

under section 32 of the Act counterclaims in the action for the revocation of the patent shall with his counterclaim deliver particulars of any objection to the validity of the patent on which he relies in support of his counterclaim.

16. Particulars of breaches shall specify which of the claims in the specification of the patent sued upon are alleged to be infringed and shall give at least one instance of each type of infringement of which complaint is made.

17. Particulars of objections (whether delivered with the defence in an action for infringement of patent or with a petition for revocation under section 25 of the Act or with a counterclaim for revocation under section 32 of the Act) must state every ground upon which the validity of the patent is disputed and must give such particulars as will clearly define every issue which it is intended to raise.

18. If one of the objections taken in the particulars of objections be want of novelty the particulars must state the time and place of the previous publication or user alleged, and if it be alleged that the invention has been used prior to the date of the patent must also specify the names of the persons or person who are alleged to have made such prior user and whether such prior user is alleged to have continued down to the date of the patent, and if not, the earliest and latest dates on which such prior user is alleged to have taken place, and shall also contain a description (accompanied by drawings if necessary) sufficient to identify such alleged prior user, and if such user relates to any machinery or apparatus shall specify whether the same is in existence and where the same can be inspected.

No evidence at variance with any statement contained in the particulars shall be given in support of any objection, and no evidence as to any machinery or apparatus which is alleged to have been used prior to the date of the patent and which is in existence at the date of the delivery of the particulars shall be receivable unless it be proved that the party relying on such prior user has, if such machinery or apparatus be in his own possession, offered inspection of the same, or if not in his own possession, has used his best endeavours to obtain inspection of the same for the other parties to the proceedings.

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

20. Further and better particulars of breaches or particulars of objections may at any time be ordered by the Court.

21. At the hearing of any action, petition or counterclaim relating to a patent no evidence shall except by leave of the Court (to be

given upon such terms as to the Court may seem just) be admitted in proof of any alleged infringement or objection not raised in the particulars of breaches or objections respectively.

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

If the action petition or counterclaim proceeds to trial on any patent no costs shall be allowed in respect of any issues raised in the particulars of breaches or particulars of objections and relating to that patent to the parties delivering the same respectively except in so far as such particulars are certified by the Court to have been proven or to have been reasonable and proper without regard to the general costs of the case, but subject as aforesaid the costs of the issues raised by the particulars of breaches and the particulars of objections shall be in the discretion of the taxing master.

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

- (a.) The application shall be made by motion in the proceedings pending before the Court and notice of such motion together with a King's printers' copy of the specification showing in red ink the amendment proposed to be made shall be served on the parties to such proceedings and in the first instance upon such parties only.
- (b.) On the hearing of such motion the Court shall decide whether and on what terms as to costs or otherwise the application shall be allowed to proceed, and if the application be allowed to proceed shall give directions as to whether such application shall be heard on oral or affidavit evidence and if on affidavit evidence shall fix the times within which affidavits shall be filed by the parties respectively and by any other person entitled to be heard under the Act or these rules.
- (c.) If the application be allowed to proceed the applicant shall forthwith serve the Comptroller with a copy of the notice of motion together with such copy specification as aforesaid and also a copy of the order allowing the application to proceed, and also with the name and address of the applicants' solicitor and the proposed amendment shall be advertised in the Illustrated Official Journal (Patents), such advertisement stating that any person desiring to oppose the

amendment must within fourteen days of the issue of the advertisement give notice in writing of such desire to the applicants' solicitors, whose name and address for that purpose shall be also stated in the advertisement. Any person giving such notice shall be entitled to be heard upon the hearing of the motion.

- (d.) Within seven days after the receipt of any such notice the applicant shall, if the person giving such notice shall have stated therein an address for service within the United Kingdom, serve on such person a copy of the notice of motion together with such copy of the specification as aforesaid, and also a copy of the order allowing the application to proceed. Such service may be made by prepaid registered letter sent to such person through the post at his address for service.
- (e.) In the case of an application directed to be heard on oral evidence the applicant shall as soon as he shall have complied with the requirements of the preceding rules set the same down for hearing in the witness list, and in the case of an application directed to be heard on affidavit evidence the applicant shall after such compliance as aforesaid and after the times fixed for filing evidence have expired set the same down for hearing in the non-witness list and the application so set down shall be heard and disposed of in due course.
- (f.) Where the Court allows a specification to be amended the applicant shall forthwith lodge with the Comptroller an office copy of the order allowing such amendment, and the Comptroller shall advertise the same once at least in the Illustrated Official Journal (Patents). He shall also if required so to do by the Court or by the Comptroller leave at the Patent Office a new specification and drawings as amended, the same being prepared as far as may be in accordance with the rules of the Patent Office for the time being in force.

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

Loreburn, C.

Alverstone, C.J.

H. H. Cozens-Hardy, M.R.

Roland L. Vaughan-Williams, L.J.

J. Gorell Barnes, P.

R. J. Parker, J.

Christopher James.

The 3rd day of June, 1908.

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

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

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

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

Register to be kept.

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

Contents of register.

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

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

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

5. The institute shall continue in office or appoint a registrar, who shall keep the register in accordance with the provisions of the Act and these rules, and, subject thereto, shall act under the directions of the institute, and the Board.

Registrar.

6. A person who is desirous of being registered in pursuance of the Act, on the ground that prior to the 24th day of December, 1888, he

Registration of persons who were

patent agents prior to the passing of this Act.

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

Final qualifying examination for registration.

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

Exemption of pupils and assistants from preliminary examination.

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

Qualifications of persons generally for registration.

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

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

Final qualifying examinations to be held by the institute.

10. The institute shall hold at least once in every year, a final qualifying examination, which shall be the final qualifying examination required under rules 7 and 8; and the institute shall, subject to these rules, have the entire management and control of all such examinations, and may from time to time make regulations with respect to all or any of the following matters, that is to say—

- (a.) The subjects for and the mode of conducting the examination of candidates;
- (b.) The times and places of the examinations, and the notices to be given of examinations;
- (c.) The certificates to be given to persons of their having passed the examinations;

(d.) The appointment and removal of examiners, and the remuneration, by fees or otherwise, of the examiners so appointed; and

(e.) Any other matter or thing as to which the institute may think it necessary to make regulations for the purpose of carrying out this rule.

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

Corrections of names and addresses in register.

12. The registrar shall erase from the register the name of any registered person who is dead.

Erasure of names of deceased persons.

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

Erasure of names of persons who have ceased to practise.

14. If any registered person shall not, within one month from the day on which his annual registration fee becomes payable, pay such fee, the registrar may send to such registered person to his registered address a notice requiring him, on or before a day to be named in the notice to pay his annual registration fee; and if such registered patent agent shall not within one month from the day named in such notice pay the registration fee so due from him, the registrar may erase his name from the register: Provided that the name of a person erased from the register under this rule may be restored to the register by direction of the institute or the Board on payment by such person of the fee or fees due from him, together with such further sum of money, not exceeding in amount the annual registration fee, as the institute or the Board (as the case may be) may in each particular case direct.

Erasure of name for non-payment of fees.

Registrar to act on evidence.

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

Erasure of incorrect or fraudulent entries.

16. The Board may order the registrar to erase from the register any entry therein which is proved to their satisfaction to have been incorrectly or fraudulently inserted.

Erasure of names of persons convicted of crimes, and persons found guilty of disgraceful conduct.

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

Restoration by Board of erased name.

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

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

Inquiry by Board of Trade before erasure of name from register.

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

Restoration by institute of erased name.

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

Appeal to Board of Trade.

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

22. A person who intends to appeal to the Board under these rules (in these rules referred to as the appellant) shall, within fourteen days from the date of the making or giving of the order, direction, or refusal complained of, leave at the office of the institute a notice in writing signed by him of such his intention. Notice of appeal.
23. The notice of intention to appeal shall be accompanied by a statement in writing of the grounds of the appeal, and of the case of the appellant in support thereof. Case on appeal.
24. The appellant shall also immediately after leaving his notice of appeal at the institute send by post a copy thereof with a copy of the appellant's case in support thereof addressed to the Secretary of the Board of Trade, 7, Whitehall Gardens, London. Transmission of notice of appeal to Board of Trade.
25. The Board may thereupon give such directions (if any) as they may think fit for the purpose of the hearing of the appeal. Directions as to hearing of appeal.
26. Seven days' notice, or such shorter notice as the Board may in any particular case direct, of the time and place appointed for the hearing of the appeal shall be given to the appellant and the institute and the registrar. Notice of hearing of appeal.
27. The appeal may be heard and decided by the Board, and such decision may be given or order made in reference to the subject-matter of the appeal as the case may require. Hearing and decision of appeal.
28. The fees set forth in Appendix B. to these rules shall be paid in respect of the several matters, and at the times and in the manner therein mentioned. The Board may from time to time alter any of, or add to, the fees payable under these rules. Fees.
29. Any regulation made by the institute under these rules may be altered or revoked by a subsequent regulation. Copies of all regulations made by the institute under these rules shall, within twenty-eight days of the date of their being made, be transmitted to the Board, and if within twenty-eight days after a copy of any regulation has been so transmitted, the Board by an order signify their disapproval thereof, such regulation shall be of no force or effect; and if, after any regulation under these rules has come into force, the Board signify in manner aforesaid their disapproval thereof, such regulation shall immediately cease to be of any force or effect. Alteration of regulations.
30. The institute shall once every year in the month of March transmit to the Board a report stating the number of applications for registration which have been made in the preceding twelve months, the nature and results of the final examinations which have been held, and the amount of fees received by the institute under these rules, and such other matters in relation to the provisions of these rules as the Board may from time to time require. Report to Board of Trade.
31. These rules shall come into operation from and immediately Commencement.

after the 31st December, 1907, and all general rules relative to the register of patent agents in force on the 31st December, 1907, shall be and are hereby repealed as from that date without prejudice nevertheless to anything done under such rules or to any application or other matter then pending.

Dated the 17th day of December, 1907.

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

APPENDIX A.

FORM 1.

Form of Register.

Name.	Designation.	Address.	Date of Registration.

FORM 2.

Form of Statutory Declaration.

PATENTS AND DESIGNS ACT, 1907.

Register of Patent Agents pursuant to Section 84.

I, *A. B.* [*insert full name and in the case of a member of a firm add, "a member of the firm of ",* of , in the county of , Patent Agent, do solemnly and sincerely declare as follows :—

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

2. That I acted as patent agent in obtaining the following patents :—

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

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

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

Declared at .

APPENDIX B.

Fees.

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

Dated the 17th day of December, 1907.

D. LLOYD GEORGE,
President of the Board of Trade

MEMORANDUM FOR INVENTORS.

WAR OFFICE,

6th August, 1904.

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

1. By section 27 of the "Patents, Designs, and Trade Marks Act, 1883," it is enacted as follows:—

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

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

2. Persons who desire to submit any invention for consideration should do so by letter addressed to the Secretary, War Office, London. The letter should state the nature of the invention; whether patented or not; if patented, it should quote number and date of patent. It should also state whether the person who offers it for consideration desires to make any claim for remuneration in connection with it. In the absence of such a statement, it will be assumed that no such remuneration is expected.

3. Expenses or loss of time incurred before or after the submission of an invention will give no claim unless authority for such expenses has been previously given by signed letter from this office, and the liability will be strictly confined to the limits of expenditure authorised in such letter.

4. Should the invention be adopted into the service, the person or persons who submitted the same may be required to furnish two copies of all designs, drawings, or particulars relating to the invention which may be desired by the War Department, as well as any patterns which may be considered necessary; and it is to be under-

stood that all such drawings, designs, and patterns will be absolutely at the disposal of his Majesty's Government for all purposes whatever. Reasonable prices will be paid by the War Department for the designs, drawings, and patterns supplied.

5. No claim for reward for an invention will be held to be established unless the invention has been adopted into the service, and all designs, drawings, patterns, and particulars required by the War Department have been supplied, under the conditions mentioned above.

6. All claims for remuneration will be carefully considered; but any award which may be made will only be payable to the claimant when approved by the Treasury, and money is available from funds voted by Parliament for such purposes.

7. The above rules do not apply to inventions patented by such Government employes as are required to obtain official permission before taking out a patent, with regard to whom special regulations are in force.

E. W. D. WARD.

INSTRUCTIONS TO APPLICANTS FOR PATENTS.

1. General.—The grant of patents is now governed by the Patents and Designs Act, 1907, and the Patents Rules, 1908. For information as to obtaining copies of the Act and Rules, *see* page 616.

2. Who may apply for a Patent in the United Kingdom.—Any person, whether a British subject or not, may make an application for a patent, provided that he is the true and first inventor, or applies jointly with the true and first inventor or inventors, or has received the invention from abroad.

Any person who has made a previous application for a patent in any of the foreign states or British possessions with which arrangements for mutual protection of inventions (see par. 21) have been made may obtain priority in the United Kingdom. (See page 595.)

Two or more persons may make a joint application for a patent, and a patent may be granted to them jointly. The true and first inventor (or inventors) must be a party (or parties) to the application, except in the case of an invention received from abroad or of an application under the international or colonial arrangements.

A company (body corporate) or a firm or partnership, may apply for a patent as joint applicant with the inventor, but not as sole applicant, unless the application is made in respect of an invention communicated from abroad or under the international or colonial arrangements. In the case of a company the application should be made under its seal.

If an inventor dies without making an application for a patent for an invention, his legal representative may apply for a patent for such invention.

3. What may be patented.—Patents are only granted for inventions the subject-matter of which is “a manner of manufacture” within the meaning of section 93 of the Patents and Designs Act, 1907. For example, the rights of an author in the production of a book are protected by copyright and not by a patent.

Applications for patents would not be accepted in the following cases :—

- (a.) Where no material product of a substantial character is realised or affected by the alleged invention, or where the only material product is a printed sheet, ticket, coupon, or its equivalent, for use in carrying out some scheme of business or the like.

(b.) Where it is proposed to use, modify, or imitate natural conditions existing on the earth's surface, there being no invention as to the means or apparatus applied to these purposes.

A patent cannot be granted for an invention the use of which is contrary to law or morality. For example, a patent would not be granted for a lottery.

An application for a patent must be restricted to one invention. Several distinct matters are not deemed to constitute one invention merely because they are all applicable to or may form parts of an existing machine, apparatus, or process.

4. Manner of Applying for a Patent.—All applications and communications must be made in English.

Applicants must apply in their real names and not under assumed or trade names.

No models are required.

Applications for patents should be left at the Patent Office by hand or sent by post, addressed to the Comptroller, The Patent Office, 25, Southampton Buildings, London, W.C.

Applicants must use the appropriate stamped forms (see par. 5) as fees cannot be paid by cheque or money order or in cash.

5. Patent Forms and Fees.—The following is a list of the forms and fees relating to patents. (*Here follows a list as in the Patents Rules.*)

Stamped forms can be obtained on personal application at the Inland Revenue Office (Room 32), The Patent Office, 25, Southampton Buildings, Chancery Lane, London, W.C., or, at a few days' notice and upon prepayment of the value of the stamp, at any money order office in the United Kingdom.

Patent Forms Nos. 1, 1A, 3, and 10 *already stamped* and 2 are *usually kept on sale* at the undermentioned places:—

The London Chief Office.		Charing Cross Branch Office, W.C.
Eastern District Office, 206, White-chapel Road, E.		Lombard Street Branch Office, E.C.
South Eastern District, 239, Borough High Street.		North Western District Office, 28, Eversholt Street, Camden Town, N.W.
		Post Office, 44, Parliament Street, S.W.

and the chief post office of the undermentioned cities and towns:—

IN ENGLAND AND	Bacup.	Blackburn.	Burnley.
WALES.	Barnsley.	Bolton.	Burslem.
Accrington.	Bath.	Bournemouth.	Bury.
Altrincham.	Bedford.	Bradford.	Cambridge.
Ashton-under-Lyne.	Birkenhead.	Brighton.	Cardiff.
	Birmingham.	Bristol.	Carlisle.

Chatham.	Kidderminster.	Rotherham.	Woolwich.
Cheltenham.	Leamington.	Rugby.	Worcester.
Chester.	Leeds.	Salford.	York.
Coventry.	Leicester.	St. Helens.	—
Croydon.	Lichfield.	Scarborough.	IN SCOTLAND.
Darwen.	Lincoln.	Sheffield.	Aberdeen.
Derby.	Liverpool.	Southampton.	Dundee.
Devizes.	Macclesfield.	Stafford.	Edinburgh.
Dewsbury.	Manchester.	Stalybridge.	Glasgow.
Doncaster.	Middlesbrough.	Stockport.	Greenock.
Dorchester.	Newcastle.	Stockton-on-Tees.	Inverness.
Driffield.	Newport (Mon.).	Stoke-on-Trent.	Leith.
Droitwich.	Northallerton.	Stourbridge.	Perth.
Dudley.	Northampton.	Stroud.	—
Durham.	Norwich.	Sunderland.	IN IRELAND.
Exeter.	Nottingham.	Swansea.	Belfast.
Gloucester.	Nuneaton.	Tamworth.	Dublin.
Goole.	Oldbury.	Truro.	Galway.
Greenwich.	Oldham.	Tunstall.	Limerick.
Halifax.	Plymouth.	Wakefield.	Waterford.
Hanley.	Pontypridd.	Walsall.	Wexford.
Hartlepool.	Portsmouth.	Warrington.	
Huddersfield.	Preston.	West Bromwich.	
Hull.	Reading.	Widnes.	
Ipswich.	Redditch.	Wigan.	
Keighley.	Rochdale.	Wolverhampton.	

If it should not be convenient to apply in either of the ways above specified, the stamped forms can be ordered by post from the Controller of Stamps, Room 5, Inland Revenue Office, Somerset House, London, W.C. In this case a bankers' draft or a money or postal order payable to the Commissioners of Inland Revenue and crossed Bank of England, to cover the value of the stamp and the cost of transmitting the form in a registered envelope by post, must be forwarded to Somerset House with the application for the form. Cheques will not be accepted.

6. Documents required on Application for a Patent.—An application for a patent consists of an application form and a specification (either provisional or complete). The forms must bear the prescribed stamp fees, and the specification should be in duplicate. The application must be made on one of six forms:—

Patents Form No. 1.—For ordinary applications.

- | | | |
|---|---|------------------------------------------------------------------------------------------------------------|
| „ | „ | 1A.—For applications for patents for inventions communicated from abroad to someone in the United Kingdom. |
| „ | „ | 1B.—For applications under the international and colonial arrangements. |
| „ | „ | 1c.—For applications for patents of addition. |
| „ | „ | 1c*.—For applications for patents of addition under the international and colonial arrangements. |
| „ | „ | 1D.—For applications for secret patents under section 30. |

An application can either be made by direct communication with the office or through an agent duly authorised to the satisfaction of the Comptroller and resident or having a place of business in the United Kingdom or the Isle of Man. The application must be signed by the applicant or applicants, and, unless an agent is employed, an address for service in the United Kingdom must be given.

In an ordinary case an application for a patent may be made in either of two ways:—

- (1.) The applicant may apply in the first instance with a provisional specification, using Patents Form No. 1 (stamped 1*l.*), accompanied by two Patents Forms No. 2 (unstamped); and may leave his complete specification (stamped 3*l.*) at any later period within six months, or, with application for extension of time on Patents Form No. 6 (stamped 2*l.*), within seven months.
- (2.) The applicant may leave his complete specification at the time of making his application, using Patents Form No. 1 (stamped 1*l.*), accompanied by two Patents Forms No. 3 (one copy stamped 3*l.* and one unstamped).

Communication from Abroad.—In cases of applications for patents for inventions communicated from abroad, the person to whom the invention is communicated will be treated in all respects as the actual applicant, and the patent will be issued to such person. Assignment to the communicator can subsequently be effected in the usual manner (see par. 17).

Application under the International and Colonial Arrangements (see par. 21).—An application in the United Kingdom for a patent having priority of date under the international and colonial arrangements must be made within 12 months from the date of the *first* foreign or colonial application and be accompanied by a complete specification. The application must be in the name of and signed by the person or persons by whom the first foreign or colonial application was made, and should be accompanied (in addition to the specification) by copies of the specification and drawings or documents filed in the patent office of the foreign state or British possession in respect of the first foreign or colonial application duly certified by the official chief of such patent office, or otherwise verified to the satisfaction of the Comptroller; and if the specification be in a foreign language, by a translation verified by statutory declaration or otherwise to the satisfaction of the Comptroller.

If an extension of time is required for leaving the copies of the foreign specification and drawings or documents, application should

be made on Patents Form No. 5, duly stamped. Such extension may be for one, two or three months, but cannot exceed three months.

Patent of Addition.—An applicant or patentee may apply for a patent to be called a “Patent of Addition” in respect of any improvement or modification of his invention. The patent of addition if granted will be granted for the unexpired term of the original patent and no renewal fees will be payable on such patent of addition.

Single Patent for Cognate Inventions.—An applicant who has put in two or more provisional specifications for inventions which are cognate or modifications one of the other and has obtained concurrent provisional protection for them may put in one complete specification in respect of all such applications; and if the whole of the inventions are such as to constitute a single invention, he may obtain a single patent thereon (see section 16 of the Act).

The title of the invention should cover the whole subject-matter and is not intended to be the name under which the invention is to be sold.

In the title of the invention the following forms are not allowable:—

- (a.) Fancy names or of titles, *e.g.*, “The Simplex Wheel”; “The Hercules Braces.”
- (b.) The use of the inventor’s name, or of the word “Patent.”
- (c.) The abbreviation “*etc.*” This should be replaced by words expressing whatever is intended to be covered by the term, or by the phrase “and the like.”

The specifications and all other documents, except drawings (see par. 7), must be written or printed in large and legible characters with deep permanent ink on one side only of sheets of strong white paper measuring approximately 13 inches by 8 inches, leaving a margin of at least one inch and a half on the left-hand side thereof; and the signatures of the applicants or agents must be written in ink in a large and legible hand, and the several sheets should be fastened together at the top left-hand corner. At the top of the first page of a specification a space of about 2 inches should be left blank. The work of the Office is facilitated when specifications are printed or typewritten.

Provisional Specification.—The provisional specification must contain the full name, address, and calling of each applicant, and the title of the invention, all of which must be identical with those given on the application form.

It must be begun on Patents Form No. 2, and continued if necessary on foolscap paper. It must fairly describe the nature of the

invention and be accompanied by drawings if required (see par. 7). The applicant should in this document give a clear description of the invention, but he need not enter into minute details as to the manner in which the invention is to be carried into effect, and no claims are necessary. The specification must be dated at the end, and signed by each applicant or by the authorised agents. The duplicate must be an exact copy.

Unless a complete specification, stamped 3*l.*, is left within 6 months, or with extension of time 7 months (see Patents Form No. 6), from the date of application, an application for a patent is deemed to be abandoned.

Complete Specification.—The complete specification must contain the full name, address, and calling of each applicant, and the title of the invention, all of which must be identical with those given on the application form, and, if a provisional specification has been filed, with those on Patents Form No. 2.

The complete specification must be begun upon Patents Form No. 3 (stamped 3*l.*), and continued, if necessary, on foolscap paper. The duplicate must be an exact copy, but unstamped. The specification should contain a full and detailed description of the invention, of such a nature that the invention could be carried into practical effect by a competent workman from the directions of the document alone. The specification must be accompanied by drawings if required (see par. 7).

A complete specification left after a provisional specification should refer to the number and date of the provisional specification, should contain a full and detailed description of the invention, independent of the description given in the provisional specification, and should be confined to substantially the same invention as described in the provisional specification.

It is necessary at the end of the complete specification to make a distinct and proper statement of claims, which must be clear and succinct as well as separate and distinct from the body of the specification. The claims should be preceded by the prescribed preamble given on Patents Form No. 3, and should form in brief a clear statement of that which constitutes the invention, and inventors should be careful that their claims include neither more nor less than they desire to protect by their patent. Any unnecessary multiplicity of claims or prolixity of language should be avoided.

Claims should not be made for the efficiency or advantages of the invention.

The specification must be dated at the end, and signed by each applicant or by the authorised agents.

7. Drawings.—As the drawings are printed by a photo-lithographic process the character of each original drawing must be brought as nearly as possible to a uniform standard of excellence, suited to the requirements of such process and calculated to give the best results in the interest of inventors, of the Patent Office, and of the public. The following requirements should, therefore, be strictly observed, as non-compliance therewith will cause delay in the progress of an application for a patent.

Drawings, when furnished, should accompany the provisional or complete specification to which they refer, except in the case when those left with a provisional are referred to in the complete specification. No drawing or sketch such as would require the preparation for the printer of a special illustration for use in the letter-press of the specification when printed should appear in the specification itself.

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 way as to admit of being clearly reproduced on a reduced scale by photography. Mounted drawings must not be used.

Drawings must be on sheets which measure 13 inches from top to bottom and are either from 8 inches to $8\frac{1}{4}$ inches or from 16 inches to $16\frac{1}{2}$ inches wide, the narrow 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, and should be placed in an upright position on the sheet.

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.

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.

A facsimile or "true copy" of the original drawings must 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 blacklead pencil.

The words "original" or "true copy" must in each case be marked at the right-hand top corner, under the numbering of the sheet.

Drawings must be delivered at the Patent Office so as to be free from folds, breaks, or creases, which would render them unsuitable for reproduction by photography.

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."

8. Official Examination.—On the receipt of an application, the Examiner will report whether the nature of the invention is fairly described, whether the application, specification and drawings (if any) have been prepared in the prescribed manner, whether the title sufficiently indicates the subject-matter of the invention, whether the specification comprises one invention only, and, in the case of a complete specification left after a provisional specification, whether the invention in the complete specification is substantially the same as in the provisional specification. If this report be adverse, the

Comptroller may refuse to accept the application, or may require that the application, specification or drawings be amended before he proceeds with the application, and he may direct that the application be post-dated.

When a complete specification has been filed, a search is made to ascertain whether the invention claimed has been wholly or in part anticipated in any published specification (other than a provisional specification not followed by a complete specification) filed pursuant to any application made in the United Kingdom within the preceding fifty years. If any such anticipation be found and the applicant is unable to amend his specification as required, the patent will only be granted after the insertion in the complete specification of a reference to the prior specification by way of notice to the public. The official search is not, of course, exhaustive and must not be regarded as being in any way a guarantee of the validity of the patent.

9. Acceptance of Complete Specification.—The complete specification must be accepted within 12 months or with extension of time 13, 14, or 15 months from the date of application and if not so accepted the application becomes void and cannot be further proceeded with.

On the acceptance of a complete specification, the Comptroller gives notice thereof to the applicant, and the acceptance is advertised in the Illustrated Official Journal of Patents.

Any person (other than the applicant) wishing to be informed as soon as a complete specification is accepted, should forward a Patents Form No. 31 requesting such information.

10. Public Inspection of Specifications.—The provisional specification (if any) and the complete specification are not open to public inspection, for searches or for copying, until after the acceptance of the complete specification, except in the case of an application made under the international or colonial arrangements, where the complete specification, if not already accepted, becomes open to public inspection at the end of 12 months from the date of the first foreign application. The specifications of abandoned or void applications (except in the case of void applications under the international or colonial arrangements) are not printed or open to inspection.

Upon the acceptance of a complete specification, the application, specification or specifications with the drawings (if any) may be inspected at the Patent Office upon payment of the prescribed fee of one shilling.

Specifications are printed fifteen days after the advertisement of the acceptance of the complete specification.

11. Opposition to the Grant of a Patent.—A patent is granted, subject to the payment of a sealing fee, upon an application which passes the prescribed stages and is unopposed.

Under section 11 of the Act, the grant of a patent may be opposed at any time within two months from the date of the advertisement in the Illustrated Official Journal of the acceptance of the complete specification; on the ground of the applicant having obtained the invention from the opponent, or from a person of whom he is the legal representative; or on the ground 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 on the ground 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 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.*

A notice of opposition to the grant of a patent must be made on Patents Form No. 8, and must state the ground or grounds on which the person giving such notice intends to oppose the grant, and must be signed by him. Such notice must state his address for service in the United Kingdom, and be accompanied by an unstamped copy to be transmitted by the Comptroller to the applicant.

12. Sealing of Patent.—Except in cases of appeal to the law officer, of opposition, or of the death of the applicant, a patent must be sealed within 15 months, or, if extension of time has been allowed for leaving or accepting a complete specification, 19 months from the date of the application for the patent. A sealing fee of 1*l.* is payable, and should be paid by leaving at the Patent Office Patents Form No. 10, stamped 1*l.*

Great care must be taken to ensure that the form, duly stamped, is left at the Office at such a date as to permit of the sealing of the patent within the prescribed time. The applicant for a patent is advised to pay the sealing fee after the date of the acceptance of the complete specification and before the expiration of the period allowed

for opposition. If this be done, the patent will as a rule be sealed about 10 weeks after the date of the acceptance of the complete specification. If the payment has been omitted, application may be made to the Comptroller on Patents Form No. 11 for an extension of time for one, two, or three months to make such payment, but no extension can be allowed beyond three months.

13. Duration of Patent and Payment of Renewal Fees for the Continuance of Patent.—Every patent (other than a patent of addition) is granted for the term of 14 years from the date of application, subject to the payment, before the expiration of the 4th and each succeeding year during the term of the patent, of the prescribed fee. The patentee may pay all or any of such prescribed annual fees in advance.

Payment must be made by way of Patents Form No. 13 duly stamped, which must be sent to the Patent Office for entry of the payment in the register. The production of letters patent at the Patent Office on payment of these fees is not required.

As the payment of these renewal fees is regulated by Act of Parliament, a fee cannot be received a *single day* after it is due; but if the payment has been omitted, application may be made to the Comptroller, on Patent Form No. 14, for an enlargement of time of one, two, or three months, as the case may be, to make such payment, but no enlargement can be allowed beyond three months.

14. Extension of Term of Patent.—Under section 18 of the Act, a patentee may after advertising in manner provided by Rules of the Supreme Court, petition the Court for an extension of the term of his patent, but such petition must be presented at least six months before the time limited for the expiration of the patent. Notice may be given to the Court of opposition thereto.

15. Restoration of Lapsed Patents.—Under section 20 of the Act, application may be made to the Comptroller on Patents Form No. 15 by a patentee for an order for the restoration of a patent which has become void owing to the failure to pay a renewal fee within the prescribed time. The application is required to be advertised and notice of opposition thereto may be given on Patents Form No. 16.

16. Amendment of Specification.—Under section 21 of the Act, if no action for infringement or proceeding before the Court for the revocation of a patent is pending, a complete specification may be amended by way of disclaimer, correction, or explanation, but no

amendment will 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. A request for leave to amend must be made on Patents Form No. 17 and signed by the applicant or the registered proprietor of the patent, and must be accompanied by a certified printed copy of the specification, showing clearly in red ink the proposed amendments. A printed copy of any published specification may be obtained from the Patent Office, 25, Southampton Buildings, W.C., price 8*s.*, including inland postage. The fee for certifying the printed copy is one shilling. Care should be taken to indicate clearly what part of the printed description it is proposed to omit, and at what points interlineations are to be inserted. Additional matter which cannot be written upon the printed copy should be written upon a separate sheet and attached to the print.

It should be remembered that the proposed amendments, whether allowable or not, are made public and advertised, and that this publication may be a bar to obtaining a valid patent for matter disallowed by way of amendment. No amendment of a provisional specification is allowed under section 21 ; but clerical errors therein may be corrected (see par. 18).

Anyone wishing to be informed as soon as an application for amendment of a specification is entered, should forward a Patents Form No. 31 (see par. 19) with a request for such information.

A notice of opposition to the amendment of a specification must be made on Patents Form No. 18.

17. Assignments, Licences, &c.—Deeds of assignment of patents, and other documents affecting the proprietorship of patents, licences to manufacture or use patented inventions, are required by section 28 of the Act to be entered in the register at the Patent Office. No document can, however, be recorded until the patent to which it relates has been actually sealed. Every document sent for registration must be duly stamped in accordance with the provisions of the Stamp Act, 1891, and must be accompanied by an attested copy written upon foolscap paper (on one side only) and bearing a 1*s.* impressed stamp, and by the appropriate stamped Form of Request, Patents Forms No. 27, 28, or 29 as the case may be. Names of individual members of firms should be set out on the Form of Request.

18. Correction of Clerical Errors.—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 the name or address of the proprietor

of any patent, or in any matter which is entered upon the register of patents, should be made on Patents Form No. 30.

19. Certificates.—A request for a certificate of the Comptroller as to any entry, matter or thing which he is authorised by the Act or Rules to make or do, should 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.

20. Exhibition of Unpatented Inventions. — Any person may exhibit an unpatented invention at an exhibition certified by the Board of Trade as industrial or international during the period of the holding of the exhibition, without prejudice to his subsequent patent rights, provided (a) that he gives the prescribed notice on Patents Form No. 33 to the Comptroller of his intention so to exhibit it, and (b) that the application for a patent be made within six months from the date of the opening of the exhibition. In the case of exhibitions held out of the United Kingdom, no notice of intention to exhibit is required to be given to the Comptroller.

For the purpose of enabling the invention to be subsequently identified, the inventor must furnish to the Comptroller a brief description of his invention, accompanied, if necessary, by drawings, and such other information as the Comptroller may require.

21. International and Colonial Arrangements.—An International Convention for the Protection of Industrial Property exists between the following States :—

Austria.	Great Britain with Aus- tralia, Ceylon, New Zealand, and Trinidad and Tobago.	Norway.
Belgium.	Hungary.	Portugal with the Azores and Madeira.
Brazil.	Italy.	Santo Domingo.
Cuba.	Japan.	Servia.
Denmark with the Farøe Islands.	Mexico.	Spain.
France with Algeria and colonies.	Netherlands with the Dutch East Indies, Su- rinam, and Curaçoa.	Sweden.
Germany.		Switzerland.
		Tunis.
		United States of America.

Copies of the text of the Convention, and of the Additional Act modifying the Convention, may be purchased for 2*d.* and 1*d.*, respectively, from Messrs. Wyman & Sons, Ltd., Fetter Lane, E.C., or through any bookseller.

Under this Convention, an applicant for a patent in any one of the contracting states may obtain priority in any of the other states.

Similar arrangements, for the mutual protection of inventions, designs, and trade marks, have been made between Great Britain on the one side, and each of the following states and colonies on the other :—

Ecuador (designs and trade marks only). Greece (designs and trade marks only). Honduras. Paraguay. Roumania (designs and trade marks only). Uruguay.

An International Office, in connection with the Convention, has been established at Berne, Switzerland, which publishes a monthly periodical, entitled "La Propriété Industrielle." The yearly subscription (including postage) for all countries within the Postal Union is 5 francs 60 centimes, and should be forwarded by money order to L'Imprimerie Co-opérative, Berne.

22. Miscellaneous Matters relating to Patents and the Patent Office :—

(a.) *Information by Post.*—Any person wishing to know whether a particular patent is still in force, the name of the present proprietor of a patent, or any similar details, may obtain an extract from the Register of Patents upon stating the number and year of the patent and forwarding the fee of one shilling by postal order. No information with reference to unpublished specifications can be given to any person other than the applicant.

(b.) *Full-size Copies of Drawings.*—Full-size copies of drawings printed by photo-lithography may be obtained at the undermentioned rates :—

No. of Copies.	Whole sheets Imperial (30 × 22)		Half-sheets Imperial. (15 × 22)		Foolscap size. (13 × 16)		Half-foolscap size. (13 × 8)	
	s.	d.	s.	d.	s.	d.	s.	d.
Single copies ...	25	0	15	0	15	0	10	0
Not exceeding— 6 copies ...	28	0	18	0	17	0	12	0
12 " ...	30	0	20	0	18	6	13	6
25 " ...	32	0	22	0	20	0	15	0

If a satisfactory photograph cannot be obtained from the original drawing, an extra charge will be made to cover the expense of making a tracing.

When the original drawings are coloured there will also be an extra charge for colouring the copies.

(c.) *Advice on Patent Matters, &c.*—The Patent Office does not undertake to give legal advice or opinions on any subject connected with patent law which, like other laws, is left to the interpretation of professional men; nor does the Patent Office examine specifications or other documents before they are filed.

Searches (other than those made in pursuance of the Act) cannot be undertaken by the Patent Office, but must be made by the person requiring information, or by his agent.

The Patent Office cannot recommend any particular patent agent for employment by applicants, but a List of Registered Patent Agents may be obtained from Messrs. Eyre and Spottiswoode, Ltd., East Harding Street, E.C., or through any bookseller. Price (including postage) 1s. 1d.

(d.) *Application for Assistance, Reduction of Fees, &c.*—It is not within the power of the Comptroller to comply with any of the following requests:—

- For pecuniary assistance to obtain patents.
- For reduction or remission of any fee.
- For purchase or acquirement of any interest in patented or other inventions.
- For recommendation of any invention for purchase or use by a Government department or by the public.

(e.) *Use of the Word "Patent."*—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 is not to 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. Any person who falsely represents that an article sold by him is a patented article is liable for every offence on summary conviction to a fine not exceeding five pounds. In a case decided by a police magistrate, it was held, however, that a person was entitled to mark goods with the word "patent" after the complete specification had been accepted. (See section 89 of the Act, and Reports of Patent Cases, vol. xiii., No. 17.)

(f.) *Use of the Royal Arms.*—The grant of a patent is not to be deemed to authorise a patentee to use the royal arms or to place the royal arms on any patented article.

(g.) *Patent Medicines.*—Communications with respect to the preparation and supply of medicine stamps appropriated to a particular medicine, or as to the liability to stamp duty of so-called "patent medicines," should be addressed to the Secretary (Stamps and Taxes), Inland Revenue, Somerset House, London, W.C.

The use of medicine stamps does not have the effect of letters patent.

23. Applications for Patents, &c., in the British Colonies and Foreign States.—Applications for colonial or foreign patents, &c. must be made to the Government of the colony or foreign state in which protection is desired. A collection of colonial and foreign patent, design, and trade mark laws and rules may be seen in the Free Library of the Patent Office.

24. Patent Office Museum.—The contents of the Museum were transferred in 1883 to what is now the Victoria and Albert Museum at South Kensington, where they have been added to the general science collections of that Museum. All communications relating to the Museum should be addressed to the Secretary, Board of Education, South Kensington, London, S.W.

25. Patent Office Library.—The Free Library of the Patent Office, 25, Southampton Buildings, Chancery Lane, London, W.C., is open daily, from 10 a.m. to 10 p.m., except on Sundays, Christmas Day, Good Friday, and Bank Holidays. On the day observed as His Majesty's birthday, Christmas Eve, Easter Eve, and Whitsun Eve, the Library is closed at 4 p.m.

In addition to the Printed Specifications, Indexes, and other publications of the Patent Office, the Library contains a collection of the leading British and foreign scientific journals, transactions of learned societies, and text-books of science and art, and the full or abridged patent specifications of the following countries:—Argentine Republic, Austria, Barbados, Belgium, Canada, Cape Colony, Denmark, Finland, France, Germany, Grenada, Hungary, Italy, Japan, Mauritius, Mexico, Natal, New South Wales, New Zealand, Norway, Portugal, Queensland, Russia, St. Lucia, St. Vincent, South Australia, Straits Settlements, Sweden, Switzerland, Trinidad, United States of America, Victoria, Western Australia.

26. Patent Office Publications.—These (see pages 616—622) may be consulted daily at the Free Public Library of the Patent Office; at the Science and Art Department, South Kensington; and at the free libraries, &c., named on pages 608—615. They are also on sale at the Patent Office, 25, Southampton Buildings, W.C., and will be forwarded by post on receipt of the price and of the postage (if any is charged). *Sums amounting to 6d. or more must be remitted by postal or post office order payable to the Comptroller-General.* Postage stamps sent in payment of any amount exceeding 5d. will be returned. Deposit accounts may be opened, the minimum deposit being 2l.

In searching for the invention of any particular person, the Name

Indexes, published as part of the Illustrated Official Journal of Patents, should be consulted. In searching for patents in connection with a particular subject, the Abridgment Class and Index Key should first be consulted to ascertain where the subject is classified in the Patent Office publications. The corresponding abridgment volumes, each of which is furnished with name and subject indexes, should then be examined. In the case of recent specifications for which abridgment volumes have not been published, the annual and monthly Indexes and the Illustrated Official Journal must be consulted. Searches (other than those made in pursuance of the Act) cannot be undertaken by the Patent Office.

In ordering specifications, the price of which is *Sd.* each, the number and year of the patent must be given.

Unless a wrong number has been supplied through an error on the part of the Patent Office, specifications or other publications cannot be exchanged.

27. Specifications of Foreign and Colonial Patents.—Specifications of foreign and colonial patents are not sold by the Patent Office. Applications for these should be made to the Patent Office of the country in which the patent was granted.

28. Lists of Places receiving Donations of Patent Office Works.

A.—Places in the United Kingdom receiving a complete set of the publications of the Patent Office, including the Specifications, on condition that they shall be daily accessible to the public, for reference or for copying, free of all charge.

Belfast—Public Library, Royal Avenue.	†Horwich — Mechanics' Institute Library.
†Birmingham — Reference Library, Patent Department, Eden Place.	Huddersfield—Public Library and Art Gallery.
Rolton—Little Bolton Library.	Hull—Central Public Library, Albion Street.
Bradford, Yorkshire—Free Library, Darley Street.	Ipswich—Free Library, High Street.
Bristol—Central Public Libraries, College Green.	†Keighley—Public Library.
Cardiff—Central Free Library, Reference Department.	†Leeds—Free Public Library.
Derby—Public Library and Museum.	Leicester—Central Municipal Library, Bishop Street.
Dublin—National Library of Ireland, Kildare Street.	Liverpool — Free Library, William Brown Street.
Dundee—Public Library, Albert Institute.	London—Free Library, London Street, Bethnal Green (<i>from</i> 1891).
†Glasgow — Stirling's and Glasgow Public Library, Miller Street.	†Manchester—Free Library, Deansgate.
Halifax — Public Library, Akroyd Park.	Newcastle - upon - Tyne — Public Library, New Bridge Street.

† This library also receives a set of specifications of United States patents (from 1893).

<p>Nottingham — Central Free Public Library.</p> <p>Oldham—Free Library, Union Street.</p> <p>Preston—Harris Free Public Library and Museum.</p> <p>Rochdale — Free Public Library, Esplanade.</p>	<p>Salford—Free Library, Peel Park.</p> <p>†Sheffield — Free Public Library, Surrey Street.</p> <p>Swansea—Public Library.</p> <p>Wolverhampton — Municipal Science and Technical School.</p>
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B.—Public Offices, &c., in the United Kingdom, and British Colonies and Foreign States receiving a complete set of the Publications of the Patent Office.

Public Offices, &c.

London—
 British Museum.
 Science Library, South Kensington Museum.

†Edinburgh—Royal Scottish Museum.

Dublin—Public Record Office.

Isle of Man—Douglas—Rolls Office.

British Colonies, &c.

Australia—
 New South Wales—Sydney—Public Library.

South Australia—Adelaide—Public Library.

Victoria — Melbourne — Commonwealth Patent Office. Public Library.

Western Australia—Perth—Public Library.

Canada—
 Ontario—Ottawa—Patent Office.
 Toronto—Public Library.

India—
 Bombay—Patent Office, Secretariat.

Calcutta—Patent Office, Imperial Secretariat.

Madras—Patent Office, Secretariat.

New Zealand — Wellington—Patent Office.

Foreign States.

Austria—
 Vienna—Patentamt (*from 1893*).
 Technische Hochschule.

Belgium — Brussels — Ministère de l'Industrie.

Denmark—Copenhagen—Patent Office (*from 1893*).

France—Paris — Office National des Brevets d'Invention et des Marques de Fabrique.

Germany—
 Berlin—Kaiserliches Patentamt.
 Königliche Technische Hochschule.

Baden — Carlsruhe — Technische Hochschule (*from 1876*).

Bavaria — Munich — Polytechnische Verein.

Prussia—Aachen—Königliche Technische Hochschule.

Berlin—Königliche Bibliothek.

Hanover — Polytechnische Schule.

Saxony — Dresden — Technische Hochschule.

Italy—
 Naples—Royal Institution for the Encouragement of Science (*from 1852*).

Rome—Ufficio delle Privative Industriali.

Japan—Tokyo—Patent Office (*from 1884*).

Mexico—Mexico—Patent Office (*from 1904*).

Norway — Christiania—Patent Office (*from 1884*).

Russia—St. Petersburg—Bibliothèque Impériale.

Sweden—Stockholm—Patent Office.

United States—
 Washington, D.C.—Patent Office.

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 Frome—Literary and Scientific Institution.
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 *Royal Philosophical Society, 207, Bath Street.</p> | <p>*Gloucester—Public Library, Brunswick Road.
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 *University.
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 *Society of Arts.
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 Terre Haute — Rose Polytechnic Institute.
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 Manchester—
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 Explosives Committee.
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 Belfast—Queen's College.
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 Birmingham—
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 Brechin—Public Library.
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 Cambridge—
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 University Library.
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 Falkirk—Public Library.
 Falmouth—Free Public Library.
 Gainsborough—Public Library.
 Galashiels—Public Library.
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Belgium—

Brussels—Association de la Presse Technique.

Société Belge d'Electriciens.

Fontaine L'Eveque—"La Revue Chimique."

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Paris—Association des Chimistes.

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29. List of Patent Office Publications.

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Showing additions and alterations in the ABRIDGMENT CLASS AND INDEX KEY. 1s., by post 1s. 4d. (*Out of print.*)

VII.—ABRIDGMENTS OF SPECIFICATIONS.

(A).—*Illustrated* volumes of Abridgments of Specifications in accordance with the classification in the ABRIDGMENT-CLASS AND INDEX KEY have been published, or are in course of preparation, for ten consecutive periods, dealing completely with all specifications published from 1617 to the present date. There are 146 volumes for each of these ten periods. Price 1s. per volume, including inland postage.

LIST OF ILLUSTRATED VOLUMES.

1. Acids, alkalies, oxides, and salts, inorganic.
2. Acids and salts, organic, and other carbon compounds (*including* dyes).
3. Advertising and Displaying.
4. Aeronautics.
5. Agricultural appliances, farm-yard and like (*including* the housing, feeding, and treatment of animals).
6. Agricultural appliances for the treatment of land and crops (*including* gardening appliances).
7. Air and gas engines.
8. Air and gases, compressing, exhausting, moving, and otherwise treating.
9. Ammunition, torpedoes, explosives and pyrotechnics.
10. Animal-power engines and miscellaneous motors.
11. Artists' instruments and materials.
12. Bearings and lubricating-apparatus.
13. Bells, gongs, foghorns, sirens, and whistles.
14. Beverages (*excepting* tea, coffee, cocoa, and like beverages).
15. Bleaching, dyeing, and washing textile materials, yarns, fabrics and the like (*excepting* dyes).
16. Books (*including* cards and card-cases and the like).
17. Boots and shoes.
18. Boxes and cases (*excepting* trunks portmanteaus, hand and like travelling bags, baskets and hampers, and other wickerwork).
19. Brushing and sweeping.
20. Buildings and structures.
21. Casks and barrels.
22. Cements and like compositions.
23. Centrifugal drying, separating, and mixing machines and apparatus.
24. Chains, chain cables, shackles, and swivels.
25. Chimneys and flues (*including* ventilating-shaft tops).
26. Closets, urinals, baths, lavatories, and like sanitary appliances.
27. Coin-freed apparatus and the like.
28. Cooking and kitchen appliances, bread-making and confectionery.
29. Cooling and ice-making (*including* refrigerators and ice-storing).
30. Cutlery.
31. Cutting, punching, and perforating paper, leather, and fabrics (*including* the general treatment of paper after its manufacture).
32. Distilling, concentrating, evaporating and condensing liquids (*excepting* steam-engine condensers).
33. Drains and sewers.
34. Drying.
35. Dynamo-electric generators and motors (*including* frictional and influence machines, magnets, and the like).
36. Electricity, conducting and insulating.
37. Electricity, measuring and testing.
38. Electricity, regulating and distributing.
39. Electric lamps and furnaces.
40. Electric telegraphs and telephones.
41. Electrolysis (*including* electro-deposition and electroplating).
42. Fabrics, dressing and finishing woven and manufacturing felted (*including* folding, winding, measuring and packing).
43. Fastenings, dress (*including* jewellery).
44. Fastenings, lock, latch, bolt, and other (*including* safes and strong-rooms).
45. Fencing, trellis and wire netting.
46. Filtering and otherwise purifying liquids.
47. Fire, extinction and prevention of.
48. Fish and fishing.
49. Food preparations and food-preserving.
50. Fuel, manufactures of.
51. Furnaces and kilns (*including* blowpipes and blowpipe burners; smiths' forges and rivet hearths; and smoke and fumes, treating).
52. Furniture and upholstery.
53. Galvanic batteries.
54. Gas distribution.
55. Gas manufacture.
56. Glass.

57. Governors, speed-regulating, for engines and machinery.
58. Grain and seeds, treating (*including* flour and meal).
59. Grinding, crushing, pulverising, and the like.
60. Grinding or abrading, and bur-nishing.
61. Hand tools and benches for the use of metal, wood, and stone workers.
62. Harness and saddlery.
63. Hats and other head coverings.
64. Heating (*excepting* furnaces and kilns; *and* stoves, ranges, and fireplaces).
65. Hinges and hinge-joints, and door and gate furniture and acces-sories (*excepting* fastenings, lock, latch, bolt, and other).
66. Hollow-ware (*including* buckets, pans, kettles, saucepans, *and* water-cans).
67. Horse shoes.
68. Hydraulic engineering.
69. Hydraulic machinery and appa-ratus (*excepting* pumps and other means for raising and forcing liquids).
70. India-rubber and gutta-percha, (*including* plastic compositions *and* materials of constructive utility other than metals and stone).
71. Injectors and ejectors.
72. Iron and steel manufacture.
73. Labels, badges, coins, tokens, and tickets.
74. Lace-making, knitting, netting, braiding, and plaiting.
75. Lamps, candlesticks, gasaliers, and other illuminating appa-ratus (*excepting* electric lamps).
76. Leather (*including* treatment of hides and skins).
77. Life-saving (marine) and swim-ming and bathing appliances.
78. Lifting, hauling and loading (*in-cluding* lowering, winding, *and* unloading).
79. Locomotives and motor vehicles for road and rail (*including* portable and semi-portable engines).
80. Mechanism and mill gearing.
81. Medicine, surgery, and dentistry.
82. Metals and alloys (*excepting* iron and steel manufacture).
83. Metals, cutting and working.
84. Milking, churning, and cheese-making.
85. Mining, quarrying, tunnelling, and well-sinking.
86. Mixing and agitating machines and appliances (*excepting* centri-fugal machines and apparatus).
87. Moulding plastic and powdered substances (*including* bricks, building and paving blocks, and tiles *and* pottery).
88. Music and musical instruments.
89. Nails, rivets, bolts and nuts, screws, and like fastenings.
90. Non-metallic elements.
91. Oils, fats, lubricants, candles, and soaps.
92. Ordnance and machine guns.
93. Ornamenting.
94. Packing and baling goods.
95. Paints, colours, and varnishes.
96. Paper pasteboard, and *papier-mâché*.
97. Philosophical instruments *includ-ing* optical, nautical, surveying, mathematical, *and* meteorolo-gical instruments.
98. Photography.
99. Pipes, tubes, and hose.
100. Printing, letterpress and litho-graphic.
101. Printing, other than letterpress or lithographic.
102. Pumps and other means for raising and forcing liquids (*excepting* rotary pumps).
103. Railway and tramway vehicles.
104. Railways and tramways.
105. Railway signals and communi-cating apparatus.
105. Registering, indicating, measur-ing, and calculating (*excepting* signalling and indicating by signals).
107. Roads and ways.
108. Road vehicles.
109. Ropes and cords.
110. Rotary engines, pumps, blowers, exhausters and meters.
111. Sewage, treatment of, (*including* manure).
112. Sewing and embroidering.
113. Ships, boats, and rafts, Div. I.
114. _____ Div. II.
115. _____ Div. III.
116. Shop, public-house, and ware-house fittings and accessories.
117. Sifting and separating.
118. Signalling and indicating by sig-nals (*excepting* railway signals and communicating apparatus).
119. Small-arms.
120. Spinning (*including* the pre-paration of fibrous materials *and* the doubling of yarns and threads).
121. Starch, gum, size, glue, and other stiffening and adhesive materials.
122. Steam engines (*including* details common to fluid pressure engines generally).

123. Steam generators (*excepting* furnaces).
124. Stone, marble, and the like, cutting and working.
125. Stoppering and bottling (*including* bottles, jars, and like vessels).
126. Stoves, ranges and fireplaces.
127. Sugar.
128. Table articles and appliances.
129. Tea, coffee, cocoa, and like beverages.
130. Tobacco.
131. Toilet and hairdressing articles, and perfumery.
132. Toys, games, and exercises.
133. Trunks, portmanteaus, hand and like travelling, bags, baskets, hampers and other wickerwork.
134. Umbrellas, parasols, and walking-sticks.
135. Valves and cocks.
136. Velocipedes.
137. Ventilation.
138. Washing and cleaning clothes, domestic articles, and buildings.
139. Watches, clocks, and other time-keepers.
140. Waterproofs and similar fabrics.
141. Wearing apparel.
142. Weaving and woven fabrics.
143. Weighing apparatus.
144. Wheels for vehicles (*excepting* wheels for locomotives and tramway and traction engines, railway and tramway vehicles; and toys).
145. Wood and wood-working machinery.
146. Writing instruments and stationery and writing accessories (*including* educational appliances).

LIST OF PERIODS.

- 1617—1854. (*In Preparation*).
- 1855—1866.
- 1867—1876.
- 1877—1883.
- 1884—1888.
- 1889—1892.
- 1893—1896.
- 1897—1900.
- 1901—1904.
- 1905—1908. (*In Course of Publication*.)

NOTICE.—Volumes in course of publication can be obtained sheet by sheet, as printed, by payment in advance of a subscription of 2s. for each volume, including inland postage. The sheets already printed can be seen in the Patent Office Library and in some of the principal provincial libraries.

(B). — *Unillustrated* volumes of Abridgments of Specifications from 1617 to 1866. For the period before 1855, reference may be made to the *unillustrated* series of abridgments, but it must be borne in mind that this series is not in accordance with the above classification and does not deal completely with all the published specifications belonging to that period. The price of each volume in this series is 2s. including inland postage.

LIST OF UNILLUSTRATED VOLUMES.

(*The numbers within brackets following the titles are the serial numbers of the volumes.*)

- Acids, alkalies, oxides, and salts:—
(40.) 1622—1866.
- Aeronautics. (41.) 1815—1866.
- Agriculture:—
—Div. I. — Field implements.
(81.) 1618—1866.
—Div. II. — Barn and farmyard implements (*including* the cleansing, drying, and storing of grain).
(82.) 1636—1866.
—Div. III. — Agricultural and traction engines. (83.) 1618—1866.
- Aids to locomotion. (7.) 1691—1856.
- Air, gas and other motive-power engines. (62.) 1635—1866 (*out of print*).
- Anchors. (69.) 1796—1866.
- Artificial leather, floorcloth, oil-cloth, oil-skin, and other waterproof fabrics. (80.) 1627—1866.
- Artists' instruments and materials. (54.) 1618—1866.
- Bleaching, dyeing, and printing calico and other fabrics and yarns. (14.) 1617—1857.
- Books, portfolios, card-cases, &c. (43.) 1768—1866.
- Brewing, wine-making and distilling alcoholic liquids. (99.) 1634—1866.
- Bricks and tiles. (22.) 1619—1860.
- Bridges, viaducts, and aqueducts. (36.) 1750—1866.
- Brushing and sweeping. (57.) 1699—1866.
- Carriages and other vehicles for common roads. (98.) 1625—1866.
- Carriages and other vehicles for railways. (46.) 1807—1866.
- Casks and barrels. (74.) 1797—1866.
- Chains, chain cables, &c. (90.) 1634—1866.

- Cooking, bread-making and confectionery. (61.) 1634—1866.
- Cutting, folding, and ornamenting paper. (12.) 1639—1866.
- Drains and sewers. (1.) 1612—1866.
- Dressing and finishing woven fabrics, and manufacturing felted fabrics. (91.) 1620—1866.
- Electricity and magnetism, their generation and applications. (15.) 1766—1857.
- Electricity and magnetism:—
 ———Div. IV. — Electric lighting, igniting, and heating. (95.) 1839—1876 (*out of print*).
 ———Div. V.—Electrodeposition and electrolysis. (96.) 1805—1876.
 ———Div. VI. — Electric motive-power engines and similar apparatus. (97.) 1837—1876.
- Farriery. (53.) 1719—1866.
- Firearms and other weapons, ammunition, and accoutrements. (10.) 1588—1858.
- Fire engines, extinguishers, escapes, alarms, &c. (88.) 1625—1866.
- Furniture and upholstery. (39.) 1620—1866.
- Grinding grain and dressing flour and meal. (78.) 1623—1866.
- Harbours, docks, canals, &c. (77.) 1617—1866.
- Hinges, hinge-joints, and door-springs. (59.) 1775—1866.
- Hydraulics. (32.) 1617—1866.
- Ice-making machines, ice safes, and ice houses. (85.) 1819—1866.
- Lace-making, knitting, netting, braiding, and plaiting. (29.) 1675—1866.
- Lamps, candlesticks, chandeliers, and other illuminating apparatus. (44.) 1637—1866.
- Letterpress and similar printing. (13.) 1617—1857.
- Locks, latches, bolts, and similar fastenings. (60.) 1774—1866.
- Manufacture of iron and steel. (6.) 1620—1866.
- Manufacture of paper, pasteboard, and *papier-mâché*. (11.) 1665—1857.
- Manure. (3.) 1721—1855.
- Marine propulsion (*excluding* sails). (5.) 1618—1857.
- Masts, sails, rigging, &c. (73.) 1625—1866.
- Medicine, surgery, and dentistry. (25.) 1620—1866.
- Metallic pipes and tubes. (70.) 1741—1866.
- Metals and alloys (*excepting* iron and steel). (18.) 1623—1859.
- Milking, churning, and cheese-making. (72.) 1777—1866.
- Mining, quarrying, tunnelling, and well-sinking. (71.) 1618—1866.
- Music and musical instruments. (26.) 1694—1866.
- Nails, rivets, bolts, screws, nuts, and washers. (58.) 1618—1866.
- Needles and pins. (45.) 1755—1866.
- Oils, fats, lubricants, candles, and soaps. (27.) 1617—1866.
- Optical, mathematical, and other philosophical instruments. (76.) 1636—1866.
- Paints, colours, and varnishes. (50.) 1618—1866.
- Photography. (19.) 1839—1859.
- Plating or coating metals with metals. (23.) 1637—1860.
- Pottery. (24.) 1626—1861.
- Preparation and combustion of fuel. (30.) 1620—1865 (*out of print*).
- Preparation and use of tobacco. (42.) 1721—1866.
- Preparation of india-rubber and gutta-percha. (16.) 1791—1866.
- Preparing and cutting cork, bottling liquids, &c. (56.) 1777—1866.
- Preservation of food. (4.) 1691—1855.
- Production and applications of gas. (17.) 1681—1858.
- Purifying and filtering water. (79.) 1675—1866.
- Railways. (33.) 1803—1866.
- Railway signals and communicating apparatus. (38.) 1840—1866 (*out of print*).
- Raising, lowering and weighing. (31.) 1617—1866.
- Roads and ways. (35.) 1619—1866.
- Saddlery, harness, stable fittings, &c. (34.) 1625—1866.
- Safes, strong room, tills, &c. (64.) 1801—1866.
- Sewing and embroidering. (2.) 1755—1866.
- Ship-building, repairing, sheathing, launching, &c. (21.) 1618—1860.
- Skins, hides, and leather. (55.) 1627—1866.
- Spinning. (28.) 1624—1863 (*out of print*).
- Starch, gum, size, glue, &c. (100.) 1717—1876.
- Steam culture. (8.) 1618—1856 (*see also* Agriculture, Divs. I. and III).
- Steam engines. (49.) 1618—1859 (in 2 Vols.)
- Steering and manœuvring vessels. (75.) 1763—1866.
- Sugar. (48.) 1663—1866.
- Tea, coffee, chicory, chocolate, cocoa, &c. (87.) 1704—1866.
- Toys, games, and exercises. (51.) 1672—1866.

<p>Trunks, portmanteaus, boxes, and bags. (84.) 1635—1866.</p> <p>Umbrellas, parasols, and walking-sticks. (47.) 1786-1866.</p> <p>Unfermented beverages, aerated liquids, mineral waters, &c. (86.) 1774—1866.</p> <p>Ventilation. (52.) 1632—1866.</p> <p>Washing and wringing machines. (89.) 1691—1866.</p> <p>Watches, clocks, and other time-keepers. (9.) 1661—1856.</p> <p>Water closets, earth closets, urinals, &c. (63.) 1775—1866.</p>	<p>Wearing apparel. — Div. I. — Head coverings. (65.) 1637—1866.</p> <p>———Div. II.—Body coverings. (66.) 1671—1866.</p> <p>———Div. III. — Foot coverings. (67.) 1693—1866.</p> <p>———Div. IV. — Dress-fastenings and jewellery. (68.) 1631—1866.</p> <p>Weaving. (20.) 1620—1859.</p> <p>Writing instruments and materials. (37.) 1635—1866.</p>
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FORMS IN PROCEEDINGS IN AN ACTION FOR INFRINGEMENT.

1. Indorsement on Writ.

The plaintiff claims:—

- (1) An injunction to restrain the defendant, his servants and agents, from infringing the plaintiff's letters patent No. of .
- (2) Damages for such infringement, or, at the option of the plaintiff, an account of the profits derived by the defendant from such infringement.
- (3) That the defendant be ordered to deliver up to the plaintiff or to destroy all articles made in infringement of the said letters patent.
- (4) Costs.

2. Notice of Motion for Interlocutory Injunction.

In the High Court of Justice.

Chancery [*or King's Bench*] Division.

Between A. B. Plaintiff,

and

C. D. Defendant.

Take notice that this honourable Court will be moved [*if short notice of motion, by leave granted*] on the day of , or so soon thereafter as counsel can be heard, by Mr. , of counsel for the above-named plaintiff, that an injunction may be awarded against the defendant to restrain the said defendant, his servants or agents, until the trial of this action or further order, from either directly or indirectly making, using, or putting in practice the invention described in the specification and drawings filed under the letters patent granted to the plaintiff [*or assignor, or other predecessor in title of plaintiff*], and numbered , or that such further order may be made in the premises as to the Court may seem meet.

3. Affidavit in Support of Notice of Motion.

[*Title as above.*]

I, of , the above-named plaintiff, make oath and say,

1. Letters patent dated [] were granted to me under the Grant.

seal of the Patent Office for an invention entitled "improvements, &c., &c.," for a period of fourteen years from the day of .

Novelty.

2. At the time when the said letters patent were granted to me the said invention was new as to the public use and exercise thereof within this realm.

First inventor.

3. I am the true and first inventor of the said invention [or John Smith or other predecessor in title of the plaintiff, was the true and first inventor of the said invention].

Utility.

4. The said invention is of great public utility.

Validity.

5. [State any particular facts, such as a previous action, search as to validity, or long user, which have a tendency to cause a presumption of the validity of the patent.]

Infringement.

6. On the day of the defendant infringed the plaintiff's said patent by manufacturing [selling or using], &c. (a).

7. [The articles sold by the defendant were not manufactured by me or by my licensees or agents.]

Exceptional injury.

8. I believe that the defendant means to continue the infringement of the said letters patent, whereby my trade is greatly injured; persons refusing to purchase the patented articles from me [or I am unable to grant licences, or state any other grounds of special damage arising by reason of the continued infringement].

4. Interlocutory Order to Restrain Infringement of Patent.

FORM 1.

Interlocutory injunction.

Upon motion, &c., by counsel for the plaintiff, and upon hearing counsel for the defendant [or reading an affidavit of service of notice of this motion on the defendant; or, if moved *ex parte* before the defendant has appeared, the writ of summons issued in this action on the day of] [enter affidavits in support and in opposition, if any], and the plaintiff, by his counsel, undertaking to abide by any order this Court may make as to damages, in case this Court should hereafter be of opinion that the defendant shall have sustained any, by reason of this order, which the plaintiff ought to pay [if so, and also undertaking to accept short notice of motion to dissolve the injunction hereby awarded], let an injunction be awarded to restrain the defendant T. until further order, from manufacturing any tube expanders similar to the tube expander which has been purchased by the defendant B., as in the plaintiff's writ mentioned, or otherwise constructed so as to imitate or resemble

(a) Affidavits in support by persons who have purchased the infringing articles should be adduced.

the roller expanding tool described in the specification in the plaintiff's letters patent in the said writ mentioned, and to restrain the defendants T. and B., their agents, &c., from selling or offering for sale, or otherwise parting with the custody of any tube expanders, or parts of any tube expanders, which have been so manufactured by the said defendant T. Liberty to either party to apply to expedite the hearing (b).

FORM 2.

On usual undertaking as to damages, let an injunction be awarded against the defendants S. and C., to restrain the said defendants, their servants, &c., until the trial of this action or further order, from either directly or indirectly making, using, or putting in practice the invention described in the specification and drawings filed under the letters patent, granted to N., dated the, &c., and numbered 2190, and now vested by assignment in the plaintiff, or any part thereof, except as to any skates made by the plaintiff, or his agents or agent (c).

5. Interlocutory Injunction for Infringement refused on Terms.

Upon motion, &c., for injunction to restrain &c., and the defendant, by his counsel, undertaking to keep an account of all moneys received or to be received by him, by reason of the sale or use of the parlour or roller skates in the writ mentioned, this Court does not think fit to make any order upon the said motion, but does order that the costs of the said motion be costs in the cause (d).

Refusal on terms.

6. Inspection, Notice of Motion for.

[Title as before.]

Take notice that this honourable Court will be moved [*if in the Chancery Division*, before his lordship, Mr. Justice], on the part of the plaintiff, that the plaintiff, his solicitors and agents, ^{and} _{or} two scientific witnesses, to be named in the notice hereinafter mentioned, may be at liberty at all seasonable times, and as often as may be requisite, upon giving three days' previous notice in writing to the defendants' solicitors, to enter into and upon the business premises of the defendants, where the process of decorating or printing tin or metal plates is carried on by the defendants as stated in the plaintiff's statement of claim in this action, and to inspect and examine there the whole of the process by which such

Scientific witnesses.

(b) *Dudgeon v. Thompson*, M.R., March, 1876, B. 424.
24th March, 1874, A. 723.

(c) *Plimpton v. Spiller*, M.R., 16th 4th March, 1875, B. 421.
(d) *Plimpton v. Malcolmson*, M.R.,

printed and decorated tin and metal plates are manufactured by the defendants; and to take, on paying the reasonable charges of the defendants for the same, samples of such plates, and upon and during such inspection to make such observations as may be necessary and expedient for the purpose of obtaining full information and evidence of the mode by which such plates are manufactured by the defendants; and that the defendants may be ordered to permit the plaintiff, his solicitors and agents, and two persons to be named as aforesaid, to enter into and upon their said premises for the purposes aforesaid, and that the costs of this application may be costs in the action (e).

7. Inspection, where for a Process and to take Samples.

[Title as above.]

[Formal parts as above] to enter in and upon the business premises of the defendants, where the manufacture of is carried on by the defendants, as mentioned in the statement of claim in this action, and to inspect and examine there the machines used by the said defendants in the manufacture of , and the process by which is manufactured by the said defendants, and that the said machines ^{or} _{and} process may be put to work upon such inspection, and that the plaintiff, his servants or agents, may be at liberty to take samples of the made or to be made by the said machines or process, upon paying to the defendants their reasonable charges for the same.

Machines to be worked.

Samples.

8. Inspection of Plaintiff's Patented Process by Defendant.

[Form of Order given in *Griffin, P. C.*, at p. 106.]

"That A. B. and one other indifferent person appointed by him and C. D., one of the defendant's solicitors, be at liberty at all such times and as often as in the opinion of the said A. B. be requisite, on giving 3 days' notice to the plaintiffs to enter into some business premises to be selected by the plaintiffs, where the process or mode of working referred to in the specification mentioned in the statement of claim can be seen at work, and to inspect and examine there the whole of the machinery fitted in such mill, and to take such samples of the finished and unfinished products of the working of such machinery as in the opinion of the said A. B. may be necessary for the purposes of this action, And it is ordered that such machinery be put to regular work upon such inspection. The costs of this application are to be costs in the action" (f).

(e) *Flower v. Lloyd*, 1876, A. 1254; as to inspection, see p. 359 *et seq.*

(f) *The Germ Milling Co. v. Robinson*, 55 L. J. Ch. 287; 3 R. P. C. at p. 14.

9. Inspection, and Order for Delivery by Defendant of Samples for Analysis.

[Title as above.]

[Formal parts as above] may be at liberty, upon giving three days' previous notice in writing to the defendant's solicitors, to enter upon the defendant's premises, and to inspect the type there used by the said defendant in his printing processes, as mentioned in the statement of claim in this action; and that the defendant may be ordered to permit the plaintiff, his solicitors and agents, and one person to be named as aforesaid, to enter upon his premises for the purpose aforesaid, and that said defendant may be further ordered to deliver to the plaintiff a competent part of the said type so used, on payment of a fair price for the same, and that the costs of this application may be costs in the action (g).

Samples for analysis.

10. Order for Inspection of Defendants' Process by Experts.

Let I. and C., of, &c., be at liberty at all seasonable times, and as often as requisite, on giving three days' notice to the defendants, to enter into the business premises of the defendants, where the process of decorating or printing tin and metal plates is carried on by the defendants, as stated in the plaintiff's statement of claim, and mentioned in the said affidavits, or some of them, and to inspect and examine there the whole of the process by which such printed and decorated tin (h) and metal plates are manufactured by the defendants, and to take, on paying the reasonable charges of

Order for experts.

(g) This was the notice of motion in *The Patent Type Founding Co. v. Walter*, reported at 5 H. & N. 192; 29 L. J. Ex. 207; 6 Jur. N. S. 103; 1 L. T. Rep. N. S. 382. The samples of type in this case were required for the purpose of analysis.

Notice of motion for inspection must be supported by affidavit; a fair *prima facie* case of validity and infringement must be made out. The order for inspection is frequently made upon the application for interlocutory injunction, and is sometimes made to include a cross order that the plaintiff shall permit the defendant to see and inspect the patented machine at work, and also to take samples: *Amies v. Kelsey*, 22 L. J. Q. B. 84. The affidavit should show that there is such property or machinery as is required to be inspected, that the inspection is necessary for the purpose of the action: *Shaw v. Bank of England*, 22 L. J. Ex. 26. It should also show

what the patent is for, so that the Court or judge may see that there is necessity for the inspection. The order will not be granted on the plaintiff's application unless the Court is satisfied that it is essential to enable him to prove his case: *Batley v. Kynoch*, L. R. 19 Eq. 90; *Meadows v. Kirkmann*, 29 L. J. Ex. 205. In *The Singer Manufacturing Company v. Wilson*, 13 W. R. 560, the Court refused to give the plaintiff inspection of the defendant's stock before judgment, but ordered the defendant to verify by affidavit all the different kinds of sewing machines which he had sold since the last disclaimer entered by the plaintiff, and to produce one of each sort for inspection.

(h) No order will be made on this application for the inspection of books, for which a separate order must be obtained: *Vidi v. Smith*, 3 E. & B. 969.

Full information.

the defendants for the same, samples of such plates, and upon and during such inspection to make such observations as may be necessary and expedient for the purpose of obtaining full information and evidence of the mode by which such plates are manufactured by the defendants (i).

11. Statement of Claim.

FORM 1.

1. The defendant has infringed and threatens to infringe the plaintiff's letters patent, No. , of , granted for an invention entitled " . " Particulars of breaches are delivered herewith.

2. The plaintiff claims:—

- (1) An injunction to restrain the defendant, his servants and agents, from infringing the said letters patent.
- (2) An inquiry as to the damages sustained by the plaintiff by reason of such infringement, or, at the option of the plaintiff, an account of the profits made by the defendant.
- (3) That the defendant may be ordered to deliver up forthwith to the plaintiff all articles in his possession or power made in infringement of the said letters patent, or that the said articles may be ordered to be destroyed.
- (4) Costs.

Signed
Delivered.

Statement of Claim.

FORM 2.

In the High Court of Justice.

Chancery [or King's Bench] Division.

Writ issued .

Between A. B. and C. and C. D. . Plaintiffs,
and

E. F. . Defendant.

Statement of Claim.

Assignment.

. The plaintiff C. D., by virtue of an assignment dated day of , 18 , and duly registered, is the owner of certain letters patent, No. , of 18 , granted to X. Y. for "Improvements in the extracting mechanism of drop-down small arms," of which the said X. Y. is the first and true inventor. The plaintiffs A. B. and C. are the sole licensees under the said letters patent.

License.

2 The defendant is a gun manufacturer carrying on business at in the county of .

(i) *Flower v. Lloyd*, C. A., 5th July, 1876, A. 1254.

3. The defendant has for some time past manufactured and sold both guns and gun actions fitted with ejecting mechanism made in infringement of the plaintiffs' letters patent as appears in the particulars of breaches delivered herewith.

The plaintiffs claim:—

1. An injunction to restrain the defendant, his servants and agents, from making, using and vending guns containing ejector mechanism or portions thereof made in infringement of the plaintiffs' letters patent, or made so as to be a mere colourable imitation of the invention therein contained. Injunction.

2. An account of profits or, at the option of the plaintiffs, an inquiry as to damages. Account or damages.

3. Destruction of or delivery up by the defendant to the plaintiffs of all guns or portions of guns made in infringement of the plaintiffs' rights. Destruction or delivery of infringing articles.

4. Costs.

Signed.

Delivered the day of 19 .

Statement of Claim.

FORM 3.

[*Formal parts as above.*]

1. By assignment dated day of , and duly registered, Y. Y. assigned to the plaintiff certain letters patent granted to him for an invention entitled "Improvement in Ruffling Mechanism for Sewing Machines," dated day of , and numbered .

2. The defendant has infringed and threatens to infringe the said letters patent in the manner and at the times mentioned in the particulars of breaches delivered herewith.

3. The plaintiff claims:—(as above).

Statement of Claim.

FORM 4 (*pleas to be used where specification has been amended*).

1. The defendant has infringed and threatens to infringe the plaintiff's letters patent No. , of , granted for an invention entitled " ." Particulars of breaches are delivered herewith.

2. On the day of the plaintiff applied at the Patent Office for leave to amend the specification describing the said invention, and such leave was duly granted on the day of (or on the

day of in an action entitled the Hon. Mr. Justice granted to the patentee leave to amend his complete specification). The specification as originally filed was framed in good faith and with reasonable skill and knowledge.

Claim for Costs in Statement of Claim.

FORM 5.

[To be used where a certificate of validity has been granted in a previous action.]

The plaintiff claims full costs, charges and expenses as between solicitor and client. In an action brought by the plaintiff against X. for infringement, Mr. Justice certified that the validity of the patent came into question.

12. Particulars of Breaches.

FORM 1.

In the High Court of Justice,

Chancery [*or* King's Bench] Division.

Between A. B. Plaintiff,

and

C. D. Defendant.

The following are the particulars of the breaches complained of in the statement of claim herein:—

Using.

1. The defendant on or about the day of at his factory at , in the county of , manufactured acetate of soda by the process and with the use of the machinery and appliances which form the subject-matter of all of the claiming clauses in the specification of the plaintiff's patent.

Selling.

2. On the day of the defendant sold to John Smith, of , one parcel containing tons of acetate of soda manufactured by the defendant by the process and with the use of the machinery and appliances which form the subject-matter of the plaintiffs' patent. The plaintiff will rely upon this sample as an instance of the type of the infringement committed by the defendants.

Signed.

Delivered the day of .

To

Defendant's solicitor.

**Particulars of Breaches.—Where two or more types of
Infringement complained of.**

FORM 2.

[*Formal parts as above.*]

1. The defendant, on or about the day of , manufactured at his factory at , in the county of , sewing machines, which sewing machines contained shuttles which are infringements of the third claiming clause of the complete specification of the plaintiff's patent.

The defendant, on or about the day of , at his shop at , in the county of , sold a sewing machine which contained such a shuttle to .

The plaintiff will rely upon this machine as an instance of this type of infringement committed by the defendant.

2. The defendant, on or about the day of , in his workshop at , in the county of , by himself, his servants or agents, manufactured sewing machines, which sewing machines contain parts for bobbin-winding which are an infringement of the fifth claiming clause of the complete specification of the plaintiff's patent.

The defendant on or about the day of at his shop at sold a sewing machine, which contained a bobbin-winding apparatus, to .

The plaintiff will rely upon this machine as an instance of this type of infringement committed by the defendant.

13. Statement of Defence and Counterclaim (see p. 329).

[N.B.—*One set of Particulars of Objections will serve Defence and Counterclaim.*]

In the High Court of Justice,

Chancery [*or King's Bench*] Division,

Mr. Justice .

Between A. B. Plaintiff,

and

C. D. Defendant.

1. The defendant denies that the plaintiff is the legal owner of the letters patent sued on.

2. If the defendant has manufactured (sold *or* used) the articles (*or* process) as alleged in the particulars of breaches, the same were manufactured (sold *or* used) by leave and license of the patentee under the following circumstances:—(*set forth particulars*).

3. The defendant has not infringed the said letters patent as alleged, or at all.

4. The said letters patent are invalid for the reasons appearing in the particulars of objections delivered herewith.

See pp. 248,
260.

5. The defendant will rely, as a defence, upon the fact that the patented article (*or* process) is manufactured (*or* carried on) exclusively (*or* mainly) outside the United Kingdom : (viz., to the extent of (*fraction*) or thereabouts of the entire output in the countries of).

See pp. 248,
244.

6. The defendant will rely, as a defence, upon the fact that the reasonable requirements of the public with respect to the patented article (*or* process) have not been satisfied inasmuch as :—

- (a) The patentee has neglected to manufacture and supply the patented article (*or* certain parts thereof, viz. :) (*or* to carry on the patented process) to an adequate extent having regard to the demand for the article (*or* product) whereby the trade or industry of (*name trade or industry*) has been and is unfairly prejudiced (*set forth particulars of prejudice*); *or*
- (b) The patentee has refused to supply the article (*or* product) upon reasonable terms. The patentee has insisted upon the following unreasonable terms, viz. :—(*set forth terms*) and by reason of the said terms the trade or industry of (*set forth trade or industry*) has been and is unfairly prejudiced :—(*set forth particulars of prejudice*); *or*
- (c) The patentee has refused to grant licences to manufacture (*use or sell*) the said invention upon reasonable terms (*or* at all). The patentee has insisted upon the following unreasonable terms :—(*set forth terms*) and by reason of (such refusal to grant licences) such terms the trade or industry of (*name it*) has been and is unfairly prejudiced ; *or*
- (d) The patentee insists upon the insertion of conditions in contracts for the purchase (*hire or use of, or the using or working of*) the patented article (*or* process) whereby the trade or industry of (*name it*) is unfairly prejudiced. The objectionable terms are as follows :—(*set them forth*). The said trade or industry is unfairly prejudiced for the following reasons :—(*state them*).

See p. 215.

7. The defendant will rely as a defence upon the fact that in a contract dated the day of and made between the patentee of the one part and of the other part, which contract was in force when this action was commenced, there existed the following conditions, which have been rendered void by the Statute 7, Ed. VII. c. 29, p. 38 :—

(*Set forth the objectionable clauses.*)

See p. 376.

8. As an answer to the plaintiff's claim for damages, the defendant will rely upon the fact that at the date of the alleged infringement,

he was not aware nor had he reasonable means of making himself aware of the existence of the plaintiff's letters patent.

Counterclaim (*see p. 253*).

The defendant repeats paragraphs (4, 5, 6 *above*) of his defence and counterclaims for revocation of the plaintiff's letters patent.

The defendant is entitled (*see p. 250*) to counterclaim for revocation by reason that :—

- (a) The defendant is duly authorised by His Majesty's Attorney-General for England.
- (b) The letters patent sued on were obtained in fraud of the defendant's rights (*or* in fraud of the rights of X. through whom the defendant claims). Particulars of the said fraud are as follows :—(*set them forth*) (*k*).
- (c) The defendant (*or* X., through whom the defendant claims an interest in the business of _____ carried on at _____) had prior to the date of the said letters patent publicly manufactured (*sold or used*) the articles as claimed in the claiming clauses (No. _____) of the specification of the said letters patent, as set forth in paragraph _____ of the particulars of objections delivered herewith.

14. Particulars of Objections in an Action for Infringement or Petition for Revocation (*see p. 335*).

In the High Court of Justice,

Chancery [*or* King's Bench] Division.

Mr. Justice

Between A. B. Plaintiff.

and

C. D. Defendant.

(*Or Title of Petition.*)

Take notice, that the defendant (*or* petitioner) will, on the trial of this cause, rely on the following objections to the validity of the letters patent sued upon :—

1. The said (*name the original patentee*) was not the true and first inventor of the alleged invention. The true and first inventor thereof was J. S. of _____.

2. The said alleged invention was not new at the date of the said letters patent. It had been published :—

(*k*) Note that this ground is considerably wider than the corresponding ground allowed by section 11 of the Act of 1883, which was as follows : "on the ground of the applicant having

obtained the invention from him, or from a person of whom he is the legal representative." The new section is wide enough to cover any kind of fraud.

- (a) By the public manufacture (sale or use) of (*articles*) constructed in accordance with the said invention from the year to the present day at by the defendant (*or some other, naming him*) of . Articles so manufactured are now in existence and may be inspected by the plaintiff at
- (b) By the public manufacture (sale or use) of (*articles*) constructed in accordance with the said invention from the year to the at by J. S. of . The said articles are no longer in existence. A description and drawings of the said articles are delivered with these particulars.
- (c) By the public manufacture (sale or use) of (*product*) by means of the patented process at by of from the year until the year . A description of the said process and drawings of the apparatus used accompanies these particulars. The process is no longer in use, but the apparatus is in the possession of . The defendant will endeavour to obtain inspection of the apparatus by the plaintiff.
- (d) By the deposit in the Patent Office Library of the following specification of letters patent granted in foreign countries :—

Name.	Date and Number.	Country.	Claims of plaintiffs' specification against which relied on.

- (e) By the publication of the following specifications of British letters patent.

Name.	Date and Number.	Parts relied on.	Claims of plaintiffs' specification against which relied on.

- (f) By the deposit in the Library of the British Museum in the year of a work bearing the title " " by and in particular by the passage commencing at p. l. and ending at p. l. .

3. The said alleged invention was not proper subject-matter for letters patent having regard to the common general knowledge at the date thereof. The defendant will rely upon the specifications set forth under paragraph 2 hereof as part of the common general knowledge of the art.

4. The said alleged invention was not useful.

5. The specification is insufficient to enable the invention properly to be carried into effect. The plaintiffs will rely upon the passage p. 1. to p. 1. , wherein no sufficient directions are given for (*state particulars of insufficiency*).

6. The specification gives directions which are misleading and dangerous. If the directions on p. , l. to p. , l. are carried out an explosion is liable to occur (*or other reasons*).

7. The subject-matter of the said letters patent was the subject-matter of a prior grant of letters patent to J.S., dated and numbered which letters patent were and are good and valid.

15. Order for Further and Better Particulars of Objections.

Let the defendants on or before the day of deliver to the plaintiffs further and better particulars of the matters alleged in paragraph of the particulars of objections giving:—

- (a) A description, accompanied by drawings, of the prior user alleged.
- (b) The names and addresses of the persons by whom the articles mentioned are alleged to have been manufactured.
- (c) The claims against which each of the prior publications alleged.
- (d) The pages of the prior publications relied on.

And in default of the delivery of such particulars let the said paragraph be struck out.

16. Order for Liberty to amend Particulars of Objections by adding Fresh Objections upon Terms.

Let the plaintiff, within six weeks from the date of this order, elect whether he will discontinue this suit, and if the plaintiff shall elect to discontinue this suit, and shall give notice thereof to the defendants within six weeks from the date of this order, refer it to the taxing master to tax the defendants their costs up to and including the 23rd February, 1875 (*delivery of the original particulars of objection*), and to tax the plaintiff's cost of this suit subsequently to the said 23rd February, 1875, to the date of this order, and the taxing master is to set off the costs of the plaintiff and of the

defendants to be so respectively taxed, and certify to which of them the balance after such set-off is due, and let such balance be paid by the party from whom, to the party to whom the same shall be certified to be due. And if the plaintiff shall not give notice to the defendants of his discontinuance of this suit within the time aforesaid let the defendants be at liberty to add to the particulars of objections to the validity of the plaintiff's letters patent, &c., which have been already delivered by the defendants, the following further objections to be relied on by the defendants at the hearing of this cause, viz. (*particulars of new objections proposed to be introduced by amendment*). And let defendants, Moules, &c. Co., pay to the plaintiff, A. F. Baird, his costs of this application to be taxed, &c., liberty to apply (*l*).

17. Notice of Motion for Leave to amend Specification where Action for Infringement, or Petition for Revocation Pending.

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

(Title of action or petition.)

Take notice that this Honourable Court will be moved on at o'clock or soon thereafter as counsel can be heard, by counsel on behalf of the plaintiff (*or respondent*) that the plaintiff (*or respondent*) be granted leave to amend the complete specification upon which his letters patent No. of were granted, by (*state nature of amendment which is limited to disclaimer*) as indicated in red ink in the King's Printer's copy of the specification delivered herewith.

18. Order allowing Application to amend to Proceed.

This motion coming before the Court on the day of and upon hearing counsel for the plaintiff (*or respondent*) and counsel for the defendant (*or petitioner*), and upon reading the copy of the specification with the proposed amendments indicated thereon the Court doth order that the application of the plaintiff (*or respondent*) be allowed to proceed and that this motion shall stand for hearing in the non-witness (*witness*) list on the day of (*fix day late enough to allow of applicant fulfilling requirements of Ord. LIIIA., r. 23*), and the plaintiff (*or respondent*) shall within days deliver to the defendant (*or petitioner*) copies of the affidavits in support of his

(*l*) See *Baird v. Moules, &c. Co.*, L. R. 17 Ch. D. 139, n.

application ; and the defendant (*or* petitioner) shall within days of such delivery deliver to the plaintiff (*or* respondent) copies of his affidavits in answer ; and in the event of any third party giving notice of opposition to the amendment in accordance with the Statute and Rules in that behalf made and provided the plaintiff (*or* respondent) shall within days of receipt of such notice deliver to such person copies of the affidavits in support of his application, and such person shall within days of such delivery deliver to the plaintiff (*or* respondent) and to the defendants (*or* petitioners) copies of his affidavits in opposition, and within days of such delivery the plaintiff (*or* respondent) shall deliver to such person copies of his affidavits in reply to the opposition.

And the costs of this motion up to and including this order shall be the defendant's (*or* respondent's) costs in the cause (*or as directed*).

**19. Final Order allowing Amendment of the Specification
on Terms.**

This motion coming on for final hearing in the non-witness list on the day of and upon hearing counsel on behalf of the plaintiff (*or* respondent), counsel on behalf of the defendant (*or* petitioner), and counsel on behalf of A. B. an opponent to the opposition, and counsel on behalf of C. D. an opponent and counsel on behalf of the Comptroller-General of Patents and upon reading the specification and proposed amendments and the pleadings and particulars in the action (*or* petition) of and the affidavits of P., Q., S., T., and R., and upon the plaintiffs (*or* respondents) undertaking to seek no relief from the defendants (*or* petitioners) or from purchasers from them in respect of anything done prior to the date of the notice of motion on this application the Court doth Order that the said specification be amended by (*state amendment*) ; and it is Ordered that the plaintiffs (*or* respondents) pay to the defendants (*or* petitioners) and the Comptroller-General their costs of this application, and that the opponents A. B. and C. D. (*costs as directed*). And it is Ordered that the defendant may within days amend his defence and particulars of objections (and the petitioner shall within days hereof elect whether he shall withdraw his petition and in the event of such withdrawal the respondent shall pay to the petitioner his costs of the petition up to the date of such withdrawal *or as directed*).

**20. Minutes of Judgment for Plaintiff in Default of Defence,
Order for Inquiry as to Damages, Injunction and Costs.**

Let the defendants, Robert F. Chisholm and Joseph Lawrence,

trading as R. F. Chisholm and Co., their servants and agents, be restrained during the continuance of the letters patent, No. 14,563 of 1890, and any extension thereof, from infringing the said letters patent, of which the plaintiff company are owners. Let an inquiry be made as to the damages sustained by the plaintiff company by reason of the infringement of the said letters patent by the defendants. Order payment by the defendants of the amount awarded within fourteen days after such amount has been ascertained. Let the defendants deliver up to the plaintiffs all tyres and parts of tyres in their possession or power made in infringement of the said letters patent. Let it be referred to the taxing master to tax the plaintiffs' costs of this action up to and including this judgment as between solicitor and client. Let the costs of the inquiry as to damages be reserved. Liberty to apply (*m*).

21. Final Judgment—Recital of Evidence—Injunction—Inquiry as to Damages—Order for Destruction—Costs as between Solicitor and Client—Liberty to apply.

The following Order was settled by the late Master of the Rolls, Sir George Jessel, personally, in the case of Plimpton v. Spiller, reported L. R. 6 Ch. D. 412.

In the High Court of Justice,
Chancery Division.

1876. P. 69.

Thursday the 19th day of April, 1877.

Master of the Rolls.

Mr. Clowes, Reg.

Between J. L. P. Plaintiff,
and

A. F. S. and T. C. Defendants.

This action, coming on for trial the 11th and 12th days of April, 1877, and this day before this Court, in the presence of counsel for the plaintiff and the defendants, upon hearing an order, dated the 4th August, 1876, an affidavit of A. F. S. filed the 15th March, 1876; an affidavit of J. I., filed the 16th February, 1877, the bill, answers, orders, records for trial, and the certificate of the Master of the Rolls, the judge before whom the questions of fact were tried, that the validity of the letters patent of the 25th day of August, 1865, granted to A. V. N., and numbered 2190 hereinafter mentioned, came in question in the cause of P. v. M., 1875, P. 39, and upon hearing the said letters patent, and a certified printed copy of the specifications and drawings, filed under the said letters patent, and

Evidence.
Certificate.

(*m*) *Pneumatic Tyre Co. v. Chisholm*, 1896, 13 R. P. C. at p. 489.

the indenture of assignment, dated the 10th day of January, 1866, and made between the said A. V. N., therein described, of the one part, and the plaintiff, J. L. P., of the other part, and registered in the Great Seal Patent Office on the day of the date thereof, the printed shorthand note of the evidence taken orally before this Court on the trial of the said action of P. v. M., 1875, P. 39; of A. V. N., F. J. B., J. I., J. L. P., E. A. C., R. C. M., W. W. H. and E. J. C. W. and the exhibits marked 1, 2, and 4, then produced; the examination of H. J. A., W. B. P., W. G. A., A. F. S., J. I., T. M. W., G. B., C. P. B. S., E. E., W. S. M. and H. L., taken orally before this Court, on the 11th, 12th, and 19th days of April, 1877, and the exhibits marked: 1. 2. 4. A. B. C. D. E. F. G. H. I. L. M. N. O. P. E. E. 2. S. 1. S. 2. E. E. 1. E. E. 3. W. S. M. 1. W. 1. and W. 2. and the two catalogues and donation book produced to W. G. A., and the volume of the year 1863, of Jewitt's Book of Illustrations to the Report of the American Commissioners of Patent, and the "Scientific American" for the years 1863 and 1865; the records from the Court of Bankruptcy of an assignment, dated the 11th August, 1865, by W. S. M., for the benefit of his creditors, and of a composition deed by the said W. S. M., in the year 1869, and what was alleged by counsel on both sides, and this Court being of opinion that the plaintiff has proved the breaches complained of, in the particulars of breaches delivered by him in this action, doth order that an injunction be awarded to restrain the defendants, their servants, agents, and workmen during the continuance of the letters patent, granted to A. V. N., dated the 25th day of August, 1865, and numbered 2190, and any extension of the term thereof, from using, or exercising, or causing or permitting to be used or exercised, the invention described in the hereinbefore mentioned specification and drawings, filed under the said letters patent, and from selling, letting for hire, or making any profitable use, or permitting the sale, letting for hire, or profitable use of any roller or runner skates not made by the plaintiff, or his licensees, and having applied thereto rollers or runners in manner described and for the purposes mentioned in the said specification, or fitted with any apparatus for causing the skate to run in a curved line, in the manner described in the said specifications and drawings, or differing therefrom only colourably, and by the substitution of mere mechanical equivalents, and it is ordered that it be referred to the official referee in rotation, to inquire what sum of money is fit to be awarded to the plaintiff, to be paid by the defendants in respect of any damage sustained by the plaintiff up to the day of the date of this order, from the manufacture, sale, or letting for

Proof of breaches.

Injunction.

Mechanical equivalents.

Inquiry as to damages.

hire, of skates, being the same as the "Spiller" Skates, and "Wilson" Skates, in the pleadings in this action, and in the said order dated the 4th August, 1876, mentioned, or of any other skates made in infringement of the said letters patent, or otherwise from the sale, or use by the defendants of the said invention, or any apparatus in imitation of, or being only a colourable deviation from the said invention. And it is ordered that the defendants, A. F. S. and T. C., do pay to the plaintiff, J. L. P., such sum of money as upon such inquiry shall be found fit, to be awarded to the plaintiff for such compensation as aforesaid, within twenty-one days after service of the official referee's report of the result of the said inquiry. And it is ordered, that the defendants, A. F. S. and T. C., do deliver up on oath to the plaintiff, or break up, or otherwise render unfit for use, all roller skates, or parts of roller skates so manufactured, or let for hire by, or by the order, or for the use of the defendants in infringement of the said letters patent as aforesaid, which are in the possession, custody, or power of the defendants, or either of them, or their, or either of their, servants or agents. And it is ordered, that the said defendants, A. F. S. and T. C. do pay to the plaintiff, J. L. P., his full costs, to be taxed by the taxing master as between solicitor and client, including all costs, charges, and expenses. And any of the parties are to be at liberty to apply, as they may be advised.

Payment of amount.

Destruction.

Full costs.

Liberty to apply.

W. C.

Entered.

G. L.

Registrar's Office, Entering Lib. B. Seal.

—

22. Judgment for Perpetual Injunction under the Patent Law Amendment Act, 1852, restraining Infringement of Patent for Machinery after Trial of Issues by a Jury—Discovery—Account of Profits—Certificate for Full Costs.

And the parties having, on the day of , proceeded to a trial of the questions of fact directed to be tried by the order dated, &c., before this Court by a jury, when the jury found that [*finding for the plaintiff upon all the issues*]. And upon reading the letters patent, dated, &c., and the complete specification, dated, &c., in the writ respectively mentioned, an affidavit of the plaintiffs', &c. [*enter evidence*], this Court doth order [*and*] decree [*and adjudge*] that an injunction be awarded to restrain the defendant, O., his agents, servants, &c., during the subsistence [*continuance*] of the plaintiffs' letters patent in the writ mentioned, or any extension thereof, from manufacturing, or selling, or disposing of, or using

Findings of jury.

Evidence.
Injunction.

any machine of the same construction as that supplied to him by the W. B. Co., in the said writ mentioned, or only colourably differing therefrom, or being an infringement of the plaintiffs' said patent, and from in any way infringing the plaintiffs' said patent; and it is ordered that the defendant, O., do, within [seven] days after service of this decree, make and file an affidavit stating what machines of the same construction as that supplied by him to the said W. B. Co., including such machines, are in his possession or power; and the plaintiffs are to be at liberty to inspect and mark the same for the purpose of identification. And it is ordered that an account be taken of the profits made by the defendant by making, using, selling, or disposing of the machines supplied by him to the said W. B. Co., or any other machine of the same construction therewith, or otherwise by an infringement of the plaintiffs' patent. And it is ordered that the defendant, O., do, within one month after the date of the chief clerk's certificate, pay unto the plaintiffs, N. and C., what shall be certified to be the amount of such profits. Direction for certificate that the validity of the plaintiffs' patent came in question. And it is ordered that the defendant, O., pay to the plaintiffs their costs of this cause up to and including this hearing, and their costs of the trial by jury of the questions of fact directed to be tried by the said order, dated, &c., including the costs of a special jury; such costs to be taxed, &c. Liberty to apply in chambers touching subsequent costs, and otherwise to apply as advised (n).

Order to
inspect and
mark.

Account.

Costs.

23. Certificates necessary under Order LIIIa., Rule 22.

[*Form of judgment for perpetual injunction, accounts of profits and damages as above.*]

It is certified that the plaintiff has proved to the satisfaction of the Court the breaches mentioned in the particulars of breaches delivered by him, and numbered respectively 1, 2, 3, 4, and 5, and that the particulars numbered 6 and 7 were, in the circumstances of the case, reasonable and proper.

[*Form of judgment for defendant as above.*]

It is certified that the defendant has proved to the satisfaction of the Court the objections mentioned in the particulars of objections delivered by him, and numbered respectively 1, 2, 3, 4, and 5, and that the objections numbered 6 and 7 were, in the circumstances, reasonable and proper.

(n) *Needham v. Oxley*, V.-C. W., 24th June, 1863, 1895.

24. Certificate of Validity under Sect. 35 of the Patents and Designs Act, 1907.

I hereby certify, pursuant to the 35th section of the Patents and Designs Act, 1907, that upon the trial of this action, the validity of the letters patent, in the pleadings mentioned, dated the day of , and numbered , granted to , amended by disclaimer allowed the day of , and now vested in , came into question.

Dated this day of .

Signature of Judge .

FORMS IN AN ACTION TO RESTRAIN THREATS.

.25. Indorsement on Writ.

The plaintiff's claim is :—

Injunction.

1. For an injunction restraining the defendant from, by circulars, advertisements, or otherwise, threatening to take legal or other proceedings against persons manufacturing, using, or selling an alleged invention of the defendant, to wit, . The said threats being to the prejudice of the plaintiff.

Damages.

2. For damages in respect of the injury sustained by the plaintiff by reason of the circulars, advertisements, or other threats of the defendant to take legal or other proceedings against persons manufacturing, using, or selling the said alleged invention.

26. Interlocutory Injunction to restrain Threats.

Upon motion, &c., let an injunction be granted to restrain the defendant personally, or by his servants, agents, and workmen, by circulars, letters, or otherwise, from threatening any person with legal proceedings or liability in respect of the manufacture, use, sale, or purchase of a certain tap union of which the plaintiff was the patentee, and from interfering by such threats or otherwise with the manufacture, use, sale, or purchase of the plaintiff's invention (o).

[*Another Form.*]

A particular circular.

Upon motion, &c., let an injunction be granted to restrain the defendant personally or by his servants, agents, and workmen, until further order, from issuing the circular dated 15th December,

(o) *Challender v. Royle*, L. R. 36 Ch. D. 425.

1888, and from, by means of circulars, letters, or otherwise, threatening any person with proceedings or liability in respect of the following papers manufactured by the plaintiff (r).

Other forms in an action to restrain threats are similar to those given under the heading of "Forms in an Action for Infringement."

27. Form of Injunction.

This Court doth order and adjudge that the defendants *Parker and Smith*, their agents, travellers, and servants, be perpetually restrained from threatening the plaintiff or his customers with legal proceedings for the alleged infringement by him or them of the defendants' letters patent No. , of , by reason of the manufacture, sale, or use, of the plaintiff's hair-binder, known as the "Peigne Attache" or "Simple Attache" hair-binder (being the exhibit V. M. 1 produced to the plaintiff at the trial), and from circulating, by letters, advertisements, or other means any statements to the effect that the plaintiff's said hair-binder is made in infringement of the defendants' said letters patent (s).

FORMS IN A PETITION TO THE HIGH COURT FOR REVOCATION.

28. Petition for Revocation

In the High Court of Justice,

Chancery [or King's Bench] Division.

In the matter of letters patent granted to of , dated , and numbered , and in the matter of the Patents and Designs Act, 1907, sect. 25.

To his Majesty's High Court of Justice.

The humble petition of

SHEWETH as follows:—

1. Your petitioner is duly authorised by his Majesty's Attorney-General in England to present this petition (*if so, if not, your petitioner claims to be entitled to present this petition by reason of the matters appearing hereafter in paragraphs 9 or 10, which set forth the circumstances (see p. 250)*).

2. Your petitioner is a manufacturer of cigar cases, and has gained

(r) *Colley v. Hart*, 6 R. P. C. 17. 1903, 20 R. P. C. at p. 774.

(s) *Mountain v. Parker and Smith*,

a high reputation in the trade and with the public for his goods. Your petitioner has recently commenced to manufacture and has entered into contracts with retailers to supply to them quantities of cigar cases made with spring clips to hold each cigar in place.

3. The respondent is a manufacturer of cigar cases who carries on his manufacture at _____, in Belgium, and thence imports large numbers of cigar cases to his place of business at _____, Fleet Street, London.

4. The respondent claims to have a monopoly in the right to manufacture and sell cigar cases with spring clips of whatever construction, and bases his claim upon letters patent granted to him on the _____ day of _____, and numbered _____, of _____.

5. The said letters patent are wholly invalid by reason of the matters set forth in the particulars of objections accompanying this petition.

6. By reason of the wide and comprehensive claims made in the specification, the retailers are afraid to purchase the goods manufactured by your petitioner and some have asked to be released from their contracts.

7. (*Allegation that articles are wholly or mainly manufactured abroad in Belgium, as in Statement of Defence, Form No. 13, paragraph 5.*)

8. (*Allegations of default to supply demand, as in Statement of Defence, Form No. 13, paragraph 5.*)

9. The said letters patent were obtained in fraud of the rights of your petitioner:—On the _____ day of _____ your petitioner purchased from J. S. his goodwill and business of manufacturing cigar cases, together with the right to join with him in applying for letters patent for an invention which was the same as the invention subsequently patented by the respondent. The respondent was at the time an employee of the said J. S. and applied for and obtained the said grant of letters patent without the consent of the said J. S. or of your petitioner (*or other allegations of fraud*).

10. Prior to the date of the said letters patent your petitioner had publicly manufactured and sold articles constructed according to the alleged invention subsequently patented by the respondent (as set forth in the particulars of objections accompanying this petition).

The form of Particulars of Objections is similar to that used in an action for infringement.

FORMS USED IN OBTAINING THE FIAT OF THE ATTORNEY-GENERAL.

29. The Memorial of the Petitioner (see p. 252) (t).

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

In the matter of letters patent granted to A. B. for an
invention entitled No. of .

(Set forth in numbered paragraphs all the matters alleged in the petition, amplifying them in detail. It is desirable that a bonâ fide statement should be made as to the state of affairs, and the memorial is not to be treated as in the nature of a mere pleading. Set forth also matters of this kind.)

1. On the day of , the said (*naming the respondent*) commenced an action for infringement of the said letters patent against your memorialist, and on the day of , Mr. Justice gave judgment pronouncing the said letters patent invalid, but holding that had they been valid the articles manufactured by your memorialist would have infringed them.

2. Your memorialist is the grantee of letters patent No. of , for an invention entitled , the infringement alleged in the hereinbefore-mentioned action (which was admitted) consisted in manufacturing cigar cases in accordance with the specification of the said letters patent of , and it is impossible to use your memorialist's said invention of without infringing the said letters patent of (*naming the respondent*), assuming the said letters patent to be valid.

Grantee of
letters
patent.

3. Your memorialist is seriously hampered in his trade by reason that no persons who are estopped as aforesaid from denying the validity of the said letters patent, by reason of licences granted to them by the said (*respondent*), can purchase from your memorialist cigar cases made in pursuance of his said letters patent of .

Hampered
in trade.

4. The following documents are sent herewith :—

Documents.

The specification of A. B. No.	of 19	.
C. D. No.	of 19	.
No.	of 19	.

Copy writ, pleadings, and objections in the action.

Copy judgment of Mr. Justice , dated .

5. Your memorialist humbly requests you will authorise him to petition the Court for revocation of the said letters patent of (*the respondent*) of .

Application.

(t) On Judicature paper.

30. Declaration of Applicant verifying Statements in his
Memorial to his Majesty's Attorney-General (u).

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

In the matter of letters patent granted to for an invention
entitled No. , dated .

I , of , do solemnly and sincerely declare as follows :—

That the several statements contained in the paper writing now produced and shown to me and marked A., purporting to be a memorial addressed by myself to his Majesty's Attorney-General of England (*or* Ireland, *or* Lord Advocate of Scotland), are true as therein set forth.

That the questions proposed to be raised by the petition and particulars of objections upon which revocation of the said letters patent is sought, are not and cannot be raised in any legal proceedings now pending in the United Kingdom.

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

Declared at .

31. Certificate of Solicitor (v).

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

In the matter of letters patent granted to for an invention
entitled No. , dated .

Between A. B. . . . Petitioner,
and

C. D. . . . Respondent.

I, of , solicitor for the above-named petitioner, do hereby certify that the said petitioner is a fit and proper person to be a petitioner in this matter, and that he is competent to answer the costs of all proceedings in connection with the said petition.

(u) On Judicature paper.

(v) On foolscap.

FORMS IN PETITION FOR EXTENSION OF TERM
OF PATENT

(SEE ORD. LIIIA., R. 3).

32. Advertisement of Intention to present Petition.

In the High Court of Justice,
Chancery Division.

Mr. Justice Parker.

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

In the matter of letters patent granted to , of , and
bearing date the of , and numbered .

Notice is hereby given that it is the intention of to present
a petition to the High Court of Justice praying that the term of the
said letters patent may be extended. And notice is further given
that on the day of at , or so soon thereafter as
counsel may be heard, the said intends to apply to the
Court for a day to be fixed before which the petition shall not be in
the paper for hearing. Notices of objection must be lodged before
the date above mentioned at the chambers of Mr. Justice Parker,
Room No. . Documents requiring service upon the said
pursuant to the Rules of the Supreme Court, Order LIIIA., rule 3,
may be served at the office of the solicitor to the said .

Dated this day of .

Solicitor to the said .

Address for service .

Petition.

In the High Court of Justice,
Chancery Division.

Mr. Justice Parker.

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

In the matter of letters patent dated the day of ,
numbered and granted to A. B., of , for the invention
of “ ”.

To his Majesty's High Court of Justice.

The humble petition of A. B., of _____, and of C. D. of _____,
 SHEWETH as follows :—

1. On the _____ day of _____ letters patent numbered _____, were granted to your petitioner A. B., for an invention entitled _____

2. Your petitioner C. D. has become entitled to a half share in the said letters patent under the circumstances hereinafter appearing.

SET FORTH (a.) *The history of the Art with special reference to the invention.*

(b.) *The special utility and advantages of the invention.*

(c.) *The circumstances under which the patent was obtained and the rights of C. D. created.*

(d.) *All information relating to foreign patents.*

(e.) *The rights of third parties, such as licensees, etc.*

(f.) *The difficulties with which the patentee has had to contend in getting his invention taken up.*

(g.) *The fact of insufficient remuneration, generally stated without special reference to accounts.*

Your petitioners have given public notice by advertisement caused to be inserted in the "London Gazette" and in metropolitan and provincial newspapers pursuant to the rules in such cases made and provided, that it is their intention to apply to this Honourable Court for an extension of the term of the said letters patent.

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

And your petitioners will ever pray, &c.

33. Affidavit as to Advertisements.

[*Heading as above.*]

I, _____ of _____, solicitor, make oath and say as follows :—

1. I am acting as solicitor for the petitioners A. B. and C. D. in the petition for extension of the above-mentioned letters patent.

2. Pursuant to the directions given by the Honourable Mr. Justice Parker, I caused the advertisement of which a copy is contained in the Schedule hereto to be inserted in the issues of the "London Gazette" of [date] and in the issues of [name papers and give dates]. Copies of the issues of the said newspapers containing the said advertisements are now produced to me and marked _____ respectively.

The Schedule above referred to

(*Set forth copy of advertisement.*)

34. Notice of Opposition to Petition.[*Heading as above.*]

Notice is hereby given that J. K. and Co., Ltd., of _____, intend to oppose the petition for extension of the term of the above-mentioned letters patent presented on the _____ day of _____ and returnable on the _____ day of _____, and require due notice of all proceedings in reference to the above-mentioned letters patent.

Dated this _____ day of _____.

(Signed.)

Solicitors for and on behalf of J. K. and Co., Ltd., aforesaid.

35. Notice of Grounds of Objection.[*Heading as above.*]

Notice is hereby given of the several grounds of the objection of J. K. and Co., Ltd., of _____ to the granting of the prayer of the said petition, that is to say :—

1. The said letters patent are null and void, and a judgment was given against the validity of the said letters patent in a certain cause in the Court of _____, wherein the petitioner was plaintiff and _____ defendant. Patent held invalid in a court of law.

2. The said letters patent were revoked by the judgment of the Court of _____, in a petition for revocation presented by _____. Patent revoked.

3. The alleged invention was not new at the date of the said letters patent. The opponent will refer to the following publications in support of this contention [*set them forth*]. Want of novelty.

4. The alleged invention is of no use to the public, or not of so much public utility as to be a sufficient consideration for any prolongation of the term granted by the said letters patent. Want of utility.

5. The said petitioner does not possess sufficient merit to entitle him to a prolongation of the term granted by the said letters patent. Denial of merit.

6. The said petitioner is not entitled to (the whole of) the privilege granted by the said letters patent (by assignment or otherwise). Title of petitioner.

7. The petitioner has been sufficiently remunerated and rewarded for all his expenses, labour, and ingenuity respecting the said invention. Remuneration.

8. If the petitioner has failed to obtain a sufficient amount of remuneration or reward he has only failed to do so in consequence of his own gross negligence. Negligence of petitioner.

Negligence in
restraining
infringe-
ments.

9. The petitioner has permitted infringements of the said letters patent, and has not taken any proceedings to restrain such infringements.

Insufficiency
of specifica-
tion.

10. The specification of the said letters patent does not sufficiently describe the nature of the invention or the manner in which the same is to be performed.

Denial of
statements in
petition.

11. The allegations contained in the said petition are not true in substance or in fact.

Dated the day of .

(Signed) _____

Solicitors for said J. K. and Co., Ltd.

SOME HINTS FOR DRAFTING ASSIGNMENTS AND LICENCES.

(1) Assignment.

Recitals.

1. Act of Assignment.

2. Consideration :—

(a.) Cash payment or cash and shares.

(b.) Annual fixed royalty, so long as patent is not revoked or declared invalid (*x*) (*coupled with covenant numbered 14*).

(c.) Royalty upon each article made (and sold) so long as patent is not revoked or declared invalid (*x*) (*coupled with covenant numbered 14*).

(d.) Provision for minimum royalty per annum, to cease if patent revoked or declared invalid (*x*).

(e.) Any other consideration agreed upon between the parties.

Covenants.

3. Covenant by assignor as to validity (*very onerous and seldom inserted*). Alternatively covenant that assignor has done no act or thing or omitted to do any act or thing whereby the patent might be revoked under sect. 27 of the Act of 1907, nor done any act prior to or subsequently to the date of the patent which might render the patent liable to revocation under sect. 25 (*y*).

4. Covenant by assignor to assign future improvements. (*“Improvements” should be defined,—the following definition is suggested: “Improvements shall mean any manufacture, the use of which if by persons other than the owner of the letters patent hereby assigned, or their licensees, would involve an infringement of the said letters patent.”*) (*z*)

5. Covenant by assignor to instruct assignee or his servants in the manufacture, with such provisions for remuneration, &c., as may be agreed.

6. Covenant by assignee to keep accounts and permit inspection of books (not necessary when the consideration is a fixed sum).

7. Covenant by assignee to pay the consideration punctually.

8. Covenant by assignee to pay renewal fees and not to do or omit to do any act or thing whereby the patent might become void, or revocable under sect. 27 of the Act of 1907, or whereby a compulsory licence or revocation might be ordered under sect. 24. (*This is necessary only when the assignor retains an interest by way of royalties or otherwise.*) (*a*)

(*x*) See p. 207.

(*y*) See p. 196.

(*z*) See p. 199.

(*a*) See p. 196.

9. Covenant by assignee not to amend the specification without the consent of the assignor, such consent not to be withheld unreasonably. (*This may be necessary where the assignor retains an interest by way of royalties, or otherwise, which ceases on the patent being declared void. The assignee might amend the specification and thereby render the patent void, and on the other hand it may be necessary to amend to preserve the validity.*)

10. Covenant by assignee not to re-assign without the consent of the assignor.

11. Covenant by assignee to do his best to push the invention and to supply the public to the extent of the demand. (*This is often necessary when the assignor is paid by royalties, and the assignee carries on a rival process or manufacture and acquires the patent merely to maintain a monopoly and prevent competition.*)

12. Covenant by assignee that he will not by exporting to foreign countries, where foreign patents exist for the same invention, infringe such foreign patents or imperil their validity.

13. Covenant by assignor that in dealing with foreign patents he will make provision for the prevention of importation into this country, and for the protection of the assignee (*b*).

14. Covenant by assignee that he will sue infringers and that he will defend the validity and existence of the patent, and that he will use his best endeavours in all courts and at all times to maintain its validity and existence for the full term for which it was granted. (*Necessary when the consideration is a reserved royalty with or without a provision for a minimum.*)

(2) Assignment for a District.

(*The same covenant as in an ordinary assignment will apply, but the following should be added:—*)

A covenant by the assignee that he will not apply to amend the specification without the consent of all the other owners.

(3) Agreement for a General Licence (not usually under seal).

(1) Grant of licence for term of patent or less.

(2) Consideration:—

(a.) A cash payment—cash or shares.

(b.) An annual fixed royalty, so long as patent is not revoked or declared invalid (*c*).

(c.) Royalty upon each article made and sold so long as patent is not revoked or declared invalid (*c*).

(*b*) See p. 316.

(*c*) See p. 207.

(d.) Provision for minimum royalty (*rarely required in an ordinary renewal licence*).

(e.) Any other consideration agreed upon between the parties.

(3) Warranty of validity by grantor (*should not be inserted save in extraordinary circumstances*). Alternatively recite that grantor has done nothing and knows of nothing which would render the patent invalid.

(4) Agreement by grantor to communicate all "improvements" (*see clause 4 of assignment*) which he may make or which shall come into his possession, and that the licensee shall have the full use of such improvement during the term of the licence, with or without further payment, as may be agreed, *or* the obligation to communicate improvements may be mutual and may extend to all other licensees under the letters patent (*d*).

(5) Agreement by grantor to instruct licensee and his servants in the manufacture with such provision for remuneration as may be agreed.

(6) Provision for keeping accounts, inspection of books and payment of royalties.

(7) Agreement by grantor to pay renewal fees and neither to do nor omit to do any act or thing whereby the patent might become void or revocable under sect. 27 of the Patents Act, 1907, or whereby a compulsory licence or revocation might be ordered under sect. 24 (*e*).

(8) Agreement by licensee not to export, and in so far as he is able, to prevent exportation of the patented article to foreign countries where the patents exist for the same article.

(9) Conditions as to selling prices, &c., with a declaration that any breach of these conditions will constitute infringement. (*But beware of making terms which might bring into operation sections 24 or 38*).

Agreement by grantor that in granting future licences he will bind the future licensees by a similar clause.

(4) Exclusive Licence (*may be under seal or not*).

(1) Grant of exclusive licence for term of patent or less.

(2) Consideration:—

(a.) A cash payment, cash or shares.

(b.) An annual fixed royalty so long as patent is not revoked or declared invalid.

(c.) Royalty upon each article made (and sold) so long as patent is not revoked or declared invalid.

(*d*) See p. 199.

(*e*) See pp. 204, 205.

(d.) Provision for minimum annual royalty to cease if patent revoked or declared invalid, or if minimum not paid, licence to become general only.

(e.) Any other consideration agreed upon.

(3), (4), (5), (6), (7) and (8) *As in general licence.*

(9) Provision that neither party is to do or omit to do any act or thing whereby the patent might become void, or revocable under sect. 27 of the Act of 1907, or whereby a compulsory licence or revocation might be ordered under sect. 24.

(10) Agreement by licensor, that in dealing with foreign patents he will make provision for the prevention of importation into this country, and for the protection of the assignee (*f*).

(11) Agreement by licensee not to export or permit exportation of the patented article to countries or colonies where patents exist for the same invention.

(12) Agreement by the licensor not to amend the specification of the invention without the consent of the licensee, such consent not to be unreasonably withheld.

(13) Agreement by the licensor to lend his name for the purpose of proceeding against infringers, on being properly secured by the licensees against liability for costs (*g*).

(14) Agreement by the licensees to finance and carry on proceedings against infringers and to defend proceedings directed against the validity or existence of the patent.

(*f*) See p. 316.

(*g*) See p. 320.

A FEW PRECEDENTS FOR THE TRANSFER OF INTERESTS IN LETTERS PATENT.

Sale of Patent Rights to a proposed Company.

1. *Preliminary Agreement with Promoter.*

AN AGREEMENT MADE THIS day of , 19 , Between A. B. of , C. D. of , and E. F. of hereinafter called the vendors of the first part, and X. Y. of hereinafter called the promoter of the other part. WHEREAS the vendors are the owners of certain letters patent dated and numbered , for an invention entitled . AND WHEREAS it is intended that the promoter shall procure forthwith the incorporation by registration under the Companies Acts, 1862 to 1893, of a company to be called Limited, and that the vendors shall for the considerations hereinafter mentioned sell and assign the said letters patent to the said Limited. AND WHEREAS a print of the memorandum and articles of association of the Limited has been approved by the parties hereto and is annexed to this agreement. Now it is agreed as follows :—

Agreement to assign to company.

1. The promoter shall and will forthwith procure the incorporation under the above-mentioned Acts of the said Limited, and shall and will duly register as the memorandum and articles of association of the said company the memorandum and articles of association hereinbefore referred to and which are set forth in the *schedule* hereto.

Promoter to procure incorporation.

2. With as little delay as possible after incorporation the vendors shall execute and the said promoter shall procure the execution by the said Limited of a contract similar to that set forth in the *schedule* hereto or such other contract as the parties hereto and the Limited shall agree upon.

Assignment to be executed by company.

3. If the promoter shall not before the day of 19 , perform his part of this agreement, then it shall be lawful for the vendors or either of them to determine the same by giving notice in writing of such determination to the promoter, and if the said Limited shall at that time have been incorporated also to the said Limited.

Notice of determination.

SCHEDULE.



2. *Agreement to Assign to the Company.*

AN AGREEMENT MADE THIS day of , 19 , Between A. B. of , C. D. of , and E. F. of , hereinafter called the vendors of the one part, and the Limited hereinafter called the purchasers of the other part. WHEREAS the vendors are the owners of certain letters patent dated and numbered and entitled . AND WHEREAS by agreement dated and made between the vendors of the one part and therein called the promoter of the other part, it was agreed that for certain considerations therein and herein mentioned the vendors should sell the said letters patent to the purchasers. Now it is agreed as follows :—

Recital of
above agree-
ment

to assign.

1. The vendors shall upon the completion of the purchase as hereinafter provided for, assign unto the purchasers the said letters patent and all the right, title and interest of the vendors therein free from all incumbrances save as regards assignments for districts and licences already granted as hereinafter mentioned, and the vendors shall do all things necessary and execute all documents necessary for rendering the said assignment valid and effectual.

Payment of
cash and
allotment
of shares.

2. The purchasers shall pay to the vendors on or before the day of the sum of £ in cash, and shall allot to the vendors or to such other person or persons as the vendors shall nominate fully paid up shares in the vendors' company, and immediately upon such payment being made and the said shares being allotted the vendors shall assign the said letters patent as in the first clause hereof provided.

Assignment
subject to
licences, &c.

3. The said assignment shall be subject to assignments for districts and licences in the schedule hereof mentioned, but such assignment shall include all the rights and benefits from time to time hereafter accruing to the vendors under or by virtue of such assignments for districts or licences.

No warranty
of validity.

4. The vendors do not warrant or represent the validity of the said letters patent.

Determina-
tion upon
default.

5. Should the said purchase price not be paid or the shares not be allotted on or before the said day of the vendors shall be entitled to interest upon the said purchase price and upon the nominal value of the said shares after the rate of 5 per cent. per annum until payment and allotment, or at their option to determine this contract by notice under their hands delivered at the registered office of the company. PROVIDED ALWAYS that the vendors shall not be entitled to sue for or recover damages against the purchasers in respect of the breach of the said agreement.

6. The said A. B. shall be deemed the agent of the said C. D. and E. F. for the purpose of receiving the said purchase-money and shares and giving an effectual discharge for the same.

SCHEDULE.

Agreement to Obtain and Assign Letters Patent for an Invention in Consideration of a Sum of Money and Delivery of Certain Number of the Patent Articles (h).

AN AGREEMENT MADE THE day of , Between (*inventor*) of, &c., Parties.
of the one part and (*purchaser*) of, &c., of the other part. WHEREAS
the said (*inventor*) claims to have invented a new and improved kind Agreement to
of , a plan or drawing of which is hereunto annexed. AND obtain and
WHEREAS the said (*purchaser*) has arranged with the said (*inventor*) assign patent.
for the sale to him of the benefit of the said invention in the manner
and upon the terms hereinafter expressed. Now WITNESS that in Recital of
consideration of the sum of £ to the said (*inventor*) now paid invention.
by the said (*purchaser*) the receipt whereof is hereby acknowledged *Testatum.*
and also in consideration of the agreements hereinafter contained In considera-
on the part of the said (*purchaser*) he the said (*inventor*) hereby tion of a sum
agrees with the said (*purchaser*) in manner following (that is to say) and of the
that he the said (*inventor*) will at any time or times hereafter purchaser's
within the term of fourteen years to be computed from the day of covenants,
the date of these presents upon the request and at the cost of the inventor
said (*purchaser*), his executors, administrators, or assigns, take and covenants
use all such steps, means, and proceedings as shall be requisite or with pur-
proper for obtaining, and use his the said (*inventor*)'s utmost en- chaser, to
deavours to obtain, in the name of him the said (*inventor*), a patent solicit grant
for the sole and exclusive making, using, exercising, and vending of letters
of the said invention within the United Kingdom of Great Britain patent ;
and Ireland, and the Isle of Man, as the said (*purchaser*), his
executors, administrators, and assigns, may desire, during the term and to assign
or terms for which patents for inventions are usually granted. AND letters
FURTHER, that the said (*inventor*), his executors or administrators, patent ;
will at any time or times after obtaining any such patent upon the
request and at the cost of the said (*purchaser*), his executors, ad-
ministrators, or assigns, make, do, and execute all such assignments,
deeds, matters, and things, as the said (*purchaser*), his executors,
administrators, and assigns, shall reasonably require for assigning,
and transferring unto the said (*purchaser*), his executors, adminis-
trators, and assigns, for his or their absolute benefit, the said patent,

(h) Extracted by permission of the publishers from Bythewood and Jarman's Conveyancing.

to instruct
purchaser in
the invention.

Not to use
invention
without
purchaser's
licence ;

nor, except by
specification,
to disclose
invention ;

that inventor
hath not
disclosed
invention
and is not
prevented
from obtain-
ing patent ;

for further
assurance,

and the full benefit and advantage thereof ; AND FURTHER, that he the said (*inventor*) will, at any time or times hereafter, upon every reasonable request of the said (*purchaser*), his executors, administrators, or assigns, more particularly and sufficiently describe to him or them, or his or their agents or workmen, either in writing or by personal explanation and instruction, or otherwise, the nature of the said invention, and in what manner the same, and every part thereof, and every process relating thereto, are to be performed or carried into effect and used ; AND FURTHER, that he the said (*inventor*), his executors or administrators, will not, nor shall any person or persons claiming by, from, through, or under him or them, at any time or times hereafter, during the term of fourteen years to be computed from the day of the date of these presents, without the consent or license of the said (*purchaser*), his executors, administrators, and assigns, either alone or in co-partnership, or in any other manner howsoever, directly or indirectly, make or assist in the making of any of the new and improved kind hereinbefore mentioned, or in the construction of which the aforesaid invention shall be used ; or (except by any specification or specifications which may have to be executed and enrolled for the purposes of the application for the said patent) describe either in writing or otherwise, to any person or persons other than the said (*purchaser*), his executors, administrators, or assigns, the nature of the said invention, or in what manner the same is to be performed or carried into effect, or give any information, or do or permit or be party or privy to, any act, matter, or thing whereby or by means whereof the same respectively may be known by any person or persons other than as aforesaid, or whereby or by means whereof the said (*inventor*) may be prevented or hindered from obtaining the said patent for the purposes hereinbefore mentioned. AND FURTHER, that he the said (*inventor*) has not at any time or times heretofore described, either in writing or otherwise, to any person or persons other than the said (*purchaser*), the nature of the said invention, or in what manner the same is to be performed or carried into effect, or given any information, or done or permitted, or been party or privy to, any act, matter, or thing, whereby or by means whereof the same respectively may have been or may be known by any person or persons other than as aforesaid, or whereby or by means whereof he may be prevented or hindered from obtaining the said patent for the purposes hereinbefore mentioned ; AND FURTHER, that he the said (*inventor*) will, at any time or times hereinafter, upon every request and at the cost of the said (*purchaser*), his executors, administrators, or assigns, make, do, execute, and perfect

all such lawful acts, deeds, disclaimers, amendments, and other matters and things, for the better or more satisfactorily or effectually sustaining or maintaining such patent as aforesaid, and assuring the same, and the full benefit thereof, and of the said invention unto the said (*purchaser*), his executors, administrators, and assigns, as by him or them shall be reasonably required. AND in consideration of the agreements hereinbefore contained on the part of the said (*inventor*), he the said (*purchaser*) hereby agrees with the said (*inventor*), his executors and administrators, that he the said (*purchaser*), his executors or administrators, will, within the space of one year, to be computed from the day of the date of the patent to be so obtained as aforesaid, at his or their cost, make and deliver, for and to the said (*inventor*), his executors and administrators, complete, perfect, and well made and finished, of the new and improved kind hereinbefore mentioned. AND WILL, from time to time and at all times hereafter, save, defend, and keep harmless and indemnified the said (*inventor*), his heirs, executors, and administrators, and his and their estates and effects whatsoever and wheresoever, of, from, and against all costs and charges to be incurred or sustained in, about, or in anywise relating to the obtaining of the said patent, and the preparing any specifications which may be necessary for the purposes of the application for the same, and of, from, and against all claims and demands on account thereof. PROVIDED ALWAYS, and it is hereby agreed and declared, that the solicitor or agent to be employed in obtaining the said patent, and in preparing any such specification or specifications as aforesaid, shall be appointed by the said (*purchaser*), his executors, administrators, or assigns; AND THAT the said (*inventor*), his heirs, executors, or administrators, shall not be answerable or accountable for any neglect or default of such solicitor or agent, anything hereinbefore contained to the contrary thereof in anywise notwithstanding.

purchaser agrees to make a certain number of articles, and deliver them to the inventor;

to ndemnify inventor from costs of obtaining letters patent.

Proviso that purchaser is to appoint solicitor, or agent, and that inventor shall not be responsible for his default.

As witness, &c.

Agreement between Joint Owners of a Patent for Partition.

AN AGREEMENT MADE THE _____ day of _____ 19____, Between A. B. _____ of the one part, and C. D. of _____ of the other part. WHEREAS the said A. B. and C. D. are joint owners of certain letters patent dated _____ and numbered _____ and entitled _____ AND WHEREAS they have agreed to divide the special licence, full power, sole privilege, and authority by the said letters patent granted in the manner and upon the terms hereinafter appearing. Now it is agreed as follows:—

Agreement to divide.

Assignment
of district
to A. B.

1. The said A. B. shall be solely entitled henceforth to use, work and vend the invention forming the subject-matter of the said letters patent in the following counties and shall be solely entitled within the said counties to grant assignments for districts or special or general licences upon any terms which the said A. B. shall see fit, and the said C. D. shall, whenever required to do so by the said A. B., execute a valid assignment of all his interest in the said letters patent within the said counties to the said A. B.

Assignment
of district
to C. D.

2. The said C. D. shall be solely entitled henceforth to use, work and vend the said invention in the following counties, and shall be solely entitled within the said counties to grant assignments for districts or special or general licences upon any terms which the said C. D. shall see fit, and the said A. B. shall, whenever required to do so by the said C. D., execute a valid assignment of all his interest in the said letters patent within the said counties to the said C. D.

Neither party
to account.

3. Neither party shall be bound to account to the other for any profits, royalties, or payments received by him with respect to the using, vending, or working the said invention within the counties or districts assigned to him hereby.

Payment of
fees, &c.

4. The said C. D. shall from time to time and as they become due pay the fees for the continuance and renewal of the said letters patent, and shall be entitled to recover one moiety of the sums of money so paid from the said A. B.

Future
patents
elective.

5. This agreement and all the provisions thereof shall apply to any letters patent obtained or acquired by either party hereto for any improvements upon the said patented invention, and neither party shall be bound to make any payments in respect of any such improvements to the other. PROVIDED ALWAYS, that immediately after applying for any such letters patent the party seeking to obtain the same shall give notice in writing to the other of the said improvement and full particulars respecting the same, together with a copy of the specification filed, and thereupon the other party shall elect whether he shall take the benefit of the said invention or not, and if he elects to take the benefit thereof shall from time to time pay to the party applying for such letters patent one moiety of all the costs, fees, and charges incurred in obtaining or seeking to obtain such letters patent, and then the said letters patent and the said invention shall be deemed to be within this agreement, but should he elect not to pay the said moiety of costs, fees, and charges, then he shall be deemed to have abandoned all claim to the said letters patent and invention, and the party applying for such letters patent shall thenceforth be the sole owner thereof.

6. Neither party shall apply for leave to amend the specifications to any letters patent within this agreement without the consent of the other first had and obtained. No amend-
ment without
consent.

7. So far as practicable this agreement shall apply to and be binding on the executors, administrators, or assigns of the parties hereto.

—

Agreement for Working and Selling an Invention, in respect of which an Application for a Patent has been made, for the Joint Benefit of the Inventor and another Person (i).

AN AGREEMENT made the day of , 19 , Between Parties.
(*inventor*), of, &c., of the one part; and (*capitalist*), of, &c., of the
other part. WHEREAS the said (*inventor*) has made an application, Recitals of
application
for patent;
dated the day of , 18 , number , for a patent for
an invention of (*title of invention*), which application was accom-
panied by a complete specification: AND WHEREAS the said complete of acceptance
of specifica-
tion;
specification has been accepted: AND WHEREAS the parties thereto of agreement
for arrange-
ment as to
working, &c.,
the invention.
have agreed to enter into the arrangements hereinafter mentioned in
respect of the said invention and application, and the patent to be
obtained thereupon. NOW THESE PRESENTS WITNESS that it is hereby
agreed as follows, that is to say:—

1. The said (*capitalist*) shall immediately upon the execution of Testatum.
these presents, pay to the said (*inventor*) a sum of £ , to be Agreement.
applied by him towards the expenses of working and developing Capitalist to
contribute
sum for
expenses.
the said invention.

2. In consideration of the payment so agreed to be made as afore-
said, and of the agreements on the part of the said (*capitalist*) herein-
after contained, the said (*inventor*) shall use his best endeavours Inventor to
endeavour to
obtain patent,
and assign the
same when
required.
to perfect the said invention and to obtain the grant of the said
patent in his own name, and shall, whenever required by the said
(*capitalist*) after the granting of such patent, assign the same, so
that the same premises may be legally and beneficially vested in
the said parties hereto as tenants in common in equal shares, and
the said parties hereto shall as well before as after such assignment,
be entitled to the said patent in the shares aforesaid.

3. The said (*inventor*) without any further remuneration than the Inventor to
communicate
improve-
ments.
monies hereinafter agreed to be paid by the said (*capitalist*), will
communicate to the said (*capitalist*) all improvements which the
said (*inventor*) has already invented, discovered, or made, or may

(i) Extracted by permission of the publishers from Bythewood and Jarman's Conveyancing.

during the continuance of the said patent, or of any other patent which may become subject to the provisions of these presents, invent, discover, or make in, or in connection with the said invention; and also all improvements, whether patented or not, in or in connection with the said invention, of which the said (*inventor*) shall become the owner, or have the control.

Inventor to apply for foreign and colonial patents.

4. The said (*inventor*) will also, at the expense in the first instance of the said (*capitalist*), such expense to be considered as an advance, and to be reimbursed as hereinafter mentioned, apply for and endeavour to obtain in such foreign countries, or British colonies, or dependencies, as the said (*capitalist*) shall think proper, and shall require, the like privilege for the invention comprised in the application, and for any such improvements as aforesaid; and will, as far as practicable, at the request and expense, in the first instance, of the said (*capitalist*), such expense to be considered as an advance, and to be reimbursed as hereinafter mentioned, render all such foreign and colonial patents, and the said improvements available for the exclusive use of the said parties hereto in equal shares; and execute and do every act, deed, and thing which may be necessary or expedient for effectually vesting the same in the said parties hereto in the shares aforesaid.

Capitalist to make advances for working and developing invention.

5. The said (*capitalist*) shall advance from time to time such monies as he shall think fit for working and developing the patent to be obtained on the aforesaid application numbered _____, or the said foreign and colonial patents or like privileges, or any such patents for improvements as aforesaid (all which patents and privileges are collectively referred to as the "said patents"), and for defraying the costs and expenses of obtaining and completing the said patents respectively, and keeping the same on foot, and for protecting or defending the same from, or obtaining damages or other compensation for infringements or otherwise defending the said patents, or of obtaining renewals and extension of the term of the said patents, or amending the specification thereof, or working or developing the working comprised in the said patents (hereinafter referred to as the said patented inventions), or introducing the same to the public, or exercising or using the said patented inventions, or any of them, or any parts thereof respectively, or for any purpose whatever in connection with the said patents, or any of them; and the said advances, and also the aforesaid sum of £ _____ shall be repaid to the said (*capitalist*) as hereinafter mentioned; and if there shall at any one time during the continuance of this agreement be owing to the said (*capitalist*) in respect of such advances in the aggregate, the sum of £ _____, or upwards, then

any excess of such advances over the sum of £ , shall carry interest at the rate of £5 per cent. per annum from the date when such excess shall have become due to the said (*capitalist*) until the same shall be paid.

6. All advances made by the said (*capitalist*) as aforesaid, and all interest shall be, and the same are hereby charged upon the said patents as a first charge upon the same. Charge of advances on patents.

7. All monies which shall be received by way of royalties, or otherwise, as the consideration for any licence granted for the use of the said patented inventions, or any of them, or any part thereof respectively, or which shall be received as the proceeds of the sale, or other disposition of the said patents, or any share or interest therein, or which shall be received in respect of any working, using, or exercising by or on behalf of the said parties hereto, or either of them, of the said patented inventions, or any of them, or any part thereof respectively, or which shall in any manner whatever arise, or be received out of, or in respect of the said patents, or any of them, all which monies are hereinafter referred to as "the proceeds of all the said patents," shall be applied as follows:—that is to say, in the first place, in payment of the costs and charges incurred with the consent of the said (*capitalist*) attending the license, sale, disposition, or working in respect of which the same respectively shall be received; and in the next place, and as a charge upon the said proceeds of the said patents, and in priority to any other payments hereinafter mentioned, in payment to the said (*capitalist*) of all advances made by the said (*capitalist*) as aforesaid with the interest thereon, in the events, and at the rate, and in manner aforesaid; and in the next place, in payment of all expenses of working the said patents (hereinafter referred to as the patent expenses, and defined as hereinafter mentioned); and the balances which shall remain of the proceeds of the said patents, after making the same payments aforesaid, shall be divided between the parties hereto in equal shares Application of royalties, proceeds of sale of patent rights, &c.

8. For the purposes of this agreement the expression "patent expenses" shall mean and include all monies which, with the consent of the said (*capitalist*), shall be expended for any of the purposes mentioned in the 5th clause of these presents, which shall not have been defrayed by monies advanced by the said (*capitalist*). Definition of "patent expenses."

9. There shall be set aside yearly out of the aforesaid proceeds of the said patents and premises, after payment of the said costs, charges, and interest (if any), and of the said patent expenses, such a sum not exceeding £ in any one year, as the said (*capitalist*) shall think proper, as a reserve fund for meeting contingencies, and providing monies for working and developing the patents, or for Reserve fund.

any of the purposes mentioned in the 5th clause of these presents, and such reserve fund may from time to time be drawn upon and applied for any of the purposes aforesaid, as and whenever the said (*capitalist*) shall think fit.

Inventor to devote attention to working patent.

10. The said (*inventor*) shall give as much time and attention as may be necessary for working and developing the said patented inventions, and shall use his best endeavours to promote the success thereof, but the said (*capitalist*) shall not be bound to give more time or attention thereto than he shall think proper.

Neither party to grant licences, &c., without consent of the other.

11. During the continuance of the arrangement hereby made, neither of the said parties hereto shall, without the consent of the other of them grant, or agree to grant any licence for working the patented inventions, or any of them, or any part thereof, or sell or dispose of his share or interest in the said patents or any of them, or any part thereof, or use or exercise the said invention, or make any payment, or incur any expenses, debts, or liabilities in respect of the said patents or patented inventions, and in case any payment, debt, or liability shall be so made or incurred without such consent, the same shall be made or incurred on the separate and individual account of the party making or incurring the same, and shall be borne by him exclusively, without any right to resort to the proceeds aforesaid of the said patents, and the other of the said patents hereto shall be indemnified by him in respect of the same.

Inventor alone to work the patent; rendering accounts to capitalist.

12. The said patents, patented inventions, and premises shall be worked, and the business thereof shall be carried on in the name of the said (*inventor*) alone as patentee; and proper accounts shall be kept by him of all payments made, and monies received, and liabilities incurred in respect thereof, and of all transactions relating thereto, and all monies received in respect of licences, sales and dispositions or otherwise in respect of the said patents, shall be paid into a bank to an account to be kept in the joint names of the said parties hereto, and shall not be paid out except upon the joint cheque of both parties. The books of account and other documents shall be kept in the custody of the said (*inventor*) at his office or such other place in London as the said parties hereto may agree upon, but so as that the said (*capitalist*) may at any time have access thereto. The accounts relating to the said patents, patented inventions, and premises shall be made up and balanced half-yearly on the day of , and the day of , or oftener if the said parties hereto shall so agree.

Inventor to take all proceedings necessary for

13. The said (*inventor*) shall, during the continuance of the arrangements hereby made, take all such proceedings as the said (*capitalist*) shall require for keeping up the said patents and

protecting and defending the same from and obtaining damages or other compensation for infringement or otherwise defending the said patents or any of them, obtaining renewals or extensions of the term of the said patents or any of them, or amending the specifications thereof, and the costs and expenses of all such proceedings as last aforesaid shall be defrayed in the first instance by the said (*capitalist*), and shall be considered as advances by him within the meaning of the 5th clause of these presents, and so far as not defrayed by the said (*capitalist*) shall be considered as part of the patent expenses as hereinbefore defined.

protecting patents.

14. Nothing herein contained shall be construed as constituting a partnership between the said parties hereto.

Clause negating partnership. Duration of arrangement.

15. The arrangement hereby entered into shall remain in force until the expiration of the term of the patent to be granted in respect of the said application numbered aforesaid, and of any renewal or extension thereof, and during any further patents, whether British, colonial, or foreign, to be obtained for the said invention, or any such improvements as aforesaid in case both the said parties hereto shall so long live. PROVIDED ALWAYS that it shall be lawful for the said (*capitalist*) at any time hereafter to determine the said arrangement upon giving to the said (*inventor*), or leaving for him at his last known place of business or abroad in England, calendar months' previous notice in writing of an intention so to do; And in the event of the said arrangement being determined by the death of either party, or by notice as aforesaid, the said patents and any extension or renewal thereof, and the proceeds of the said patents to be received in respect of any licences, sales, working, or using of the patented inventions which have been granted, effected, or taken place previously to such determination as aforesaid shall, subject to the payment thereof of the costs, charges, advances, interest, and patent expenses as aforesaid (subject to any charge thereon under the provisions hereinbefore contained in favour of the said (*capitalist*) for unpaid advances and interest) belong to the said parties hereto in equal shares, and each of the parties hereto, or their respective executors, administrators, or assigns, shall thenceforward be at liberty and entitled to work, use, and exercise the said patented inventions, and to grant licences (not being exclusive licences) for working and using the same, or to sell, assign, or otherwise dispose of his share and interest in the said patents without being liable to account to the other of such parties, his executors, administrators, or assigns, for the profits, royalties, or monies to be derived from the same.

Proviso for determining arrangement by notice.

As witness, &c.

Assignment of a Patent.

THIS INDENTURE MADE THE day of 19 , Between
A. B. of of the one part, and C. D. of of the other part.

WHEREAS by letters patent under the seal of the Patent Office, numbered and dated day of 19 , and entitled "Improvements, &c. ," his Majesty the King gave and granted unto the said A. B., his executors, administrators, and assigns, his Majesty's especial licence, full power, sole privilege and authority, that he the said A. B., his executors, administrators, and assigns, and every of them during the term therein expressed should and lawfully might make, use, exercise, and vend his said invention within the United Kingdom of Great Britain and Ireland and the Isle of Man, and the whole profit and advantage from time to time accruing by reason of the said invention during the term of years therein mentioned to have, hold, exercise and enjoy the said licence, power, privileges, and advantages thereinbefore granted unto the said A. B., his executors, administrators, and assigns for and during and unto the full end and term of fourteen years from the date of the now reciting letters patent next ensuing subject to the conditions and provisoes therein contained. AND WHEREAS the said A. B. has agreed for the sum of £ to assign unto the said C. D. the said invention and the said letters patent and all the licence, power, privilege and advantage thereby granted, and any extension of the same, together with all improvements and additions useful to the manufacture the subject-matter of the said letters patent now already in the knowledge or possession of or which may hereafter be made by the said A. B.

General
recitals.

Testatum.

NOW THIS INDENTURE WITNESSETH that in pursuance of the said agreement and in consideration of the sum of £ , this day paid by the said C. D. to the said A. B. (the receipt whereof is hereby acknowledged) he the said A. B. *as beneficial owner (b)*,

(b) By the Conveyancing Act, 1881, s. 7 (a). it is provided, "In a conveyance for valuable consideration, other than a mortgage, the following covenant by a person who conveys and is expressed to convey as beneficial owner (namely) : 'That, notwithstanding anything by the person who so conveys, or any one through whom he derives title, otherwise than by purchase for value, made, done, executed, or omitted, or knowingly suffered, the person who so conveys, has, with the concurrence of every other person, if any, conveying by his direction, full power to convey the subject-matter

expressed to be conveyed, subject as, if so expressed, and in the manner in which it is expressed to be conveyed, and that notwithstanding anything as aforesaid that subject-matter shall remain to and be quietly entered upon, received and held, occupied, enjoyed and taken by the person to whom the conveyance is expressed to be made, and any person deriving title under him, and the benefit thereof shall be received and taken accordingly, without any lawful interruption or disturbance by the person who so conveys or any person conveying by his direction or rightfully claiming, or to claim by,

doth hereby assign unto the said C. D., his executors, administrators and assigns, all that the said special licence, full power, sole privilege and authority, and the said invention and all and every of the rights, privileges, profits, benefits, commodities and advantages in and by the said hereinbefore recited letters patent granted, together with the said hereinbefore recited letters patent, and also all the right, title, interest, claim and demand whatsoever of him the said A. B., his executors, administrators and assigns, or any of them, to apply and petition for, obtain and procure a prolongation, or extension of the said licence, privilege and authority, and of the said term of fourteen years granted by the said hereinbefore recited letters patent, and to apply and petition for, obtain and procure any new or other letters patent to be granted for any new or additional term or term of years.

To HAVE, HOLD, AND RECEIVE, take, exercise and enjoy the said *habendum*. especial licence, sole privilege and authority, invention, letters patent, rights, privileges, and all and singular the premises hereby assigned or intended so to be unto and by the said C. D., his executors, administrators and assigns for and during all the rest, residue and remainder which is now to come and unexpired of the

through, under, or in trust for the person who so conveys, or any person conveying by his direction, or by, through, or under any one not being a person claiming in respect of an estate or interest subject whereto the conveyance is expressly made, through whom the person who so conveys derives title otherwise than by purchase for value; and that freed and discharged from or otherwise by the person who so conveys sufficiently indemnified against all such estates, incumbrances, claims and demands other than those subject to which the conveyance is expressly made as either before or after the date of the conveyance, have been or shall be made, occasioned or suffered by that person or by any person conveying by his direction or by any person rightfully claiming by, through, under or in trust for the person who so conveys or by, through, or under any person conveying by his direction or by, through or under any one through whom the person who so conveys derives title otherwise than by purchase for value, and further that the person who so conveys and any person conveying by his direction and every other person having or rightfully claiming any estate or interest in the subject-matter of conveyance other

than an estate or interest subject whereto the conveyance is expressly made by, through, under, or in trust for the person who so conveys or by, through, or under any person conveying by his direction or by, through, or under any one through whom the person who so conveys derives title otherwise than by purchase for value will from time to time, and at all times after the date of the conveyance on the request and at the cost of any person to whom the conveyance is expressed to be made or of any person deriving title under him execute and do all such lawful assurances and things for further or more perfectly assuring the subject-matter of the conveyance to the person to whom the conveyance is made and those deriving title under him subject as if so expressed and in the manner in which the conveyance is expressed to be made as by him or them or any of them shall be reasonably required: (in which covenant a purchase for value shall not be deemed to include a conveyance in consideration of marriage)." It has been suggested therefore that the use of the words in a patent conveyance might be held to imply a covenant for validity. It is perhaps better to use a simple covenant for title only.

said term of fourteen years granted and created by the said hereinbefore recited letters patent and for and during all other the term right and interest of him the said A. B., under or by virtue of the said hereinbefore recited letters patent or otherwise howsoever to and for the sole use, benefit and advantage of the said C. D., his executors, administrators and assigns.

Covenant as to validity

And the said A. B. for himself, his heirs, executors, and administrators doth covenant with the said C. D., his executors, administrators and assigns, by these presents in manner following (that is to say), that notwithstanding any act, deed, matter or thing by the said A. B. done, executed or permitted, the said hereinbefore recited letters patent are at the time of sealing and delivery of these presents, good, valid and sufficient in the law for all and every of the purposes therein mentioned and expressed, and that the same letters patent or the grant therein expressed or contained have not been and are not surrendered, forfeited or become void or voidable in anywise whatsoever (l).

and as to specification being sufficient, &c.

And that the specification filed by the said A. B. at the Patent Office pursuant to the conditions upon which the hereinbefore recited letters patent were granted, well and sufficiently describes and ascertains the nature of the invention mentioned in the said letters patent, and in what manner the same is to be performed, and that the same specification was truly and duly made and filed according to and well, truly, fully and sufficiently performed and complied with the conditions in that behalf in the same hereinbefore recited letters patent expressed and contained.

In witness.

Additional Recitals.

Substituted recital of agreement for a sum down and future payments. See Covenant and conditions in such a case. Foreign and colonial patents recital.

AND WHEREAS THE SAID A. B. has agreed for the sum of £ , and for other sums by way of percentage as hereinafter mentioned, and subject to the contracts on the part of the said C. D. hereinafter contained to assign (&c., as before).

AND WHEREAS the said A. B. has applied for and obtained letters patent or a brevet d'invention, for the said invention in the following foreign states and countries and in the

(l) It is obvious that this is a stringent covenant on the part of the patentee, inasmuch as it renders him responsible should it hereafter appear for any reason, such as anticipation, &c., that the letters patent were invalid. This covenant and the next should be carefully considered before they or either of them are inserted.

following British Colonies whereby the said A. B., his executors, administrators and assigns, have acquired the sole right, privilege and authority to work, use, or vend the said invention in the said foreign States and British colonies for the terms of years limited respectively by the said letters patent and brevet d'invention, and whereas in consideration of the sum of money hereinbefore expressed, the said A. B. has agreed to assign the said letters patent and brevet d'invention to the said C. D.

AND WHEREAS the said A. B. has represented himself to the said C. D. to be to the best of his knowledge, information and belief, the true and first inventor of the said invention within this realm.

True and first inventor.

AND WHEREAS the said A. B. has assigned the said letters patent and all the rights, powers, privileges and advantages of him the said A. B. in the said letters patent and the said invention for the counties of to G. H., his executors, administrators or assigns, and for the counties of to J. K., his executors, administrators or assigns, &c., &c.

Previous assignments for districts (m),

AND WHEREAS the said A. B. contemplates and intends to assign the said letters patent and all the rights, powers, privileges and advantages of him the said A. B. in the said letters patent and the said invention for other districts so soon as a purchaser shall be found therefor.

and of intention to assign for other districts.

AND WHEREAS the said A. B., by indenture dated, has granted a licence unto E. F. of, his executors, administrators and assigns, to manufacture, use and vend the said invention during the continuance of the said letters patent or any extension or renewal thereof, upon certain terms and conditions as to the payment of royalties and otherwise in the said indenture made and provided (n).

Recital of licence granted.

AND WHEREAS the said A. B. has agreed in consideration of the sum of £ to assign unto the said C. D., benefit of the said letters patent so far as the same relates to the counties of, but not elsewhere, and so far as the same relates to the said

Substituted recital of agreement to assign for a district.

(m) See special covenant necessary in such cases as to applications to amend, &c., &c.

(n) This may be varied by reciting

"an exclusive licence" or "an exclusive licence for the county of _____."

counties, all the licence, power, privilege and advantage thereby granted, and any extension of the said letters patent together with all improvements and additions useful to the manufacture the subject-matter of the said letters patent now already in the knowledge or possession of or which may hereafter be made by the said A. B.

Assignment
for a
county (o).

NOW THIS INDENTURE WITNESSETH that in pursuance of the said agreement, and in consideration of the sum of £ this day paid by the said C. D. to the said A. B. (the receipt whereof is hereby acknowledged) the said A. B., as *beneficial owner*, doth hereby assign unto the said C. D., his executors, administrators and assigns, all that the special licence, full power, sole privilege and authority, and the said invention, and all and every the rights, privileges, profits, benefits, commodities and advantages in and by the said hereinbefore recited letters patent granted so far as the same relate to the counties of , and not elsewhere.

Foreign and
colonial
patents (p).

TOGETHER WITH all licence, powers, privileges, and advantages granted to the said A. B., his executors, administrators, and assigns : by virtue of the said recited letters patent and brevets d'invention for foreign States and British colonies.

Assignment
of benefit of
licences.

TOGETHER WITH all the rights, royalties, benefits and advantages of the said A. B., under and by virtue of the said recited licence granted by the said A. B. unto E. F., his executors, administrators, and assigns.

Additional Covenants. (See Recitals.)

Covenant as
to percentage
when such is
stipulated for
by vendor.

AND THE SAID C. D. hereby covenants with the said A. B. that if and so soon as the said C. D., his executors, administrators, or assigns, shall have received out of the net profits (to be calculated as hereinafter mentioned) arising from or by means of the said invention, or such improvements as aforesaid (patents for which improvements shall have been assigned to or become vested in the said C. D., his executors, administrators, or assigns), or from or by means of any sales, or licences, or dispositions of, or dealings with the same invention, or patented improvements, or otherwise, from,

(o) See proviso restricting actions for infringement.

(p) See covenants as to maintaining such foreign patents.

or by means of the using, exercising, vending, or making the said invention, or any such patented improvement as aforesaid, or the said patent, the sum of £ , he the said C. D., his executors, administrators, or assigns, shall pay to the said A. B., his executors, administrators, or assigns, at the times and in the manner hereinafter mentioned, such a sum or sums of money as shall be equal to a percentage of £ per cent. upon the net profits (to be calculated as hereinafter mentioned), arising as aforesaid, from the time when the said C. D., his executors, administrators, or assigns, shall have received the aforesaid sum of £ , and thenceforth during the remainder of the period in which the said patent hereby assigned or any such patent for improvements as aforesaid as shall be assigned to or become vested in the said C. D., his executors, administrators, or assigns, shall continue in force. AND FURTHER, that the said C. D., his executors, administrators, or assigns, will so soon as he or they shall have received from the net profits arising as aforesaid the sum of £ thenceforth twice in every year on the day of , and the day of , or within 14 days thereafter respectively, furnish to the said A. B. an account showing the amount for the half year in respect of which the account is furnished, of the net profits arising as aforesaid; and shall within one calendar month after the date up to which such half-yearly account is furnished, pay to the said A. B., his executors, administrators, or assigns, the percentage by the said account appearing to be due.

AND THE SAID C. D. covenants with the said A. B. that he the said C. D., his executors, administrators and assigns, will not apply for leave to amend, or amend, or cause to be amended, the said specification or the drawings thereof, in any way whatsoever without the consent of the said A. B., his executors, administrators, or assigns, in writing, first had and obtained—such consent not to be unreasonably withheld (q).

Covenant not to apply for leave to amend applicable to assignments for a district (r).

(q) In some cases where the district assigned is large a converse covenant on the part of the assignor should be inserted.

(r) A great difficulty is introduced by section 26 of the Act of 1883, re-enacted as section 14 sub-section 1 of the Act of 1907. "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." It will be observed that under this section a patentee can create innumer-

able patentees, all with coequal rights, not only amongst themselves but with the original patentee, but still all possessing only one original patent and one specification. It was clearly not the intention of the legislature that the specification might be split up and amended in one country and not in another and so on; but on the other hand the whole validity and value of a patent may very often depend upon the question of amendment or non-amendment — if one assignee amends he might by doing so

Covenants having regard to sections 24 and 27.

AND THE SAID C. D. covenants with the said A. B. that he the said A. B., his executors, administrators and assigns, will not do any act or thing or omit to do any act or thing the doing or omission of which would render the said letters patent liable to be revoked under section 27 of the Patents and Designs Act, 1907, or whereby revocation or a compulsory licence might be ordered under section 24 of the said Act.

Covenants by assignor as to taking future patents in assignment for a district only.

AND THAT IN CASE he, the said A. B., shall obtain letters patent in respect of any improvements, additions to, or discovery useful to the manufacture the subject-matter of the said recited letters patent, he shall, at the expense of the said C. D., his executors, administrators, or assigns (if and when requiring him to do so), execute and do all such assurances and things as shall be necessary or convenient for vesting the same letters patent, and the exclusive benefit thereof, *for the said counties* in the said C. D., his executors, administrators, or assigns.

Covenant to pay fees on renewal when patent assigned for a district only.

AND ALSO THAT HE THE SAID A. B., his executors, administrators, or assigns, will pay all fees necessary for the renewal of the said letters patent (s) respectively during the respective terms comprised therein one calendar month at least before the times provided by the Patents, &c., Act, 1883, or the rules made in pursuance thereof in that behalf, but in case of non-payment thereof as aforesaid, will, if required by the said C. D., his executors, administrators, or assigns, permit him or them to pay the same, and any sum if so paid by him or them shall be repayable on demand, together with interest thereon at the rate of 5 per cent. per annum from the time of payment thereof and until repayment, and shall, together with the interest aforesaid, be a charge upon the interest of the said A. B. and his executors, administrators, or assigns, in the said letters patent respectively.

Covenant to communicate and assign future improvements.

AND THE SAID A. B. hereby covenants with the said C. D. that the said A. B. will without any further remuneration or royalties communicate to the said C. D. all improvements which the said A. B. may during the continuance of the said patent invent, discover, or make for or in connection with the said invention, and also all improvements, whether patented or not, of which the said

ruin all the others; on the other hand by refusing to consent to an amendment he might do the same thing. The author has drafted a precedent clause which might do for some in-

stances, but it is chiefly introduced to call the attention of conveyancers to the difficulty of the position.

(s) There is no implied covenant to pay fees. (See p. 196, *ante*.)

A. B. shall become the owner or of which the said A. B. shall have the control, and will, so far as practicable, at the request and expense of the said C. D., render the same available for the exclusive use of the said C. D., and do every act, deed, and thing which may be necessary or expedient for obtaining and perfecting patents for all or any such improvements, and for assigning or vesting the same to or in the said C. D.

AND IT IS HEREBY FURTHER AGREED AND DECLARED between and by the said parties hereto as follows :—

1. For the purpose of calculating the moneys to be derived as aforesaid, there shall be deducted from the gross moneys received from or by means of the said inventions, or such patented improvements as aforesaid, or any sales, or licences, or other dispositions and dealings with the same, or otherwise, from, or by means of the using, exercising, vending, or working the invention, or patented improvements, or patent, which moneys are hereinafter called the gross receipts, all costs, charges, losses, damages, and expenses whatsoever, which the said C. D., his executors, administrators, or assigns, may have already paid or incurred, or may hereafter pay or incur, in or about the obtaining, or endeavouring to obtain, or the keeping in force any such patent for improvements as aforesaid, or the assigning the same to the said C. D., his executors, administrators, or assigns, or in or about the introducing to the public the said patents, inventions, and patented improvements, or any of them, or in or about any such sales, licences, or other dispositions, or dealings as aforesaid, or in or about any legal or other proceedings, which may be taken for the purpose of restraining infringement of the said patents, or any of them, or for recovering damages for infringements, or which may be taken in respect of any sale, or proposed sale of the said patents, or any interest therein, or any licence or proposed licence for working the said invention and patented improvements, or any of them, or any part thereof; or generally in any manner in or about the said patents, or any of them, or the using, exercising, vending, or working the said invention, or patented improvements, or any of them, or patents, all which costs, charges, losses, damages, and expenses are hereinafter referred to as patent expenses, together with interest at the rate of £ per cent. per annum, upon such patent expenses respectively from the time of the payment thereof, and the difference between the gross receipts for any half-year and the patent expenses for the same half-year, shall be the net profits arising as aforesaid, upon which the percentage aforesaid is to be paid.

Conditions to be inserted when a percentage is to be paid as well as a sum down.

Keeping
accounts.

2. Proper books of account shall be kept by the said C. D., his executors, administrators, and assigns, in which true, plain and perfect entries shall be made of all the payments, expenses, and gross receipts aforesaid, and such books of account shall at all reasonable times be open to the inspection of the said A. B., his executors, administrators, or assigns, or any agent duly appointed by him or them in writing.

Assignee not
to be bound
to apply for
patent for im-
provements.

3. Nothing herein contained shall be construed as obliging the said C. D., his executors, administrators, or assigns, to obtain, or endeavour to obtain, any patent for any such improvements as aforesaid, or to accept any assignment of any patent for such improvements, or to pay the stamp duty upon, or to defend, or maintain the said patent hereby assigned, or any such patent for improvements as aforesaid, which may be assigned to, or become vested in him or them, in performance of the covenants in that behalf hereinbefore contained, or to take any steps for restraining infringement of the same patents, or any of them, or recovering damages for any infringement, or to make any sale or sales of the said patents, or any interest therein, or to grant any licence or licences for the use of the said invention, or any such patented improvements as aforesaid, or any part thereof respectively, or in any manner to use, exercise, vend, or work the said invention, improvements or patents, or any of them; it being hereby expressly agreed and declared that the said C. D., his executors, administrators or assigns, is and are and shall be the absolute owners of the said patent hereby assigned and of any patent or patents for improvements, which may be assigned to or vested in him or them as aforesaid, or which he or they may under the covenants aforesaid require to be assigned to him or them; and that the said C. D., his executors, administrators, or assigns, shall not in regard to the said patents, or any of them, be subject to any control or interference whatsoever of the said A. B., his executors, administrators, or assigns.

Assignor not
to assign
interest
without
consent.

4. During the continuance of the said patent hereby assigned, and during the continuance of any patent or patents for improvements which may be assigned to or become vested in the said C. D., his executors, administrators, or assigns, as aforesaid, the said A. B., his executors, administrators, or assigns, shall not sell or dispose of the percentage payable to him or them as aforesaid without the consent in writing of the said C. D., his executors, administrators, or assigns; nor shall the said C. D., his executors, administrators, or assigns, sell or dispose of the said patents, or any of them, without the consent in writing of the said A. B., his executors, administrators, or assigns.

Assignee not
to reassign
without
consent.

5. Nothing herein contained shall be considered as constituting a partnership between the said parties hereto. No partner-ship.

6. Nothing herein contained shall be construed as a warranty by the said A. B., of the novelty or utility of the said invention, or of the validity of the said patent hereby assigned. No warranty of validity.

PROVIDED ALWAYS, and it is hereby further agreed and declared, that no action at law or equity shall be brought by the said C. D. against any person or persons to restrain infringements or to recover damages in respect of the mere user of (*collar-studs made in pursuance of the said patented invention*) within the said county of _____, provided that such user be not for profit or for sale, or in the way of trade. Proviso to be inserted in assignment for a district of certain inventions (t).

Non-exclusive Licence to use Patented Invention in consideration of an Annual Payment and the Purchase of the Patented Articles from the Inventor.

THIS INDENTURE made the _____ day of _____, 19____, between A. B., of _____, hereinafter called the patentee of the one part, and C. D., of _____, hereinafter called the licensee of the other part. Parties.

WHEREAS the patentee is in possession of and entitled to the full benefit of certain letters patent dated _____ and numbered _____ for an invention entitled _____ : AND WHEREAS the patentee has agreed to grant to the licensee a licence to use the said invention at _____, in the course of his trade and business as a _____ upon the terms and conditions hereinafter set forth. NOW THIS INDENTURE WITNESSETH that in pursuance of the said agreement and in consideration of the payments and covenants hereinafter reserved, contained, and on the part of the licensee to be paid and performed, he the patentee grants to the licensee full and free licence and authority during all the residue now to come and unexpired of the term of fourteen years by the said patent, to use the said invention in the course of his trade and business as a _____, upon the terms and conditions following, that is to say : Recitals.

1. The licensee shall pay to the patentee upon the execution of this indenture the sum of £ _____, and further shall once in every year during the continuance of the said letters patent, including Payments by licensee.

(t) It is evident that some such proviso as this is of the utmost importance, when the patent is for an article of common use. The words of section 36 are :—"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." It would create great confusion and injury to all parties if a man travelling from London to York were liable to actions by different assignees of the districts through which he travelled on account of wearing a particular collar-stud.

any extended term thereof, pay the sum of £ , the first of such payments to be made on or before the day of , 19 .

Covenant to purchase patented articles.

2. The licensee shall purchase of the patentee and the patentee shall sell and deliver to the licensee all the (*here insert name and description of patented articles*) which the licensee shall from time to time require, paying for the same after the rate of per (*dozen or gross*) with net cash within one month after delivery.

Covenant not to manufacture or sell.

3. The licensee shall not manufacture or vend any of the said , but shall only be entitled to use the same in the course of his trade or business, and the licensee shall not purchase or otherwise acquire any of the said other than of the patentee.

Power to licensee to determine licence.

4. The licensee shall be at liberty upon giving months' notice in writing to the patentee to determine the licence and all the terms and conditions thereof, provided always that upon any such determination the licensee shall deliver to the patentee free of charge all the which at that time shall be in his possession, or in the possession of any of his servants, agents, or customers.

Covenant by licensee to render assistance to patentee in actions.

5. In the event of the infringement of the said patent by any person or persons the licensee shall at the cost of the patentee render to him all the information and assistance in his power to enable the patentee to restrain further infringements of the said patent, and to recover damages for any past infringements thereof: Provided always that nothing herein contained shall be construed as placing the patentee under any obligation to take proceedings for the purpose of restraining or recovering damages for infringements, or as in any manner exonerating the licensee from payment of the amounts and observance of the covenants herein reserved and contained by reason that the profits of the licensee from the use of the said invention may be diminished on account of such infringements being permitted.

Proviso patentee not to be bound to take action.

Determination of licence on default by licensee.

6. Should the licensee make default in the payment of the annual sum hereinbefore provided for, within twenty-one days after the same shall have become due, or commit any breach of the covenants herein contained as on his part to be observed, it shall be lawful for the patentee by writing under his hand to give to the licensee, or leave at his usual or last known place of business in England, notice of the patentee to determine this present licence, and thereupon this licence shall be deemed to be determined, and the licensee shall deliver to the patentee as soon as practicable, free of charge, all the which at that time shall be in his possession or in the possession of any of his servants, agents or customers.

Determination on patent

7. If during the continuance of the licence hereby granted the said patent shall be pronounced to be invalid by a decision of the House

of Lords, these presents shall be void as to the future operations thereof, but without prejudice to any rights or liabilities which shall be then subsisting on either side with respect to any prior breach of any of the covenants and agreements herein contained.

being declared invalid.

8. If while this licence is in force the patentee shall at any time grant any licence or premium to any other person or persons for the use of the said invention in the United Kingdom, and shall reserve any annual payment or charge any price for the said lower than the annual payments and price reserved under and by virtue of this indenture, then at the annual payments and price thenceforward payable to the patentee shall be reduced to an amount equal to the lowest price reserved and payable for the use of the said invention by such other person.

Reduction of payments to level of other licences.

9. The patentee shall be at liberty from time to time, and at all times hereafter, without the consent or concurrence of the licensee, to apply for and procure the amendment of the specification or specifications of the said invention, whether by way of disclaimer, amendment or explanation.

Power of patentee to amend specification.

10. The word patentee herein shall include the patentee, his executors, administrators, or assigns, and he shall be deemed to covenant as beneficial owner (u), with like effect as if this indenture were a conveyance within the meaning of the Conveyancing and Law of Property Act, 1881. The word licensee shall include the licensee, his executors, administrators, and assigns.

Transmission clause and cost as "beneficial owner."

11. Nothing in this indenture contained shall preclude or estop the licensee from disputing the validity of the said patent after the determination of the licence by notice or otherwise.

Licensee not to be estopped after determination of licence.

12. If any dispute, question or difference shall arise between the parties to these presents, touching these presents or any clause or thing herein contained, or the construction hereof, or any matter in any way connected with these presents, or the operation hereof, or the rights, duties, or liabilities of either of the said parties, hereto in connection with the premises then and in every or any such case the matters in difference shall be referred to two arbitrators or the umpire, pursuant to and so as with regard to the mode and consequences of the reference, and in other respects to conform to the provisions in that behalf contained in the Common Law Procedure Act, 1854, or any other subsisting statutory modification thereof, and upon every or any such reference the arbitrators and umpire shall respectively have power to examine the parties and witnesses upon oath or affirmation, and either to fix, settle,

Arbitration clause.

(u) See note, p. 666, ante.

and determine the amount of costs of the reference and award respectively or incidental thereto to be paid by both parties or either party, or to direct the same to be taxed either as between solicitor and client, or otherwise to direct and award when, by and to whom such costs shall be paid.

As witness, &c.

Exclusive Licence for a District.

THIS INDENTURE MADE THE day of 19 , between A. B., of , hereinafter called the grantor of the one part, and C. D., of , hereinafter called the grantee of the other part. WHEREAS the grantor is the registered legal owner of certain letters patent dated and numbered granted for an invention entitled . AND WHEREAS the grantor has agreed to grant to the grantee the sole and exclusive licence to make, use, exercise, or vend the said invention within the counties of , upon the terms and conditions hereinafter appearing. Now THIS INDENTURE WITNESSETH and it is agreed as follows:—

1. The grantor *as beneficial owner (x)* and with like effect as if these presents were a conveyance, doth hereby grant unto the grantee, his executors, administrators and assigns, the sole and exclusive licence to make, use, exercise, or vend the said invention within the counties of and during the continuance of the said letters patent or any extended time thereof, together with all improvements and additions useful to the manufacture the subject-matter of the said letters patent now already in the knowledge or possession of or which may hereafter be made by the grantor.

2. The grantee shall, upon the execution of these presents, pay to the grantor the sum of £ , and shall further pay to the grantor during the continuance of the licence, once in every year, on the day of , or within twenty-one days thereafter, the sum of £ by way of annual royalty. PROVIDED ALWAYS that in the event of the said letters patent being judged invalid by any court of competent jurisdiction and within months of the said judgment, the grantor, his executors, administrators, or assigns, shall not have done all things necessary for the purpose of appealing from the said judgment, or in the event of the said letters patent having been adjudged invalid by the House of Lords, then that these presents shall be deemed to be cancelled, and all payments

(x) See note, p. 589.

accruing thereafter from the grantee to the grantor shall cease, but without prejudice to the recovery by the grantor of any monies then already due.

3. The grantor shall not, without the consent of the grantee, his executors, administrators or assigns, in writing first had and obtained, apply for leave to amend the specification to the said letters patent in any way whatsoever (y). Grantor not to amend.

4. The grantee shall be at liberty upon giving _____ months' notice in writing to the grantor to determine this licence and all the terms and conditions thereof, and thereupon the said letters patent for the district hereinbefore defined, and all the rights and privileges thereby granted, shall revert to the grantor absolutely, and the annual payments hereinbefore provided for shall cease. Grantee to be at liberty to determine.

5. The grantee shall be at liberty either in his own name or in the name of the grantor, or both, as he may be advised, to bring any action or proceeding for the purpose of restraining the infringement of the said letters patent within the district hereinbefore defined. PROVIDED ALWAYS that before in any way making use of the name of the grantor in any such action or proceeding the grantee shall give security to the satisfaction of the grantor to indemnify him in respect of any costs or damages which he may become liable for by reason of any such action or proceeding. As to actions.

6. The grantor shall pay all fees necessary for the renewal and maintenance of the said letters patent during the term comprised therein one calendar month at least before the times provided by the Patents, &c., Act, 1883, or the rules made in pursuance in that behalf thereof, and in case of non-payment thereof as aforesaid, the grantee shall be at liberty to pay the same and to deduct any moneys so paid by him from the annual payments hereinbefore provided for, or to recover the same from the grantor at the grantee's option. Payment of fees, &c.

7. Should the grantor during the continuance of this licence obtain letters patent in respect of any improvements, additions to, or discovery useful to the manufacture of the subject-matter of the said letters patent, he shall at the expense of the grantee grant to him an exclusive licence to make, exercise, use, or vend the invention, the subject-matter of the said further letters patent within the said district, without any extra or additional payment on the part of the grantee. PROVIDED ALWAYS that the grantor shall not be

(y) See last preceding precedent for the converse—in a general licence the patentee should reserve power to amend, but in an exclusive licence it is obviously otherwise.

bound to maintain or keep in force the said further letters patent by payment of the prescribed fees or otherwise.

Default in
payment of
royalty.

8. Should the grantee make default in the payment of the annual royalty reserved by the second clause hereof as therein provided, it shall be lawful for the grantor to serve upon the grantee by leaving the same at his last known place of business or abode notice in writing determining these presents, and thereupon the licence hereby granted shall cease, but without prejudice to the right of the grantor to sue for and recover any arrears of the said annual royalty which may then be due.

No warranty
of validity.

9. The licensor, notwithstanding anything herein to the contrary, shall not be deemed in any way to warrant or represent the validity of the said letters patent.

In witness, &c.

Mortgage of a Patent.

Parties. THIS INDENTURE MADE the day of 19 , Between
A. B. of , hereinafter called the mortgagor of the one part,
and C. D. of , hereinafter called the mortgagee of the other
Recitals. part. WHEREAS the mortgagor is the registered owner of certain
letters patent dated 19 and numbered for an invention
entitled "Improvements, &c. ." AND WHEREAS the mortgagee
has agreed to lend to the mortgagor the sum of £ to be
secured together with interest thereon by mortgage of the said
Testatum. letters patent as hereinafter expressed. NOW THIS INDENTURE
WITNESSETH that in consideration of the sum of £ this day paid
by the mortgagee to the mortgagor (the receipt whereof is hereby
acknowledged) the mortgagor doth covenant with the mortgagee
that he the mortgagor will pay to the mortgagee on the day
of 19 , the sum of £ together with interest thereon at
Assignment. the rate of £ per cent. per annum. AND THIS INDENTURE ALSO
WITNESSETH that for the consideration aforesaid the mortgagor *as*
beneficial owner doth hereby assign to the mortgagee the said letters
patent and the sole and exclusive benefit thereof and all extensions
thereof and all the rights, privileges, profits, benefits, commodities
and advantages by the said letters patent granted to have and to
hold the same to the mortgagee subject to the proviso for redemp-
Proviso for redemption. tion hereinafter contained. PROVIDED ALWAYS that if the mortgagor
shall pay to the mortgagee the sum of £ with interest for the
same at the rate aforesaid then that the mortgagee will at any time
thereafter at the request and cost of the mortgagor re-assign to him
the said letters patent and the sole and exclusive benefit thereof. And

the mortgagor doth hereby covenant with the mortgagee that if the said sum of £ or any part thereof shall remain unpaid after the said day of 19 , he the mortgagor will pay to the mortgagee so long as the said sum of £ or any part thereof shall remain unpaid interest upon such sum as shall from time to time remain unpaid after the rate of £ per cent. per annum by equal half-yearly payments on the day of and the day of in every year. PROVIDED ALSO that if the mortgagor shall on every day of and day of until the day of 19 , or within days after the said days respectively pay to the mortgagee all interest then due and shall perform and observe all the covenants on his part to be performed or observed then the mortgagee will not before the day of 19 call in the principal sum aforesaid or any part thereof. PROVIDED ALSO that the mortgagor shall not before the day of 19 compel the mortgagee to receive the said principal sum or any part thereof. And that the mortgagor during the continuance of the security will take all steps necessary for the protection of the said letters patent and maintaining the same in full force and effect and for the prevention of any infringement thereof and will pay all fees necessary for the continuance of the said letters patent one calendar month at least before the same shall become due and payable and will whenever required to do so produce to the mortgagee or his agent the receipts for the said fees and in default of the mortgagor taking any such steps as aforesaid or protecting the said letters patent from infringement or making payment of the said fees it shall be lawful for the mortgagee to do or pay the same either in his own name or in the name of the mortgagor as he the mortgagee shall elect and to sue for and recover from the mortgagor any costs, charges or expenses which he may incur in so doing or at his option to allow the same to remain on the security hereof as monies advanced as aforesaid. PROVIDED ALWAYS that until the mortgagee shall become entitled to exercise the power of sale to be implied herein the mortgagor shall be at liberty to use and work the said invention without interruption from the mortgagee and also may (but so that he shall in each case give to the mortgagee days at least notice in writing of his intention so to do and of the particulars thereof) with the consent of the mortgagee in writing but not otherwise grant licences to use and work the said invention as from the dates thereof respectively for the whole or any part of the term comprised in the said letters patent. AND FURTHER the mortgagor shall within fourteen days after the execution of every

Mortgagor to be at liberty to use and work invention,

and grant licences.

Mortgagor to supply copy to mortgagee.

such licence furnish the mortgagee with a copy of the same. PROVIDED ALSO that *from and after* the time when the mortgagee shall first become entitled to exercise the statutory power of sale to be implied herein but subject to any licences which may have been granted as hereinbefore authorised it shall be lawful for him alone to work the said invention and to grant licences in respect thereof or to assign the said letters patent and invention for districts or otherwise to deal with the same in any manner that he shall think fit. And the mortgagor DOTH HEREBY FURTHER COVENANT with the mortgagee that he will communicate to the mortgagee during the continuance of this security all improvements which he may discover or make in connection with the said invention and also all improvements which during the said time he shall have control of or acquire by purchase or otherwise and whether patented or not and such improvements and letters patent if any shall be deemed to be comprised within this security and the mortgagor will execute all documents and do all things necessary to extend the operation of this security to all such improvements or letters patent. AND THAT during the continuance of this security the mortgagor will not without the consent of the mortgagee first had and obtained amend or apply for leave to amend the specifications to the said letters patent or either of them in any way whatsoever. AND LASTLY that it shall be lawful for the mortgagee if the monies secured hereby shall not have been repaid within one year from the expiration of the term of fourteen years for which the said letters patent were originally granted to apply for an extension of such term in his own name or in the name of the mortgagor or of both of them as he shall think fit and the mortgagee shall do all acts and things and execute all documents and prepare all accounts necessary for such application. And it is hereby declared that except where the context requires a different interpretation, each of the expressions "the mortgagor" and "the mortgagee" shall whenever used herein be also applicable as far as possible to the executors, administrators and assigns of the person designated thereby.

In witness, &c.

Proviso for foreclosure.

Communication of improvements.

As to amendments.

As to application for extension.

Transmission clause.

The British Patents to be acquired by the Company have been reported upon by Mr. E. R. Royston Fellow of the Chartered Institute of Patent Agents, and his Report has been submitted, with the Patents to Mr. Thomas Terrell, K.C., who has given the following opinion:—

AUTOMATIC TELEPHONE PATENTS—STROWGER SYSTEM.

I have carefully considered the specifications sent to me for my opinion. They comprise a complete system of Automatic Telephony (A) with three wires, (B) with two wires, and I have selected the following for special examination as being the most important. 18,747 of 1902, 26,801 of 1908, 30,158 of 1909, 1298, 1299, 1418, 1419, 1421, 1422 and 1423 of 1910, 7876, 7877, and 7878, whose dates of application are 1910, but which bear date 1911. I have also read the report of Mr. E. R. Royston on the state of the art, and I have had the benefit of the expert explanations of Mr. Mellinger when I have desired it. The inventions disclosed in the said specifications appear from Mr. Royston's report to be novel. In my opinion there is good subject matter for Letters Patent and the several Letters Patent are valid.

NEW COURT, TEMPLE, 13th November, 1911.

THOS. TERRELL.

REPORT OF THE TRIAL OF THE APPLICATION
TO REVOKE HATSCHEK'S PATENTS

(Reported 1909, 26 R. P. C. 228, and 100 L. T. 809).

IN THE HIGH COURT OF JUSTICE.—CHANCERY
DIVISION.

Before Mr. JUSTICE PARKER.

March 3rd, 4th, and 26th, 1909.

IN THE MATTER OF AN APPLICATION FOR THE REVOCATION OF
HATSCHER'S PATENTS NO. 6455 OF 1900 AND NO. 22,139 OF 1900.
*Patent.—Application for Revocation.—Patented process carried on
exclusively outside the United Kingdom.—Satisfactory reasons not
given.—Patents revoked.—Appeal to Court dismissed.—Patents
and Designs Act, 1907, section 27.—Patents Rules, 1908.*

An application was made under section 27 of the Patents and Designs Act, 1907, by Z., a general merchant carrying on business in London, to revoke two patents granted in 1900 to H., an Austrian, on the ground of non-working in the United Kingdom. The application was opposed by H. and his exclusive licensees under a licence granted in 1906. It was not contested that the patents had not been worked in the United Kingdom, but it was contended that satisfactory reasons had been given for the non-working. It was held by the Comptroller-General, that the patents should be revoked forthwith, and costs were awarded to the applicant.

The patentee and licensees appealed. The principal reasons alleged by the appellants as "satisfactory" were the existence of the exclusive licence granted before the Act, the expenditure before the Act of a large sum on a factory in Belgium, that no one was anxious to manufacture here, and that, apart from the patent, the industry could not be established here.

Held, by PARKER J. (z), that sub-section (1) of section 27 does not include every case in which the patented article or process is manufactured or carried on to a greater extent outside than inside the United Kingdom; if the article or process be manufactured or carried on within the United Kingdom, not only to a substantial extent, but to an extent as substantial as may reasonably be expected having regard to what is done abroad, the state of circumstances contemplated by sub-section (1) does not exist; that the words "patented article" are not confined to articles either made in or imported into this country, nor is the comparison instituted by sub-section (1) between what is done in this country and abroad respectively by the patentee, his licensees and agents, but the comparison is between the extent to which the article or process, the subject of the patent, is manufactured or carried on in this country, and the extent to which it is manufactured or carried on abroad, whether the articles so manufactured or resulting from the process are or are not imported into this country. *Held*, further, that if the state of circumstances contemplated by sub-section (1) has arisen, the

(z) Before judgment was given the appeal in *Bremer's* case had been argued. That appeal was adjourned for further evidence, and is reported

26 R. P. C. 449; the decision of the Comptroller-General is reported earlier in the same vol.

patentee is on his defence, and must either prove that the article or process is manufactured or carried on in the United Kingdom to an adequate extent, or give satisfactory reasons why it is not; that it is left to the Comptroller, subject to an appeal to the Court, to determine in each case and having regard to all the circumstances whether "adequacy" is established or "satisfactory" reasons are shown. The policy of section 27 is directed to secure fair play between foreign industries and the industries of this country, and not to secure to the latter, during the period of the patent, a protection which they would not enjoy if no patent had been granted. *Held*, further, that, except for the year of grace given by the section, it puts all patentees in the same position, whether the patent be granted before or after the Act, but that to a limited extent there may be reasons which would be satisfactory in one case and not in the other. *Held*, also, that under all the circumstances of the case, the revocation of the patent and the refusal to suspend it were justified.

The appeal was dismissed with costs, including the costs of the Attorney-General.

The meanings of the expressions "adequate" and "satisfactory" considered. Observations on the Patent Rules governing the Procedure under section 27.

On the 6th of April, 1900, letters patent (No. 6455 of 1900) were granted to Ludwig Hatschek, of Voeklabruck, Upper Austria, for "a process of manufacture of imitation stone plates, slabs or tiles." On the 5th of December, 1900, letters patent (No. 22,139 of 1900) were granted to the said L. Hatschek for a similar invention.

Both patents were for a process of manufacturing imitation stone plates, slabs, or tiles. The invention claimed in the earlier specification was "a process of manufacture of thin imitation stone plates, slabs, or tiles, the main feature of such process being that a fibrous material, preferably asbestos, is mixed with an adhesive substance such as cement, hydraulic lime or the like in the ordinary mixing apparatus of paper or cardboard works, and that such mixture is then further operated upon by the machines used in the cardboard manufacture, the shape or surface outline of the plates being subsequently varied by means of presses if desired, substantially as set forth."

The later specification described and claimed substantially the same invention but in greater detail. The drawing showed an ordinary form of cylinder paper machine. The claims in this specification were "1. A process for the manufacture of plates and slabs of artificial stone, in which a greatly diluted mixture of hydraulic binding substances and finely divided fibrous materials are fed on an endless cloth or band, in the manner of pasteboard-making machines, to one or more rollers in order to be pressed; such mixture being

delayed in setting if desired, substantially as described. 2. A mode of carrying out the process claimed in Claim 1, in which the mixture is fed to the pressing rollers in very thin layers, in order that the fibres will be placed mostly in the direction of the plane of the slab or plate and to avoid as much as possible placing them vertically thereto, substantially as described. 3. A further mode of carrying out the process claimed in Claim 1, in which the mixture is wound by an endless cloth or band, on to a drum, a number of times, until the desired thickness of material has been obtained, substantially as described. 4. A further mode of carrying out the process claimed in Claim 1, in which the fibrous materials are subjected to a suitable chemical or preliminary treatment, substantially as described. 5. In the process claimed in Claims 1—4, the preliminary treatment of fibrous vegetable materials with silicates, substantially as described. 6. In the process claimed in Claims 1—4, the preliminary treatment of fibrous mineral materials by roughening the surface thereof, substantially as described. 7. A process for the manufacture of plates and slabs of artificial stone from hydraulic binding substances and fibrous materials, substantially as described.”

Applications were made under section 27 of the Patents and Designs Act, 1907, for the revocation of these patents by Charles William Zerenner, of Norfolk House, Laurence Pountney Hill, in the City of London, general merchant, on the ground in each case that the process was carried on exclusively outside the United Kingdom. These applications were opposed by the patentee and the Société Anonyme Eternit, a Belgian company, who were sole licensees of the patents.

At a preliminary hearing on the 6th of October, 1908, application was made on behalf of the respondents for an extension of time in which to file the evidence required by Patent Rule 79, and an extension of fourteen days was granted.

Declarations were filed by Joseph de Meulemeester, director of the Belgian Company, and George Croydon Marks, a member of the firm of Marks and Clerk, patent agents, and also a declaration by the applicant. The application came on for hearing before the Comptroller on the 26th of November, 1908, when G. Croydon Marks, J. de Meulemeester and C. W. Zerenner gave evidence *vivâ voce*, and were cross-examined.

On behalf of the patentee and the licensees it was admitted that the manufacture had not been carried on in the United Kingdom, but it was submitted that satisfactory reasons had been given why it was not so carried on. These reasons are stated below in the arguments on behalf of the appellants.

The Comptroller reserved his decision, which was given on the 9th of December, 1908, revoking the patents and awarding costs to the applicant (ante, pp. 3 et seq.). The evidence was stated in the decision of the Comptroller, as follows:—

“The Société Anonyme Eternit became licensees of both patents under a licence dated the 26th of January, 1906, granted by Mr. Hatschek. The principal evidence on their behalf has been given by Mr. Joseph de Meulemeester, who has made a declaration in the case, and has also attended the hearing and been examined orally. In his declaration he is termed ‘a director,’ and it was explained by his counsel that this term abroad has the same meaning as ‘general manager’ in this country. In paragraph 3 of his declaration he says:—‘Soon after the granting of the above-mentioned licence the company commenced the erection of a factory in Belgium for the manufacture of goods according to the process.’ This statement does not appear to be quite correct. The factory was commenced some time before the grant of the licence, and it appears from the balance sheet of the company that a considerable portion of its cost had been defrayed in the year ending the 31st of July, 1905, whereas the licence was not granted until the 26th of January, 1906. From his evidence given at the hearing it seems that the works were entirely ready for manufacture in the month of April, 1906; that the company commenced to manufacture in that month; but that the first negotiations between Hatschek and the company began before August, 1905. In reply to the question whether the factory was erected in Belgium with a view of supplying the English market, he said that at the outset there was no question of that, but that whilst the works were under construction the English licence was negotiated for, and was then taken into account in the construction. He was unable, however, to say how much more capital was expended on the factory in consequence of the intention to supply the English market than would have been expended if it had not been proposed to supply that market. The witness also admitted that it would be difficult to ascertain to what extent the expenditure on the factory was increased by this consideration; nor could he state whether it would have been necessary to enlarge the works for the purpose of the English sale.

“He further affirms in his declaration that, in consequence of the erection of this factory, the company have always been and are now in a position to meet fully and satisfactorily all demands in the United Kingdom for articles made according to the patented process; that the factory has been sufficient to enable the company to deal with the whole of its trade both in the United Kingdom and in

other countries; and that if the patents were revoked and factories were established in England for carrying on the process, it would not be possible to produce the articles made according to the process as cheaply in such factories in Great Britain as is done now in Germany, France and Belgium, owing to the cost both of labour and materials; and that the goods made in such factories in England could not be supplied to the trade and public at such low figures as are now offered by the company, or as could be offered by the French and German manufacturing companies if they were free to import such goods into the United Kingdom. At the hearing, however, he admitted that the asbestos used by the company was obtained partly from Canada and partly from Russia, and that there would probably be no great difference in the cost of the material in England and Belgium for the qualities of the asbestos that the company used in manufacture; and that he did not know the exact cost of cement in this country, but he was under the impression that there was a difference of about 10 francs a ton. As regards labour, he explained that a very large proportion, about 90 per cent., of the people employed by the company were mere unskilled labourers. No details were given as to their wages, but the general allegation was made that labour was cheaper in Belgium than in Great Britain. The proportion of slabs manufactured at his factory in Belgium which come to the English market may be taken to be about one-sixth of the total amount of the sale everywhere, and about one-half of what is not imported into England is consumed in Belgium. He further alleged that it is necessary to manufacture a certain quantity of the goods to a certain scale in order that the cost of manufacture should not be too high, but that he could only give an approximate estimate of the quantity and scale necessary. In his opinion it would be necessary to manufacture 500,000 square metres annually in order to work on acceptable conditions. In reply to the question what he meant by 'acceptable conditions,' he said, 'in order to have a gross profit of about 25 per cent.,' but that it was rather difficult to explain what net profit would be required.

"The only other witness on behalf of the patentees was Mr. Croydon Marks, who stated in his declaration, that on or about the 13th of July last, his firm received instructions from patent agents in Belgium on behalf of the company to insert advertisements in various British journals, intimating that the owners of the patents were desirous of disposing of the same, or of entering into a working arrangement with firms in Great Britain likely to be interested in the process covered by the patents. His firm was also instructed to communicate with various British firms for the purpose of granting

licences under the patents, or of selling them, the object of these advertisements and offers being to secure, if possible, some proper and sufficient arrangement for the manufacture of the process covered by the patents within the United Kingdom, having regard to the terms of section 27. Copies of the advertisements and replies to the offers are annexed as exhibits to his declaration.

“In his examination he said that he knew of no better firms than those to which he wrote, and that he knew of no journals which would circulate amongst those likely to be interested better than those he had advertised in. In reply to a question by the counsel for the applicant as to whether the firms and people whom he addressed personally were not brickmakers, he stated that one, Messrs. Doulton & Co., were not brickmakers, but tile makers and makers of terra cotta and imitation stone, and that the articles which he had seen manufactured under the patent were imitation tiles of which Doultons were one of the leading makers in the country. In reply to the question whether he thought that the offers were bonâ fide offers, and that the company wished to sell the patents, he answered that they certainly wished to sell them so far as his firm were concerned, and that his firm had no instructions that this was to be an attempt to evade the Act. They were instructed to obtain a licensee if they could.”

“In this connection it is to be observed that Mr. Hatschek could not have granted a licence without contravening the terms of his present licence to the company, inasmuch as he is precluded by it from granting anyone else a licence in regard to this manufacture for Great Britain and Ireland, and that the effect of a sale to any British manufacturer by him and the company of their patent rights outright would have been to close the British market to the Belgian company, a more serious result than the revocation of their patents seems likely to entail on them. Mr. Marks' firm were acting on behalf of the company, and apparently without any instructions from Mr. Hatschek. No offer was received by them in response to these advertisements and communications.”

On behalf of the application to revoke, Mr. Zerenner in his declaration states that the company were founded in the year 1905 for the purpose, as is disclosed in their constitution, of acting as sole licensees under the patents in Belgium, and to exercise certain rights of the patentees in Holland and the Congo Free State; and that they were not formed for the purpose of importing goods into the United Kingdom, or with any intention that goods manufactured by them should be introduced into this country. On examination, I find from article 7 of the constitution that the object of the company was,

firstly, to obtain exclusive licences for producing the slabs for Belgium ; secondly, the exclusive right of applying Mr. Hatschek's trade marks for Holland and the Congo Free State ; and, thirdly, the right of exportation of the products, to what countries is not stated. Mr. Zerenner contends in his declaration that no part of the cost of the factory was incurred for the purpose of anticipating the supply of goods manufactured for the United Kingdom, but that the supply to the United Kingdom depended upon there being a surplus of goods not required in Holland, Belgium, and elsewhere. He also denies that the company have since the grant of the licence been, and are now, in a position to meet fully and satisfactorily all the demands in the United Kingdom for articles made under the patents ; but submits that a consideration of this question is in fact irrelevant to the consideration whether or not there should be a revocation of the patents. He lays stress on the fact that no steps were taken by the patentees before July last with a view of getting the patents worked in the United Kingdom, and urges that the steps taken were not calculated to effect the purpose required by the Act, and that the patentees do not adequately supply the trade in England, but on the contrary, by alleging infringements and threatening harassing litigation, endeavour to keep up artificial prices for such goods as they sell in the United Kingdom, and prevent the real demand for articles of this nature being properly supplied to the British public freely at reasonable prices. He believes that if the patented articles were manufactured in the United Kingdom with the facilities which this country affords for material and labour, the trade and demand could be supplied in a proper manner ; but no steps can be taken to attain this object, while the patents remain in full force and effect, by any persons other than the licensees, who have heretofore neglected to take any such steps."

"In his examination at the hearing, he maintained that it was practicable to manufacture goods under the patents commercially in this country ; that he could find people who would be willing to engage in the manufacture, and had already been in negotiation with some, whose names he would not communicate at the present juncture, unless required to do so ; that he thought that the goods could be manufactured and sold cheaper than they are at present being sold by the company, and he based his assertion on twenty-five years' experience ; that Portland cement was really an English invention and was manufactured on a large scale here, and as far as the other ingredients were concerned, namely, asbestos, he did not think that any Continental nation, either France, Germany, or Belgium, had any advantage over Great Britain. In connection with

this statement I may say that I find from page 344 of Vol. I. of the Annual Statement of the Trade of the United Kingdom with Foreign Countries and British Possessions for the year 1907, that in that year the amount of cement exported from this country for building and engineering purposes was 764,264 tons, and that its value was estimated at 1,267,532*l.*, whilst it also appears from page 142 of the same volume that the amount imported into the country that year was 114,372 tons; of which 103,149 tons came from Belgium; the estimated value of the amount imported from Belgium being 129,139*l.* It also appears from the figures given that the export trade in cement from this country greatly increased and the import trade in cement considerably diminished between 1903 and 1907."

The respondents appealed.

Astbury, K.C. and *Shaw* (instructed by Burn and Berridge) appeared for the appellants; *Montgomery* (instructed by Faithful and Owen) appeared for the applicant; Sir *W. S. Robson*, K.C., A.-G., and *Sargant* (instructed by the solicitor for the Board of Trade) appeared for the Crown.

Astbury, K.C. and *Shaw* for the appellants.—This appeal involves a matter of great importance to patentees, manufacturers and British traders. We submit that the Comptroller has misconstrued section 27 of the Patents and Designs Act, 1907, and misconceived the intention of the Act. On the basis that there is manufacture abroad to a greater extent than in this country, the Comptroller has, irrespective of circumstances, revoked the patent forthwith. This is inconsistent with sections 24 and 27. The patentee had patents abroad as well as here. He granted licences abroad, and among others to a firm at Poissy. Zerenner was acting as the agent of the French licensees here for some time. In 1905 the patentee entered into negotiations with the Société Anonyme Eternit (Belgian Licensees) to license them for England in addition to Belgium. It was at this time that they gave orders for the erection of a factory in Belgium. An exclusive licence was executed in the year 1906. They spent about 36,000*l.* in erecting a factory in 1906 in Belgium to supply not only Belgium but this country. As the licence was exclusive, the patentee could not manufacture. The Comptroller has assumed that the Act puts on a patentee an obligation to manufacture here within twelve months after the Act. There is no obligation under the Act on a patentee to manufacture at all. The patentee here could not manufacture on account of the licence. After the passing of the Act a notice was sent out by the Patent Office to all foreign patentees as to the year of grace. In July, 1908, the licensees instructed Messrs. Marks and Clerk to advertise the patents for sale or for firms willing

to take up the manufacture. No answer was obtained to the advertisements, showing that no British manufacturer wished to take the matter up. There is no evidence that the British market is not properly supplied. It takes only one-sixth of the production of the Belgian factory. The interest of manufacturers and the interest of consumers are kept apart in the Act. Section 27 was passed in the interests of British manufacturers and indirectly in the interests of employees. We submit that section 24 is in the interest of consumers and section 27 in the interest of manufacturers. Section 24 is a narrower section; "any person interested,"—*i.e.*, a consumer—may apply under it. Sub-section 5 defines what the reasonable requirements of the public are. The section deals with the case of a person who wants an article and cannot get it on reasonable terms. The reward of the inventor is not to be at the expense of persons who ought to be allowed to use the invention. Under section 27 "any person" may apply, but he must make out a *prima facie* case of exclusive or substantive manufacture abroad. Assuming that he has established that the article is made exclusively abroad, then the patentee may prove "adequate extent" or "satisfactory reasons." It may be better not to work here, or it may be impossible to do so, as for instance in the case of a patent for cyanide reduction of gold. It is a satisfactory reason that before the Act the patentee has granted an exclusive licence. [PARKER, J. referred to the definition of "patentee" in section 93.] "Patentee" must include the patentee. [PARKER, J.—If it also includes an exclusive licence, can it be a satisfactory reason that one of them is excluded by contract from manufacturing here?] A retrospective Act does not disturb vested rights without express provisions, *Hough v. Windus*, L. R. 12 Q. B. D., 224, at pp. 234 and 237; *In re Athlumney, ex parte Wilson*, L. R. (1898), 2 Q. B. 547, at p. 551. [PARKER J.—This Act does interfere with certain vested interests.] The Act does not interfere with existing licences. The want of any answer to the advertisements shows that no manufacturer would take up the manufacture here; that is a "satisfactory reason." If the patent is revoked, there is an end of the chance of manufacture here, because the foreign supply is sufficient for the demand here. The policy of the Act is to encourage foreigners to patent their inventions here. "Adequate extent" means adequate for the purpose or object of the section. *Heydon's case* (a) shows that you have to inquire, first, what was law before the Act, what was the mischief, what is the remedy provided and the reason of the remedy? In the "Solio" case (b) (L. R. (1898), A. C. 571) the report of the Commission of 1887, appointed

(a) 3 Rep. 18.

(b) *Eastman's Photographic Ma-**terials Co.'s Application*, 15 R. P. C. 476.

to consider proposed alterations of the trade marks law, was referred to. There is no document of the kind here. It is common knowledge that the object was to encourage manufacture here. The Comptroller has in his decisions referred to decisions of the German Courts. But the German law is different. It puts upon a patentee a direct obligation to manufacture within three years. There is no obligation under the Act to work at all; if there is no manufacture at all anywhere, section 24 does not apply. [PARKER, J. referred to the words in section 6 of the Statute of Monopolies, "so as also they be not contrary to the law nor mischievous to the State." There are two ways they may be mischievous—there is the consumer's point of view and the manufacturer's point of view. You argue that section 27 was to prevent patents being used to the prejudice of trade?] Yes. Inventors must be encouraged. Per contra you do not want to pay too high a price. The State does not wish to give the inventor too high a price, but wishes to give him enough to recompense him fairly for his invention. Section 24 is a redraft of a section in the Act of 1902. Then in 1907 the Legislature wanted to protect the manufacture also, and section 27 was inserted. If a patentee is unable, owing to climate, raw material, or matters affecting the industrial population, to produce an article here at the same price as abroad, this is a satisfactory reason under section 27. As a rule we make things cheaper here, but there are certain things we cannot make cheaper here. [PARKER, J.—I have here only to decide if there are satisfactory reasons. Would you tell me shortly what they are?] They are—(1) the exclusive licence granted for value before the Act; 2) having regard to the evidence, the only possible mode of fostering an industry is to maintain the patent; revocation would destroy its chance; (3) the licensees in 1906 spent 36,000*l.* in erecting factories in Belgium to supply the markets, including the British market they cannot be expected to build another factory at once; (4) the Belgian factory satisfies section 24, and that has operated to prevent persons here wishing to manufacture in competition; the licence allows manufacture here by the licensees or under licence from them (5) the evidence proved that no one is either anxious or willing to manufacture here; (6) the retrospective effect of the Act requires strictness of construction. Licences granted before the Act are not affected by section 27. We submit that the decision of the Comptroller ought to be reversed or a considerable time given to allow the patentees and licensees in conjunction to take steps to start an industry here. [The decision of the Comptroller was read and later decisions in *Johnson's Patent*, Vol. XXVI., p. 52; *Bremer's Patent* p. 114; and *Hogner's Patent*, p. 149; were referred to.] All the cases

were decided substantially on the same ground, namely, that there is a direct obligation on the patentee to manufacture, and to at least 51 per cent. [PARKER, J.—Suppose that the patentee gives whole-world licences to persons in several countries, including England, but the manufacturer here is undersold, so that the trade is nipped, is that a satisfactory reason? I am putting a case where the trade is as far as possible free.] Supposing that the licences were all granted before the Act, the beneficial result which the section was intended to bring about is impossible, so that the reasons are satisfactory. [PARKER, J.—Supposing that the matters are subsequent to the Act?] Then the patentee has done something after the Act. [PARKER, J.—Is the patentee bound to use his patent protectively, or is the object only to remove improper fetters on trade? Suppose a patentee gives free licences to anyone?] The section is aimed at the improper use of patents to stifle an industry—thus transferring it abroad. It is not intended that the section should be protective in the sense that he should only use the patent for British manufacture. [PARKER, J.—If a patentee grants general licences in various countries he has parted pro tanto with the monopoly and the result may be that the article cannot be produced in this country. Is he at liberty to do that?] A patentee who grants licences in this country after the Act can protect himself by stipulating that the main manufacture should take place in this country. He might have a difficulty in saying that there are satisfactory reasons. But the position is very different if the licences are granted before the Act. After the Act a patentee ought not to do any act of commission where by the manufacture cannot be carried on in this country. But mere inactivity is not sufficient. The general object is to foster industries in this country. [PARKER, J.—By means of the monopoly? If that is so, it may not be sufficient for a patentee to say that he has granted no foreigner more than he has granted in this country.] As to the Statute of Monopolies, we refer to Frost, Vol. I., p. 23. We ask for the reversal of the decision, or if there are no satisfactory reasons, that further time should be given to us to manufacture here. [The evidence was then read.]

Montgomery for the respondent—[PARKER, J.—In this case it is perhaps not necessary to decide what “adequate” means, although the word may have some bearing on what is a satisfactory reason.] When the primary condition is satisfied the onus is thrown on the patentee. As to the reasons alleged—(1) The licence contemplated the establishment of factories in this country and there was nothing to prevent the licensees, the real beneficial owners, from doing so. (2) There is no evidence that the only mode of fostering the industry is

to maintain the patent. Then it is said that there is not a demand in this country sufficient to make manufacture successful. But the trade has not been pushed as it would be if the manufacture were here. This is a building material for which there should be a good demand. (3) It is a mere suggestion that the licensees cannot afford to build a factory in this country. They did not ask for time before the Comptroller. (4) There is no valid ground for the distinction made between sections 24 and 27. There is no hard-and-fast line. "Adequate" is not necessarily to satisfy the demands only in this country. [PARKER, J.—Does it mean adequate to satisfy the demands in this country or adequate for trade purposes, or does it mean a fair proportion of the total manufacture having regard to all the circumstances?] It means, I should say, a fair proportion of the whole manufacture having regard to all the circumstances. The section intends that the trade should be fairly treated in this country. [PARKER, J.—Suppose you find that before the Act the patentee contracted not to exercise his rights in this country?] That could not be a satisfactory reason—"satisfactory" means from a public point of view. For "adequate" you must compare it with what would be under free trade conditions. [PARKER, J.—Then you would assent that the mere fact that under free trade conditions the patentee has not exercised his patent rights in this country is not enough to revoke the patent?] I agree that may be so. Under a monopoly the test which exists in free trade is not available, and a patentee may have a whim to manufacture in a particular country. [PARKER, J.—One might say it is a satisfactory reason if the absence of trade is accounted for in a rational way without calling in anything the patentee has done as a monopolist? You say that here the patentee has not proved that the absence of trade in this country is not due to his having granted an exclusive licence for this country?] Yes, he has shown no other causes. Section 27 aims at the restoration of free trade conditions if no satisfactory reasons are given. (5) There is no evidence as to this, even if it is material. As to (6)—[PARKER, J.—I do not think that there is much in that—the patent was granted on the terms that if in the opinion of the Privy Council it is contrary to the public advantage it may be revoked. Section 27 is intended to carry out the intention of the Statute of Monopolies.] Here the Act is clearly retrospective. A year is given to comply with it. As to time—[PARKER, J.—The object is to give the patentee an opportunity of coming forward notwithstanding that the time has expired.] Here only trivial steps were taken and not until within one month before the year of grace expired.

Sargant for the Crown.—The Attorney-General appears under

section 27 (4), and desires to support the decision. The Court has to fill in the details of a legislation which only sketches out the broad outlines. The Attorney-General desires that vested interests should not be interfered with, except so far as the Act compels that to be done. [PARKER, J.—Under the form in which a patent was granted up to the date of the last Act, a patent has always been revocable if proved to be generally inconvenient.] But a fresh condition, if there was not a clear expression of the law before, has been introduced, with regard both to future patents and to existing patents. A question has been raised whether the section is to protect free trade or is protective of British manufacturers. The Attorney-General will not contend that the sub-section should be construed as giving a protection to an industry by virtue of a monopoly, which otherwise does not exist. If a trade would not otherwise flourish in this country, it is submitted that the section does not throw on the patentee the onus of making it flourish in the United Kingdom. The Act goes as far as this, to prevent the foreign manufacturer using his monopoly to put the British manufacturer at a disadvantage. Taking the case put of free licences all round to manufacture and sell here, in that case I do not see that the patentee's rights are necessarily gone. But there might be free licences given in this market, and an exclusive licence, say in Belgium, so that there was free competition here, but the foreign licensee having an advantage by his exclusive licence; that may have to be considered hereafter. It occurs to a degree here, because persons who might have wished to manufacture would have to compete with the Belgian licensees. [PARKER, J.—You say the patentee must show on the question of satisfactory reasons, that he has not hampered the British trade, and need not show that he has actually fostered it.] No; for instance, by a lower royalty. It is said that there is no obligation on the patentee to work, but it does not matter whether there is an obligation to work or not. Here there is a fresh condition imposed. In a lease a proviso for re-entry is just as effective although there may be no positive personal covenant to do the act in question. The condition must be fulfilled as strictly as if a personal obligation were added. As to what are satisfactory reasons, these may be divided into two classes—(1) permanent; (2) temporary. An illustration of a permanent reason is climatic conditions not allowing profitable manufacture. A temporary reason might be financial depression, or small means, or the necessity for interesting wealthy manufacturers which required time. In such cases the result might be that the Comptroller would in his discretion give further time. It is on the patentee to establish either permanent or temporary satisfactory

reasons. A patentee may give an advantage to foreign manufacture by active personal interest abroad (without, for instance, imposing a larger royalty in this country), and by taking no active steps in this country. In this state of things, could it be said that he had given satisfactory reasons by simply offering to manufacturers at large the opportunity of making here? In this respect the patentee is somewhat in the same position as if he came for an extension. In that case he has to show that he has taken all reasonable steps, having regard to the circumstances, to establish the manufacture here. He ought in the absence of conditions such as climate or something of the same kind to show that he has made definite active efforts here. In this case the patentee interested himself actively abroad and only issued general advertisements, &c., at a late date. [PARKER, J.—Suppose a patentee after the Act licences abroad with a stipulation that he will not licence here, so that the non-working in England is due to his own action; that would not be a satisfactory reason. Would it, if done before the Act?] I think not, but the whole circumstances might have to be considered. But more consideration may have to be applied where the dealings are before the Act. In this case the licensee is really the patentee. The licence provided for this country. In the case put it would be at least incumbent on patentee and licensee to show that they had tried to come to terms together to work as if their interests had not been divergent. If by complicated dealings it has become impossible to arrange, there may be a reason. The patentee and licensee together must for the purpose of this section be regarded as the patentee, and generally they ought to do what a patentee ought to do. Here there has been no serious attempt to work comparable with what has been done in Belgium. There was no effective intention of working shown, and no application to the Comptroller for time. [PARKER, J.—When the state of affairs contemplated by sub-section (1) is shown, the patentee is put on his defence, and satisfactory must mean—independently of what he has done or left undone in the exercise of his patent rights.] Yes.

Shaw in reply.—I cannot agree that it is not necessary to consider the meaning of “adequate.” “Adequate” sets the standard. It is deliberately chosen, being different from “exclusively” or “mainly.” It may mean much less than 51 per cent. The section must mean adequate for the legitimate protection of the manufacturer or trader. Here no manufacturer or trader wishes to make. [PARKER, J.—The moment you get the conditions of sub-section (1) you put the patentee on his defence. The patentee may say that although the manufacture is mainly abroad, the manufacture here is as much as one may reasonably expect.] If it is as much as you may reasonably

expect under all the circumstances, you do not want any reason. If on the facts no manufacturer would embark on the manufacture here, unless under the protection of a patent, that is enough. This is not a working section, it does not apply where the patent is worked nowhere. [PARKER, J.—If there is only a patent in this country, manufacturers can work abroad at once, and directly they do so the patentee might come within the section.] There may be a question there whether that is manufacture of the patented article; a difficulty may arise on that. The section gives a discretion. It is “may” and not “shall.” So that the special circumstances may always be considered, although the patentee does not get within any rule. [PARKER, J.—If “satisfactory” involves that the patentee has succeeded in his defence, then the patent would not be revoked, but if his reasons are unsatisfactory he is in default, and what else is there to take into consideration?] It is difficult to put a concrete case. [PARKER, J.—Suppose it was said that the time had not been long enough, that would be a case for delay. Here the reason alleged is one which you cannot remedy.] A code may grow up as to what is a satisfactory reason, and a patentee might not come within it. It might be a patentee’s own stupidity, although there was a legal default; then “may” would allow the Comptroller not to do a hardship. I am relieved from the protectionist argument, that is conceded on behalf of the Attorney-General. As to the licence having been granted before the Act, the position is quite different from the case of a licence granted after the Act. The question of the position of a patentee who manufactures exclusively abroad was fought out in *Badische Anilin v. Thomson* (21 R. P. C. 473). [The arguments and judgment were referred to.] [PARKER, J.—After referring to the three considerations put forward as to the grant of letters patent—The modern one is the disclosure. In modern times no jurisdiction by the Privy Council had been exercised. In the time of the Stuarts they did not exercise it and fixed “tolls” or royalties. If the old form of grant and jurisdiction existed now, it may be, that although the objection would not have been good at common law, it might be sufficient to induce the Privy Council to declare the patent void. The jurisdiction of the Privy Council has fallen into disuetude and the inconvenience had been felt and this section had been enacted to meet and remedy that state of things.] The case cited is a declaration of the law in 1904. In 1906 this patentee acts on this state of the law and grants a licence; it does not affect this question that the licence covers manufacture in this country. It is in the power of the licensees to manufacture. I propose to show that there is good reason why they do not. The

facts show that manufacture cannot be satisfactorily established in this country. The public as consumers are not in fact prejudiced. Section 24 deals with the care of the consumer's interest. Even if there were compulsory working, there would be satisfactory reasons for not revoking the patent. It is now the ninth year of the patent. As to time, the licensees do not wish to erect a factory in England, but they are attempting to come to working arrangements.

Judgment was reserved and was delivered on the 26th of March.

PARKER, J.—Before dealing with the facts of this case, I propose to make certain general observations on the construction to be placed upon section 27 of the Patents and Designs Act, 1907. I think this course will be convenient, not only for the purpose of the proceedings now pending before the Comptroller, but for the enlightenment of patentees whose patents may hereafter be attacked under the provisions of this section, and who at the present moment labour under the disadvantage of not knowing certainly the circumstances in which such an attack is possible or the nature of the evidence to be adduced to meet it. Some of the points on which I shall touch were not raised in this case, but they have been argued fully in another case (c) which I have had before me, and which I have adjourned for further evidence, and I have devoted a considerable time to the study of the section, being fully aware of its importance both to the patentees and to the public. Whatever difficulty there may be in ascertaining the precise meaning of some of the expressions in section 27, it is at least clear that a patentee, since that section became law, cannot be certain of retaining his patent rights after the period mentioned in the section, unless his patented process is being worked or his patented article is being manufactured within the United Kingdom to an extent which the section describes as adequate, or unless he can give satisfactory reasons why this is not the case. The mischiefs which section 27 and section 24 of the Act were intended to meet are well known. It was felt to be intolerable that letters patent for inventions which create monopolies, and are therefore in themselves contrary to the spirit of the common law as being restraints on trade, and which were only excepted from the operation of the Statute of Monopolies for the encouragement of trade and inventions useful in trade, and in consideration of the disclosure of such inventions to the public, should be used (as they had in fact been used) to prevent the development of new industries or to fetter existing industries in this country. Sections 24 and 27 of the Act are intended to prevent this being any longer possible. Section 24

(c) See note on p. 684.

deals primarily with cases where the trade of this country has been injured by an abuse of the monopoly conferred by the patent, irrespective of anything which is being done abroad. Section 27 deals primarily with cases where the object or effect of the use of such rights in the way they have been used has been to favour the development of industries abroad at the expense of industries in the United Kingdom. The sections may sometimes overlap, but this is the broad dividing line between them.

The scheme of section 27, considered as a whole, is quite simple, but for all its simplicity it is exceedingly drastic. Anyone, whether having any real interest in the development of British industries or not, whether a foreigner or a British subject, and whatever be his motive, can, by satisfying the Comptroller of the existence of the state of circumstances contemplated in sub-section (1), impose on a patentee the onus of justifying the use he has made of his monopoly: the onus of proving, in order to save his patent from revocation, that his patented process is carried on, or his patented article manufactured to an adequate extent within the United Kingdom, or of giving a satisfactory reason why it is not so carried on or manufactured. The keynote of the section is, in my opinion, forfeiture for abuse of the monopoly at the instance of even a common informer, the abuse being in certain circumstances presumed unless disproved.

The first question is this, What is the state of circumstances the existence of which imposes this serious liability on a patentee? In the words of sub-section (1) it is whenever "the patented article or process is manufactured or carried on exclusively or mainly outside the United Kingdom." There is no difficulty in the use of the word "exclusively," but the use of the word "mainly" gives rise to the difficulty. The sub-section may, and it was argued that it did, include every case in which the patented article or process is manufactured or carried on to a greater extent outside than inside the United Kingdom. If it is the true meaning, then in every case in which more than 50 per cent. of the patented articles manufactured anywhere are manufactured abroad, the patentee can be called upon to justify the use he has made of his monopoly and to defend his patent rights. I cannot think that this is the true meaning of the sub-section. However great may be one's belief in the industrial supremacy of the inhabitants of these islands, it would at least be somewhat arrogant to assert that wherever the manufacture of a patented article in the United Kingdom is less than one-half of the total manufacture of the whole world, there arises a presumption that British trade has not had fair play—a presumption that the

patentee has been abusing his monopoly. If the patented article be manufactured in the United Kingdom to as great an extent as can reasonably be expected having regard to the industrial development of other countries, I do not think any presumption against the patentee can fairly arise, nor do I think that the Legislature intended it should arise. The word "mainly" is used in the sub-section in close connection with and as an alternative to the word "exclusively," and having regard to this fact, I do not think that a process or article can be said to be mainly carried on or manufactured abroad, merely because it is carried on or manufactured abroad to a somewhat greater extent than within the United Kingdom. For example, if the total manufacture in the United Kingdom were 1,200 and the total manufacture elsewhere 1,250, giving a total of 2,450 in all, I do not think it could be said that the manufacture was mainly abroad within the meaning of the section; to come within the sub-section the disparity must, in my opinion, be greater than a mere small percentage, and indeed if the article be manufactured or the process be carried on within the United Kingdom, not only to a substantial extent, but to an extent as substantial as may reasonably be expected, having regard to what is done abroad, I do not think the state of circumstances is that contemplated by sub-section 1.

It was further agreed before me that sub-section (1) institutes a comparison, not between the extent to which an article or process, the subject of a British patent, is manufactured or carried on in this country and the extent to which it is so manufactured or carried on abroad, but between the number of patented articles made abroad, either in accordance with the specification, or by means of the process described in the specification and imported into this country, and the number of such articles so made in this country. This argument was based on the use of the word "patented," it being contended that the use of this word showed that the legislature was only referring to what was done within the area of the monopoly created by the patent, and that the manufacture of the articles or the carrying on of the processes abroad did not come within the area of the monopoly unless and until the goods manufactured, or the goods resulting from the process, were imported into this country. I cannot conceive that if the legislature had meant this it would not have said it in plainer words. In my opinion, therefore, the sub-section institutes a comparison between the extent to which the article or process, the subject of the patent, is manufactured or carried on in this country, and the extent to which it is manufactured or carried on abroad, whether the articles so manufactured or resulting from the process so carried on abroad are or are not

imported into this country. I have come to this conclusion more easily because the real strength of the argument to the contrary consisted in considering how far-reaching would be the effect of the section if I gave the words in the section their *prima facie* meaning, and at the same time held that whenever the article or process was manufactured or carried on to a greater extent abroad than in the United Kingdom, the case was within sub-section (1). As I have already held that this is not so, there is nothing to justify me in departing from the plain words.

It has also been suggested that the sub-section only institutes a comparison between what is being done abroad and at home respectively by the patentee, his licensees and agents, and that what is done otherwise may be left out of account. I cannot think that is the true meaning of the section. Suppose the patentee had no foreign patents, and yet for some reason of his own chose to prevent the industry arising here, while industries in the patented article or process were being developed abroad, I think the section would apply. It seems to me that the section is meant to hit any abuse of the monopoly, the object or result of which was to benefit foreigners at the expense of the traders within the United Kingdom.

I will pass now to the other sub-section, assuming that the applicant has satisfied the Comptroller that the state of circumstances contemplated by the first sub-section has arisen. The patentee is then clearly on his defence and must either prove that the article or process is manufactured or carried on in the United Kingdom to an adequate extent, or give satisfactory reasons why it is not so manufactured or carried on. The difficulty in construing these provisions arises from the use of the somewhat elastic expressions "adequate" and "satisfactory," the meaning of which depend largely on the point of view from which the facts which may be proved are considered. In my opinion the legislature has used these somewhat vague expressions advisedly, it being left to the Comptroller, subject to an appeal to the Court, to determine in each case, and having regard to all the circumstances, whether the extent to which the article or process is manufactured or carried on, is adequate, and if not, whether the reasons put forward are satisfactory. I shall not, therefore, attempt to define the meaning of these expressions, but in considering any case which may arise, there are, in my opinion, one or two general observations which ought to be borne in mind. First, as I have already said, the patentee is on his defence, and this being so, I do not think the extent to which the article is manufactured, or the process carried on, can be considered adequate if it be less than it would have been, but for the fact that the patentee has

exercised the rights conferred by his patent to the hurt of British industry—for example, the fact that he has given foreign traders a preference over British traders. Similarly, I do not think that any reasons can be satisfactory which do not account for the inadequacy of the extent to which the patented article is manufactured or the patented process is carried on in this country by causes operating irrespective of any abuse of the monopoly granted by the patent. The first thing, therefore, for the patentee to do is, by full disclosure of the manner in which he has exercised his patent rights, to free himself from all suspicion of having done anything to hamper the industry of the United Kingdom. When once he has satisfied the Comptroller of this, he will have gone a long way towards proving what he has to prove, and even if he cannot prove adequacy, he ought to be able to show satisfactory reasons for inadequacy. This construction of the Act is in accordance with Article II. of the 1902 Convention, which provides that no patent is to be revoked in any country, which is a party to the Convention, until three years at least from the date of application for the patent, and then only if the patentee cannot show reasonable cause for his inaction. It is therefore the conduct of the patentee which is in question. Has he done anything which he ought not to have done, or omitted to do anything which he ought to have done, having regard to his obligations towards the traders of this country? In considering the conduct of a patentee, various questions may arise as to whether he has or has not exercised his rights fairly and properly, having regard to the interests of the trade of the United Kingdom, and for the most part these questions must be decided with reference to all the circumstances of the particular case, including, I think, the nature of the patented invention. But a patentee certainly ought not to give foreigners any preferential terms in the grant of licences or otherwise, nor ought he to utilise the period prescribed by sub-section (1) in developing foreign industries as opposed to the industries of the United Kingdom, and at the end of the period seek to defend his conduct by offering to grant licences in this country on the same terms as he has granted them abroad. If he exercises his rights in such a way as to give other countries four years start of this country in developing a new industry, he is not, in my opinion, exercising his rights fairly as regards the trade of this country. He must at least take the same pains to develop the new industry here as he does abroad.

The question was much discussed as to whether anything more could be required of a patentee than to deal with this and other countries on the same terms and in the same manner, or whether the

patentee is bound to exclude foreign goods altogether for the benefit of the trade of this country. It was argued that the mere fact that a patentee has allowed goods made abroad, whether under the patent or resulting from the patented process, to be imported into this country, and to compete in this country with goods made here, is an improper use of his patent rights. In other words, it was argued that the policy of section 27 is not only to secure fair play for the traders of the United Kingdom, but to give such traders a preference over foreign traders and prevent the latter from entering into competition with the former on equal terms so far as the patentee can, by an exercise of his monopoly, secure inequality. This argument in effect asserts that the policy of the Act is a protective and not a free-trade policy. Whatever be one's own personal views as to the advantage or disadvantage of a protective policy compared with a free-trade policy, I am not prepared to hold that a patentee who has allowed part of the demand in this country to be supplied by the importation of goods from abroad, has necessarily precluded himself from proving that the manufacture of the patented article, or the use of the patented process, in this country, is adequate within the meaning of the 27th section, or from giving satisfactory reasons why it is not adequate. If this had been the meaning of the legislature, I think that on so important a matter of principle, clearer words would have been used. The policy of the section appears to me to be directed to securing fair play between foreign industries and the industries of this country, and not to secure for the latter during the period of the patent a protection which they would not enjoy if no patent had been granted, and which the Legislature can always secure for them, either temporarily or permanently, if and when it considers fit.

It follows from what I have said above that "adequate" cannot mean simply adequate to supply the demand in this country, or be considered only with reference to the demand in this country for the patented article or the article produced by the patented process. The demand in this country may in some cases not only be a demand for the patented article but a demand for the patented article as made by a particular firm or as made abroad. If, for example, the patent be for a new article, and such article be manufactured both here and abroad, and part of the demand here be for the article made abroad, because it is got up more to the taste of a section of the public, I do not think that the manufacture here could on that account alone be said to be inadequate. To so hold would, in effect, be to force a patentee to use his patent rights to exclude altogether the import of foreign goods. I agree that the demand and supply in this country

are to be considered, though they are not the only facts to be considered upon the question of adequacy. If there was insufficient manufacture here to meet the demand for the home-made article, it might well be that the manufacture might be held to be inadequate, but, even if there were no demand here at all, the manufacture might be inadequate because the rights of the patentee might have been so exercised as to preclude the growth of a demand by the imposition of unreasonable prices or unreasonable terms for licences, or simply because the patentee had wholly neglected this country in his efforts to develop a foreign trade. Every case must be considered on its own merits and with reference to its own attendant circumstances.

It was suggested that if a patentee could prove that an industry in a patented article or founded on a patented process could not be carried on in this country or as profitably as it could be carried on abroad owing to difference in the cost of material or labour, or other local conditions, he would have given a satisfactory reason within the meaning of the section. I do not think this suggestion is entirely correct. Certainly the fact that persons who were carrying on the industry in this country would make smaller profits than persons carrying it on abroad would, in my opinion, be no satisfactory reason at all. I can conceive cases in which a patentee having obtained a patent may find it impossible to work it in the United Kingdom because of the nature of the invention, or because of local conditions which prevail here, but not in other countries, although these cases must, I think, be rare, and may be exceedingly difficult to prove. The extra cost of labour or material may well be counterbalanced by superior skill or in other ways. But it can never, in my opinion, be sufficient for a patentee, defending himself under the section, to prove that he cannot now start an industry with any chance of profit. The question really is: could he have done so if he had used his monopoly fairly as between home and foreign trade, or if he had devoted the time and money which he has expended in developing a foreign industry to developing a home industry? It may well be that having developed the industry abroad and given foreigners several years' start, he may find it difficult, if not impossible, to develop an industry on the same lines here, and yet such an industry might well have arisen but for the preference he has given to foreign countries. It was also suggested that the section only contemplates revocation, if revocation would lead to the establishment of a new industry or the further development of an existing industry in this country, so that if the patentee had by an abuse of monopoly succeeded in precluding the possibility of such establishment or development, his patent ought not to be revoked. I dissent entirely from

this suggestion. I see no reason why the section should not have been intended to penalise a patentee who has abused his monopoly and by a revocation of the patent this country becomes at any rate free from restraint on its trade which is opposed to the spirit of its common law. I desire next to say a word or two upon the arguments addressed to me in support of the proposition that patentees who obtained their patents before the Act of 1897 are in a better position than patentees who obtain their patents after the passing of that Act. These arguments were all founded on this suggestion, that patentees who obtained their patents before the Act had vested interests, and that in default of a provision for compensation I ought to construe the Act, as far as I reasonably can, so as to preserve these interests. Let us see whether there is really any substance in these arguments. The only express provision in favour of patentees who obtained their patents before the Act consists in the one-year limit, a sort of period of grace in which the patentee may, if he desires to save his patent, take means to secure that his patented article is manufactured or his patented process carried on in this country. In all other respects the Act puts all patentees in the same position whether they obtained their patent before or after the Act. It is, in my opinion, impossible to construe the provisions of the statute in one way as to patents acquired before the Act, and in another way as to patents acquired after the Act. All patentees are subjected to the same liabilities. The only possible distinction between patentees who obtained their patents before and patentees who obtained their patents after the Act is that the Comptroller or Court might possibly accept as satisfactory, in the case of the former, reasons for not manufacturing this article or carrying on the process in this country which would be regarded as unsatisfactory in the case of the latter. I am of opinion that to a limited extent there may be reasons satisfactory in the one case which would not be satisfactory in the other, but I totally dissent from the contention that, if a patentee has before the Act precluded himself by contract from working his patent in this country, the existence of such a contract is a satisfactory reason within the meaning of the section for not working here. As I have said before, no such reason can be satisfactory which does not operate independently of any misuse which the patentee has made of his property. There is an historical reason for making no distinction in this respect in favour of existing patents. The mischiefs aimed at by the section arose to a great extent, at any rate, from the patentee exercising his exclusive right of sale without exercising his exclusive right of manufacture, contenting himself with preventing manufacture by others in this country and importing

articles manufactured abroad. The Statute of Monopolies reserves only the right of the Crown to grant for fourteen years the sole right of working or making the invention, and says nothing about the sole right of sale. The Crown has, however, always granted by virtue of this reservation the sole right of sale as well as the sole right of working and making. This has been held to be justified on the ground that the sole right of sale is an ancillary right to the sole right of the manufacture, and it might possibly at one time have been open to the Courts to refuse to protect the sole right of sale unless exercised as an aid to the sole right of manufacture in this country. The form of letters patent granted by the Crown has, however, invariably so far as I can discover, contained a clause providing that if at any time during the term of the patent it should be made to appear to the King or any six or more members of his Privy Council, that the grant was prejudicial or inconvenient to the King's subjects, the letters patent should be void. There is an instance of this clause in a patent granted in 1618, several years before the Statute of Monopolies, and cited in the case of the *Attorney-General v. Simpson* (1901, 2 Chancery, at pages 675 and 676), and it appears from that case that the Privy Council entertained jurisdiction under the clause to regulate charges made by the patentee. (See the same case in the House of Lords, 1904 Appeal Cases, at page 483.) In my opinion, letters patent have always been voidable under this clause if worked by the patentee to the prejudice or inconvenience of the King's subjects in general, and but for the fact that the jurisdiction of the Privy Council under this clause has fallen into disuse, a patentee by abusing his monopoly would always have incurred the risk of losing his patent rights. This, I think, affords a good reason for the fact that modern legislation, designed to prevent the abuse of patent rights, has never drawn any distinction between existing patents and patents to be granted in future. This was the case with regard to the compulsory licence clause of the Act of 1902, which enabled the Privy Council to revoke a patent in every case in which the patent was worked or the patented article manufactured exclusively or mainly outside the United Kingdom, unless the patentee could show that the reasonable requirements of the public had been satisfied and which provided that such reasonable requirements should not be deemed to have been satisfied if, by reason of the default of the patentee to work his patent, or manufacture his patented article in the United Kingdom to an adequate extent, or to grant licences on reasonable terms, any existing industry or the establishment of any new industry was unfairly prejudiced or the demand for the patented article was not unreasonably met. These

provisions are nearly, if not quite, as drastic as the provisions of section 27 of the Act of 1907, by which they have been superseded, and were expressly made applicable to existing patents. Unfortunately, they were never put into operation, possibly because the procedure by way of petition to the Privy Council was too cumbrous a remedy. If they had been, I doubt whether the necessity for section 27 of the present Act would have arisen. It would, in my opinion, clearly be wrong to treat a patentee as in a better position under section 27 of the present Act than he would have been upon petition to the Privy Council under the Act of 1902, and upon such a petition his patent would have been revocable if by reason of his default in working his patent in this country or granting licences on reasonable terms no industry in the patented article or founded on the patented process had arisen in this country, or such an industry had been unfairly hampered.

Lastly, I desire to make one or two observations on the patent rules which govern the procedure before the Comptroller under section 27 of the Act. As those rules at present stand, the applicant applies for revocation, merely stating in the application that the patented article is manufactured or the patented process is worked exclusively or mainly abroad, and he need give no evidence in support of his statement; though the onus of satisfying the Comptroller of the truth of these statements rests in the first instance, in my opinion, at any rate, on him. The application is served on the patentee, who has thereupon within 14 days to declare on oath whether the statement is or is not correct; and if he says the statement is incorrect, he must further declare on oath to what extent and in what place the patented article or process is manufactured or carried on within the United Kingdom; and, if such extent is inadequate, the reasons for the inadequacy. The applicant has a certain time to file, but need not file, statutory declarations in answer; and then the matter comes before the Comptroller, there being possibly up to this point no evidence that the case is within the section at all, for neither party is bound to give evidence of any manufacture abroad. The question whether the patent is or is not to be revoked is disposed of at the same hearing, and I am told that the patentee has to open his case and give his evidence before the applicant gives any evidence at all. This procedure clearly, and in my opinion, wrongly, puts the patentee on his defence before the Comptroller has been satisfied by the applicant that the state of affairs contemplated by sub-section (1) has arisen; and such a procedure, besides being, in my opinion, most unfair to the patentee, is obviously open to very serious abuse. Even if

the patented article or process is not manufactured or carried on abroad at all, yet, if anyone makes an application under this section, the unfortunate patentee has to disclose, perhaps to some competitor or intending competitor, particulars of his business which he may not desire to disclose, and to give evidence in defence of his conduct before any case raising a presumption against him has been made out. If, for example, the patent belongs to a firm like Messrs. Armstrong & Co., and is for some improvement in some small part of the mechanism of, say, a machine gun, any one desiring to find out how many of such machine guns were manufactured in this country might make the necessary application for revocation; and, without tendering any evidence that the case was within the section, force the patentee to disclose on oath the extent to which the article protected by the patent was manufactured in this country. Having obtained that information, he might elect to withdraw the application. Inasmuch as an application under the section can be made by any one, whatever may be his motive, and the section in effect penalises patentees who have abused their monopoly, it is, in my opinion, all the more necessary, in order to prevent the section being improperly used, to insist that every applicant shall give at any rate *prima facie* evidence of the existence of the state of affairs contemplated by sub-section (1), before the patentee is put to the trouble and expense of finding out and proving the extent to which the patented process or article is manufactured or carried on in this country or abroad, and of explaining and justifying everything he has done since the grant of his patent. It must be remembered that not only can any person apply under the section, but he can apply from time to time as he pleases. Failure on one application would be no bar to another application a year later, and although the section was no doubt passed in the interests of the public, still, if it be worth while retaining any patent system at all in this country, it ought, I think, to be construed to give reasonable protection to patentees; and for this purpose the applicant, who may be a mere common informer, ought to be required to prove, what even a common informer has to prove, namely, some case requiring an answer. In my opinion the proper course for the Comptroller to pursue when he receives an application under section 27 is, to inquire whether the patentee admits that the state of affairs contemplated by sub-section (1) has arisen. If this is not admitted, he should inquire into the matter in the presence of both parties; and the applicant, being the person on whom the onus lies, should be the first to tender evidence. It may well be that the patentee knows nothing about what is being done abroad nor what is being done in this country in the way of

manufacturing the patented article or carrying on the patented process. There is no particular reason why he should know what is being done abroad, unless he has foreign patents or is himself manufacturing the article or carrying on the process abroad. Even as to the extent to which the article or process is being manufactured or carried on here, he may have no information; for he may have sold licences outright, and not confined the use to the reservation of royalties. I do not say that he may not in the course of the inquiry be compelled to say what he does know; but at least the applicant ought at first to be called upon to make out some case requiring an answer, and at any rate until he has given some evidence that the case is within the section, I do not see what answer is required. If, on the other hand, the patentee admits that the state of affairs contemplated in sub-section (1) has arisen, or if after inquiry the Comptroller is satisfied that it has arisen, the patentee may fairly be called on to state, first, what his defence is, and then to prove it. It would be convenient that, in stating what the defence is, the patentee should state the reasons on which he intends to rely, if the extent to which the patented article or process is manufactured or carried on is inadequate, and the particular facts on which he intends to rely, if he contends that it is adequate. As a general rule I think that on appeal the patentee ought to be confined to his case as made before the Comptroller, and not allowed to set up a fresh case or adduce further evidence. In one case which I have heard I did allow further evidence to be adduced, but only on the ground that, until I had construed the Act, patentees could hardly be expected to realise the nature of the burden thrown on them by the section and the nature of the evidence required to discharge it. But I do not think any such indulgence ought to be granted as a general rule.

I should like to point out that, even as the Patent Rules now stand, it appears to me that the Comptroller can call upon the applicant for evidence of the truth of the statement contained in the application, enlarging the time for the patentee to put in his evidence till this is done; and if the applicant does not furnish evidence sufficient to call for an answer, may refuse to proceed further with the matter. Similarly, he can, I think, enlarge the time for filing evidence which can only be relevant for the patentee's defence, until he is satisfied that there is a case for calling on the patentee to defend himself. But, under these circumstances, it appears to be desirable that the Rules should be altered. It must be remembered that the section is in its nature a penal section, that the patentee is on his trial, that mere accusation raises no presumption of guilt, and that the Comptroller is a Court exercising judicial functions. It is not

merely the case of a departmental inquiry. The Comptroller is in the position of a judge, and not of a commissioner employed to take evidence and with power to summon before him and examine any person he pleases. The procedure, therefore, I think, should be clearly specified in the Rules, and should be a procedure adapted to the circumstances, having regard to the onus which the Act throws on the applicant and the patentee respectively.

I come now to the facts of this particular case. The patents in question were granted in 1900 for inventions relating to a process of manufacturing thin imitation stone slabs or tiles—I need not describe the process. The important point is that, though in commercial operation in Germany, France and Belgium, it has never been worked in this country. Clearly, therefore, the patentee is put on his defence; and the only question is whether he has given satisfactory reasons for this state of affairs. It appears that, having in 1900 obtained his patent rights and corresponding patents in the countries I have mentioned, he devoted himself to the establishment abroad of industries in which the patented process was carried on—using the monopoly conferred upon him by his patents in this country, not for the purpose of establishing a new industry here, but in order to secure to some foreign licensee the monopoly of selling in this country articles manufactured abroad. In my opinion, a new industry might have arisen in this country but for the manner in which the patentee has exercised his patent rights; but it is quite enough to say that there is no satisfactory evidence that a new industry would not have arisen here if the patentee had exercised his patent rights fairly as between this country and foreign countries. Nothing has been proved either as to the relative cost of material, or wages, or as to difference in local conditions, which points to the economic impossibility of such an industry having grown up in the United Kingdom if no preference had been conferred on foreigners. Possibly a manufacturer in this country might have had to be content with smaller profits than a manufacturer abroad; but even this is not proved. It was said that the demand here was too small to justify the expense entailed in laying down the necessary plant; but there is no evidence, or at any rate, no satisfactory evidence, that the demand would have not been much greater than it is but for the manner in which the patentee has used his monopoly. It is to my mind abundantly clear that, if these patents had been granted after the passing of the Act of 1907, they ought to have been revoked. And the only question is whether, having regard to the fact that they were granted in 1900 and to what occurred before the passing of the Act of 1907, any indulgence ought to be granted to the patentee. It is to be observed

that, on the 26th of January, 1905, the patentee granted what is, in effect, an exclusive licence for this country to a manufacturing company in Belgium. The licence provided that the Belgian company might either import into this country the goods made by them in Belgium, or erect factories here; but the patentee precluded himself from granting licences here. The licensee has exercised the powers granted to him by the licence not to erect factories here, but to import his foreign-made goods into this country—excluding any competition between such goods and the goods made in this country or elsewhere abroad. The state of things which has resulted would, I think, have rendered the patent revocable under the Act of 1902; for it does not seem to me that the patentee could have discharged the onus imposed on him by that Act any more than, in my opinion he has discharged the onus imposed on him by section 27 of the existing Act. There is no reason, therefore, why the patentee should be entitled to any indulgence, even if indulgence could be granted. Stress was laid on the fact that the patentee, in conjunction with his licensee, has recently, in advertisements and circulars, expressed his willingness to sell or enter into working arrangements for the manufacture of goods in this country under the patented process. That was, however, done at the last moment; and I am not surprised that under the circumstances no one willing to buy or take a licence has been found. Even if it had been done forthwith after the Act and the possibility of a sale being made or licences granted had been made known much more thoroughly in this country, I do not think the fact that no one has been found willing to buy or take up a licence and manufacture here could have proved very much. I do not know what the terms were under which the patentee and his licensee contemplated selling or granting licences, or whether the terms of the licences included protection against Belgian imports. If they did not, possibly manufacturers might very well be deterred by the fact that the Belgian firms had had so long a start that an intending purchaser or licensee might well be deterred also by the uncertainty of the patent remaining, under the circumstances, unrevoked for a sufficient time to start a new industry.

Under all the circumstances, I think the revocation of the patents was amply justified; and further, I am of opinion that the refusal of the Comptroller to suspend the revocation was also right. It would be wrong to suspend the revocation of a patent merely on the chance of an industry springing up here under some licence which some manufacturer may possibly in future be willing to take. If the patentee himself or the Belgian licensees had been prepared themselves to start the industry here, and had utilised their year of grace

in bonâ fide preparations with that end in view, but had found the year too short a period, the revocation might well have been suspended ; but, upon the evidence, I do not believe that either the patentee or the Belgian company has now or ever had any intention of manufacturing by the patented process in this country or of allowing any one else to do so, unless the purchaser or licensee will accept a licence from them on terms which they may consider reasonable but which possibly no prudent purchaser or licensee would accept, and as to the nature of which I am not informed. I therefore affirm the Comptroller's decision, and dismiss the appeal with costs, including the costs of the Attorney-General.

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