and may, from time to time, make, alter, and rescind rules, regulating references and appeals to the law officers, and the practice and procedure before them under this part of this Act; and in any proceeding before either of the law officers under this part of this Act the law officer may order costs to be paid by either party, and any such order may be made a rule of the Court.
- Exhibition at industrial or international exhibition not to prejudice patent rights. **39.** The exhibition of an invention at an industrial or international exhibition, certified as such by the Board of Trade, or the publication of any description of the invention during the period of the holding of the exhibition, or the use of the invention for the purpose of the exhibition in the place where the exhibition is held, or the use of the invention during the period of the holding of the exhibi-

tion by any person elsewhere, without the privity or consent of the inventor, shall not prejudice the right of the inventor or his legal personal representative to apply for and obtain provisional protection and a patent in respect of the invention or the validity of any patent granted on the application, provided that both the following conditions are complied with, namely,

(a) The exhibitor must, before exhibiting the invention, give the Comptroller the prescribed notice of his intention to do so; and

Conditions :  
(a) Notice ;

(b) The application for a patent must be made before or within six months from the date of the opening of the exhibition.

(b) Patent must be applied for.

Whereas it is expedient to provide for the extension of this section to industrial and international exhibitions held out of the United Kingdom, be it therefore enacted as follows :

It shall be lawful for her Majesty, by Order in Council, from time to time to declare that sections 39 and 57 of the Patents, Designs, and Trade Marks Act, 1883, or either of those sections, shall apply to any exhibition mentioned in the Order, in like manner as if it were an industrial or international exhibition certified by the Board of Trade, and to provide that the exhibitor shall be relieved from the condition, specified in the said sections, of giving notice to the Comptroller of his intention to exhibit, and shall be so relieved, either absolutely or upon such terms and conditions as to her Majesty in Council may seem fit.

Protection of patents and designs exhibited at international exhibitions.  
*Act, 1886, s. 3*

40.—(1) The Comptroller shall cause to be issued periodically an illustrated journal of patented inventions, as well as reports of patent cases decided by courts of law, and any other information that the Comptroller may deem generally useful or important.

Publication of illustrated journal, indexes, &c.

(2) Provision shall be made by the Comptroller for keeping on sale copies of such journal, and also of all complete specifications of patents for the time being in force, with their accompanying drawings, if any.

Copies to be on sale.

(3) The Comptroller shall continue, in such form as he may deem expedient, the indexes and abridgments of specifications hitherto published, and shall from time to time prepare and publish such other indexes, abridgments of specifications, catalogues, and other works relating to inventions, as he may see fit.

Continuation of publication.

41. The control and management of the existing patent museum and its contents shall, from and after the commencement of this Act, be transferred to and vested in the Department of Science and Art, subject to such directions as her Majesty in Council may see fit to give.

Patent Museum.

42. The Department of Science and Art may at any time require a

Power to require models on payments.

patentee to furnish them with a model of his invention on payment to the patentee of the cost of the manufacture of the model; the amount to be settled, in case of dispute, by the Board of Trade.

Foreign  
vessels in  
British  
waters.

43.—(1) A patent shall not prevent the use of an invention for the purposes of the navigation of a foreign vessel within the jurisdiction of any of her Majesty's Courts in the United Kingdom, or Isle of Man, or the use of an invention in a foreign vessel within that jurisdiction, provided it is not used therein for or in connection with the manufacture or preparation of anything intended to be sold in or exported from the United Kingdom or Isle of Man.

Exception.

(2) But this section shall not extend to vessels of any foreign State of which the laws authorise subjects of such foreign State, having patents or like privileges for the exclusive use or exercise of inventions within its territories, to prevent or interfere with the use of such inventions in British vessels while in the ports of such foreign State, or in the waters within the jurisdiction of its Courts, where such inventions are not so used for the manufacture or preparation of anything intended to be sold in or exported from the territories of such foreign State.

Assignment  
of Secretary  
for War of  
certain in-  
ventions.

44.—(1) The inventor of any improvement in instruments or munitions of war, his executors, administrators, or assigns (who are in this section comprised in the expression the inventor), may (either for or without valuable consideration) assign to her Majesty's principal secretary of state for the War Department (hereinafter referred to as the secretary of state), on behalf of her Majesty, all the benefit of the invention and of any patent obtained or to be obtained for the same; and the secretary of state may be a party to the assignment.

Extent of  
assignment.

(2) The assignment shall effectually vest the benefit of the invention and patent in the secretary of state for the time being on behalf of her Majesty, and all covenants and agreements therein contained for keeping the invention secret and otherwise shall be valid and effectual (notwithstanding any want of valuable consideration), and may be enforced accordingly by the secretary of state for the time being.

Power of  
Secretary of  
State for War  
to keep inven-  
tion secret on  
the ground  
that it is in  
public interest  
to do so.

(3) Where any such assignment has been made to the secretary of state, he may at any time before the application for a patent for the invention, or before publication of the specification or specifications, certify to the Comptroller his opinion that, in the interest of the public service, the particulars of the invention and of the manner in which it is to be performed should be kept secret.

In which case  
specifications

(4) If the secretary of state so certifies, the application and specification or specifications, with the drawings (if any), and any

amendment of the specification or specifications, and any copies of such documents and drawings, shall, instead of being left in the ordinary manner at the Patent Office, be delivered to the Comptroller in a packet sealed by authority of the secretary of state.

and documents are sealed up.

(5) Such packet shall, until the expiration of the term or extended term during which a patent for the invention may be in force, be kept sealed by the Comptroller, and shall not be opened save under the authority of an order of the secretary of state, or of the law officers.

For term of patent

(6) Such sealed packet shall be delivered at any time during the continuance of the patent to any person authorised by writing under the hand of the secretary of state to receive the same, and shall if returned to the Comptroller be again kept sealed by him.

Delivery of packet under secretary of state's authority during term.

(7) On the expiration of the term or extended term of the patent, such sealed packet shall be delivered to any person authorised by writing under the hand of the secretary of state to receive it.

At expiration.

(8) Where the secretary of state certifies as aforesaid after an application for a patent has been left at the Patent Office, but before the publication of the specification or specifications, the application, specification or specifications, with the drawings (if any), shall be forthwith placed in a packet sealed by authority of the Comptroller, and such packet shall be subject to the foregoing provisions respecting a packet sealed by authority of the secretary of state.

Foregoing sub-sections to apply where patent applied for but specifications not published.

(9) No proceeding by petition or otherwise shall lie for revocation of a patent granted for an invention in relation to which the secretary of state has certified as aforesaid.

Where certified by secretary of state no petition for revocation.

(10) No copy of any specification or other document or drawing by this section required to be placed in a sealed packet, shall in any manner whatever be published or open to the inspection of the public, but save as in this section otherwise directed, the provisions of this part of this Act shall apply in respect of any such invention and patent as aforesaid.

No copy of any secret specifications to be made public.

(11) The secretary of state may, at any time by writing under his hand, waive the benefit of this section with respect to any particular invention, and the specifications, documents and drawings shall be thenceforth kept and dealt with in the ordinary way.

Power of secretary of state to waive benefit of section.

(12) The communication of any invention for any improvement in instruments and munitions of war to the secretary of state, or to any person or persons authorised by him to investigate the same or the merits thereof, shall not, nor shall anything done for the purposes of the investigation, be deemed use or publication of such invention so as to prejudice the grant or validity of any patent for the same.

Communication to Secretary of State for War not to be deemed publication.

*Existing Patents.*

Provisions  
respecting ex-  
isting patents.

45.—(1) The provisions of this Act relating to applications for patents and proceedings thereon shall have effect in respect only of applications made after the commencement of this Act.

(2) Every patent granted before the commencement of this Act, or on an application then pending, shall remain unaffected by the provisions of this Act relating to patents binding the Crown, and to compulsory licences.

(3) In all other respects (including the amount and time of payment of fees) this Act shall extend to all patents granted before the commencement of this Act, or on applications then pending, in substitution for such enactments as would have applied thereto, if this Act had not been passed.

Documents  
left at Great  
Seal Patent  
Office deemed  
left at Patent  
Office on com-  
mencement of  
this Act.

(4) All instruments relating to patents granted before the commencement of this Act required to be left or filed in the Great Seal Patent Office shall be deemed to be so left or filed if left or filed before or after the commencement of this Act in the Patent Office.

*Definitions.*

Definitions of  
"Patent;"

46. In and for the purposes of this Act—

"Patent" means letters patent for an invention:

"Patentee;"

"Patentee" means the person for the time being entitled to the benefit of a patent:

"Invention;"

"Invention" means any manner of new manufacture the subject of letters patent and grant of privilege within sect. 6 of the Statute of Monopolies (that is, the Act of the twenty-first year of the reign of King James the First, chapter 3, intituled "An Act concerning monopolies and dispensations with penal laws and the forfeiture thereof"), and includes an alleged invention.

"Injunction"  
in Scotland.

In Scotland "injunction" means "interdict."

PARTS III. AND IV. RELATE TO DESIGNS AND TRADE MARKS  
RESPECTIVELY.

PART V.—GENERAL.

*Patent Office and Proceedings thereat.*

Patent Office.

82.—(1) The Treasury may provide for the purposes of this Act an office with all requisite buildings and conveniences, which shall be called, and is in this Act referred to as the Patent Office.

(2) Until a new Patent Office is provided, the offices of the Commissioners of Patents for inventions and for the registration of

designs and trade marks existing at the commencement of this Act shall be the Patent Office within the meaning of this Act.

(3) The Patent Office shall be under the immediate control of an officer called the Comptroller-General of patents, designs, and trade marks, who shall act under the superintendence and direction of the Board of Trade.

(4) Any act or thing directed to be done by or to the Comptroller may, *in his absence*, be done by or to any officer for the time being in that behalf authorised by the Board of Trade.

“In his absence.”  
Repealed by  
Act, 1902, s. 4

83.—(1) The Board of Trade may at any time after the passing of this Act, and from time to time, subject to the approval of the Treasury, appoint the Comptroller-General of patents, designs, and trade marks, and so many examiners and other officers and clerks, with such designations and duties as the Board of Trade think fit, and may from time to time remove any of those officers and clerks.

Officers and clerks.

(2) The salaries of those officers and clerks shall be appointed by the Board of Trade, with the concurrence of the Treasury, and the same and the other expenses of the execution of this Act shall be paid out of money provided by Parliament.

84. There shall be a seal for the Patent Office, and impressions thereof shall be judicially noticed and admitted in evidence.

Seal of Patent Office.

85. There shall not be entered in any register kept under this Act, or be receivable by the Comptroller, any notice of any trust expressed, implied or constructive.

Trust not to be entered in registers.

86. The Comptroller may refuse to grant a patent for an invention, or to register a design or trade mark, of which the use would, in his opinion, be contrary to law or morality.

Refusal to seal, &c., in certain cases.

87. Where a person becomes entitled by assignment, transmission, or other operation of law to a patent, or to the copyright in a registered design, or to a registered trade mark, the Comptroller shall on request, and on proof of title to his satisfaction, cause the name of such person to be entered as proprietor of the patent, copyright in the design or trade mark, in the register of patents, designs or trade marks, as the case may be. The person for the time being entered in the register of patents, designs or trade marks, as proprietor of a patent, copyright in a design or trade mark, as the case may be, shall, subject to the provisions of this Act and to any rights appearing from such register to be vested in any other person, have power absolutely to assign, grant licences as to, or otherwise deal with, the same and to give effectual receipts for any consideration for such assignment, licence or dealing. Provided that any equities in respect of such patent, design or trade mark may be enforced in like manner as in respect of any other personal property.

Entry of assignments and transmissions in registers.

Act, 1888,  
s. 21.



Inspection of  
and extracts  
from  
registers.

*Act, 1888,*  
*s. 22.*

**88.** Every register kept under this Act shall at all convenient times be open to the inspection of the public, subject to the provisions of this Act and to such regulations as may be prescribed; and certified copies, sealed with the seal of the Patent Office, of any entry in any such register shall be given to any person requiring the same on payment of the prescribed fee.

Scaled copies  
to be received  
in evidence.

**89.** Printed or written copies, purported to be certified by the Comptroller and sealed with the seal of the Patent Office, of or from patents, specifications, disclaimers and other documents in the Patent Office, and of or from registers and other books kept there, shall be admitted in evidence in all courts in her Majesty's dominions, and in all proceedings, without further proof or production of the originals.

Rectification  
of registers  
by Court.

*Act, 1888,*  
*s. 23.*

**90.—(1)** The Court may on the application of any person aggrieved by the omission without sufficient cause of the name of any person, or of any other particulars from any register kept under this Act, or by any entry made without sufficient cause in any such register, make such order for making, expunging or varying the entry, as the Court thinks fit; or the Court may refuse the application; and in either case may make such order with respect to the costs of the proceedings as the Court thinks fit.

(2) The Court may in any proceeding under this section decide any question that it may be necessary or expedient to decide for the rectification of a register, and may direct an issue to be tried for the decision of any question of fact, and may award damages to the party aggrieved.

(3) Any order of the Court rectifying a register shall direct that due notice of the rectification be given to the Comptroller.

**91.** The Comptroller may, on request in writing accompanied by the prescribed fee,

- (a) Correct any clerical error in or in connection with an application for a patent, or for registration of a design or trade mark; or
- (b) Correct any clerical error in the name, style, or address of the registered proprietor of a patent, design or trade mark;
- (c) Cancel the entry or part of the entry of a trade mark on the register: Provided that the applicant accompanies his request by a statutory declaration made by himself, stating his name, address, and calling, and that he is the person whose name appears on the register as the proprietor of the said trade mark.
- (d) Permit an applicant for registration of a design or trade mark to amend his application by omitting any

*Act, 1888,*  
*s. 24.*

particular goods or classes of goods in connection with which he has desired the design or trade mark to be registered.

92.—(1) The registered proprietor of any registered trade mark may apply to the Court for leave to add to or alter such mark in any particular, not being an essential particular within the meaning of this Act, and the Court may refuse or grant leave on such terms as it may think fit.

Alteration of registered mark.

(2) Notice of any intended application to the Court under this section shall be given to the Comptroller by the applicant; and the Comptroller shall be entitled to be heard on the application.

Notice to be given.

(3) If the Court grants leave, the Comptroller shall, on proof thereof and on payment of the prescribed fee, cause the register to be altered in conformity with the order of leave.

Comptroller to alter in accordance with order.

93. If any person makes or causes to be made a false entry in any register kept under this Act, or a writing falsely purporting to be a copy of an entry in any such register, or produces or tenders or causes to be produced or tendered in evidence any such writing, knowing the entry or writing to be false, he shall be guilty of a misdemeanour.

Falsification of entries in registers.

94. Where any discretionary power is by this Act given to the Comptroller, he shall not exercise that power adversely to the applicant for a patent, or for amendment of a specification, or for registration of a trade mark or design, without (if so required within the prescribed time by the applicant) giving the applicant an opportunity of being heard personally or by his agent.

Exercise of discretionary power by Comptroller.

95. The Comptroller may, in any case of doubt or difficulty arising in the administration of any of the provisions of this Act, apply to either of the law officers for direction in the matter.

Power of Comptroller to take directions of law officers.

96. A certificate purporting to be under the hand of the Comptroller as to any entry, matter, or thing which he is authorised by this Act, or any general rules made thereunder, to make or do, shall be *prima facie* evidence of the entry having been made, and of the contents thereof, and of the matter or thing having been done or left undone.

Certificate of Comptroller to be evidence.

97.—(1) Any application, notice, or other document authorised or required to be left, made, or given at the Patent Office or to the Comptroller, or to any other person under this Act, may be sent by a prepaid letter through the post; and if so sent shall be deemed to have been left, made, or given respectively at the time when the letter containing the same would be delivered in the ordinary course of post.

Applications and notices by post.

(2) In proving such service or sending, it shall be sufficient to prove that the letter was properly addressed and put into the post.

Proof.

Provision as to days for leaving documents at Office.

**98.** Whenever the last day fixed by this Act, or by any rule for the time being in force, for leaving any document or paying any fee at the Patent Office shall fall on Christmas Day, Good Friday, or on a Saturday or Sunday, or any day observed as a holiday at the Bank of England, or any day observed as a day of public fast or thanksgiving, herein referred to as excluded days, it shall be lawful to leave such document, or to pay such fee, on the day next following such excluded day, or days if two or more of them occur consecutively.

Declaration by infant, lunatic, &c.

**99.** If any person is, by reason of infancy, lunacy, or other inability, incapable of making any declaration or doing anything required or permitted by this Act or by any rules made under the authority of this Act, then the guardian or committee (if any) of such incapable person, or if there be none, any person appointed by any Court or judge possessing jurisdiction in respect of the property of incapable persons, upon the petition of any person on behalf of such incapable person, or of any other person interested in the making such declaration or doing such thing may make such declaration or a declaration as nearly corresponding thereto as circumstances permit, and do such thing in the name and on behalf of such incapable person, and all acts done by such substitute shall for the purposes of this Act be as effectual as if done by the person for whom he is substituted.

Transmission of certified printed copies of specifications, &c.

**100.** Copies of all specifications, drawings, and amendments, left at the Patent Office after the commencement of this Act, printed for and sealed with the seal of the Patent Office shall be transmitted to the Edinburgh Museum of Science and Art, and to the Enrolments Office of the Chancery Division in Ireland, and to the Rolls Office in the Isle of Man, within twenty-one days after the same shall respectively have been accepted or allowed at the Patent Office; and certified copies of or extracts from any such documents shall be given to any person requiring the same on payment of the prescribed fee; and any such copy or extract shall be admitted in evidence in all Courts in Scotland and Ireland and in the Isle of Man without further proof or production of the originals.

Power for Board of Trade to make general rules for classifying goods and regulating business of Patent Office.

**101.—(1)** The Board of Trade may from time to time make such general rules and do such things as they think expedient, subject to the provisions of this Act:

- (a) For regulating the practice of registration under this Act:
- (b) For classifying goods for the purposes of designs and trade marks:
- (c) For making or requiring duplicates of specifications, amendments, drawings, and other documents:

(d) For securing and regulating the publishing and selling of copies, at such prices and in such manner as the Board of Trade think fit, of specifications, drawings, amendments, and other documents :

(e) For securing and regulating the making, printing, publishing, and selling of indexes to, and abridgments of, specifications and other documents in the Patent Office ; and providing for the inspection of indexes and abridgments and other documents :

(f) For regulating (with the approval of the Treasury) the presentation of copies of Patent Office publications to patentees and to public authorities, bodies, and institutions at home and abroad.

(g) Generally for regulating the business of the Patent Office, and all things by this Act placed under the direction or control of the Comptroller, or of the Board of Trade.

(2) Any of the forms in the first schedule to this Act may be altered or amended by rules made by the Board as aforesaid. Alteration of forms.

(3) General rules may be made under this section at any time after the passing of this Act, but not so as to take effect before the commencement of this Act, and shall (subject as hereinafter mentioned) be of the same effect as if they were contained in this Act, and shall be judicially noticed. General rules :

(4) Any rules made in pursuance of this section shall be laid before both Houses of Parliament, if Parliament be in session at the time of making thereof, or, if not, then as soon as practicable after the beginning of the then next session of Parliament, and they shall also be advertised twice in the official journal to be issued by the Comptroller. to be laid before Parliament and advertised.

(5) If either House of Parliament, within the next forty days after any rules have been so laid before such House, resolve that such rules or any of them ought to be annulled, the same shall after the date of such resolution be of no effect, without prejudice to the validity of anything done in the meantime under such rules or rule or to the making of any new rules or rule.

102. The Comptroller shall, before the first day of June in every year, cause a report respecting the execution by or under him of this Act to be laid before both Houses of Parliament, and therein shall include for the year to which each report relates all general rules made in that year under or for the purposes of this Act, and an account of all fees, salaries, and allowances, and other money received and paid under this Act. Annual reports of Comptroller.

102a.—(1) All things required or authorised under this Act to Proceedings of Board of Trade.

Act, 1888,  
s. 25.

be done by, to, or before the Board of Trade, may be done by, to, or before the President, or a secretary or an assistant secretary of the Board.

(2) All documents purporting to be orders made by the Board of Trade and to be sealed with the seal of the Board, or to be signed by a secretary or assistant secretary of the Board, or by any person authorised in that behalf by the President of the Board, shall be received in evidence, and shall be deemed to be such orders without further proof, unless the contrary is shown.

(3) A certificate signed by the President of the Board of Trade that any order made or act done is the order or act of the Board, shall be conclusive evidence of the fact so certified.

*International and Colonial Arrangements.*

International  
arrangements  
for protection  
of inventions,  
designs, and  
trade marks.

103.—(1) If her Majesty is pleased to make any arrangement with the government or governments of any foreign State or States for mutual protection of inventions, designs, and trade marks, or any of them, then any person who has applied for protection for any invention, design, or trade mark in any such State shall be entitled to a patent for his invention, or to registration of his design or trade mark (as the case may be) under this Act, in priority to other applicants; and such patent or registration shall have the same date as the [*date of protection obtained*] date of the application in such foreign State.

Act, 1885,  
s. 6.

Time.

Provided that his application is made, in the case of a patent within (*seven*) twelve months, and in the case of a design or trade mark within four months, from his applying for protection in the foreign State with which the arrangement is in force.

The Act of  
1901, s. 1,  
sub-s. 1.

No protection  
prior to speci-  
fication or  
registration.

Provided that nothing in this section contained shall entitle the patentee or proprietor of the design or trade mark to recover damages for infringements happening prior to the date of the actual acceptance of his complete specification, or the actual registration of his design or trade mark in this country, as the case may be.

The Act of  
1901, s. 1,  
sub-s. 2.

(2) An application under that section (*Sect. 103*) shall be accompanied by a complete specification, which, if it be not accepted within the period of twelve months, shall, with the drawings (if any), be open to public inspection at the expiration of that period.

Publication at  
or use in exhi-  
bition not to  
invalidate  
patent or  
trade mark.

The publication in the United Kingdom or the Isle of Man, during the respective periods aforesaid, of any description of the invention or the use therein during such periods of the invention, or the exhibition or use therein during such periods of the design, or

the publication therein during such periods of a description or representation of the design, or the use therein during such periods of the trade mark, shall not invalidate the patent which may be granted for the invention, or the registration of the design or trade mark :

(3) The application for the grant of a patent, or the registration of a design, or the registration of a trade mark under this section, must be made in the same manner as an ordinary application under this Act [*but see Act of 1901, sect. 1, sub-sect. 2, above*] : Provided that, in the case of trade marks, any trade mark the registration of which has been duly applied for in the country of origin may be registered under this Act :

Application under this section to be made in same manner as ordinary application.

(4) The provisions of this section shall apply only in the case of those foreign States with respect to which her Majesty shall from time to time by Order in Council declare them to be applicable, and so long only in the case of each State as the Order in Council shall continue in force with respect to that State.

Application of this section.

104.—(1) Where it is made to appear to her Majesty that the legislature of any British possession has made satisfactory provision for the protection of inventions, designs, and trade marks, patented or registered in this country, it shall be lawful for her Majesty, from time to time, by Order in Council, to apply the provisions of the last preceding section, with such variations or additions, if any, as to her Majesty in Council may seem fit, to such British possession.

Provision for colonies and India.

(2) An Order in Council under this Act shall, from a date to be mentioned for the purpose in the order, take effect as if its provisions had been contained in this Act ; but it shall be lawful for her Majesty in Council to revoke any Order in Council made under this Act.

Effect of Order in Council.

#### *Offences.*

105.—(1) Any person who represents that any article sold by him is a patented article, when no patent has been granted for the same, or describes any design or trade mark applied to any article sold by him as registered which is not so, shall be liable for every offence on summary conviction to a fine not exceeding five pounds.

Penalty on falsely representing articles to be patented.

(2) A person shall be deemed, for the purposes of this enactment, to represent that an article is patented or a design or a trade mark is registered, if he sells the article with the word "patent," "patented," "registered," or any word or words expressing or implying that a patent or registration has been obtained for the article stamped, engraved, or impressed on, or otherwise applied to the article.

Definition of false representation under this section.

Penalty on unauthorised assumption of royal arms.

**106.** Any person who, without the authority of her Majesty, or any of the royal family, or of any Government Department, assumes or uses in connection with any trade, business, calling, or profession, the royal arms, or arms so nearly resembling the same as to be calculated to deceive, in such a manner as to be calculated to lead other persons to believe that he is carrying on his trade, business, calling or profession by or under such authority as aforesaid, shall be liable on summary conviction to a fine not exceeding twenty pounds.

*Scotland, Ireland, &c.*

Saving for Courts in Scotland.

**107.** In any action for infringement of a patent in Scotland the provisions of this Act, with respect to calling in the aid of an assessor, shall apply, and the action shall be tried without a jury, unless the Court shall otherwise direct, but otherwise nothing shall affect the jurisdiction and forms of process of the Courts in Scotland in such an action or in any action or proceeding respecting a patent hitherto competent to those Courts.

Definition of "Court of Appeal."

For the purposes of this section "Court of Appeal" shall mean any Court to which such action is appealed.

Summary proceedings in Scotland.

**108.** In Scotland any offence under this Act declared to be punishable on summary conviction may be prosecuted in the Sheriff Court.

Proceedings for revocation of patent in Scotland.

**109.**—(1) Proceedings in Scotland for revocation of a patent shall be in the form of an action of reduction at the instance of the Lord Advocate, or at the instance of a party having interest with his concurrence, which concurrence may be given on just cause shown only.

Service in Scotland.

(2) Service of all writs and summonses in that action shall be made according to the forms and practice existing at the commencement of this Act.

Reservation of remedies in Ireland.

**110.** All parties shall, notwithstanding anything in this Act, have in Ireland their remedies under or in respect of a patent as if the same had been granted to extend to Ireland only.

General saving for jurisdiction of Courts.

**111.**—(1) The provisions of this Act conferring a special jurisdiction on the Court as defined by this Act, shall not, except so far as the jurisdiction extends, affect the jurisdiction of any Court in Scotland or Ireland in any proceedings relating to patents or to designs or to trade marks; and with reference to any such proceedings in Scotland, the term "the Court" shall mean any Lord Ordinary of the Court of Session, and the term "Court of Appeal" shall mean either Division of the said Court; and with reference to any such proceedings in Ireland, the term "the Court" and "the

Court of Appeal” respectively mean the High Court of Justice in Ireland and her Majesty’s Court of Appeal in Ireland.

(2) If any rectification of a register under this Act is required in pursuance of any proceeding in a Court in Scotland or Ireland, a copy of the order, decree, or other authority for the rectification, shall be served on the Comptroller, and he shall rectify the register accordingly. Rectification of register.

112. This Act shall extend to the Isle of Man, and— Isle of Man.

(1) Nothing in this Act shall affect the jurisdiction of the Courts in the Isle of Man, in proceedings for infringement or in any action or proceeding respecting a patent, design, or trade mark competent to those Courts : Jurisdiction of Courts.

(2) The punishment for a misdemeanour under this Act in the Isle of Man shall be imprisonment for any term not exceeding two years, with or without hard labour, and with or without a fine not exceeding one hundred pounds, at the discretion of the Court : Punishments.

(3) Any offence under this Act committed in the Isle of Man which would in England be punishable on summary conviction may be prosecuted, and any fine in respect thereof recovered at the instance of any person aggrieved, in the manner in which offences punishable on summary conviction may for the time being be prosecuted. Offences and penalties treated as in England under this Act.

112a. “The Court of Chancery of the County Palatine of Lancaster shall, with respect to any action or other proceeding in relation to trade marks the registration whereof is applied for in the Manchester Office, have the like jurisdiction under this Act as her Majesty’s High Court of Justice in England, and the expression ‘the Court’ in this Act shall be construed and have effect accordingly. Jurisdiction of Lancashire Palatine Court.  
Act. 1888.  
s. 26.

“Provided that every decision of the Court of Chancery of the County Palatine of Lancaster in pursuance of this section shall be subject to the like appeal as decisions of that Court in other cases.”

*Repeal ; Transitional Provisions ; Savings.*

113. The enactments described in the third schedule to this Act are hereby repealed. But this repeal of enactments shall not— Repeal and saving for past operation of repealed enactments, &c.

(a) Affect the past operation of any of those enactments, or any patent or copyright or right to use a trade mark granted or acquired, or application pending, or appointment made, or compensation granted, or order or direction made or given, or right, privilege, obligation, or liability acquired, Exceptions.



accrued, or incurred, or anything duly done or suffered under or by any of those enactments before or at the commencement of this Act; or

(b) Interfere with the institution or prosecution of any action or proceeding, civil or criminal, in respect thereof, and any such proceeding may be carried on as if this Act had not been passed; or

(c) Take away or abridge any protection or benefit in relation to any such action or proceeding.

Former registers to be deemed continued.

114.—(1) The registers of patents and of proprietors kept under any enactment repealed by this Act shall respectively be deemed parts of the same book as the register of patents kept under this Act.

(2) The registers of designs and of trade marks kept under any enactment repealed by this Act shall respectively be deemed parts of the same book as the register of designs and the register of trade marks kept under this Act.

Saving for existing rules.

115. All general rules made by the Lord Chancellor or by any other authority under any enactment repealed by this Act, and in force at the commencement of this Act, may at any time after the passing of this Act be repealed, altered, or amended by the Board of Trade, as if they had been made by the Board under this Act, but so that no such repeal, alteration, or amendment shall take effect before the commencement of this Act; and, subject as aforesaid, such general rules shall, so far as they are consistent with and are not superseded by this Act, continue in force as if they had been made by the Board of Trade under this Act.

Saving for prerogative

116. Nothing in this Act shall take away, abridge, or prejudicially affect the prerogative of the Crown in relation to the granting of any letters patent, or to the withholding of a grant thereof.

#### *General Definitions.*

General definitions.

117.—(1) In and for the purposes of this Act, unless the context otherwise requires,—

“Person.”

“Person” includes a body corporate :

“Court.”

“The Court” means (subject to the provisions for Scotland, Ireland, and the Isle of Man) her Majesty’s High Court of Justice in England :

“Law officer.”

“Law officer” means her Majesty’s Attorney-General or Solicitor-General for England :

“Treasury.”

“The Treasury” means the Commissioners of her Majesty’s Treasury :

“Comptroller” means the Comptroller-General of patents, designs, and trade marks: “Comptroller.”

“Prescribed” means prescribed by any of the schedules to this Act, or by general rules under or within the meaning of this Act: “Prescribed.”

“British possession” means any territory or place situate within her Majesty’s dominions, and not being or forming part of the United Kingdom, or of the Channel Islands, or of the Isle of Man, and all territories and places under one legislature, as hereinafter defined, are deemed to be one British possession for the purposes of this Act: “British possession.”

“Legislature” includes any person or persons who exercise legislative authority in the British possession; and where there are local legislatures as well as a central legislature, means the central legislature only. “Legislature.”

In the application of this Act to Ireland, “summary conviction” means a conviction under the Summary Jurisdiction Acts, that is to say, with reference to the Dublin Metropolitan Police District the Acts regulating the duties of justices of the peace and of the police for such district, and elsewhere in Ireland the Petty Sessions (Ireland) Act, 1851, and any Act amending it. “Summary conviction” as applied to Ireland.

1.—(1) After the first day of July One thousand eight hundred and eighty-nine a person shall not be entitled to describe himself as a patent agent, whether by advertisement, by description on his place of business, by any document issued by him, or otherwise, unless he is registered as a patent agent in pursuance of this Act. Register of patent agents. Act, 1888, s. 1.

(2) The Board of Trade shall, as soon as may be after the passing of this Act, and may from time to time, make such general rules as are in the opinion of the Board required for giving effect to this section, and the provisions of section one hundred and one of the principal Act shall apply to all rules so made as if they were made in pursuance of that section.

(3) Provided that every person who proves to the satisfaction of the Board of Trade that prior to the passing of this Act he had been bonâ fide practising as a patent agent shall be entitled to be registered as a patent agent in pursuance of this Act.

(4) If any person knowingly describes himself as a patent agent in contravention of this section he shall be liable on summary conviction to a fine not exceeding twenty pounds.

(5) In this section “patent agent” means exclusively an agent for obtaining patents in the United Kingdom.

## SCHEDULES.

## THE FIRST SCHEDULE.

## FORMS OF APPLICATION, &amp;C.

Forms A, B and C of this First Schedule are altered by the substitution of those given in the Patent Rules, 1903 (*post*).

Section 113.

## THE THIRD SCHEDULE.

*Enactments Repealed.*

21 James 1, c. 3 (1623).—The Statute of Monopolies. In part; namely, sections 10, 11 and 12.

5 & 6 Will. 4, c. 62 (1835) [In part].—The Statutory Declarations Act, 1835. In part; namely, section 11.

5 & 6 Will. 4, c. 83 (1835).—An Act to amend the law touching letters patent for inventions.

2 & 3 Vict. c. 67 (1839).—An Act to amend an Act of the fifth and sixth years of the reign of King William the Fourth, intituled “An Act to amend the law touching letters patent for inventions.”

5 & 6 Vict. c. 100 (1842).—An Act to consolidate and amend the laws relating to the copyright of designs for ornamenting articles of manufacture.

6 & 7 Vict. c. 65 (1843).—An Act to amend the laws relating to the copyright of designs.

7 & 8 Vict. c. 69\* (1844) [In part].—An Act for amending an Act passed in the fourth year of the reign of his late Majesty, intituled “An Act for the better administration of justice in his Majesty’s Privy Council, and to extend its jurisdiction and powers.” In part; namely, sections 2 to 5, both included.

13 & 14 Vict. c. 104 (1850).—An Act to extend and amend the Acts relating to the copyright of designs.

15 & 16 Vict. c. 83 (1852).—The Patent Law Amendment Act, 1852.

16 & 17 Vict. c. 5 (1853).—An Act to substitute stamp duties for fees on passing letters patent for inventions, and to provide for the purchase for the public use of certain indexes of specifications.

16 & 17 Vict. c. 115 (1853).—An Act to amend certain provisions of the Patent Law Amendment Act, 1852, in respect of the transmission of certified copies of letters patent and specifications to certain offices in Edinburgh and Dublin, and otherwise to amend the said Act.

21 & 22 Vict. c. 70 (1858).—An Act to amend the Act of the fifth and sixth years of her present Majesty, to consolidate and amend the laws relating to the copyright of designs for ornamenting articles of manufacture.

22 Vict. c. 13 (1859).—An Act to amend the law concerning patents for inventions with respect to inventions for improvements in instruments and munitions of war.

24 & 25 Vict. c. 73 (1861).—An Act to amend the law relating to the copyright of designs.

28 & 29 Vict. c. 3 (1865).—The Industrial Exhibitions Act, 1865.

33 & 34 Vict. c. 27 (1870).—The Protection of Inventions Act, 1870.

\* *Note.*—Sects. 6 and 7 of this Act are repealed by the Statute Law Revision (No. 2) Act, 1874.

33 & 34 Vict. c. 97 (1870).—The Stamp Act, 1870. In part; namely, section 65, and in the Schedule the words and figures, "Certificate of the registration of a design . . . £5 0 0. And see section 65."

38 & 39 Vict. c. 91 (1875).—The Trade Marks Registration Act, 1875.

38 & 39 Vict. c. 93 (1875).—The Copyright of Designs Act, 1875.

39 & 40 Vict. c. 33 (1876).—The Trade Marks Registration Amendment Act, 1876.

40 & 41 Vict. c. 37 (1877).—The Trade Marks Registration Extension Act, 1877.

43 & 44 Vict. c. 10 (1880).—The Great Seal Act, 1880. In part; namely, section 5.

45 & 46 Vict. c. 72 (1882).—The Revenue, Friendly Societies, and National Debt Act, 1882. In part; namely, section 16.

## PATENTS, ETC. ACT, 1885.

(48 &amp; 49 VICT. c. 63.)

*An Act to amend the Patents, Designs, and Trade Marks Act, 1883.*

BE IT ENACTED by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1. This Act shall be construed as one with the Patents, Designs, and Trade Marks Act, 1883 (in this Act referred to as the principal Act).

This Act may be cited as the Patents, Designs, and Trade Marks (Amendment) Act, 1885, and this Act and the principal Act may be cited together as the Patents, Designs, and Trade Marks Acts, 1883 and 1885.

Amendment  
of sect. 5,  
sub-sect. 2.

2. Whereas sub-section 2 of section 5 of the principal Act requires a declaration to be made by an applicant for a patent to the effect in that sub-section mentioned, and doubts have arisen as to the nature of that declaration, and it is expedient to remove such doubts : Be it therefore enacted that :

The declaration mentioned in sub-section 2 of section 5 of the principal Act may be either a statutory declaration under the Statutory Declarations Act, 1835, or not, as may be from time to time prescribed.

Amendment  
of sects. 8  
and 9.  
Time reduced  
to six months  
by Act of  
1902.

3. Whereas under the principal Act a complete specification is required (by section 8) to be left within (*nine*) ~~six~~ months, and (by section 9) to be accepted within twelve months, from the date of application, and a patent is required by section 12 to be sealed within fifteen months from the date of application, and it is expedient to empower the Comptroller to extend in certain cases the said times : Be it therefore enacted as follows :

A complete specification may be left and accepted within such extended times, not exceeding one month and three months respectively after the said (*nine*) ~~six~~ and twelve months respectively as the Comptroller may on the payment of the prescribed fee allow, and where such extension of time has been allowed, a further extension of four months after the said fifteen months shall be allowed for the sealing of the patent ; and the principal Act shall have effect as if any time so allowed were added to the said periods specified in the principal Act.

4. Where an application for a patent has been abandoned, or become void, the specification or specifications and drawings (if any) accompanying or left in connection with such application, shall not at any time be open to public inspection or be published by the Comptroller. Abandoned application.

5. Whereas doubts have arisen whether under the principal Act a patent may lawfully be granted to several persons jointly, some or one of whom only are or is the true and first inventors or inventor; be it therefore enacted and declared that it has been and is lawful under the principal Act to grant such a patent. Joint patent.

6. In sub-section 1 of section 103 of the principal Act, the words "date of the application" shall be substituted for the words "date of the protection obtained." Amendment of sect. 103, sub-sect. 1.

## PATENTS, ETC. ACT, 1886.

(49 &amp; 50 VICT. c. 37.)

*An Act to remove certain doubts respecting the construction of the Patents, Designs, and Trade Marks Act, 1883, so far as respects the drawings by which specifications are required to be accompanied and as respects Exhibitions.*

WHEREAS by section 5 of the Patents, Designs, and Trade Marks Act, 1883, specifications, whether provisional or complete, must be accompanied by drawings if required, and doubts have arisen as to whether it is sufficient that a complete specification refers to the drawings by which the provisional specification was accompanied, and it is expedient to remove such doubts :

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Title.

1. This Act may be cited as the Patents Act, 1886, and shall be construed as one with the Patents, Designs, and Trade Marks Acts, 1883 and 1885, and, together with those Acts, may be cited as the Patents, Designs, and Trade Marks Acts, 1883 to 1886.

Explanation  
of sect. 5, sub-  
sect. 4, of  
principal Act.

2. The requirement of sub-section 4 of section 5 of the Patents, Designs, and Trade Marks Act, 1883, as to drawings shall not be deemed to be insufficiently complied with by reason only that instead of being accompanied by drawings the complete specification refers to the drawings which accompanied the provisional specification. And no patent heretofore sealed shall be invalid by reason only that the complete specification was not accompanied by drawings, but referred to those which accompanied the provisional specification.

Extension of  
sect. 39 of  
principal Act.

3. Whereas by section 39 of the Patents, Designs, and Trade Marks Act, 1883, as respects patents, and by section 57 of the same Act as respects designs, provision is made that the exhibition of an invention or design at an industrial or international exhibition, certified as such by the Board of Trade, shall not prejudice the rights of the inventor or proprietor thereof, subject to the conditions therein mentioned, one of which is that the exhibitor must, before exhibiting the invention, design, or article, or publishing a description of the design, give the Comptroller the prescribed notice of his intention to do so :

And whereas it is expedient to provide for the extension of the said sections to industrial and international exhibitions held out of the United Kingdom, be it therefore enacted as follows :

It shall be lawful for her Majesty, by Order in Council, from time to time to declare that sections 39 and 57 of the Patents, Designs, and Trade Marks Act, 1883, or either of those sections, shall apply to any exhibition mentioned in the order in like manner as if it were an industrial or international exhibition certified by the Board of Trade, and to provide that the exhibitor shall be relieved from the conditions, specified in the said sections, of giving notice to the Comptroller of his intention to exhibit, and shall be so relieved either absolutely or upon such terms and conditions as to her Majesty in Council may seem fit.



## PATENTS, DESIGNS, ETC. ACT, 1888.

*An Act to amend the Patents, Designs, and Trade Marks Act, 1883.*  
[24th December, 1888.]

46 & 47 Vict.  
c. 57.

WHEREAS it is expedient to amend the Patents, Designs and Trade Marks Act, 1883, hereinafter referred to as the principal Act :

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same as follows :

Register of  
patent agents.

1.—(1) After the first day of July, One thousand eight hundred and eighty-nine, a person shall not be entitled to describe himself as a patent agent, whether by advertisement, by description on his place of business, by any document issued by him, or otherwise, unless he is registered as a patent agent in pursuance of this Act [see Register of Patent Agents Rules].

(2) The Board of Trade shall, as soon as may be after the passing of this Act, and may from time to time, make such general rules as are in the opinion of the Board required for giving effect to this section, and the provisions of section 101 of the principal Act shall apply to all rules so made as if they were made in pursuance of that section.

(3) Provided that every person who proves to the satisfaction of the Board of Trade that prior to the passing of this Act he had been bonâ fide practising as a patent agent, shall be entitled to be registered as a patent agent in pursuance of this Act.

(4) If any person knowingly describes himself as a patent agent in contravention of this section, he shall be liable on summary conviction to a fine not exceeding twenty pounds.

(5) In this section "patent agent" means exclusively an agent for obtaining patents in the United Kingdom.

Amendments  
of 46 & 47  
Vict. 57.

2. For section seven of the principal Act the following section shall be substituted, namely :—

S. 7 as to  
applications.

"7.—(1) If the examiner reports that the nature of the invention is not fairly described, or that the application, specification, or drawings has not, or have not, been prepared in the prescribed manner, or that the title does not sufficiently indicate the subject matter of the invention, the Comptroller may refuse to accept the application, or require that the application, specification or drawings

be amended before he proceeds with the application; and in the latter case the application shall, if the Comptroller so directs, bear date as from the time when the requirement is complied with.

“(2) Where the Comptroller refuses to accept an application or requires an amendment, the applicant may appeal from his decision to the law officer.

“(3) The law officer shall, if required, hear the applicant and the Comptroller, and may make an order determining whether, and subject to what conditions (if any), the application shall be accepted.

“(4) The Comptroller shall, when an application has been accepted, give notice thereof to the applicant.

“(5) If, after an application for a patent has been made, but before the patent thereof has been sealed, another application for a patent is made accompanied by a specification bearing the same or a similar title, the Comptroller, if he thinks fit, on the request of the second applicant, or of his legal representative, may, within two months of the grant of a patent on the first application, either decline to proceed with the second application or allow the surrender of the patent, if any, granted thereon.”

3. In sub-section 5 of section 9 of the principal Act the words “other than an appeal to the law officer under this Act” shall be omitted.

S. 9, as to disclosure of reports of examiners.

4. In sub-section 1 of section 11 of the principal Act the words from “or on the ground of an examiner” to “a previous application,” both inclusive, shall be omitted, and there shall be added in lieu thereof the following words, namely, or on the ground that the complete specification describes or claims an invention other than that described in the provisional specification, and that such other invention forms the subject of an application made by the opponent in the interval between the leaving of the provisional specification and the leaving of the complete specification.”

S. 11, as to opposition to grant of patent.

5. For sub-section 10 of section 18 of the principal Act the following sub-section shall be substituted, namely—

S. 18, as to amended specifications.

“(10) The foregoing provisions of this section do not apply when, and so long as, any action for infringement or proceeding for revocation of a patent is pending.”

*(Sections 6—24 refer to designs and trade marks only.)*

25. After section 102 of the principal Act the following section shall be added and numbered 102A; namely,

Proceedings of Board of Trade.

“(1) All things required or authorised under this Act to be done by, to, or before the Board of Trade, may be done by, to,

or before the President or a secretary or an assistant secretary of the Board.

“(2) All documents purporting to be orders made by the Board of Trade and to be sealed with the seal of the Board, or to be signed by a secretary or assistant secretary of the Board, or by any person authorised on that behalf by the President of the Board, shall be received in evidence, and shall be deemed to be such orders without further proof, unless the contrary is shown.

“(3) A certificate, signed by the President of the Board of Trade, that any order made or act done is the order or act of the Board, shall be conclusive evidence of the fact so certified.”

Jurisdiction  
of Lancashire  
Palatine  
Court.

26. After section 112 of the principal Act the following section shall be added and numbered 112A; namely,

“The Court of Chancery of the County Palatine of Lancaster shall, with respect to any action or other proceeding in relation to trade marks, the registration whereof is applied for in the Manchester Office, have the like jurisdiction under this Act as her Majesty’s High Court of Justice in England, and the expression ‘the Court’ in this Act shall be construed and have effect accordingly.

“Provided that every decision of the Court of Chancery of the County Palatine of Lancaster in pursuance of this section shall be subject to the like appeal as decisions of that Court in other cases.”

Construction  
of principal  
Act.

27. The principal Act shall, as from the commencement of this Act, take effect subject to the additions, omissions and substitutions required by this Act, but nothing in this Act shall affect the validity of any act done, right acquired, or liability incurred before the commencement of this Act.

Commence-  
ment of Act.

28. This Act shall, except so far as is by this Act otherwise specially provided, commence and come into operation on the first day of January, One thousand eight hundred and eighty-nine.

Short title.

29. This Act may be cited as the Patents, Designs, and Trade Marks Act, 1888, and this Act and the Patents, Designs, and Trade Marks Acts, 1883 to 1886, may be cited collectively as the Patents, Designs, and Trade Marks Acts, 1883 to 1888.

## THE PATENTS ACT, 1901.

(1 ED. VII. c. 18.)

*An Act to amend the Law with reference to International Arrangements for Patents.* [17th August, 1901.]

BE IT ENACTED by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1.—(1) In the first proviso to sub-section one of section one hundred and three of the Patents, Designs, and Trade Marks Act, 1883 (which section relates to the time for making applications for protection under international arrangements), the words “twelve months” shall be substituted for the words “seven months.”

International arrangements 46 & 47 Vict. c. 57.

(2) An application under that section shall be accompanied by a complete specification, which, if it be not accepted within the period of twelve months, shall, with the drawings (if any), be open to public inspection at the expiration of that period.

2.—(1) This Act may be cited as the Patents Act, 1901, and may be cited and shall be construed as one with the Patents, Designs, and Trade Marks Acts, 1883 to 1888.

Short title, construction, and commencement.

(2) This Act shall come into operation on the first day of January, one thousand nine hundred and two.

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## THE PATENTS ACT, 1902.

(2 ED. VII. c. 34.)

*An Act to amend the Law with reference to Applications for Patents and Compulsory Licences, and other matters connected therewith.*

[18th December, 1902.]

BE IT ENACTED by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Examination  
of previous  
specifications  
in United  
Kingdom on  
applications  
for patents.  
46 & 47 Vict.  
c. 57.

1.—(1) Where an application for a patent has been made and a complete specification has been deposited by the applicant, the examiner shall forthwith, in addition to the inquiries which he is directed to make by the Patents, Designs, and Trade Marks Act, 1883 (in this Act referred to as the principal Act), make a further investigation for the purpose of ascertaining whether the invention claimed has been wholly or in part claimed or described in any specification (other than a provisional specification not followed by a complete specification) published before the date of the application and deposited pursuant to any application for a patent made in the United Kingdom within fifty years next before the date of the application.

(2) If on investigation it appears that the invention has been wholly or in part claimed or described in any such specification, the applicant shall be informed thereof, and the applicant may, within such time as may be prescribed, amend his specification, and the amended specification shall be investigated in like manner as the original specification.

(3) The examiner shall report to the Comptroller the result of his investigations in such manner as the Board of Trade may direct.

(4) The provisions of sub-section five of section nine of the principal Act, as amended by any subsequent enactment, shall apply to reports under this section.

(5) If the Comptroller is satisfied that no objection exists to the specification on the ground that the invention claimed thereby has been wholly or in part claimed or described in a previous specification as before mentioned, he shall, in the absence of any other lawful ground of objection, accept the specification.

(6) If the Comptroller is not so satisfied, he shall, after hearing the applicant, and unless the objection be removed by amending

the specification to the satisfaction of the Comptroller, determine whether a reference to any, and, if so, what, prior specifications ought to be made in the specification by way of notice to the public.

(7) An appeal shall lie from the decision of the Comptroller under this section to the law officer.

(8) Section eight of the principal Act and section three of the Patents, Designs, and Trade Marks (Amendment) Act, 1885 (which regulate the time for depositing a complete specification), shall have effect as if references therein to the period of nine months were references to the period of six months. 48 & 49 Vict. c. 63.

(9) The investigations and reports required by this section shall not be held in any way to guarantee the validity of any patent, and no liability shall be incurred by the Board of Trade or any officer thereof by reason of, or in connexion with, any such investigation or report, or any proceeding consequent thereon.

(10) The Board of Trade, with the sanction of the Treasury, may prescribe an additional fee not exceeding one pound in respect of the investigation mentioned in this section, which shall be payable on the sealing of the patent.

(11) This section shall come into operation at such date as the Board of Trade may by order direct, and shall apply only to applications made after that date, and the order shall be laid before both Houses of Parliament.

2. An invention covered by any patent granted on an application to which section one of this Act applies shall not be deemed to have been anticipated by reason only of its publication in a specification deposited pursuant to an application made in the United Kingdom not less than fifty years before the date of the application for a patent therefor, or of its publication in a provisional specification of any date not followed by a complete specification. Limitation as to anticipation.

3. Section twenty-two of the principal Act (relating to the grant of compulsory licences by the Board of Trade) is hereby repealed, and the following provisions shall be substituted therefor:— Amendment of law relating to compulsory licences.

(1) Any person interested may present a petition to the Board of Trade alleging that the reasonable requirements of the public with respect to a patented invention have not been satisfied, and praying for the grant of a compulsory licence, or, in the alternative, for the revocation of the patent;

(2) The Board of Trade shall consider the petition, and if the parties do not come to an arrangement between themselves, the Board of Trade, if satisfied that a *prima facie* case has been made out, shall refer the petition to the Judicial

Committee of the Privy Council, and, if the Board are not so satisfied, they may dismiss the petition ;

- (3) Where any such petition is referred by the Board of Trade to the Judicial Committee, and it is proved to the satisfaction of the Judicial Committee that the reasonable requirements of the public with reference to the patented invention have not been satisfied, the patentee may be ordered by an Order in Council to grant licences on such terms as the said Committee may think just, or, if the Judicial Committee are of opinion that the reasonable requirements of the public will not be satisfied by the grant of licences, the patent may be revoked by Order in Council ;

Provided that no order of revocation shall be made before the expiration of three years from the date of the patent, or if the patentee gives satisfactory reasons for his default ;

- (4) On the hearing of any petition under this section the patentee and any person claiming an interest in the patent as exclusive licensee or otherwise, shall be made parties to the proceeding, and the law officer or such other counsel as he may appoint shall be entitled to appear and be heard ;
- (5) If it is proved to the satisfaction of the Judicial Committee that the patent is worked or that the patented article is manufactured exclusively or mainly outside the United Kingdom, then, unless the patentee can show that the reasonable requirements of the public have been satisfied, the petitioner shall be entitled either to an order for a compulsory licence or, subject to the above proviso, to an order for the revocation of the patent ;
- (6) For the purposes of this section the reasonable requirements of the public shall not be deemed to have been satisfied if, by reason of the default of the patentee to work his patent or to manufacture the patented article in the United Kingdom to an adequate extent, or to grant licences on reasonable terms, (a) any existing industry or the establishment of any new industry is unfairly prejudiced, or (b) the demand for the patented article is not reasonably met ;
- (7) An Order in Council directing the grant of any licence under this section shall, without prejudice to any other method of enforcement, operate as if it were embodied in a deed granting a licence and made between the parties to the proceeding ;
- (8) His Majesty in Council may make rules of procedure and practice for regulating proceedings before the Judicial

Committee under this section, and, subject thereto, such proceedings shall be regulated according to the existing procedure and practice in patent matters. Any Order in Council or any order made by the Judicial Committee under this Act may be enforced by the High Court as if it were an order of the High Court ;

- (9) The costs of and incidental to all proceedings under this section shall be in the discretion of the Judicial Committee, but in awarding costs on any application for the grant of a licence the Judicial Committee may have regard to any previous request for, or offer of, a licence made either before or after the application to the Committee ;
- (10) For the purposes of this section three members of the Judicial Committee shall constitute a quorum ;
- (11) This section shall apply to patents granted before as well as after the commencement of this Act.

4. In sub-section four of section eighty-two of the principal Act (which relates to the performance of the duties of the Comptroller by other officers under the direction of the Board of Trade) the words "in his absence" shall be repealed. Performance of Comptroller's duties.

5. This Act may be cited as the Patents Act, 1902, and may be cited and shall be construed as one with the Patents, Designs, and Trade Marks Acts, 1883 to 1901. Short title and construction.



INTERNATIONAL CONVENTION FOR THE PRO-  
TECTION OF INDUSTRIAL PROPERTY.

SIGNED AT PARIS, MARCH 20, 1883.

[*Ratifications exchanged at Paris, June 6, 1884.*]

ARTICLE I.

The Governments of Belgium, Brazil, Spain, France, Guatemala, Italy, Holland, Portugal, Salvador, Servia, and Switzerland, constitute themselves into a union for the protection of industrial property.

ARTICLE II.

The subjects or citizens of each of the contracting States shall, in all the other States of the union, as regards patents, industrial designs or models, trade-marks and trade names, enjoy the advantages that their respective laws now grant, or shall hereafter grant, to their own subjects or citizens.

Consequently, they shall have the same protection as the latter, and the same legal remedy against any infringement of their rights, provided they observe the formalities and conditions imposed on subjects or citizens by the internal legislation of each State.

ARTICLE III.

Subjects or citizens of States not forming part of the union, who are domiciled or have industrial or commercial establishments in the territory of any of the States of the union, shall be assimilated to the subjects or citizens of the contracting States.

ARTICLE IV.

Any person who has duly applied for a patent, industrial design or model, or trade mark in one of the contracting States, shall enjoy, as regards registration in the other States, and reserving the rights of third parties, a right of priority during the periods hereinafter stated.

Consequently, subsequent registration in any of the other States of the union before expiry of these periods shall not be invalidated through any acts accomplished in the interval, either, for instance, by another registration, by publication of the invention, or by the working of it by a third party, by the sale of copies of the design or model, or by use of the trade mark.

The above-mentioned terms of priority shall be six months for patents, and three months for industrial designs and models and trade marks. A month longer is allowed for countries beyond sea.

#### ARTICLE V.

The introduction by the patentee into the country where the patent has been granted of objects manufactured in any of the States of the union shall not entail forfeiture.

Nevertheless, the patentee shall remain bound to work his patent in conformity with the laws of the country into which he introduces the patented objects.

#### ARTICLE VI.

Every trade mark duly registered in the country of origin shall be admitted for registration, and protected in the form originally registered in all the other countries of the union.

That country shall be deemed the country of origin where the applicant has his chief seat of business.

If this chief seat of business is not situated in one of the countries of the union, the country to which the applicant belongs shall be deemed the country of origin.

Registration may be refused if the object for which it is solicited is considered contrary to morality or public order.

#### ARTICLE VII.

The nature of the goods on which the trade mark is to be used can, in no case, be an obstacle to the registration of the trade mark.

#### ARTICLE VIII.

A trade name shall be protected in all countries of the union, without necessity of registration, whether it form part or not of a trade mark.

#### ARTICLE IX.

All goods illegally bearing a trade mark or trade name may be seized on importation into those States of the union where this mark or name has a right to legal protection.

The seizure shall be effected at the request of either the proper public department or of the interested party, pursuant to the internal legislation of each country.

#### ARTICLE X.

The provisions of the preceding Article shall apply to all goods falsely bearing the name of any locality as indication of the place of

origin, when such indication is associated with a trade name of a fictitious character or assumed with a fraudulent intention.

Any manufacturer of, or trader in, such goods established in the locality falsely designated as the place of origin, shall be deemed an interested party.

#### ARTICLE XI.

The high contracting parties agree to grant temporary protection to patentable inventions, to industrial designs or models, and trade marks for articles exhibited at official or officially recognised international exhibitions.

#### ARTICLE XII.

Each of the high contracting parties agrees to establish a special Government department for industrial property, and a central office for communication to the public of patents, industrial designs or models, and trade marks.

#### ARTICLE XIII.

An international office shall be organised under the name of "Bureau International de l'Union pour la Protection de la Propriété Industrielle" (International office of the Union for the Protection of Industrial Property).

This office, the expense of which shall be defrayed by the Governments of all the contracting States, shall be placed under the high authority of the central administration of the Swiss Confederation, and shall work under its supervision. Its functions shall be determined by agreement between the States of the union.

#### ARTICLE XIV.

The present Convention shall be submitted to periodical revisions, with a view to introducing improvements calculated to perfect the system of the union.

To this end conferences shall be successively held in one of the contracting States by delegates of the said States. The next meeting shall take place in 1885 at Rome.

#### ARTICLE XV.

It is agreed that the high contracting parties respectfully reserve to themselves the right to make separately, as between themselves, special arrangements for the protection of industrial property, in so far as such arrangements do not contravene the provisions of the present Convention.

## ARTICLE XVI.

States which have not taken part in the present Convention shall be permitted to adhere to it at their request.

Such adhesion shall be notified officially through the diplomatic channel to the Government of the Swiss Confederation, and by the latter to all the others. It shall imply complete accession to all the clauses, and the admission to all the advantages stipulated by the present Convention.

## ARTICLE XVII.

The execution of the reciprocal engagements contained in the present Convention is subordinated, in so far as necessary, to the observance of the formalities and rules established by the constitutional laws of those of the high contracting parties who are bound to procure the application of the same, which they engage to do with as little delay as possible.

## ARTICLE XVIII.

The present Convention shall come into operation one month after the exchange of ratifications, and shall remain in force for an unlimited time, till the expiry of one year from the date of its denunciation. This denunciation shall be addressed to the Government commissioned to receive adhesions. It shall only affect the denouncing State, the Convention remaining in operation as regards the other contracting parties.

## ARTICLE XIX.

The present Convention shall be ratified, and the ratification exchanged in Paris, within one year at the latest.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto their seals.

Done at Paris, the 20th March, 1883.

(Signed)

*(Here follow the signatures of the Plenipotentiaries.)*

II.—*Final Protocol.*

On proceeding to the signature of the Convention concluded this day between the Governments of Belgium, Brazil, Spain, France, Guatemala, Italy, the Netherlands, Portugal, Salvador, Servia, and Switzerland for the protection of industrial property, the undersigned Plenipotentiaries have agreed as follows:—

(1) The words "industrial property" are to be understood in their

broadest sense ; they are not to apply simply to industrial products, properly so called, but also to agricultural products (wines, corn, fruits, cattle, &c.) and to mineral products employed in commerce (mineral waters, &c.).

(2) Under the word "patents" are comprised the various kinds of industrial patents recognised by the legislation of each of the contracting States, such as importation patents, improvement patents, &c.

(3) The last paragraph of Article II. does not affect the legislation of each of the contracting States as regards the procedure to be followed before the tribunals and the competence of those tribunals.

(4) Paragraph 1 of Article VI. is to be understood as meaning that no trade mark shall be excluded from protection in any State of the union from the fact alone that it does not satisfy, in regard to the signs comprising it, the conditions of the legislation of that State, provided that on this point it comply with the legislation of the country of origin, and that it had been properly registered in said country of origin. With this exception, which relates only to the form of the mark, and under reserve of the provisions of the other articles of the Convention, the internal legislation of each State remains in force.

To avoid misconstruction, it is agreed that the use of public armorial bearings and decorations may be considered as being contrary to public order in the sense of the last paragraph of Article VI.

(5) The organisation of the special department for industrial property mentioned in Article XII. shall comprise, so far as possible, the publication in each State of a periodical official paper.

(6) The common expenses of the international office instituted by virtue of Article XIII. are in no case to exceed for a single year a total sum representing an average of 2,000 francs for each contracting State.

To determine the part which each State should contribute to this total of expenses the contracting States, and those which may afterwards join the union, shall be divided into six classes, each contributing in the proportion of a certain number of units, namely :—

1st class . . . . .	25 units.
2nd class . . . . .	20 "
3rd class . . . . .	15 "
4th class . . . . .	10 "
5th class . . . . .	5 "
6th class . . . . .	3 "

These coefficients will be multiplied by the number of States in each class, and the sum of the result thus obtained will supply the

number of units by which the total expense has to be divided. The quotient will give the amount of the unit of expense.

The contracting States are classed as follows with regard to the division of expense :—

1st class	.	.	.	.	France, Italy.
2nd class	.	.	.	.	Spain.
3rd class	.	.	.	.	Belgium, Brazil, Portugal, Switzerland.
4th class	.	.	.	.	Holland.
5th class	.	.	.	.	Servia.
6th class	.	.	.	.	Guatemala, Salvador.

The Swiss Government will superintend the expenses of the international office, advance the necessary funds, and render an annual account, which will be communicated to all the other administrations.

The international office will centralise information of every kind relating to the protection of industrial property, and will bring it together in the form of a general statistical statement, which will be distributed to all the administrations. It will interest itself in all matters of common utility to the union, and will edit, with the help of the documents supplied to it by the various administrations, a periodical paper in the French language dealing with questions regarding the object of the union.

The numbers of this paper, as well as all the documents published by the international office, will be circulated among the administrations of the States of the union in the proportion of the number of contributing units as mentioned above. Such further copies as may be desired, either by the said administrations or by societies or private persons, will be paid for separately.

The international office shall at all times hold itself at the service of members of the union, in order to supply them with any special information they may need on questions relating to the international system of industrial property.

The Administration of the country in which the next conference is to be held will make preparations for the transactions of that conference, with the assistance of the international office.

The director of the international office will be present at the meetings of the conferences and will take part in the discussions, but without the privilege of voting.

He will furnish an annual report upon his administration of the office, which shall be communicated to all the members of the union.

The official language of the international office will be French.

(7) The present final protocol, which shall be ratified together with

the Convention concluded this day, shall be considered as forming an integral part of, and shall have the same force, validity, and duration as, the said Convention.

In witness whereof the undersigned Plenipotentiaries have drawn up the present protocol.

(Signed)

*(Here follow the signatures of the Plenipotentiaries.)*

III.—*Accession of Her Majesty's Government to the Convention signed at Paris, March 20, 1883.*

The undersigned, Ambassador Extraordinary and Plenipotentiary of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland to the French Republic, declares that Her Britannic Majesty, having had the International Convention for the protection of industrial property, concluded at Paris on the 20th March, 1883, and the Protocol relating thereto, signed on the same date, laid before her, and availing herself of the right reserved by Article XVI. of that Convention to States not parties to the original Convention, accedes, on behalf of the United Kingdom of Great Britain and Ireland, to the said International Convention for the protection of industrial property, and to the said protocol, which are to be considered as inserted word for word in the present declaration, and formally engages, as far as regards the President of the French Republic and the other high contracting parties, to co-operate on her part in the execution of the stipulations contained in the Convention and protocol aforesaid.

The undersigned makes this declaration on the part of Her Britannic Majesty with the express understanding that power is reserved to Her Britannic Majesty to accede to the Convention on behalf of the Isle of Man and the Channel Islands, and any of Her Majesty's possessions, on due notice to that effect being given through Her Majesty's Government.

In witness whereof the undersigned, duly authorised, has signed the present declaration of accession, and has affixed thereto the seal of his arms.

Done at Paris on the 17th day of March, 1884.

(L.S.) (Signed) LYONS.

IV.—*Declaration of Acceptance of Accession.*

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland having acceded to the International Convention relative

to the protection of industrial property concluded at Paris, 20th March, 1883, together with a protocol dated the same day, by the declaration of accession delivered by her Ambassador Extraordinary and Plenipotentiary to the Government of the French Republic, the text of which declaration is, word for word, as follows:--

(Here is inserted the text of No. III. in English.)

The President of the French Republic has authorised the undersigned, President of the Council, Minister for Foreign Affairs, to formally accept the said accession, together with the reserves which are contained in it concerning the Isle of Man, the Channel Islands, and all other possessions of Her Britannic Majesty, engaging as well in his own name as in that of the other high contracting parties, to assist in the accomplishment of the obligations stipulated in the Convention and the protocol thereto annexed which may concern the United Kingdom of Great Britain and Ireland.

In witness whereof the undersigned, duly authorised, has drawn up the present declaration of acceptance and has affixed thereto his seal.

Done at Paris, the 2nd April, 1884.

(L.S.) (Signed) JULES FERRY.



ADDITIONAL ACT MODIFYING THE INDUSTRIAL  
PROPERTY CONVENTION OF MARCH 20, 1883.

SIGNED AT BRUSSELS, DECEMBER 14, 1900.

ARTICLE I.

The International Convention of March 20, 1883, shall be modified as follows:—

1. Article III. of the Convention shall run as follows:—

“Art. III. The subjects or citizens of states which are not parties to the union shall be assimilated to the subjects or citizens of the contracting states, provided that they are domiciled in or have industrial or commercial establishments, real and effective, in the territory of one of the states of the union.”

2. Article IV shall run as follows:—

“Art. IV. Any person who shall have duly applied for a patent, industrial design, or model or trade mark in one of the contracting states, shall enjoy, in order to admit of such request being lodged in the other states, during the periods of time mentioned below, a right of priority, the rights of third parties being reserved. .

“Consequently, subsequent registration in one of the other states of the union, before the expiration of such periods of time, shall not be invalidated by any acts accomplished in the interval—either, for instance, by another registration, by the publication of the invention, or by the working of it, by the sale of patterns of the design or model, or by the use of the trade mark.

“The above-mentioned periods of time during which priority is guaranteed shall be twelve months for patents with respect to inventions, and four months for patents for industrial designs or models, as well as for trade or merchandise marks.”

3. There shall be inserted in the Convention an Article IV. *bis*, in the following terms:—

“Art. IV. *bis*. Patents applied for in the various contracting states by persons admitted to the benefits of the Convention in the terms of Articles II. and III., shall be independent of the patents obtained for the same invention in the other states, whether such states be or be not parties to the union.

“This stipulation shall apply to patents already existing at the time when it shall come into effect.

“The same stipulation shall apply, in the case of the accession of

new states, with regard to patents in existence, either on one side or the other, at the time of accession."

4. The two following paragraphs shall be added to Article IX. :—

"In states the laws of which do not admit of seizure upon importation, prohibition of importation may take the place of such seizure.

"The authorities shall not be compelled to effect the seizure in the case of goods in transit."

5. Article X. shall run as follows :—

"Art. X. The stipulations of the preceding Article shall be applicable to every production which may falsely bear as indication of origin the name of a specified locality, when such indication shall be joined to a trade name of a fictitious character or used with intent to defraud.

"Any producer, manufacturer, or trader engaged in the production, manufacture, or trade of such goods, and established either in the locality falsely designated as the place of origin, or in the district where the locality is situated, is to be deemed a party concerned."

6. There shall be inserted in the Convention an Article X. *bis*, in the terms following :—

"Art. X. *bis*. Persons resorting to the countries referred to in the Convention (Articles II. and III.) shall enjoy in all the states of the union the protection accorded to nationals against dishonest competition."

7. Article XI. shall run as follows :—

"Art. XI. The high contracting parties shall, in conformity with the legislation of each country, accord temporary protection to inventions susceptible of being patented, and to industrial designs or models, as well as to trade marks or merchandise marks, in respect of products which shall be exhibited at official or officially recognised international exhibitions held in the territory of one of them."

8. Article XIV. shall run as follows :—

"Art. XIV. The present Convention shall be submitted to periodical revisions with a view to the introduction of amendments calculated to improve the system of the union.

"For this purpose, conferences shall be held successively, in one of the contracting states, between the delegates of the said states."

9. Article XVI. shall run as follows :—

"Art. XVI. States which are not parties to the present Convention shall be allowed to accede to it upon their request.

"The accession shall be notified through the diplomatic channel to

the Government of the Swiss Confederation, and by the latter to all the other states.

“It shall entail, as a matter of right, accession to all the clauses, as well as admission to all the advantages stipulated in the present Convention, and shall take effect one month after the dispatch of the notification by the Swiss Government to the other states of the union, unless a subsequent date have been indicated by the acceding state.”

#### ARTICLE II.

The final protocol annexed to the International Convention of March 20, 1883, shall be completed by the addition of No. 3 *bis* in the following terms:—

“3 *bis*. The patent, in each country, shall not be liable to forfeiture on account of failure to utilise it, until after the expiration of at least three years from the date of the deposit of the application in the country concerned, and only provided the patentee cannot show reasonable cause for his inaction.”

#### ARTICLE III.

The present additional Act shall have the same value and duration as the Convention of March 20, 1883.

It shall be ratified, and the ratifications shall be deposited at the Ministry for Foreign Affairs, Brussels, as soon as possible, and at the latest within a period of eighteen months from the date of signature.

It shall come into force three months after the protocol of deposit shall have been closed.

In witness whereof the respective plenipotentiaries have signed the present additional Act.

Done at Brussels, in a single copy, December 14, 1900.

*(Here follow the signatures of the Plenipotentiaries.)*

#### *Procès-Verbal.*

The contracting parties having unanimously agreed that the exchange of the ratifications of the additional Act to the Convention of March 20, 1883, signed at Brussels on December 14, 1900, shall be effected by means of the deposit of the respective instruments in the archives of the Belgian Ministry for Foreign Affairs, the present protocol recording the deposit has been, for this purpose, drawn up at the Ministry for Foreign Affairs this 3rd day of May, 1901.

(Signed)

LAWRENCE TOWNSEND.

On this day the ratification of the President of the United States of America has been deposited:—

In succession have been deposited.

(Signed)

JULES BOREL.

On the 5th August, 1901, the ratification of the Swiss Federal Council.

(Signed)

F. G. SCHACK DE BROCKDORFF.

On the 10th October, 1901, the ratification of His Majesty the King of Denmark.

(Signed)

CTE. DE TOVAR.

On the 5th November, 1901, the ratification of His Majesty the King of Portugal and the Algarves.

(Signed)

CONSTANTINE PHIPPS.

On the 6th December, 1901, the ratification of His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India.

(Signed)

P. DE FAVEREAU.

On the 10th December, 1901, the ratification of His Majesty the King of the Belgians.

(Signed)

R. CANTAGALLI.

On the 12th December, 1901, the ratification of His Majesty the King of Italy.

(Signed)

S. MATSUGATA.

On the 21st April, 1902, the ratification of His Majesty the Emperor of Japan.

(Signed)

A. GERARD.

On the 23rd May, 1902, the ratifications of the President of the French Republic and of the Government of Tunis.

(Signed)

CTE. WRANGEL.

On the 5th June, 1902, the ratification of His Majesty the King of Sweden and Norway, on behalf of Sweden.

(Signed)

CTE. WRANGEL.

On the same day, the ratifications of His Majesty the King of Sweden and Norway, on behalf of Norway.

(Signed)

R. DE PESTEL.

On the 10th June, 1902, the  
ratification of Her Majesty the  
Queen of the Netherlands.

In conformity with Article 3 of the additional Act of the 14th  
December, 1900, the present protocol has been closed on this  
date.

The Belgian Minister for Foreign Affairs,

(Signed)

P. DE FAVEREAU.

*Brussels, June 14, 1902.*

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It not having been possible to deposit the ratifications of the  
President of the United States of Brazil, the President of the  
Dominican Republic, His Majesty the King of Spain, and His Majesty  
the King of Servia, within the stipulated period, the Governments of  
Belgium, Denmark, the United States of America, France, Great  
Britain, Italy, Japan, Norway, the Netherlands, Portugal, Sweden,  
Switzerland, and Tunis have unanimously agreed that the additional  
Act of December 14, 1900, shall, from September 14, 1902, take  
effect as regard themselves, and also as regards those of the other  
four signatory states whose ratifications may in the interval have  
been deposited.

Certified copy :

The Secretary-General  
of the Belgian Ministry for Foreign  
Affairs,

(Signed) BARON LAMBERMONT.

**Note.**—Austria-Hungary acceded to the International Conven-  
tion, Protocol, and Additional Act on January 1st, 1909, and from  
that date the provisions of sect. 91 apply to that country (Order  
in Council, May 17th, 1909).

THE PATENTS 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 :—

*Short Title.*

1. These rules may be cited as the Patents Rules, 1908. Short title.

*Commencement.*

2. These rules shall come into operation from and immediately after the 31st December, 1907, with the exception of such of them as relate to the procedure under section 8 of the Act, which shall come into operation at such date as the Board may by order direct. Commencement.

*Interpretation.*

3. In the construction of these rules— Interpretation.  
 "United Kingdom" includes the Isle of Man ;  
 "Foreign application" means an application by any person for protection of his invention in a foreign state or British possession to which by any Order in Council for the time being in force the provisions of section 91 of the Act are applicable ;  
 "Convention application" means an application in the United Kingdom under section 91 of the Act ;  
 "Office" means the Patent Office ;  
 "Journal" means the Illustrated Official Journal (Patents).

*Fees.*

4. The fees to be paid under the Act, so far as it relates to patents, shall be those specified in the list of fees in the first schedule to these rules. First schedule.

*Forms.*

5. The forms herein referred to are those contained in the second and third schedules to these rules, and such forms shall be used in all cases to which they are applicable, and shall be modified as directed by the Comptroller to meet other cases. Second schedule.

*Documents.*

Size, &c., of documents.

6. All documents and copies of documents, except drawings, sent to or left at the Office or otherwise furnished to the Comptroller or to the Board shall be written, type-written, lithographed, or printed in the English language (unless otherwise directed) in large and legible characters with deep permanent ink upon strong white paper, and, except in the case of statutory declarations and affidavits, on one side only, of a size of approximately 13 inches by 8 inches, leaving a margin of at least one inch and a half on the left-hand part thereof, and the signatures thereto must be written in a large and legible hand. Duplicate documents shall at any time be left, if required by the Comptroller.

At the top of the first page of a specification a space of about two inches should be left blank.

Leaving and serving documents.

7. Any application, notice, or other document authorised or required to be left, made, or given at the Office, or to the Comptroller, or to any other person under the Act or these rules, may be sent by a prepaid or official paid letter through the post, and if so sent shall be deemed to have been left, made, or given at the time when the letter containing the same would be delivered in the ordinary course of post. In proving such sending or service, it shall be sufficient to prove that the letter was properly addressed and put into the post.

A letter addressed to a patentee at his address as it appears on the register of patents or at his address for service or to any applicant for or opponent to the grant, revocation, or restoration of a patent at the address appearing on the application or notice of opposition or given for service as hereinafter provided, shall be deemed to be sufficiently addressed.

Address for service.

8. Every applicant for and opponent to the grant of a patent or the revocation of a patent or the restoration of a lapsed patent or the amendment of a specification, and every person who shall hereafter become a patentee, shall give an address for service in the United Kingdom, and such address may be treated, for all purposes connected with the patent, as the actual address of such applicant, opponent or patentee.

If any patentee desires to have two addresses for service entered in the register, a request therefor shall be made on Patents Form No. 26.

The Comptroller may require any existing patentee, who does not reside in the United Kingdom, to give an address for service within the United Kingdom, and such address may be treated as the actual address of the patentee for all purposes connected with such patent.

*Agency.*

9. With the exception of the signing of the following documents, Agency. namely, applications for patents, or for the revocation of patents or the restoration of lapsed patents, requests for leave to amend applications, specifications, or letters patent, authorisations of agents, notices of oppositions, requests for issue of duplicate letters patent, and surrenders of letters patent, all communications to the Comptroller under the Act and these rules relating to patents may be signed by and all attendances upon the Comptroller may be made by or through an agent duly authorised to the satisfaction of the Comptroller, and resident or having a place of business in the United Kingdom. The Comptroller shall not be bound to recognise as such agent, or to receive further communications in respect of any business under the Act relating to patents from, any person whose name, by reason of his having been adjudged guilty of disgraceful professional conduct, has been erased from the register of patent agents kept under the provisions of the Act, and not since restored, or any person who is proved to the satisfaction of the Board, after being given an opportunity of being heard, to have been convicted of such an offence or to have been guilty of such misconduct as would have rendered him liable, if his name had been on the register of patent agents, to have his name erased therefrom, or any company, which if it had been an individual, the Comptroller could refuse to recognise as agent, or any company or firm, if any person whom the Comptroller could refuse to recognise as an agent acts as director or manager of the company or is a partner in the firm. In any particular case the Comptroller may, if he think fit, require the personal signature or presence of an applicant, opponent or other person.

*Applications for the Grant of Patents.*

10. An application for a patent, other than a patent of addition or a secret patent, shall be made on one of the Patent Forms, Nos. 1, 1A or 1B, as the case may be. An application for a patent of addition shall be made on Patents Form No. 1c, and an application for a secret patent on Patents Form No. 1d. Form of application.

11. In the case of an application for a patent by the legal representative of a person who has died possessed of an invention, the probate of his will, or the letters of administration granted of his estate and effects, or an official copy of such probate or letters, shall be produced at the Office in proof of the applicant's title as such legal representative and be supported by such further evidence as the Comptroller may require. Application by representative of deceased inventor.



Order of recording applications.

12. Applications for patents sent through the post shall, as far as may be practicable, be opened and numbered in the order in which the letters containing the same have been respectively delivered in the ordinary course of post.

Applications left at the Office otherwise than through the post shall be in like manner numbered in the order of their receipt at the Office.

One invention.

13.—(1) When a specification comprises several distinct matters, they shall not be deemed to constitute one invention by reason only that they are all applicable to or may form parts of an existing machine, apparatus, or process.

Applications for separate patents by way of amendment.

Where a person making application for a patent has included in his specification more than one invention, the Comptroller may require or allow him to amend such application and specification and drawings or any of them so as to apply to one invention only, and the applicant may make application for a separate patent for any invention excluded by such amendment.

Every such last-mentioned application may, if the Comptroller at any time so direct, bear the date of the original application, or such date between the date of the original application and the date of the application in question, as the Comptroller may direct, and shall otherwise be proceeded with as a substantive application in the manner prescribed by the Act and by these Rules.

Where the Comptroller has required or allowed any application or specification or drawings or any of them to be amended as aforesaid, such application shall, if the Comptroller at any time so direct, bear such date, subsequent to the original date of the application and not later than the date when the amendment was made, as the Comptroller shall consider reasonably necessary to give sufficient time for the subsequent procedure relating to such application.

(2) Where the same applicant has put in two or more provisional specifications for inventions which he believes to be cognate or modifications one of the other and the Comptroller is of opinion that such inventions are not cognate or modifications one of the other, the applicant may divide the complete specification left in connection with his application into such number of complete specifications as may be necessary to enable the application to be proceeded with as two or more separate applications for patents for different inventions.

Claims.

14. The statement of the invention claimed, with which a complete specification must end, shall be clear and succinct as well as separate and distinct from the body of the specification.

*Applications under the International Convention.*

15. Every Convention application shall contain a declaration that foreign application has been made for protection of the invention to which such Convention application relates, and shall specify all the foreign states or British possessions in which such foreign applications have been made, and the official date or dates thereof respectively. The application must be made within twelve months from the date of the first foreign application, and must be accompanied by a complete specification, and signed by the person or persons by whom such first foreign application was made. If such person, or any of such persons be dead, the application must be signed by the legal representative of such dead person, as well as by the other applicants, if any. Convention applications.

16. In addition to the specification left with every Convention application a copy or copies of the specification or specifications and drawings or documents filed or deposited by the applicant in the patent office of the foreign state or British possession in respect of the first foreign application, duly certified by the official chief or head of the patent office of such foreign state or British possession as aforesaid, or otherwise verified to the satisfaction of the Comptroller must be left at the office at the same time as the application or within such further time thereafter not exceeding three months as the Comptroller may allow. If any specification or other document relating to the application is in a foreign language, a translation thereof shall be annexed thereto and verified by statutory declaration or otherwise to the satisfaction of the Comptroller. Foreign specification, &c., to accompany application.

An application for extension of time for leaving the copy or copies of the foreign specification or specifications, drawings or documents shall be made on Patents Form No. 5.

17. If the complete specification left with the application be not accepted within twelve months from the date of the first foreign application, it shall be open to public inspection at the expiration of that period. Public inspection.

18. Save as aforesaid and as provided by rule 83, all proceedings in connection with a Convention application shall be taken within the times and in the manner prescribed by the Act or these rules for ordinary applications. Proceedings.

*Drawings. (a)*

19. Drawings, when furnished, should accompany the provisional or complete specification to which they refer, except in the case General.

(a) NOTE.—Copies of instructions as to the preparation of drawings may be had on application to the Patent Office.

provided for by Rule 26. No drawing or sketch such as would require the preparation for the printer of a special illustration for use in the letterpress of the specification when printed should appear in the specification itself.

Require-  
ments as to  
paper, &c.

20. Drawings may be made by hand or lithographed, printed, &c. They must be made on pure white, hot-pressed, rolled or calendered strong paper of smooth surface, good quality, and medium thickness without washes or colours, in such a way as to admit of being clearly reproduced on a reduced scale by photography. Mounted drawings must not be used.

Size of  
drawing and  
arrangement  
of figures.

21. Drawings must be on sheets which measure 13 inches from top to bottom and are either from 8 inches to  $8\frac{1}{2}$  inches or from 16 inches to  $16\frac{1}{2}$  inches wide, the narrower sheets being preferable.

If there are more figures than can be shown on one of the smaller sized sheets, two or more of these sheets should be used in preference to employing the larger size. When an exceptionally large figure is required, it should be continued on subsequent sheets. There is no limit to the number of sheets that may be sent in, but no more sheets should be employed than are necessary. The figures should be numbered consecutively throughout and without regard to the number of sheets, and should not be more numerous than is absolutely necessary. They should be separated by a sufficient space to keep them distinct.

Drawings to  
be suitable  
for repro-  
duction.

22. Drawings must be prepared in accordance with the following requirements:—

- (a) They must be executed with absolutely black ink.
- (b) Each line must be firmly and evenly drawn, sharply defined, and of the same strength throughout.
- (c) Section lines, lines for effect, and shading lines should be as few as possible, and must not be closely drawn.
- (d) Shading lines must not contrast too much in thickness with the general lines of the drawing.
- (e) Sections and shading should not be represented by solid black or washes.
- (f) They should be on a scale sufficiently large to show the invention clearly, and only so much of the apparatus, machine, &c., should appear as effects this purpose. If the scale is given, it should be drawn, and not denoted by words.

Reference letters and figures, and index numerals used in conjunction therewith, must be bold, distinct and not less than one-eighth of an inch in height. The same letters should be used in different views of the same parts. Where the reference letters are

shown outside the figure, they must be connected with the parts referred to by fine lines.

23. Drawings must bear the name of the applicant (and, in the case of drawings left with a complete specification after one or more provisional specifications, the numbers and years of the applications) in the left-hand top corner; the number of sheets of drawings sent, and the consecutive number of each sheet, in the right-hand top corner; and the signature of the applicant or his agent in the right-hand bottom corner. Neither the title of the invention nor any descriptive matter should appear on the drawings.

Drawings to bear name of applicant, &c., but no descriptive matter.

24. A facsimile or "true copy" of the original drawings should be filed at the same time as the original drawings, prepared strictly in accordance with the above rules, except that it may be on tracing cloth, and the reference letters and figures should be in black-lead pencil.

Copies of drawings.

The words "original" or "true copy" must in each case be marked at the right-hand top corner, under the numbering of the sheet.

Marking of originals and true copies.

25. Drawings must be delivered at the Office so as to be free from folds, breaks, or creases which would render them unsuitable for reproduction by photography.

Delivery of drawings.

26. If an applicant desires to adopt the drawings lodged with his provisional specification as the drawings or part of the drawings for his complete specification, he should refer to them in the complete specification as those left with the provisional specification.

Provisional drawings used for complete specifications.

*Extension of time for leaving complete Specification.*

27. An application for one month's extension of time for leaving a complete specification shall be made on Patents Form No. 6.

Extension of time for leaving complete specification.

*Procedure under Section 7 of the Act.*

28. If after the leaving of any complete specification the Examiner reports that the nature of the invention is not sufficiently disclosed and defined to enable him to make the investigation prescribed by sub-section 1, and the Comptroller requires amendment of the specification and drawings, or any of them, the application shall, if the Comptroller at any time so direct, bear such date, subsequent to its original date and not later than the date when the requirement is complied with, as the Comptroller may consider reasonably necessary to give sufficient time for the subsequent procedure relating to such application.

Power of Comptroller to post-date.

Provisional  
report in  
case of  
complete  
anticipation.

29. When the Examiner in prosecution of the investigation prescribed by sub-section 1, finds that the invention claimed in the specification under examination has been wholly claimed or described in one or more specifications within the meaning of the sub-section, he shall, without any further prosecution of the investigation, make a provisional report to that effect to the Comptroller.

If the provisional report of the Examiner made under this rule be not reversed or altered, it may be deemed a final report, and the application shall be dealt with as provided by sub-section 4. If, however, such provisional report be reversed or altered, the investigation shall be continued, and a further report shall be made to the Comptroller, and the specification shall be dealt with as provided in sub-section 3 or sub-section 4, as the case may require.

Time for  
leaving  
amended  
specification.

30. The time within which an applicant may leave his amended specification under sub-section 2 shall be two months from the date of the letter informing him that the invention claimed has been wholly or in part claimed or described in any specification or specifications within the meaning of sub-section 1.

Hearing  
by the  
Comptroller  
under sub-  
section 4.

31. When the applicant for a patent has been informed of the result of the investigation of the Examiner, made under the provisions of sub-section 1, and the time allowed for amendment of his specification has expired, the Comptroller, if he is not satisfied that no objection exists to the specification on the ground that the invention claimed therein has been wholly or in part claimed or described in a previous specification within the meaning of that sub-section, shall inform the applicant accordingly and appoint a time for hearing him, and shall give him ten days' notice at the least of such appointment. The applicant shall as soon as possible notify the Comptroller whether or not he desires to be heard. The Comptroller shall, after hearing the applicant, or without a hearing if the applicant has not attended a hearing appointed or has notified that he does not desire to be heard, determine whether reference ought to be made in the applicant's specification to any, and, if so, what prior specification or specifications by way of notice to the public, and in the event of the invention claimed being wholly and specifically claimed in any specification to which the investigation has extended whether he should refuse to grant a patent.

Reference to  
prior specifi-  
cation.

32. When under sub-section 4 the Comptroller determines that a reference to a prior specification ought to be made by way of notice to the public, the form of reference shall be as follows and shall be inserted after the claims :—

Reference has been directed in pursuance of section 7, sub-section 4, of the Patents and Designs Act, 1907, to specification  
No.            of 1       .

Where the reference is inserted as the result of a provisional report under rule 29, a statement to that effect shall be added to the reference.

*Procedure under Section 8 of the Act.*

33. Where on the extended investigation provided for by section 8 of the Act it appears that the invention claimed in any specification deposited pursuant to an application is wholly or in part claimed in any published specification deposited pursuant to a prior application, the applicant shall be informed of the result of such extended investigation, and shall, within two months from the date of the letter so informing him, apply for leave to amend his specification by way of disclaimer, stating specifically what amendments he is prepared to make in it to remove the objection of anticipation, or if he considers that no amendments are necessary, inform the Comptroller accordingly.

Procedure under section 8.

The Comptroller shall consider any amendments submitted by the applicant for this purpose, and may allow the necessary amendments to be made.

If, at the expiration of the said two months, or such further time as the Comptroller may allow, the Comptroller is not satisfied that the invention claimed by the applicant is not wholly or in part claimed in the specification or specifications cited, he shall inform the applicant accordingly and appoint a time for hearing him, and shall give him ten days' notice at the least of such appointment. The applicant shall as soon as possible notify the Comptroller whether or not he desires to be heard. The Comptroller shall, after hearing the applicant or without a hearing, if the applicant has not attended a hearing appointed, or has notified that he does not desire to be heard, determine whether reference ought to be made in the applicant's specification to any, and if so, what, prior specification or specifications by way of notice to the public.

Hearing by Comptroller.

34. When, under sub-section 2, the Comptroller determines that reference to a prior specification ought to be made, by way of notice to the public, the form of reference shall be as follows, and shall be inserted after the claims:—

Reference to prior specification.

“Reference has been directed, in pursuance of section 8, sub-section 2, of the Patents and Designs Act, 1907, to Specification No.        of 1        .”

35. When, after any accepted specification has been published, any amendment has been made, or any reference inserted therein, under either of the last two preceding rules, notice thereof shall be advertised in the Journal.

Advertisement of amendments.

*Chemical Inventions.—Typical Samples and Specimens.*

Chemical inventions—  
Typical samples and specimens.

36. Where under section 2, sub-section (5), of the Act, before the acceptance of the complete specification left on any application for a patent for a chemical invention, the Comptroller in any particular case considers it desirable to require typical samples or specimens to be furnished, such samples or specimens must, if so required by the Comptroller, be supplied in duplicate.

The fact that such samples or specimens have been furnished shall be notified to the public by a statement to that effect on the complete specification and in connexion with the advertisement of acceptance of same in the Journal.

The samples or specimens must, unless other directions are specially given, be supplied in glass bottles of a total height not exceeding 3 inches, and of an external diameter of  $1\frac{1}{2}$  inches, and the bottles must be securely closed by well-fitting stoppers, and sealed. Each bottle must have an adhesive or otherwise securely attached label bearing a description which clearly identifies the sample with the substance described in the specification. Labels which are not secured to the bottle by an adhesive should be 3 inches wide and not more than 4 inches long.

Where samples or specimens of colouring matters are required to be supplied, they must be accompanied by samples or specimens of materials printed or dyed with such colouring matters; such last-mentioned samples or specimens must be as flat as possible, and firmly attached to cards 13 inches long by 8 inches broad. The cards must bear a full description of the processes by which the respective dyed or printed effects were produced, including the compositions and strengths of the various baths, the temperatures, duration of treatment, degree of exhaustion of the dye baths, in the case of dyed fabrics the percentage of colouring matter fixed on, in the case of prints the composition of the printing paste, and other necessary information. This description must also clearly identify the substance used with that described in the specification.

Samples of poisonous, corrosive, explosive, or easily inflammable substances must be clearly marked as such.

*Acceptance of Specifications.*

Extension of time for accepting complete specification. Notice and advertisement of acceptance.

37. An application for extension of time for accepting a complete specification shall be made on Patents Form No. 7.

38. On the acceptance of a provisional or complete specification the Comptroller shall give notice thereof to the applicant, and shall advertise the acceptance of every complete specification in the Journal.

39. Upon such acceptance in the case of a complete specification the application and specification or specifications with the drawings (if any) may be inspected at the Office upon payment of the prescribed fee. Inspection of specification.

*Opposition to Grants of Patents.*

40. A notice of opposition to the grant of a patent shall be given on Patents Form No. 8, and shall state the ground or grounds on which the person giving such notice (herein called the opponent) intends to oppose the grant, and must be signed by him. Such notice shall be accompanied by an unstamped copy, which shall be transmitted by the Comptroller to the applicant. Notice of opposition.  
Copy for applicant.

Where the person giving notice of an opposition does not desire that the patent should be refused, but merely that the specification should be amended by disclaimer or limitation, the notice of opposition should be accompanied or supplemented as soon as may be by a written statement to that effect, indicating so far as can conveniently be done the general nature of the amendments desired and the portions of the earlier specifications, if any, relied upon as necessitating such amendments. Statement of amendments desired.

41.—(1) Where the ground of an opposition is that the applicant has obtained the invention from the opponent, or from a person of whom such opponent is the legal representative, unless evidence in support of such allegation be left at the Office within fourteen days after the expiration of two months from the date of the advertisement of the acceptance of the applicant's complete specification or such further time as the Comptroller may in any special case allow, the opposition shall be deemed to be abandoned. Evidence in support of allegation that invention has been obtained from opponent.

(2) Where the ground of the opposition is that the nature of the invention or the manner in which it is to be performed is not sufficiently or fairly described and ascertained in the complete specification, the notice of opposition should be accompanied by a written statement indicating so far as can conveniently be done in what respects the invention is alleged to be insufficiently or unfairly described or ascertained.

42. Except in the case provided for in Rule 41 (1), statutory declarations need not be left in connexion with an opposition, but the opponent may within fourteen days after the expiration of two months from the date of the advertisement of the acceptance of the applicant's complete specification, leave at the Office statutory declarations in support of his opposition, and on so leaving shall deliver to the applicant copies thereof. Opponent's evidence.

43. Within fourteen days from the delivery of such copies, the Applicant's evidence.



applicant may leave at the Office statutory declarations in answer, and on so leaving shall deliver to the opponent copies thereof, and within fourteen days from such delivery the opponent may leave at the Office his statutory declarations in reply, and on so leaving shall deliver to the applicant copies thereof. Such last-mentioned declarations shall be confined to matters strictly in reply.

Evidence in reply.

Applicant's evidence if opponent does not leave statutory declarations.

44. If the opponent does not leave statutory declarations in support of his opposition, the applicant may (if he desires so to do) within three months from the date of the advertisement of the acceptance of his complete specification, leave at the Office statutory declarations in support of his application, and on so leaving shall deliver to the opponent copies thereof.

Opponent's evidence.

45. Within fourteen days from the delivery of such copies, the opponent may leave at the Office statutory declarations in answer, and on so leaving shall deliver to the applicant copies thereof, and within fourteen days from such delivery the applicant may leave at the Office his statutory declarations in reply, and on so leaving shall deliver to the opponent copies thereof. Such last-mentioned declarations shall be confined to matters strictly in reply.

Evidence in reply.

Closing of evidence.

46. No further evidence shall be left on either side except by leave, or on the requisition of the Comptroller.

Hearing.

47. On completion of the evidence (if any), or at such other time as he may see fit, the Comptroller shall appoint a time for the hearing of the case, and shall give the parties ten days' notice at the least of such appointment. If either party does not desire to be heard he shall as soon as possible notify the Comptroller to that effect. If either party desires to be heard he must leave Patents Form No. 9 at the Office. The Comptroller may refuse to hear either party who has not left Patents Form No. 9 prior to the date of hearing. If either party intends to refer at the hearing to any publication other than a specification mentioned in the notice of opposition, he should, unless the same has been referred to in a statutory declaration already filed, give to the other party and to the Comptroller five days' notice at the least of his intention, together with details of each publication to which he intends to refer. After hearing the party or parties desirous of being heard, or if neither party desires to be heard, then without a hearing, the Comptroller shall decide the case and notify his decision to the parties.

#### *Sealing of Patent and Payment of Fee.*

Sealing of patent and payment of fee.

48. If the applicant for a patent desires to have a patent sealed on his application, he shall within the period allowed by section 12

of the Act pay the sealing fee by leaving at the Office Patents Form No. 10, duly stamped.

Where in consequence of the neglect or failure of the applicant to pay such fee, a patent cannot be sealed within the period allowed by section 12, the applicant may apply to the Comptroller on Patents Form No. 11 or Patents Form No. 12, as the case may be, for an extension of such period not exceeding three months where the period allowed for the sealing of the patent expires after the commencement of the Act, and not exceeding three months after the commencement of the Act where the period allowed for the sealing of the patent expired before the commencement of the Act.

The Comptroller shall consider such application, and if the circumstances of the case appear to him to warrant the granting of the extension, he may seal the patent within such extended period.

Where the period allowed for the sealing of the patent has expired before the commencement of the Act, no proceedings shall be taken in respect of an infringement committed after the failure to pay the fee and before the sealing of the patent.

#### *Form of Patent.*

49. A patent, except in the cases provided for in rules 50 and 51, may be in the Form A, in the third schedule to these rules. Form of patent.

50. A patent of addition may be in the Form B, in the third schedule to these rules. Form of patent of addition.

51. Where after the commencement of the Act a patent is granted to the legal representatives of a deceased inventor, or in any case in which the applicants have asked to be treated for the purpose of the devolution not only of the legal but also of the beneficial interest in such patent as joint tenants, the form of the patent shall be modified so as to show clearly that the persons to whom the grant is made are to be treated for the purpose of the devolution not only of the legal but also of the beneficial interest in the patent as joint tenants. Form of patent to legal representatives of deceased inventor and others.

#### *Renewal Fees.*

52. If a patentee intends, at the expiration of the fourth year from the date of his patent or of any succeeding year during the term of the patent, to keep the same in force, he shall before the expiration of such year pay the prescribed annual renewal fee by means of Patents Form No. 13. The patentee may pay all or any of such prescribed annual renewal fees in advance. An application for an enlargement of time for payment of any fee under this rule shall be made on Patents Form No. 14. Renewal fees.

Certificate of payment of fee.

53. On due compliance with the terms of rule 52, the Comptroller shall issue a certificate that the prescribed payment has been duly made.

Notice as to renewal fees.

54. At any time not less than one month before the date when any renewal fee will become due in respect of any patent, the Comptroller shall send to the patentee or patentees, whose names appear in the Register of Patents, at his or their address or addresses for service, or to the address of the person or persons who paid the last renewal fee, a notice reminding him or them of the date when such fee will become due, and of the consequences of the non-payment thereof.

*Restoration of Lapsed Patents.*

Restoration of lapsed patents.

55. Where any patent has become void owing to the failure of the patentee to pay any prescribed fee within the prescribed time, the patentee may apply to the Comptroller on Patents Form No. 15 for an order for the restoration of the patent. Every such application shall be accompanied by one or more statutory declarations verifying the statements contained in such application. If the Comptroller entertains the application, he shall advertise it in the Journal, and in such other manner as in his opinion is desirable. At any time within two months from the first of such advertisements in the Journal any person may give notice of opposition at the Office on Patents Form No. 16, and a copy of such notice shall be transmitted by the Comptroller to the applicant.

Opponent's evidence.

56. Where such notice is given the opponent shall within fourteen days after leaving the notice leave at the Office one or more statutory declarations verifying any evidence on which he relies in support of the grounds of his opposition, and on so leaving shall deliver to the applicant copies thereof.

Further procedure.

57. Upon such declarations being left and delivered the provisions of rules 43, 46 and 47 shall apply to the case, and the further proceedings thereon shall be regulated in accordance with such provisions as if they were herein repeated.

Order.

58. In every order of the Comptroller restoring a patent, provisions shall be inserted for the protection of persons who may have availed themselves of the subject-matter of the patent after the patent has been announced as void in the Journal. Such provisions shall restrain the patentee from commencing or prosecuting any action or other proceeding, and from recovering any damage :—

(1) In respect of any infringement of the patent which shall have taken place after the date on which the patent was announced in the Journal to be void and before the date of the order.

(2) In respect of the use or employment at any time thereafter of any mechanism, machine, machinery, process or operation actually made or carried on within the United Kingdom, or of the use, purchase, or sale of any article manufactured or made in infringement of the patent after the date of the said announcement and before the date of the order. Provided that such use, purchase, sale, or employment is by the person or corporation by or for whom such machine or machinery or article was bonâ fide manufactured or made, or such mechanism, machine, machinery, process, or operation was bonâ fide made or carried on, his or their executors, administrators, successors, or vendees, or his or their assigns respectively.

(3) In respect of the use, employment, or sale at any time thereafter by any person or corporation entitled for the time being under the preceding sub-section to use or employ any machine, machinery, mechanism, process, or operation, or any improved or additional machine, machinery, mechanism, process or operation, or of the use or sale of any article manufactured or made by any of the means aforesaid in infringement of the patent; provided that the use or employment of any such improved or additional machine, machinery, mechanism, process or operation shall be limited to the buildings, works or premises existing at the time being or afterwards erected of the person or corporation by or for whom such machine, machinery, mechanism, process or operation was made or carried on within the meaning of the preceding paragraph, his or their executors, administrators, successors or assigns.

59. The order shall further provide that if any person within one year after the date thereof make an application to the Board for compensation in respect of money, time, or labour expended by the applicant upon the subject-matter of the patent in the bonâ fide belief that such patent had become and continued to be void, it shall be lawful for the Board, after hearing the parties concerned or their agents, to assess the amount of such compensation if in their opinion the application ought to be granted, and to specify the party by whom and the day on which such compensation shall be paid, and if default shall be made in payment of the sum awarded, then the said patent shall become void, but the sum awarded shall not in that case be recoverable as a debt or damages.

Compensation.

#### *Amendment of Specification.*

60. A request to the Comptroller for leave to amend a specification, except when such request is made under rule 33, shall be made on Patents Form No. 17. The request must be accompanied by a duly certified copy of the original specification and drawings, showing

Request for leave to amend.

in red ink the proposed amendment in such manner as to indicate clearly the alteration desired, and shall be advertised by publication of the request and the nature of the proposed amendment in the Journal, and in such other manner (if any) as the Comptroller may in each case direct.

Notice of  
opposition.  
Copy for the  
applicant.

61. A notice of opposition to the amendment shall be on Patents Form No. 18, and shall be accompanied by an unstamped copy, which copy shall be transmitted by the Comptroller to the applicant.

Opponent's  
evidence.

62. Within fourteen days after the expiration of one month from the first advertisement of the application for leave to amend, the opponent may leave at the Office statutory declarations in support of his opposition, and on so leaving shall deliver to the applicant copies thereof.

Further  
proceedings.

63. Upon such declarations being left, and such copies being delivered, the provisions of rules 43, 46 and 47 shall apply to the case, and the further proceedings shall be regulated in accordance with such provisions as if they were herein repeated.

Applicant's  
evidence if  
opponent  
does not  
leave  
statutory  
declarations.

64. If the opponent does not leave statutory declarations in support of his opposition, the applicant may (if he desires so to do) within two months from the date of the first advertisement of the application for leave to amend leave at the Office statutory declarations in support of his application, and on so leaving shall deliver to the opponent copies thereof.

Further  
proceedings.

65. Upon such declarations being left, and such copies being delivered, the provisions of rules 45, 46 and 47 shall apply to the case, and further proceedings therein shall be regulated in accordance with such provisions as if they were herein repeated.

Require-  
ments on  
amendment.

66. Where leave to amend is given the applicant shall, if the Comptroller so require, and within a time to be limited by him, leave at the Office a new specification and drawings as amended, to be prepared in accordance with rules 6 and 19 to 25.

Advertise-  
ment of  
amendment.

67. Every amendment of a specification shall be advertised forthwith by the Comptroller in the Journal, and in such other manner (if any) as the Comptroller may direct.

#### *Compulsory Licences and Revocation of Patents.*

Petition for  
grant of  
compulsory  
licence or  
revocation of  
patent.

68. A petition to the Board for an order under section 24 of the Act shall be made on Patents Form No. 20 and shall show clearly the nature of the petitioner's interest and the ground or grounds upon which he claims to be entitled to relief, and shall state in detail the circumstances of the case, the terms upon which he asks that an order may be made, and the purport of such order, and the name and

address of the patentee and any other person who is alleged in the petition to have made default.

69. The petition and an examined copy thereof shall be left at the Office with a request on Patents Form No. 19, and shall be accompanied by affidavits or statutory declarations in proof of the allegations contained in the petition together with any other documentary evidence in support, and the petitioner shall simultaneously with, or as soon as may be after the leaving of such petition, deliver to the patentee and any other person who is alleged in the petition to have made default, copies of the petition and of such affidavits or statutory declarations and other documentary evidence in support.

To be left with evidence at Office.

70. The persons to whom such copies are delivered by the petitioner may give notice of opposition on Patents Form No 21, and may, within fourteen days after being invited to do so by the Board, leave at the Office their affidavits or statutory declarations in answer, and if they do so shall deliver copies thereof to the petitioner ; and the petitioner may within fourteen days from such last-mentioned delivery leave at the Office his affidavits or statutory declarations in reply, and if he does so shall deliver copies thereof to the patentee or any other person alleged in the petition to have made default, such last-mentioned affidavits or statutory declarations being confined to matters strictly in reply.

Opponent's evidence.

Evidence in reply.

The times prescribed by this rule may be altered or enlarged by the Board, if they think fit, upon such notice to parties interested and upon such terms, if any, as they may direct.

71. No further evidence than as aforesaid may be left by either side at the Office except by leave or on requisition of the Board and upon such terms, if any, as the Board may think fit.

Closing of evidence.

72. The Board shall consider the petition and the evidence, with a view to satisfying themselves whether a *prima facie* case has been made out for proceeding further with the petition, and if they are not so satisfied they shall dismiss the petition.

Power of Board of Trade to dismiss petition.

73. If they are so satisfied, they shall consider whether there is any probability of an arrangement being come to between the parties, and if it appears to them that there is any reasonable probability that such an arrangement can be come to, they may take such steps as they consider desirable to bring it about, and in the meanwhile may defer the reference of the petition to the Court.

Arrangements between parties.

74. If the Board are not of opinion that there is a reasonable probability of any arrangement being come to between the parties and are satisfied that a *prima facie* case has been made out by the petitioner, they shall refer the petition to the Court, with copies of

Reference of petition to the Court.

any affidavits, statutory declarations, or other documentary evidence which may have been furnished under the foregoing rules, and with certified copies of all entries in the Register of Patents relating to the patent in question, and any other information in the possession of the Board which it appears to them may be of service to the Court in ascertaining what persons should be made parties to the proceedings before the Court, and the Board shall give written notice to the parties that the petition has been referred to the Court.

*Procedure under Section 26 of the Act.*

Application  
under section  
26 of the Act.

75. An application for the revocation of a patent under section 26 of the Act shall be made on Patents Form No. 22, and shall be accompanied by an unstamped copy of the form, which shall be transmitted by the Comptroller to the patentee. Where the ground of application is that the applicant for the patent obtained the invention from the person applying for the revocation of the patent, evidence by way of statutory declaration in support of such allegation shall be left at the Office at the same time as the application for the revocation, or as soon as may be thereafter. In other cases such evidence may be so left by the applicant for revocation if he desires. Copies of any declarations left at the Office under this rule shall be delivered by the applicant to the patentee.

Procedure.

76. Upon such declarations being left and delivered the provisions of rules 43 to 47 shall apply mutatis mutandis to the furnishing of further evidence and to the hearing of the case before the Comptroller.

Surrender of  
patent.

77. A notice of an offer by a patentee to surrender his patent under section 26 of the Act shall be given on Patents Form No. 23, and shall be advertised by the Comptroller in the Journal and in such other manner, if any, as he deems desirable.

*Revocation of Patents worked outside the United Kingdom.*

Revocation  
of patents  
worked  
outside the  
United  
Kingdom.

78. An application for the revocation of a patent under section 27 of the Act shall be made on Patents Form No. 24. The applicant shall simultaneously with, or as soon as may be after, the leaving of such application at the Office, deliver, or cause to be delivered, to the patentee or his agent a copy of such application, and furnish the Comptroller with evidence of such delivery.

Procedure.

79. The patentee shall within fourteen days from the delivery of such copy, or within such further time as the Comptroller may allow, leave at the Office evidence, by way of statutory declaration, stating whether or not the allegations contained in the application are correct; and, if they are incorrect, to what extent, and in what

place the patented article or process is manufactured or carried on in the United Kingdom ; and setting out in the event of the article or process not being manufactured or carried on in the United Kingdom to an adequate extent, the reasons why it is not so manufactured or carried on. The patentee shall deliver, or cause to be delivered, copies of such evidence to the applicant, and furnish the Comptroller with evidence of such delivery.

Within fourteen days from the delivery of such copies, or within such further time as the Comptroller may allow, the applicant shall if he decides to proceed with his application, leave at the Office statutory declarations in answer, and on so leaving shall deliver to the patentee or his agent copies thereof, and furnish the Comptroller with evidence of such delivery.

80. No further evidence shall be left at the Office on either side except by leave, or on the requisition of the Comptroller, and upon such terms, if any, as the Comptroller may think fit. Closing of evidence.

81. On completion of the evidence, or at such other time as he may see fit, the Comptroller shall appoint a time for the hearing of the case, and give the parties ten days' notice at least of such appointment, and in the event of his deciding to take evidence viva voce in lieu of or in addition to the evidence by declaration, or to allow any declarant to be cross-examined on his declaration, he may require the attendance of any declarant or other person, whose evidence he may consider desirable. Hearing.

NOTE.—The following official notice appeared in the Illustrated Official Journal of Wednesday, May 12th, 1909.

#### PROCEDURE UNDER SECTION 27 AND PATENTS RULES 78—81.

In all cases of applications for revocation under section 27 the following procedure will in future be adopted :—

(1) The applicant should, simultaneously with his application on Patents Form 24, leave at the Office evidence, by way of statutory declaration, stating the particulars upon which he relies in support of the allegations contained in the application ; the copy of the application delivered to the patentee or his agent, in accordance with Patents Rule 78, should be accompanied with copies of such evidence.

(2) The patentee should, within fourteen days from the delivery of such copy or within such further time as the Comptroller may allow, leave at the Office evidence by way of statutory declaration, stating whether or not the allegations contained in the application are correct ; and if they are incorrect, giving the particulars upon which he intends to rely in answer to the allegations made by the



applicant. Copies of such evidence should at the same time be delivered to the applicant.

(3) Should the applicant then decide to proceed with his application, he may then leave and deliver further statutory declarations in answer, in accordance with the provisions of the latter part of rule 79.

(4) The Comptroller will then intimate to the parties whether, having regard to the circumstances of the case, he considers it desirable and intends to hold a preliminary hearing on the question whether a *prima facie* case has been made in support of the allegations in the application or whether he intends in ordinary course to deal at one hearing with the whole case, including the further questions whether the patentee can prove that the patented article or process is manufactured or carried on to an adequate extent in the United Kingdom, or can give satisfactory reasons why the article or process is not so manufactured or carried on.

(5) Should the Comptroller think fit to hold a preliminary hearing as aforesaid, and as a result of such hearing decide that a *prima facie* case has been made in support of the allegations in the application, or should he determine to proceed in ordinary course to deal at one hearing with the whole case, including the further questions mentioned in Head (4), then, and in either of the said cases, he will give to the patentee further time for leaving at the Office and delivering to the applicant pursuant to rule 79 evidence by way of statutory declaration with regard to such further questions or either of them, and will subsequently give to the applicant under rule 79, and thereafter if necessary to the patentee under rule 80, further time for leaving further evidence by way of statutory declaration with regard to such questions or either of them in answer or reply as the case may be.

(6) In the event of an application under section 27 being uncontested by the patentee, the Comptroller in deciding whether costs should be awarded to the applicant will consider whether proceedings under the section might have been avoided, if reasonable notice had been given by the applicant to the patentee before the application was filed.

W. TEMPLE FRANKS,  
*Comptroller-General.*

*Note.*—The above procedure, with the necessary modifications, will apply to applications under section 58 (DESIGNS).

*Register of Patents.*

Entry of  
grant.

82. Upon the sealing of a patent the Comptroller shall cause to

be entered in the Register of Patents the name, address, and calling of the patentee as the grantee thereof, the title of the invention, the date of the patent, and the date of the grant thereof, together with the address for service.

83. The patent granted on any convention application shall be entered in the register as dated of the date on which the first foreign application was made, and the payment of renewal fees, and the expiration of the patent, shall be reckoned as from the date of the first foreign application. The date of the application in this country shall also be entered in the register.

Entry in respect of Convention application.

84. If a patentee send to the Comptroller on Patents Form No. 25 notice of an alteration in his name or address or address for service, the Comptroller shall cause the register to be altered accordingly, and may require the altered address to be in the United Kingdom.

Alteration of address.

85. Where a person becomes entitled by assignment, transmission, or other operation of law to a patent, or to any interest therein, as mortgagee, licensee or otherwise, a request for the entry in the register of his name as proprietor of the patent, or of a notice of such interest, as the case may be, shall be addressed to the Comptroller, and left at the Office.

Request for entry of subsequent proprietorship.

86. Such request shall be on Patents Form No. 27 or Patents Form No. 28, as the case may be, and shall in the case of individuals be made and signed by the person requiring to be registered as proprietor, or by his agent, and in the case of a body corporate by its agent.

Form and signature of request.

87. Every such request shall state the name, address, and calling of the person claiming to be entitled to the patent, or to any interest therein, as the case may be, and the particulars of the assignment, transmission, or other operation of law, by virtue of which he claims to have entered in the register his name as proprietor or a notice of such interest, so as to show the manner in which, and the person or persons to whom, the patent, or such interest therein as aforesaid, has been assigned or transmitted.

Particulars to be stated in request.

88. Every assignment, and every other document containing, giving effect to, or being evidence of, the transmission of a patent or affecting the proprietorship thereof as claimed by such request, except such documents as are matters of record, shall, unless the Comptroller in his discretion otherwise directs, be produced to him together with the request, and he may call for such other proof of title as he may require for his satisfaction.

Production of documents of title and other proof.

As to a document which is a matter of record, an official or certified copy thereof shall in like manner be produced to the Comptroller.

Copies for  
Office.

89. There shall also be left with the request an attested copy of the assignment or other document or copy above required to be produced.

Entry of  
notice of  
interest.

90. The notice of interest in the patent of any person other than the proprietor entered in the register in pursuance of the request shall be such as may appear applicable to the circumstances of the particular case.

Entry of  
notification  
of document.

91. Where it is desired to enter in the register a notification of any document purporting to affect the proprietorship of a patent an attested copy of such document shall be left at the Office with a request on Patents Form No. 29 that a notification thereof may be entered in the register. The accuracy of such copy shall be certified as the Comptroller may direct, and the original document shall at the same time be produced and left at the Office if required for further verification.

Entry of  
date of pay-  
ment of fees  
on issue of  
certificate.  
Entry of  
failure to  
pay fees.

92. Upon the issue of a certificate of payment under rule 53, the Comptroller shall cause to be entered in the register a record of the date of payment of the fee on such certificate.

93. If a patentee fails to make any prescribed payment within the prescribed time, or any enlargement thereof duly granted, there shall be duly entered in the register a notification of such failure.

Hours of  
inspection of  
register.

94. The register of patents shall be open to the inspection of the public on every day on which the Office is open to the public during the time it is so open except at such times when the register is required for any purpose of official use.

#### *Correction of Clerical Errors.*

Correction of  
clerical  
errors.

95. A request for the correction of a clerical error in or in connexion with an application for a patent, or in any patent or specification, or in any matter which is entered upon the register of patents, shall be made on Patents Form No. 30.

#### *Certificates.*

Certificates  
and certified  
copies of  
documents.

96. A request for a certificate of the Comptroller as to any entry, matter or thing which he is authorised by the Act or any of these rules to make or do, shall be made on Patents Form No. 31.

Certified copies of any entry in the register, or certified copies of, or extracts from, patents, specifications, disclaimers, affidavits, statutory declarations, and other public documents in the Office, or of or from registers and other books kept there, may be furnished by the Comptroller on payment of the prescribed fee.

#### *Secret Patents.*

Secret  
patents.

97. When it has been decided by the Secretary of State for War

or the Admiralty that it is advisable to take out a secret patent for any invention assigned under section 30 of the Act, and an application for such patent has been made on Patents Form No. 1D, accompanied by a certificate of the Secretary of State or the Admiralty, under section 30 (3) of the Act, the Comptroller shall not communicate the application or any documents relating thereto to any member of his staff other than a deputy or special examiner or examiners, who shall make the required investigations and reports required by the Act to be made in the case of other applications for patents.

Unless and until such invention is re-assigned to the inventor by the Secretary of State or the Admiralty—

- (1) No copy of any specification or any other document or drawing relating thereto shall in any manner whatever be published or open to the inspection of the public.
- (2) The application for the patent, and the acceptance of any specification relating to the invention, shall not be advertised, nor shall the grant of the patent for such invention be open to opposition under section 11 of the Act; but the Comptroller shall cause a patent to be sealed in respect of every such invention as soon as may be after the acceptance of the complete specification relating thereto.
- (3) Every such secret patent shall be registered in a confidential register at the Office, and no details or particulars relating thereto shall at any time be published as required by the Act for ordinary patents. Nor shall any entry be made in the ordinary Register of Patents in respect of any such patent or any assignment thereof.
- (4) No fees shall be payable in respect of any secret patent, and every such patent, notwithstanding the non-payment of such fees, shall remain in force for the full period of 14 years from its date.

98. When an application has been made otherwise than as provided by the last preceding rule for a patent for an invention, and such application is still pending, and a certificate under section 30 (3) of the Act is furnished to the Comptroller by the Secretary of State or the Admiralty, the provisions of such rule shall, so far as is practicable, having regard to the date of such certificate, apply to such application and to all documents relating thereto.

Certificate of  
secrecy after  
application.

99. In the event of any secret patent being re-assigned to the inventor by the Secretary of State or the Admiralty, it shall be removed from the confidential register of secret patents; all fees that would have been thereafter payable if the same had not been a

Reassignment.

secret patent shall be paid in respect thereof; and the patent shall remain in force only for the same term, and subject to the same conditions as to payment of fees and otherwise as if it had not been a secret patent.

*Lost Patent.*

Lost patent. 100. An application for a duplicate of a patent which has been lost or destroyed shall be made on Patents Form No. 32, and in accordance with the directions thereon.

*Industrial or International Exhibitions.*

Industrial or international exhibitions.

101. Any person desirous of exhibiting an invention at an industrial or international exhibition, or of publishing any description of the invention during the period of the holding of the exhibition, or of using the invention for the purpose of the exhibition in the place where exhibition is held, may, after the Board have issued a certificate that the exhibition is an industrial or international one, give to the Comptroller notice on Patents Form No. 33 of his intention to exhibit, publish or use the invention, as the case may be. For the purpose of identifying the invention in the event of an application for a patent being subsequently made, the inventor shall furnish to the Comptroller a brief description of his invention, accompanied, if necessary, by drawings, and such other information as the Comptroller may in each case require.

*Exercise of Discretionary Powers by the Comptroller.*

Exercise of discretionary powers by Comptroller. Notice of hearing.

102. Before exercising any discretionary power given to the Comptroller by the Act or these rules adversely to the applicant for a patent or for amendment of a specification, the Comptroller shall give ten days' notice, or such longer notice as he may think fit, to the applicant of the time when he may be heard personally or by his agent before the Comptroller.

Notice by applicant.

103. Within five days from the date on which such notice would be delivered in the ordinary course of post, or such longer time as the Comptroller may appoint in such notice, the applicant shall notify in writing to the Comptroller whether or not he intends to be heard upon the matter.

Comptroller may require statement, &c.

104. Whether the applicant desires to be heard or not, the Comptroller may at any time require him to submit a statement in writing within a time to be notified by the Comptroller, or to attend before him and make oral explanations with respect to such matters as the Comptroller may require.

Decision to be notified to parties.

105. The decision or determination of the Comptroller in the exercise of any such discretionary power as aforesaid shall be

notified by him to the applicant, and to any other person who appears to be affected thereby.

*Statutory Declarations and Affidavits.*

106. The statutory declarations and affidavits required by these rules, or used in any proceedings thereunder, shall be headed in the matter or matters to which they relate and shall be drawn up in the first person, and shall be divided into paragraphs consecutively numbered, and each paragraph shall so far as possible be confined to one subject. Every statutory declaration or affidavit shall state the description and true place of abode of the person making the same, and shall be written or printed bookwise and shall bear the name and address of the person leaving it and shall state on whose behalf it is left.

Form, &c.,  
of statutory  
declaration  
and affidavit.

107. The statutory declarations and affidavits required by the Act and these rules, or used in any proceedings thereunder, shall be made and subscribed as follows:—

Manner in  
which and  
persons before  
whom de-  
claration or  
affidavit is to  
be taken.

(a) In the United Kingdom, before any justice of the peace, or any commissioner or other officer authorised by law in any part of the United Kingdom to administer an oath for the purpose of any legal proceeding;

(b) In any other part of His Majesty's dominions, before any court, judge, justice of the peace, or any officer authorised by law to administer an oath there for the purpose of a legal proceeding; and

(c) If made out of His Majesty's dominions, before a British minister, or person exercising the functions of a British minister, or a consul, vice-consul, or other person exercising the functions of a British consul, or before a notary public, or before a judge or magistrate.

*General.*

108. Any document for the amending of which no special provision is made by the Act may be amended, and any irregularity in procedure, which in the opinion of the Comptroller may be obviated without detriment to the interests of any person, may be corrected, if and on such terms as the Comptroller may think fit.

Power of  
amendment,  
&c.

109. The times prescribed by these rules for doing any act, or taking any proceeding thereunder, other than the times for lodging evidence referred to in rules 68 to 74, or the times prescribed by rules 16, 41 and 55, may be enlarged by the Comptroller if he

General  
power to  
enlarge time.

thinks fit, and upon such notice to other parties, and proceedings thereon, and upon such terms as he may direct.

Days and  
hours of  
business.

110. The Office shall be open to the public every week-day except Saturday between the hours of ten and four and on Saturday between the hours of ten and one, except on the days following:—

Christmas Day, Good Friday, the day observed as His Majesty's birthday, the days observed as days of public fast or thanksgiving, or as holidays at the Bank of England, and days which may from time to time be notified by a placard posted in a conspicuous place at the Office.

Excluded  
days.

111. Whenever the last day fixed by the Act, or by these rules, for doing any thing shall fall on a day when the Office is not open or on a Saturday, which days shall be excluded days for the purposes of the Act and these rules, it shall be lawful to do any such thing on the day next following such excluded day, or days if two or more of them occur consecutively.

Power to  
dispense  
with evidence,  
signature, &c.

112. Where, under these rules, any person is required to do any act or thing, or to sign any document, or to make any declaration on behalf of himself or of any body corporate, or any document or evidence is required to be produced to or left with the Comptroller, or at the Office, and it is shown to the satisfaction of the Comptroller that from any reasonable cause such person is unable to do such act or thing, or to sign such document, or to make such declaration, or that such document or evidence cannot be produced or left as aforesaid, it shall be lawful for the Comptroller, with the sanction of the Board, and upon the production of such other evidence, and subject to such terms as he may think fit, to dispense with any such act or thing, document, declaration or evidence.

*Applications to and Orders of Court.*

Applications  
to Court.

113. Four clear days' notice of every application to the Court under section 72 of the Act for rectification of the register of patents shall be given to the Comptroller.

Orders of  
Court.

Where any order has been made by the Court under the Act revoking a patent or extending the term of a patent or allowing a patentee to amend his specification or affecting the validity or proprietorship of a patent, the person in whose favour such order has been made shall forthwith leave at the office an office copy of such order together with Patents Form No. 34. The specification shall thereupon be amended or the register rectified or the purport of such Order shall otherwise be duly entered in the register as the case may be.

*Repeal.*

114. All general rules relative to patents heretofore made by the Board of Trade under the patents, Designs, and Trade Marks Acts, 1883 to 1902, and in force on the 31st day of December, 1907, shall be and they are hereby repealed as from that date, without prejudice, nevertheless, to anything done under such rules, or to any application or other matter then pending. Repeal.

Dated the 17th day of December, 1907.

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

THE FIRST SCHEDULE.

LIST OF FEES PAYABLE IN RESPECT OF THE GRANT OF PATENTS AND OF OTHER MATTERS WITH RELATION THERETO.

—	—	Corresponding Form.
	£ s. d.	
1. On application accompanied by provisional specification ...	1 0 0	Patents Form No. 1, 1A, 1B, or 1C.
2. On filing complete specification thereafter ... ..	3 0 0	Patents Form No. 3.
or		
3. On application accompanied by complete specification.	4 0 0	" "
4. On appeal from Comptroller to Law Officer. By appellant.	3 0 0	Patents Form No. 4.
5. For extension of time under Rule 16:—		
Not exceeding one month ... ..	2 0 0	Patents Form No. 5.
" two months ... ..	4 0 0	" "
" three months ... ..	6 0 0	" "
6. For extension of time for leaving complete specification not exceeding one month.	2 0 0	Patents Form No. 6.
7. For extension of time for acceptance of complete specification:—		
Not exceeding one month ... ..	2 0 0	Patents Form No. 7.
" two months ... ..	4 0 0	" "
" three months ... ..	6 0 0	" "
8. On notice of opposition to grant of patent. By opponent.	0 10 0	Patents Form No. 8.
9. On hearing by Comptroller. By applicant and by opponent respectively.	1 0 0	Patents Form No. 9.
10. On sealing of patent ... ..	1 0 0	Patents Form No. 10.



	—	Corresponding Form.
	£ s. d.	
11. For extension of time for sealing of patent where period allowed for the sealing of the patent will expire after the commencement of the Act :—		
Not exceeding one month ... ..	2 0 0	Patents Form No. 11.
" two months ... ..	4 0 0	" "
" three months ... ..	6 0 0	" "
12. For extension of time for sealing of patent where period allowed for the sealing of the patent has expired before the commencement of the Act.	10 0 0	Patents Form No. 12.
On certificate of renewal :—		
13. Before the expiration of the 4th year from the date of the patent and in respect of the 5th year.	5 0 0	Patents Form No. 13.
14. Before the expiration of the 5th year from the date of the patent and in respect of the 6th year.	6 0 0	" "
15. Before the expiration of the 6th year from the date of the patent and in respect of the 7th year.	7 0 0	Patents Form No. 13.
16. Before the expiration of the 7th year from the date of the patent and in respect of the 8th year.	8 0 0	" "
17. Before the expiration of the 8th year from the date of the patent and in respect of the 9th year.	9 0 0	" "
18. Before the expiration of the 9th year from the date of the patent and in respect of the 10th year.	10 0 0	" "
19. Before the expiration of the 10th year from the date of the patent and in respect of the 11th year.	11 0 0	" "
20. Before the expiration of the 11th year from the date of the patent and in respect of the 12th year.	12 0 0	" "
21. Before the expiration of the 12th year from the date of the patent and in respect of the 13th year.	13 0 0	" "
22. Before the expiration of the 13th year from the date of the patent and in respect of the 14th year.	14 0 0	" "
23. On enlargement of time for payment of renewal fees :—		
Not exceeding one month ... ..	1 0 0	Patents Form No. 14.
" two months ... ..	3 0 0	" "
" three months ... ..	5 0 0	" "
24. On application for restoration of a lapsed patent.	20 0 0	Patents Form No. 15.
25. On notice of opposition to application for restoration of lapsed patent.	1 0 0	Patents Form No. 16.
26. On hearing by Comptroller. By applicant and by appointment respectively.	1 0 0	Patents Form No. 9.
27. On application to amend specification :—		
Up to sealing. By applicant ... ..	1 10 0	Patents Form No. 17.
After sealing. By patentee ... ..	3 0 0	" "

	—	Corresponding Form.
	£ s. d.	
28. On notice of opposition to amendment. By opponent.	0 10 0	Patents Form No. 18.
29. On hearing by Comptroller. By applicant and by opponent respectively.	1 0 0	Patents Form No. 9.
30. On application to the Board of Trade for a compulsory licence. By person applying.	1 0 0	Patents Form No. 19.
31. On opposition to grant of compulsory licence. By opponent.	1 0 0	Patents Form No. 21.
32. On application to Comptroller to revoke a patent under section 26.	2 0 0	Patents Form No. 22.
33. On hearing by Comptroller. By applicant and by patentee respectively.	2 0 0	Patents Form No. 9.
34. On offer to surrender a patent under section 26	1 0 0	Patents Form No. 23.
35. On hearing by Comptroller. By applicant and by opponent respectively.	1 0 0	Patents Form No. 9.
36. On application under Section 27 to Comptroller to revoke a patent worked outside the United Kingdom.	2 0 0	Patents Form No. 24.
37. On hearing by Comptroller. By applicant and by patentee respectively.	2 0 0	Patents Form No. 9.
38. For altering name or address or address for service in register.	0 5 0	Patents Form No. 25.
39. For entry of two addresses for service in register.	0 5 0	Patents Form No. 26.
40. On request to enter name of subsequent proprietor in the register of patents.	0 10 0	Patents Form No. 27.
41. On request to enter notice of interest in the register of patents.	0 10 0	Patents Form No. 28.
42. On request to enter notification of a document in the register of patents.	0 10 0	Patents Form No. 29.
43. On request to Comptroller to correct a clerical error :—		
Up to sealing ... ..	0 5 0	Patents Form No. 30.
After sealing ... ..	1 0 0	" "
44. For certificate of Comptroller under section 78.	0 5 0	Patents Form No. 31.
45. For duplicate of letters patent ... ..	0 10 0	Patents Form No. 32.
46. On notice to Comptroller of intended exhibition of an invention under section 45.	0 10 0	Patents Form No. 33.
47. On notice of order of Court for amendment of specification or rectification of register.	0 10 0	Patents Form No. 34.
48. On postal request for printed specification ...	0 0 8	Patents Form No. 35.
49. Search or inspection fee ... ..	0 1 0	
50. For office copies ... .. every 100 words (but never less than one shilling)	0 0 4	
51. For office copies of drawings, cost according to agreement.		
52. For certifying office copies, MSS. or printed each	0 1 0	

D. LLOYD GEORGE,

Dated the 17th day of December, 1907. *President of the Board of Trade.*

Approved:

JOSEPH A. PEASE,

J. H. WHITLEY,

*Lords Commissioners of His Majesty's Treasury.*

## THE SECOND SCHEDULE.

FORMS.	Page.	Corresponding Fee.
Patents Form No. 1.—Application for Patent ... ..	30	£1
„ No. 1A.—Application for Patent communicated from abroad.	32	£1
„ No. 1B.—Application for Patent under International and Colonial arrangements.	34	£1
„ No. 1C.—Application for Patent of Addition.	36	£1
„ No. 1D.—Application for Secret Patent...	38	—
„ No. 2.—Provisional Specification... ..	40	—
„ No. 3.—Complete Specification ... ..	41	£3
„ No. 4.—Appeal to Law Officer ... ..	42	£3
„ No. 5.—Application for extension of Time under rule 16.	43	£2, £4, .
„ No. 6.—Application for extension of Time for leaving Complete Specification.	44	£2
„ No. 7.—Application for extension of Time for acceptance of Complete Specification.	45	£2, £4, or £6
„ No. 8.—Opposition to Grant of Patent ...	46	10s.
„ No. 9.—Notice that Hearing will be attended.	47	£1 or £2
„ No. 10.—Notice of Desire to have Patent sealed.	48	£1
„ No. 11.—Application for extension of Time for sealing of Patent, where period allowed for sealing of Patent will expire after commencement of Act.	49	£2, £4, or £6
„ No. 12.—Application where period allowed for the Sealing of the Patent has expired before the commencement of the Act.	50	£10
„ No. 13.—Application for Certificate of Payment or Renewal.	51	£5 to £14
„ No. 14.—Application for Enlargement of Time for Payment of Renewal Fee.	52	£1, £3, or £5
„ No. 15.—Application for Restoration of a lapsed Patent.	53	£20
„ No. 16.—Notice of opposition to an application for restoration of a lapsed Patent.	54	£1
„ No. 17.—Application to amend Specification.	55	£1 10s. or £3
„ No. 18.—Opposition to Amendment of Specification.	56	10s.
„ No. 19.—Application for Grant of Compulsory Licence or Revocation of Patent.	57	£1
„ No. 20.—Petition for Grant of Compulsory Licence or Revocation of Patent.	58	—
„ No. 21.—Opposition to Petition for Grant of Compulsory Licence or Revocation of Patent.	59	£1

FORMS.	Page.	Corresponding Fee.
Patents Form No. 22.—Application to the Comptroller for an Order for the Revocation of a Patent under section 26 of the Act.	60	£2
„ No. 23.—Offer to Surrender a Patent ...	61	£1
„ No. 24.—Application for Revocation of a Patent under section 27 of the Act.	62	£2
„ No. 25.—Notice of Alteration of Name or Address or Address for Service in Register.	63	5s.
„ No. 26.—Request to enter two Addresses for Service in Register.	64	5s.
„ No. 27.—Request to enter Name upon the Register of Patents.	65	10s.
„ No. 28.—Request to enter Notice of Interest in the Register.	66	10s.
„ No. 29.—Request to enter Notification of Document in Register.	67	10s.
„ No. 30.—Request for Correction of Clerical Error.	68	5s. or £1
„ No. 31.—Request for Certificate of Comptroller.	69	5s.
„ No. 32.—Application for Duplicate of Patent.	70	£2
„ No. 33.—Notice of Intended Exhibition of Unpatented Invention.	71	10s.
„ No. 34.—Application for Entry of Order of Court.	72	10s.
„ No. 35.—On postal request for printed Specification.	73	8d.

## PATENTS AND DESIGNS ACT, 1907.

[PATENT, £1.]

FORM 1.

(To be accompanied by two copies of Patents Form No. 2 or of Patents Form No. 3.)

**Application for Patent.**

(a) I (or we) do hereby declare that I am (or we are) in possession of an invention the title of which is (b) that (c) claim to be the true and first inventor thereof; and that the same is not in use by any other person or persons to the best of my (or our) knowledge and belief; and I (or we) humbly pray that a Patent may be granted to me (or us) for the said invention.

Dated the            day of            19 .  
(d)———

NOTE.—One of the two forms on the back hereof or a separate authorisation of agent should be signed by the applicant or applicants.

*To the Comptroller,*

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

(a) Here insert (*in full*) name, address and calling of applicant or applicants.

(b) Here insert title of invention.

(c) In the case of more than one applicant, state here who is or are the inventor or inventors.

(d) To be signed by applicant or applicants. In the case of a Firm, each member of the Firm must sign.

—————  
(1.) *Where application is made through an Agent (Rule 9.)*

I (or we) hereby appoint            of            to act as my (or our) Agent in respect of the within application for a Patent, and request that all notices, requisitions, and communications relating thereto may be sent to such Agent at the above address.

Dated the            day of            19 .  
\*———

\* To be signed by applicant or applicants.

—————  
(2.) *Where application is made without an Agent (Rule 8.)*

I (or we) hereby request that all notices, requisitions, and communications in respect of the within application may be sent to  
at

Dated the            day of            19 .  
†———

† To be signed by applicant or applicants.

## PATENTS AND DESIGNS ACT, 1907.

[PATENT, £1.]

FORM 1A.

(To be accompanied by two copies of Patents Form No. 2 or of Patents Form No. 3.)

**Application for Patent for Invention Communicated from Abroad.**

(a) I (or we) of do hereby declare that I am (or we are) in possession of an invention the title of which is (b) which invention has been communicated to me (or us) by (c) that I (or we) claim to be the true and first inventor thereof; and that the same is not in use within the United Kingdom of Great Britain and Ireland and the Isle of Man by any other person or persons to the best of my (or our) knowledge and belief; and I (or we) humbly pray that a Patent may be granted to me (or us) for the said invention.

Dated the day of 19 .  
(d)———

NOTE.—One of the two forms on the back hereof or a separate authorisation of agent should be signed by the applicant or applicants.

To the Comptroller,

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

- (a) Here insert (*in full*) name, address, and calling of applicant or applicants.  
(b) Here insert title of invention.  
(c) Here insert name, address, and calling of communicator.  
(d) To be signed by applicant or applicants.

(1.) *Where application is made through an Agent (Rule 9).*

I (or we) hereby appoint of to act as my (or our) Agent in respect of the within application for a Patent, and request that all notices, requisitions, and communications relating thereto may be sent to such Agent at the above address.

Dated the day of 19 .  
\*———

\* To be signed by applicant or applicants.

(2.) *Where application is made without an Agent (Rule 8).*

I (or we) hereby request that all notices, requisitions, and communications in respect of the within application may be sent to at

Dated the day of 19 .  
†———

† To be signed by applicant or applicants.

## PATENTS AND DESIGNS ACT, 1907.

[PATENT, £1.]

FORM 1B.

*(To be accompanied by two copies of Patents Form No. 3.)***Application for Patent under International and Colonial Arrangements.**

(a) I (or we) do hereby declare that I (or we) have made applications for protection of my (or our) invention of (b) in the following Foreign States and on the following official dates, viz. ; (c)

and in the following British Possessions and on the following official dates, viz. : (d)

That the said invention was not in use within the United Kingdom of Great Britain and Ireland and the Isle of Man by any other person or persons before the (e) to the best of my (or our) knowledge, information, and belief, and I (or we) humbly pray that a patent may be granted to me (or us) for the said invention in priority to other applicants, and that such patent shall have the date (f)

(g)———

NOTE.—One of the two Forms on the back hereof or a separate authorisation of agent should be signed by the applicant or applicants.

*To the Comptroller,**The Patent Office, 25, Southampton Buildings,**Chancery Lane, London, W.C.*(a) Here insert (*in full*) name, address, and calling of applicant or applicants.

(b) Here insert title of invention.

(c) Here insert the name of each Foreign State, followed by the official date of the application in each respectively.

(d) Here insert the name of each British Possession, followed by the official date of the application in each respectively.

(e) Here insert the official date of the earliest foreign application.

(f) Here insert the official date of the earliest foreign application.

(g) Signature of applicant or of each of applicants.

*(1.) Where application is made through an Agent (Rule 9).*

I (or we) hereby appoint of to act as my (or our) Agent in respect of the within application for a Patent, and request that all notices, requisitions, and communications relating thereto may be sent to such Agent at the above address.

Dated the day of 19 .  
\*———

\* To be signed by applicant or applicants.

(2.) *Where application is made without an Agent (Rule 8).*

I (or we) hereby request that all notices, requisitions, and communications in respect of the within application may be sent to  
at

Dated the            day of            19 .

\*—————

\* To be signed by applicant or applicants.

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PATENTS AND DESIGNS ACT, 1907.

[PATENT, £1.]

FORM 1c.

(To be accompanied by two copies of Patents Form No. 2 or of Patents Form No. 3.)

**Application for Patent of Addition.**

(a) I (or we),           , do hereby declare that I am (or we are) in possession of an invention the title of which is (b)            that (c)            claim to be the true and first inventor thereof; that the same is not in use by any other person or persons to the best of my (or our) knowledge and belief, and that the said invention is an improvement in or modification of my (or our) invention for which a patent was applied for on the           , and numbered           , [for which <sup>I was</sup>we were the applicant ] [of which <sup>I am</sup>we are the patentee ]; and I (or we) humbly pray that a patent may be granted to me (or us) for the said invention, and request that the term limited in such further patent for the duration thereof be the same as that of the original patent, or so much of that term as is unexpired.

Dated the            day of            19 .

(d)—————

NOTE.—One of the two forms on the back hereof, or a separate authorisation of agent, should be signed by the applicant or applicants.

*To the Comptroller,*

*The Patent Office, 25, Southampton Buildings,*

*Chancery Lane, London, W.C.*

(a) Here insert (*in full*) name, address, and calling of applicant or applicants.

(b) Here insert title of invention.

(c) In the case of more than one applicant, state here who is or are the inventor or inventors.

(d) To be signed by the applicant or applicants. In the case of a firm, each member of the firm must sign.



(1.) *Where application is made through an Agent (Rule 9).*

I (or we) hereby appoint \_\_\_\_\_ of \_\_\_\_\_ to act as my (or our) Agent in respect of the within application for a Patent, and request that all notices, requisitions, and communications relating thereto may be sent to such Agent \_\_\_\_\_ at the above address.

Dated the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_ .  
\* \_\_\_\_\_

\* To be signed by applicant or applicants.

(2.) *Where application is made without an Agent (Rule 8).*

I (or we) hereby request that all notices, requisitions, and communications in respect of the within application may be sent to \_\_\_\_\_ at \_\_\_\_\_

Dated the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_ .  
† \_\_\_\_\_

† To be signed by applicant or applicants.

### PATENTS AND DESIGNS ACT, 1907.

[PATENTS.]

FORM 1D.

*(To be accompanied by two copies of Patents Form No. 2 or of Patents Form No. 3, and a certificate under section 30 (3)).*

#### Application for a Secret Patent.

(a) I (or we) \_\_\_\_\_, do hereby declare that I am (or we are) in possession of an invention the title of which is (b) \_\_\_\_\_ that (c) \_\_\_\_\_ claim to be the true and first inventor thereof; and that the same is not in use by any other person or persons to the best of my (or our) knowledge and belief; and I (or we) humbly pray that a secret patent may be granted to me (or us) for the said invention.

Dated the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_ .  
(d) \_\_\_\_\_

NOTE.—One of the two forms on the back hereof, or a separate authorisation of agent, should be signed by the applicant or applicants.

*To the Comptroller,*

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

(a) Here insert (*in full*) name, address, and calling of applicant or applicants.

(b) Here insert title of invention.

(c) In the case of more than one applicant, state here who is or are the inventor or inventors.

(d) To be signed by applicant or applicants. In the case of a firm, each member of the firm must sign.

(1.) *Where application is made through an Agent (Rule 9).*

I (or we) hereby appoint \_\_\_\_\_ of \_\_\_\_\_ to act as my (or our) Agent in respect of the within application for a Patent, and request that all notices, requisitions, and communications relating thereto may be sent to such Agent \_\_\_\_\_ at the above address.

Dated the \_\_\_\_\_ day of \_\_\_\_\_ 19 .  
\*\_\_\_\_\_

\* To be signed by applicant or applicants.

(2.) *Where application is made without an Agent (Rule 8).*

I (or we) hereby request that all notices, requisitions, and communications in respect of the within application may be sent to \_\_\_\_\_ at \_\_\_\_\_

Dated the \_\_\_\_\_ day of \_\_\_\_\_ 19 .  
†\_\_\_\_\_

† To be signed by applicant or applicants.

To be issued with Patents Forms Nos. 1, 1A, 1c or 1d.

PATENTS AND DESIGNS ACT, 1907.

[PATENTS.]

FORM 2.

**Provisional Specification.**

*(To be furnished in Duplicate.)*

(a) \_\_\_\_\_ (b) I (or we) \_\_\_\_\_ do hereby declare the nature of this invention to be as follows:—(c)

(a) Here insert title verbally agreeing with that in the application form.

(b) Here insert (*in full*) name, address and calling of applicant or applicants as in application form.

(c) Here begin description of the nature of the invention. The continuation of the specification should be upon wide-ruled paper of the same size, on one side only, with a margin of one inch and a half on the left hand part of the paper. The specification and the duplicate thereof must be signed at the end and dated thus: "Dated the \_\_\_\_\_ day of \_\_\_\_\_, 19 ."

## PATENTS AND DESIGNS ACT, 1907.

[Where provisional specification or specifications have been left, quote No. or Nos., and date or dates.

No. \_\_\_\_\_  
Date \_\_\_\_\_ ]

[PATENT, £3.]

FORM 3.

**Complete Specification.**

*(To be furnished in Duplicate—one unstamped.)*

(a)

(b) I (or we)

do hereby declare the nature of this invention and in what manner the same is to be performed, to be particularly described and ascertained in and by the following statement :

(c)

NOTE.—In the preparation of the claim or claims careful attention should be paid to the terms of Rule 14 of the Patents Rules, 1908. Any unnecessary multiplicity of claims or prolixity of language should be avoided.

(a) Here insert title verbally agreeing with that in the application form.

(b) Here insert (*in full*) name, address and calling of applicant or applicants as in application form.

(c) Here begin full description of invention. The continuation of the specification should be upon wide-ruled paper of the same size, on one side only, with a margin of one inch and a half on the left hand part of the paper. The completion of the description should be followed by the words: "Having now particularly described and ascertained the nature of my (or our) said Invention and in what manner the same is to be performed, I (or we) declare that what I (or we) claim is : " After which should be written the claim or claims numbered consecutively. The specification and the duplicate thereof must be signed at the end and dated (thus) : " Dated the            day of            , 19    ."

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PATENTS AND DESIGNS ACT, 1907.

[PATENT, £3.]

FORM 4.

Form of Appeal to Law Officer.

(a) I (or we) hereby give notice of my (or our) intention to appeal to the Law Officer from (b) of the of the day of 19 , whereby he (c) No. (d) of the year 1 (d)

Signature \_\_\_\_\_

Date \_\_\_\_\_

NOTE.—This notice must be sent to the Comptroller-General at the Patent Office, London, W.C., and an unstamped copy of the same to the Law Officers' Clerk at Room 549, Royal Courts of Justice, London.

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

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

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

(d) Insert number and year.

PATENTS AND DESIGNS ACT, 1907.

[PATENT, £2, £4 or £6.]

FORM 5.

Form of Application for Extension of Time for Leaving Copy or Copies of the Foreign Specification or Specifications, Drawings or Documents under Rule 16.

I (or we) hereby apply for month extension of time for leaving copy or copies of the foreign specification or specifications, drawings or documents under Rule 16 in respect of application No. of 1 .

(a) \_\_\_\_\_

To the Comptroller,

The Patent Office, 25, Southampton Buildings,

Chancery Lane, London, W.C.

(a) To be signed by applicant or applicants or his or their agents.

## PATENTS AND DESIGNS ACT, 1907.

[PATENT, £2.]

FORM 6.

**Form of Application for Extension of Time for Leaving a Complete Specification.**

I (or we) hereby, in respect of application No. . . . dated . . . . .  
 , apply for one month's extension of time in which to leave  
 a Complete Specification.

(a) \_\_\_\_\_

*To the Comptroller,*

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

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

## PATENTS AND DESIGNS ACT, 1907.

[PATENT, £2, £4, or £6.]

FORM 7.

**Form of Application for Extension of Time for Acceptance of a Complete Specification.**

I (or we) hereby apply for . . . . . month extension of time for  
 the acceptance of the Complete Specification upon application  
 No. . . . . dated . . . . .

(a) \_\_\_\_\_

*To the Comptroller,*

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

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

## PATENTS AND DESIGNS ACT, 1907.

[PATENT, 10s.]

FORM 8.

**Form of Opposition to Grant of Patent.***[To be accompanied by an unstamped copy.]*

\*I (or we)

hereby give notice of my (or our) intention to oppose the grant of Letters Patent upon application No.            of           , applied for by  
upon the ground†

My (or our) address for service in the United Kingdom is :—

‡ —————

*To the Comptroller,*

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

\* Here state (*in full*) name and address.

† Here state upon which of the grounds of opposition permitted by section 11 of the Act the grant is opposed. Where the ground or one of the grounds of opposition is that the invention has been claimed in any complete specification which is or will be of a prior date, the number and date of such prior specification should be stated. Where the person giving notice of an opposition does not desire that the patent should be refused, but merely that the specification should be amended by disclaimer or limitation, it is desirable that the notice of opposition should be accompanied or supplemented as soon as may be by a written statement to that effect indicating so far as can conveniently be done the general nature of the amendments desired and the portions of the earlier specifications if any relied upon as necessitating such amendments.

‡ To be signed by opponent or opponents.

## PATENTS AND DESIGNS ACT, 1907.

[PATENT, £1 or £2.]

FORM 9.

**Form of Notice that Hearing of Opposition before the  
Comptroller will be attended.**

(a) I (or we)            hereby give notice that the hearing in reference to            will be attended by myself (or ourselves) or by some person on my (or our) behalf.

(b) —————

*To the Comptroller,*

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

(a) Here insert (*in full*) name and address.

(b) Signature.

## PATENTS AND DESIGNS ACT, 1907.

[PATENT, £1.]

FORM 10.

**Form of Notice of Desire to have Patent Sealed.**

(a) I (or we)                    desire to have a Patent sealed on my (or our) Application No.                    of 19    , and I (or we) hereby transmit the prescribed fee on sealing, and request that the following may be entered on the Register as my (or our) address for service :—

(b)———

*To the Comptroller,*

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

(a) Here insert name of applicant or applicants.

(b) Signature of applicant or applicants or his or their agent.

## PATENTS AND DESIGNS ACT, 1907.

[PATENT, £2, £4, or £6.]

FORM 11.

**Form of Application for Extension of Time for the Sealing of a Patent where the Period allowed for the Sealing of the Patent will Expire after the commencement of the Act.**

I (or we) hereby apply for                    months' extension of time for the sealing of a patent upon application No.                    , dated                    .

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

(b)———

*To the Comptroller,*

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

(a) The circumstances and grounds must be stated in detail.

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

PATENTS AND DESIGNS ACT, 1907.

[PATENT, £10.]

FORM 12.

**Form of Application for Extension of Time for the Sealing of a Patent where the Period allowed for the Sealing of the Patent has Expired before the commencement of the Act.**

I (or we) hereby apply for an extension of time not exceeding three months after the commencement of the Act for the sealing of a patent upon application No. \_\_\_\_\_, dated \_\_\_\_\_.

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

(b)———

*To the Comptroller,  
The Patent Office, 25, Southampton Buildings,  
Chancery Lane, London, W.C.*

- (a) The circumstances and grounds must be stated in detail.  
(b) To be signed by the applicant or applicants, or his or their agent.

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*(When stamped this Form must be sent at once to the Patent Office.)*

PATENTS AND DESIGNS ACT, 1907.

[PATENT, £5 to £14.]

FORM 13.

**Application for Certificate of Payment or Renewal.**

I (or we) hereby transmit the fee prescribed for the continuation in force of\* Patent No. \_\_\_\_\_ of 1 \_\_\_\_\_ for a further period of \_\_\_\_\_.

It is requested that the address for service of the patentee in the United Kingdom shall be:—

Name †———

Address———

*To the Comptroller,  
The Patent Office, 25, Southampton Buildings,  
Chancery Lane, London, W.C.*

\* Here insert name of patentee.

† Here insert name and full address to which Certificate is to be sent.

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

**Certificate of Payment or Renewal.**

Letters Patent No.                      of 1                      .

This is to certify that                      did this                      day of                      19                      ,  
make the prescribed payment of £                      in respect of a period  
of                      from                      and that by virtue of such payment the rights  
of the patentee remain in force.\*

(Seal.)

*The Patent Office, London.*

\* See section 17 of the Patents and Designs Act, 1907.

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**PATENTS AND DESIGNS ACT, 1907.**

[PATENT, £1, £3, or £5.]                      FORM 14.

**Form of Application for Enlargement of Time for Payment of  
Renewal Fee.**

I (or we) hereby apply for an enlargement of time for                      month  
in which to make the                      payment of                      upon my (or our)  
Patent, No.                      of 1                      .

(b)———

*To the Comptroller,  
The Patent Office, 25, Southampton Buildings,  
Chancery Lane, London, W.C.*

(b) Here insert name and full address to which receipt is to be sent.

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**PATENTS AND DESIGNS ACT, 1907.**

[PATENT, £20.]                      FORM 15.

**Form of Application for the Restoration of a Lapsed Patent  
under Section 20 of the Act.**

I (or we) hereby apply for an order of the Comptroller for the  
restoration of the patent granted upon Application No.  
dated                      .

The circumstances which have led to the omission of the payment  
of the fee of (a)                      on or before the (b)                      are as follows:—

(c)

(d)———

*To the Comptroller,  
The Patent Office, 25, Southampton Buildings,  
Chancery Lane, London, W.C.*

(a) State amount of fee.

(b) State last day when fee was due.

(c) The circumstances must be stated in detail.

(d) To be signed by the applicant or applicants.

## PATENTS AND DESIGNS ACT, 1907.

[PATENT, £1.]

FORM 16.

**Form of Notice of Opposition to an Application for the Restoration of a Lapsed Patent.***[To be accompanied by an unstamped copy.]*

\* I (or we) hereby give notice of opposition to the application for restoration of the patent granted upon Application No. dated for the following reason:—†

My (or our) address for service in the United Kingdom is:—

‡—————

*To the Comptroller,*

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

\* Here state (in full) name and address of opponent or opponents.

† Here state reason of opposition.

‡ To be signed by the opponent or opponents.

## PATENTS AND DESIGNS ACT, 1907.

[PATENT, £1 10s. or £3.] FORM 17.

**Form of Application for Amendment of Specification otherwise than under Rule 33.**

\* I (or we) seek leave to amend the specification of Letters Patent No. of 1, as shown in red ink in the certified copy of the original specification hereunto annexed.

† I (or we) declare that no action for infringement or proceedings before the Court for the revocation of the Letters Patent in question is pending.

My (or our) reasons for making this amendment are as follows:—

‡

My (or our) address for service in the United Kingdom is:—

§—————

*To the Comptroller,*

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

N.B.—No amendment is permissible that would make the invention substantially larger or substantially different. See section 21 of the Act.

\* Here state (in full) name and address of applicant or patentee.

† These words are to be struck out when Letters Patent have not been sealed.

‡ Here state reasons for seeking amendment; and where the applicant is not the patentee, state what interest he possesses in the Letters Patent.

§ To be signed by applicant or patentee.

## PATENTS AND DESIGNS ACT, 1907.

[PATENT, 10s.]

FORM 18.

**Form of Opposition to Amendment of Specification.***[To be accompanied by an unstamped copy.]*

\* I (or we) hereby give notice of opposition to the proposed amendment of the specification of Letters Patent No. of 1 for the following reason :— †

My (or our) address for service in the United Kingdom is :—

‡ ———

*To the Comptroller,*

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

\* Here state (in full) name and address of opponent or opponents.

† Here state reason of opposition.

‡ To be signed by opponent or opponents.

## PATENTS AND DESIGNS ACT, 1907.

[PATENT, £1.]

FORM 19.

**Form of Application for Grant of Compulsory Licence or Revocation of Patent under Section 24 of the Act.***[To be accompanied by an unstamped copy.]*

\* I (or we) hereby request you to bring to the notice of the Board of Trade the accompanying petition for the grant of a licence to me (or us) by †

My (or our) address for service in the United Kingdom is :—

‡ ———

NOTE.—The petition must clearly set forth the facts of the case and be accompanied by an examined copy thereof. See Patents Form No. 20.

*To the Comptroller,*

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

\* Here state (in full) name and address of applicant or applicants.

† Here state name and address of patentee, and number and date of his patent.

‡ To be signed by applicant or applicants.

## PATENTS AND DESIGNS ACT, 1907.

## FORM 20.

## Form of Petition for Grant of Compulsory Licence or Revocation of Patent.

To the BOARD OF TRADE.

THE PETITION of (a) of in the county of , being a person interested in the matter of this petition as hereinafter described :—

SH EWETH as follows :—

1. A patent dated No. was duly granted to for an invention of (b)

2. The nature of my (or our) interest in the matter of this petition is as follows :—(c)

3. (d)

The evidence (which I (or we) propose to leave at the Patent Office) accompanying this petition is as follows :—(e)

Having regard to the circumstances above stated, the petitioner alleges that the reasonable requirements of the public with respect to the invention patented as above stated have not been satisfied.

Your petitioner therefore pray that an order may be made granting to him (or them) a compulsory licence on the terms following, viz. :—(f)

or in the alternative that the said patent may be revoked.

(g) ———

NOTE.—In pursuance of the requirements of Rule 69, the petitioner must deliver to the patentee, and to any other person alleged to have made default, copies of the petition and of the affidavits or statutory declarations and other documentary evidence in support.

(a) Here insert (in full) name, address, and calling.

(b) Here insert title of invention.

(c) Here state fully the nature of petitioner's interest.

(d) Here state fully in detail the circumstances of the case under section 24 of the Act, and show that it arises by reason of the default of the patentee, or as the case may be, of any other person claiming an interest in the patent as exclusive licensee or otherwise.

(e) Here state what affidavits or statutory declarations together with any other documentary evidence will be left at the Patent Office with the petition as required by Rule 69.

(f) Here state the terms as to the amount of royalties, security for payment, or otherwise, upon which the petitioner claims to be entitled to the relief in question.

(g) Signature.

## PATENTS AND DESIGNS ACT, 1907.

[PATENT, £1.]

FORM 21.

**Form of Opposition to Petition for Grant of Compulsory Licence  
or Revocation of Patent under Section 24.**

(a) I (or we) hereby give notice of opposition to the petition of \_\_\_\_\_ for the grant of a compulsory Licence under Patent No. \_\_\_\_\_ of 1 \_\_\_\_\_, or in the alternative, for the revocation of the said patent. The grounds upon which I (or we) oppose the said application are as follows, viz. :—(b)

My (or our) address for service in the United Kingdom is :—

(c)———

NOTE.—In pursuance of the requirements of Rule 70, copies of the affidavits or statutory declarations in reply to the evidence left with the petition must be delivered to the petitioner.

*To the Comptroller,*

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

(a) Here state (in full) name and address of opponent or opponents.

(b) Here state fully the grounds of opposition.

(c) To be signed by the opponent or opponents.

## PATENTS AND DESIGNS ACT, 1907.

[PATENT, £2.]

FORM 22.

**Form of Application to the Comptroller for an Order for the  
Revocation of a Patent under Section 26 of the Act.**

\* I (or we) hereby apply for an Order for the revocation of the patent granted upon Application No. \_\_\_\_\_ dated \_\_\_\_\_ on the following grounds : †

No action‡ for infringement or proceedings for the revocation of the patent are pending.

My (or our) address for service in the United Kingdom is :

§———

*To the Comptroller,*

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

\* Here state (in full) name and address of applicant or applicants, for revocation.

† The ground or grounds of an application for revocation under section 26 of the Act, must be any one or more of the grounds on which the grant of the patent might have been opposed. Where the ground or one of the grounds of opposition is that the invention has been claimed in any complete specification which is or will be of a prior date, the number and date of such prior specification should be stated.

‡ If such an action is pending in any Court the application cannot be made without the leave of the Court.

§ To be signed by the applicant, or applicants, for revocation.

## PATENTS AND DESIGNS ACT, 1907.

[PATENT, £1.]

FORM 23.

**Form of Offer to Surrender a Patent under Section 26 of the Act.**

\* I (or we) hereby offer to surrender the patent granted upon Application No. dated .

No action† for infringement or proceedings for the revocation of the patent are pending.

My (or our) reasons for making this offer are as follows :

My (or our) address for service in the United Kingdom is :

†——

*To the Comptroller,*

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

\* Here state (in full) name and address of patentee or patentees.

† If any action or proceedings are pending, state what is their nature.

† To be signed by the patentee or patentees.

## PATENTS AND DESIGNS ACT, 1907.

[PATENT, £2.]

FORM 24.

**Form of Application for Revocation of a Patent under Section 27 of the Act.**

I (or we)\* hereby apply for the revocation of Letters Patent No. of 1 , on the ground that the patented article (or process) is manufactured [or carried on] exclusively or mainly outside the United Kingdom.

My (or our) address for service in the United Kingdom is :

†——

*To the Comptroller,*

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

\* Here state (in full) name and address of applicant, or applicants, for revocation.

† To be signed by applicant, or applicants, for revocation.

## PATENTS AND DESIGNS ACT, 1907.

[PATENT, 5s.]

FORM 25.

**Form of Notice for Alteration of a Name or an Address or an Address for Service in Register of Patents.**

In the matter of Patent No.            of  
 (a) I (or we)            hereby request that            name, address  
 [or            address for service] now upon the Register of Patents may  
 be altered to (b)

(c)———

*To the Comptroller,  
 The Patent Office, 25, Southampton Buildings,  
 Chancery Lane, London, W.C.*

- (a) Here state (in full) name or names and address of applicant or applicants.  
 (b) Here insert name, or full address.  
 (c) Signature of applicant or applicants.

## PATENTS AND DESIGNS ACT, 1907.

[PATENT, 5s.]

FORM 26.

**Form of Request for entry of two Addresses for Service in Register of Patents.**

In the matter of Patent No.            of  
 (a) I (or we)            hereby request that the two following addresses  
 for service may be entered in the Register of Patents :—

(b) (1)

(2)

(c)———

*To the Comptroller,  
 The Patent Office, 25, Southampton Buildings,  
 Chancery Lane, London, W.C.*

- (a) Here state (in full) name or names and address of applicant or applicants.  
 (b) Here insert full addresses.  
 (c) Signature of applicant or applicants.

## PATENTS AND DESIGNS ACT, 1907.

[PATENT, 10s.]

FORM 27.

**Form of Request to enter Name of Proprietor upon the Register of Patents.**

(a) I (or we) hereby request that you will enter my (or our) name (or names) in the Register of Patents as proprietor of Patent No. of 1 granted to (b) the title of which is (c)

I (or we) claim to be so entitled by virtue of (d)

And in proof whereof I (or we) transmit the accompanying (e) with an attested copy thereof.

My (or our) address for service in the United Kingdom is:—

(f) ———

(g) ———

To the Comptroller,

The Patent Office, 25, Southampton Buildings,

Chancery Lane, London, W.C.

(a) Here insert (in full) name, address, and calling.

(b) Here give name and address of person to whom Patent was granted.

(c) Here insert title of the invention.

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

(e) Here insert the nature of the document.

(f) Signature.

(g) Here state in what capacity the signatory is acting.

## PATENTS AND DESIGNS ACT, 1907.

[PATENT, 10s.]

FORM 28.

**Form of Request to enter in the Register of Patents a Notice of an Interest in a Patent.**

(a) I (or we) hereby request that you will enter in the Register of Patents a notice of the following interest in a patent:—

I (or we) claim to be entitled (b) to an interest in Patent

(a) Here insert (in full) name, address, and calling.

(b) Here insert the nature of the claim, whether by way of Mortgage, Licence or otherwise.



No.            of 1            , granted to (c)            the title of which is (d)  
by virtue of (e)

And in proof whereof I (or we) transmit the accompanying (f)  
with an attested copy thereof.

My (or our) address for service in the United Kingdom is :—

(g) \_\_\_\_\_

(h) \_\_\_\_\_

*To the Comptroller,*

*The Patent Office, 25, Southampton Buildings,*

*Chancery Lane, London, W.C.*

(c) Here give name and address of person to whom Patent was granted.

(d) Here insert title of the invention.

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

(f) Here insert the nature of the document.

(g) Signature.

(h) Here state in what capacity the signatory is acting.

## PATENTS AND DESIGNS ACT, 1907.

[PATENT, 10s.]

FORM 29.

### Form of Request to enter Notification of Document in the Register of Patents.

I (or we) HEREBY transmit an attested copy of (a)            under  
Patent No.            of 1            , as well as the original document for  
verification, and I (or we) have to request that a notification thereof  
may be entered in the Register.

(b) \_\_\_\_\_

(c)

*To the Comptroller,*

*The Patent Office, 25, Southampton Buildings,*

*Chancery Lane, London, W.C.*

(a) Here insert a description of the nature of the document, giving its date  
and the names and addresses of the parties thereto.

(b) Signature.

(c) Here insert full address of party benefiting under the document.

PATENTS AND DESIGNS ACT, 1907.

[PATENT, 5s. or £1.]

FORM 30.

**Form of Request for Correction of Clerical Errors.**

I (or we) hereby request that the following clerical error (a) in the (b) No. of 1, may be corrected in the manner shown in red ink in the certified copy of the original (b) hereunto annexed.

(c) \_\_\_\_\_

(d) \_\_\_\_\_

*To the Comptroller,  
The Patent Office, 25, Southampton Buildings,  
Chancery Lane, London, W.C.*

- (a) Or errors.
- (b) Here state, whether in application, specification or register.
- (c) Signature.
- (d) Address in full.

PATENTS AND DESIGNS ACT, 1907.

[PATENT, 5s.]

FORM 31.

**Request for Certificate of Comptroller.**

In the matter of the Patent No. of 1  
I (or we) of hereby request you to furnish me (or us) with your Certificate to the effect that (a)

Dated the day of (b) \_\_\_\_\_ 19 .

*To the Comptroller,  
The Patent Office, 25, Southampton Buildings,  
Chancery Lane, London, W.C.*

- (a) Here set out the particulars which the Comptroller is requested to certify.
- (b) Name and full address to which certificate is to be sent.

## PATENTS AND DESIGNS ACT, 1907.

[PATENT, £2.]

FORM 32.

**Application for Duplicate of Patent.**

Date.

I (or we) REGRET to have to inform you that the Patent dated\* No. granted to for an invention the title of which is † has been ‡

I (or we) beg therefore to apply for the issue of a duplicate of such Patent §

||——

*To the Comptroller,*

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

\* Here insert date, number, full name, and address of grantee or grantees.

† Here insert title of invention.

‡ Here insert the word "destroyed" or "lost," as the case may be, and state, in full, the circumstances of the case, which must be verified by statutory declaration.

§ Here state interest possessed by applicant, or applicants, in the Patent.

|| Signature of patentee or patentees.

## PATENTS AND DESIGNS ACT, 1907.

[PATENT, 10s.]

FORM 33.

**Notice of Intended Exhibition of an Unpatented Invention.**

\* I (or we) hereby give notice of my (or our) intention to exhibit a of at the Exhibition, which † on the day of 19 under the provisions of the Patents and Designs Act, 1907.

‡ I (or we) herewith enclose a brief description of my (or our) invention.

||——

*To the Comptroller,*

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

\* Here state (in full) name and address of applicant or applicants.

† State "opened" or "is to open."

‡ This description of invention should be accompanied by drawings if necessary.

|| To be signed by the applicant or applicants.

PATENTS AND DESIGNS ACT, 1907.

[PATENT, 10s.]

FORM 34.

**Form of Application for Entry of Order of Court in Register.**

(a) I (or we) hereby transmit an office copy of an Order of the Court with reference to (b)

(c)————

*To the Comptroller,  
The Patent Office, 25, Southampton Buildings,  
Chancery Lane, London, W.C.*

- (a) Here state (in full) name and address of applicant or applicants.
- (b) Here state the purport of the order.
- (c) Signature.

PATENTS AND DESIGNS ACT, 1907.

FORM 35.

**Postal Request for Printed Specification.**

*To the Comptroller.*

Please send one copy of Specification, No. \_\_\_\_\_ Year \_\_\_\_\_ to  
(Name in full)————  
(Address)————

[PATENTS, 7½d.]

[½d.]

*The Comptroller,  
The Patent Office, 25, Southampton Buildings,  
London, W.C.*

THE THIRD SCHEDULE.

FORM A.

**Form of Patent.**

EDWARD VII., by the Grace of God, of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas King, Defender of the Faith, Emperor of India: To all to whom these presents shall come greeting:

WHEREAS \_\_\_\_\_ hath declared that he is in possession of an invention for \_\_\_\_\_ that he claims to be the true and first inventor thereof, and that the same is not in use by any other person to the best of his knowledge and belief:

And whereas the said inventor hath humbly prayed that a patent might be granted unto him for the sole use and advantage of his said invention :

And whereas the said inventor (herein-after together with his executors, administrators, and assigns, or any of them, referred to as the said patentee) hath by and in his complete specification particularly described the nature of his invention :

And whereas We, being willing to encourage all inventions which may be for the public good, are graciously pleased to condescend to his request :

Know ye, therefore, that We of our especial grace, certain knowledge, and mere motion do by these presents, for us, our heirs and successors, give and grant unto the said patentee our especial license, full power, sole privilege, and authority, that the said patentee by himself, his agents, or licensees, and no others, may at all times hereafter during the term of years herein mentioned, make, use, exercise, and vend the said invention within our United Kingdom of Great Britain and Ireland, and Isle of Man, in such manner as to him or them may seem meet, and that the said patentee shall have and enjoy the whole profit and advantage from time to time accruing by reason of the said invention during the term of fourteen years from the date hereunder written of these presents : And to the end that the said patentee may have and enjoy the sole use and exercise and the full benefit of the said invention, We do by these presents for us, our heirs and successors strictly command all our subjects whatsoever within our United Kingdom of Great Britain and Ireland, and the Isle of Man, that they do not at any time during the continuance of the said term of fourteen years either directly or indirectly make use of or put in practice the said invention, or any part of the same, nor in anywise imitate the same, nor make or cause to be made any addition thereto or subtraction therefrom, whereby to pretend themselves the inventors thereof, without the consent, license or agreement of the said patentee in writing under his hand and seal, on pain of incurring such penalties as may be justly inflicted on such offenders for their contempt of this our Royal command, and of being answerable to the patentee according to law for his damages thereby occasioned :

Provided always that these letters patent shall be revocable on any of the grounds from time to time by law prescribed as grounds for revoking letters patent granted by Us and the same may be revoked and made void accordingly : Provided also, that if the said patentee shall not pay all fees by law required to be paid in respect of the grant of these letters patent, or in respect of any matter relating

thereto at the time or times, and in manuer for the time being by law provided; and also if the said patentee shall not supply or cause to be supplied, for our service all such articles of the said invention as may be required by the officers or commissioners administering any department of our service in such manner, at such times, and at and upon such reasonable prices and terms as shall be settled in manner for the time being by law provided, then, and in any of the said cases, these our letters patent, and all privileges and advantages whatever hereby granted shall determine and become void notwithstanding anything herein-before contained: Provided also that nothing herein contained shall prevent the granting of licenses in such manner and for such considerations as they may by law be granted: And lastly, We do by these presents for us, our heirs and successors, grant unto the said patentee that these our letters patent shall be construed in the most beneficial sense for the advantage of the said patentee.

In witness whereof We have caused these our letters to be made patent and to be sealed as of the  
one thousand nine hundred and

\*

\_\_\_\_\_  
*Comptroller-General of Patents,  
Designs, and Trade Marks.*

[Seal of Patent Office.]

\* Here is to be inserted the name of the Comptroller-General.

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## FORM B.

### Form of Patent of Addition.

EDWARD VII., by the Grace of God, of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas King, Defender of the Faith, Emperor of India: To all to whom these presents shall come greeting:

Whereas            hath declared that he is in possession of an invention for            that he claims to be the true and first inventor thereof, and that the same is not in use by any other person to the best of his knowledge and belief, and that the said invention is an improvement in or modification of his invention for which a patent was applied for on            and numbered            and on which a patent (hereinafter called the original patent) has been granted for which he was the applicant (or of which he is the patentee).

And whereas the said inventor hath humbly prayed that a patent might be granted unto him for the sole use and advantage of his said invention :

And whereas the said inventor (hereinafter together with his executors, administrators, and assigns, or any of them, referred to as the said patentee) hath by and in his complete specification particularly described the nature of his invention, and has requested that the term limited in such patent for the duration thereof be the same as that of the original patent or so much of that term as is unexpired :

And whereas We, being willing to encourage all inventions which may be for the public good, are graciously pleased to condescend to his request :

Know Ye, therefore, that We, of our especial grace, certain knowledge, and mere motion do by these presents, for us, our heirs and successors, give and grant unto the said patentee our especial license, full power, sole privilege, and authority, that the said patentee by himself, his agents, or licensees, and no others, may at all times hereafter during the term of years herein mentioned, make, use, exercise, and vend the said invention within our United Kingdom of Great Britain and Ireland, and Isle of Man, in such manner as to him or them may seem meet, and that the said patentee shall have and enjoy the whole profit and advantage from time to time accruing by reason of the said invention, during the term of fourteen years from the        day of        being the date of the said original patent No.        , or so much of that term as is unexpired. And to the end that the said patentee may have and enjoy the sole use and exercise and the full benefit of the said invention, We do by these presents for us, our heirs and successors, strictly command all our subjects whatsoever within our United Kingdom of Great Britain and Ireland, and the Isle of Man, that they do not at any time during the continuance of the said term either directly or indirectly make use of or put in practice the said invention, or any part of the same, nor in anywise imitate the same, nor make or cause to be made any addition thereto or subtraction therefrom, whereby to pretend themselves the inventors thereof, without the consent, license or agreement of the said patentee in writing under his hand and seal, on pain of incurring such penalties as may be justly inflicted on such offenders for their contempt of this our Royal command, and of being answerable to the patentee according to law for his damages thereby occasioned :

Provided always that these letters patent shall be revocable on any of the grounds from time to time by law prescribed as grounds for

revoking letters patent granted by Us, and the same may be revoked and made void accordingly: Provided also, that if the said patentee shall not pay all fees by law required to be paid in respect of the grant of the said original letters patent, or in respect of any matter relating thereto at the time or times, and in manner for the time being by law provided; and also if the said patentee shall not supply or cause to be supplied for our service all such articles of the said invention as may be required by the officers or commissioners administering any department of our service in such manner, at such times, and at and upon such reasonable prices and terms as shall be settled in manner for the time being by law provided, then, and in any of the said cases, these our letters patent, and all privileges and advantages whatever hereby granted shall determine and become void notwithstanding anything herein-before contained: Provided also that nothing herein contained shall prevent the granting of licenses in such manner and for such considerations as they may by law be granted: And lastly, we do by these presents for us, our heirs and successors, grant unto the said patentee that these our letters patent shall be construed in the most beneficial sense for the advantage of the said patentee.

In witness whereof we have caused these our letters to be made patent and to be sealed as of the  
one thousand nine hundred and

\*

—————  
*Comptroller-General of Patents,  
Designs, and Trade Marks.*

[Seal of Patent Office.]

Dated the 17th of December, 1907.

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

\* Here is to be inserted the name of the Comptroller-General.

—————  
**RULES REGULATING THE PRACTICE AND PRO-  
CEDURE ON APPEALS TO THE LAW OFFICERS.**

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 his intention.



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.

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.

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.

V. No appeal shall be entertained of which notice is not given within fourteen 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.

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.

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.

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.

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.

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.

XII. If any costs so ordered to be paid be not paid within fourteen 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 such 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.

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.

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.

JOHN L. WALTON,  
*Attorney-General.*

W. S. ROBSON,  
*Solicitor-General.*

Law Officers' Department,  
11th December, 1907.

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**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:—

“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.

3. In the case of petitions for the extension of the term of a patent under section 18 of the Act, the following rules shall apply:—

- (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 fifteen 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 fifteen miles or more from Charing Cross he shall 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 fifty 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 of 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 lodge and serve such particulars of objections as aforesaid shall be deemed to have abandoned his opposition.
- (n.) No person who has delivered such particulars of objections shall be entitled to oppose the granting of the prayer of the petition on any grounds not stated in such particulars.

- (o.) Any person who has lodged notice that he intends to oppose the granting of the prayer of the petition shall be entitled to be heard on the application to fix the appointed day, and every person who has lodged and served particulars of objection shall be served by the petitioner with notice of the appointed day.
- (p.) The petition shall not be entered in the list for trial until the expiration of the time limited for the lodging and service of the particulars of objections, and shall only be entered for trial on the lodging of an affidavit on behalf of the petitioner that all persons who have served him with notice of intention to oppose the prayer of his petition have been served with copies of the petition. The petition 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 had been a witness action assigned to that judge and shall be marked in the witness list not before the                      of                      190                      being the appointed day.
- (q.) Any persons who have delivered particulars of objections shall be entitled, at their own expense, to obtain from the petitioner copies of the accounts which have been lodged by him.
- (r.) All petitions, documents, and copies by these rules required to be lodged shall if and so long as the Court is a judge of the Chancery Division be lodged at the chambers of the judge, and subject as aforesaid shall be lodged with such person and at such place as the Court may from time to time direct.
- (s.) The Court may excuse petitioners and opponents from compliance with any of the requirements of these rules and may give such directions in matters of procedure and practice under section 18 of the Act as it shall consider to be just and expedient.
- (t.) The Comptroller if he elects or is directed to appear on the question of granting the prayer of any petition under section 18 of the Act shall not be required to give notice 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.

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:—

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

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.

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).

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.

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.

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 evidence impeaching the validity of the patent the respondent shall be entitled to reply.

13. In an action for infringement of a patent the plaintiff must deliver with his statement of claim particulars of the breaches relied upon.

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.

15. A defendant in an action for infringement of a patent who