COPYRIGHT OF DESIGNS,

AS DISTINGUISHED FROM

PATENTABLE INVENTION.

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The following observations are made with a view of ascertaining what is the real effect of a registration—what is the amount of protection secured thereby to the proprietor of a new design. So various are the opinions formed upon this subject, that it is conceived one of two things must be the case: either the Acts themselves exhibit an instance of very crude legislation, or else they are greatly misunderstood. It will, therefore, be useful to attempt an analysis of the purpose of the Acts, and then try some of the commonly received opinions by this test.

The Acts really in force, according to the provisions of which designs are now registered, are those of 5 & 6 Victoria, cap. 100, and 6 & 7 Victoria, cap. 65; the former being applicable to ornamental, and the latter to non-ornamental designs.

Act under which ornamental Designs are registered.

This Act, which came into operation September 1st, 1842, is entitled "An Act to Consolidate and Amend the Laws relating to the Copyright of Designs for Ornamenting Articles of Manufacture." From this title it is clear the general

purpose of the Act was to bring together in some definite, tangible, form the laws which previously existed in relation to the copyright of designs, and to render the future mode of protecting this kind of property more applicable to "ornamenting articles of manufacture."

From the recitals in the first section of this Act it appears that it had long been deemed expedient to encourage the art of making designs applicable to the ornamenting of woven fabrics: and that with this object Acts had been passed to secure to the proprietors of designs a right to their exclusive use for a limited term. This is the broad basis on which this kind of legal protection rests. And the main object of the present Act is to take all the former legislation and adapt it (by consolidation and amendment) to the purpose of encouraging the arts of making designs applicable to the ornamenting of articles of manufacture by securing to the proprietors of such designs a right to the exclusive use thereof for a limited term. Forasmuch, however, as the purpose of this Act involved a considerable extension of the principle of legislation on which it was based, it was judged necessary (among other things) to adapt the term of exclusive use to the particular nature of the manufacture to which the ornamental design was to be applied. And accordingly Section 3 determines the several periods during which the respective classes of articles are to enjoy protection: and sets out the whole of such articles of manufacture under 13 classes.* They consist of articles of manufacture composed of metal, wood, glass, earthenware; also of paper-hangings, carpets, shawls, yarn, thread, or warp, woven fabrics, and lace.

SECT. 4 declares the conditions on which the copyright in a design is secured, which it is not necessary here to go through; suffice it to remark that no registration is valid unless the provisions be complied with.†

SECT. 5 defines who is to be considered as the proprietor

* See the Act in the Appendix.

† For the full particulars of this and the following sections see the Act in the Appendix.

of a new design: that is to say, he who is either the author thereof, or is entitled to the same right of property in the design for some valuable consideration.

Sect. 6 provides the power and forms of registering the transfer of the entire or partial use of a design from the original registered proprietor to any person acquiring his right by purchase or otherwise.

Sect. 7 relates to the piracy of the design, and states that no person is to apply it to any article of manufacture, or sell it or expose it to sale when applied, but the seller is entitled to notice that by so doing he is infringing the registered article.

Sect. 8 declares the penalty to be levied for piracy: viz. for every offence, a sum of not less than 5*l.* and not exceeding 30*l.* This section also sets out the mode of recovering the penalty by summary process, together with the forms of information and conviction.

Sect. 9 provides that any proprietor of a pirated design may (if he shall elect to do so) bring an action for the recovery of damages.

Sect. 10 confers a power on the registrar at the discretion of a judge in any suit in equity to cancel a registration which may have been made in the name of a party not entitled to be considered as the proprietor of the design, or to substitute the name of the real proprietor.

Sect. 11 contains the penalty for wrongfully using the marks denoting a registered design.

Sect. 12 limits the power of taking legal proceedings to twelve months after the commission of the act of piracy.

Sect. 13 empowers magistrates to give costs and compel payment.

Sect. 14 makes provision for the appointment of the registrar, &c.

Sect. 15 defines the duties of the registrar on his receiving a design for registration.

Sect. 16 determines what evidence is contained in the fact of registration.

Sect. 17 states that any expired design may be inspected on payment of the fee, but that unexpired designs are not open to inspection. The registrar is, however, under this section empowered to give a certificate of the particulars of a registration to a person applying and producing a design, together with the registration mark thereof, or the registration mark only, and paying the stated fee.

Sect. 18 relates to the application of fees of registration.

Sect. 19 forbids the registrar under a penalty from receiving any gratuity beyond his salary fixed by the Commissioners of the Treasury.

Sect. 20 is the interpretation clause of the Act.

Sect. 21 concludes the Act in the ordinary way.

Then follow the schedules referred to in the Act.

Thus we have seen the general bearing of the provisions of this Act, and I proceed now to make a short statement of the purpose of the Act as regards the kind of protection afforded by it. The Act is grounded upon the former Acts for securing copyright in designs applicable to ornamenting woven fabrics, and as afterwards extended by the Act 2 Vict. c. 17,* to designs for articles of manufacture for a limited time, excluding such articles as are contained in the Acts set forth in the schedule C.†

Thus the purpose of the Act may be said to be to secure copyright in ornamental designs to the proprietors thereof on similar grounds of public policy, on a similar legal principle to that on which the protection was afforded by the former Acts, the difference consisting merely in the extension of the principle in the present Act to embrace other articles of manufacture, the classification of the several articles included therein being a necessary means of limiting the said principle.

The framers of the Act, no doubt, conceived that "articles of manufacture" was an expression of very large import, comprehending many things widely differing in their relation to copyright in designs applicable thereto, and, therefore, to

* See Schedule (B.) to the Act in Appendix.

† See Appendix.

make the Act practically useful in operation, it was found necessary to recognise this difference in the mode of granting the copyright. Now it will be seen on reference to the Act in the Appendix, that a longer term of protection is given to those articles which are of a more permanent kind, and involve a greater degree of trouble and expense in manufacture than others. The fees, likewise, seem to be regulated by recourse to a similar principle. Hence, it would appear that while no essential departure from the general purpose of the former Acts is contemplated herein, yet this is wider in its scope and more varied in its provisions, with the view of adapting it to the present extended state of the manufactures of the country. It cannot, therefore, be said that under this Act any new kind of protection is afforded to ornamental designs, but only that designs for ornamenting new articles are hereby brought within the range of protected copyright. And the provisions of the Act all through have reference to this end, whether by setting out, as in the former sections thereof, the particular article to be included, together with the respective terms of exclusive use attached to the registration, or by declaring, as in the latter sections, the conditions of valid registration of property therein, and of the mode of recovering damages in case of piracy, &c. All these and other provisions are incidental to the practical working out of the main purpose of the Act, and involve no essential change in the kind of protection intended to be afforded under it.

It does not appear, however, that there is so much misconception respecting this Act, as there is concerning that relating to "non-ornamental" designs. I proceed, therefore, now to consider the latter in its general aim and scope, with a view of drawing attention to the distinction between copyright of designs and patentable invention.

Act under which non-ornamental Designs are registered.

This Act (which came into operation September 1st, 1843) is entitled "An Act to amend the Laws relating to the Copyright of Designs."

The terms of this title clearly exclude all reference to any thing beyond copyright of designs. And the opening recitals in the Act plainly indicate that it is grounded upon the Act just considered, and is intended simply to carry the principle of protecting copyright in designs to the extent of including non-ornamental designs applicable to articles of manufacture. Then Section 2 defines in general terms what is the kind of design which is now to be protected by registration for the term of three years. The words of definition are as follow:—"Any new or original design for any article of manufacture, having reference to some purpose of utility, so far as such design shall be for the shape or configuration of such article, and that whether it be for the whole of such shape or configuration, or only for a part thereof."

The characteristics of the design now to be provided for, taken from the former part of the sentence, would seem to be novelty or originality, applicability to any article of manufacture, and utility as distinguished from ornament. But then this language is somewhat qualified by the words following, which confine the idea or character of such design to the shape or configuration of the article. There is no intention, the words seem to say, of extending the notion of a design beyond the limits within which it has been heretofore understood as applicable to articles of manufacture, except that inasmuch as designs hitherto have been solely ornamental, now they are (in whole or in part) to have reference to some purpose of utility, and not simply ornament.

This language necessarily involves an extension of the principle on which all the former Acts are based, and consequently

it was found necessary, as in the former instance, to make certain provisions calculated to adapt the principle so extended to the existing state of things, and thereby render it useful in operation.

It will be convenient then, as before, just briefly to state the objects of the several provisions, and afterwards to make some observations on the purpose of the Act.

Sect. 3 provides, that no person shall be entitled to the benefit of the Act, except he comply with its terms or conditions before publication of the design, and continue to do so after registration.*

Sect. 4 makes it unlawful under a penalty (of not more than 5*l.* nor less than 1*l.* for each offence,) to put the word "registered," on any article not duly registered, or of which the term of registration has expired.

Sect. 5 refers to the foregoing Act, and specifies all floor cloths, or oil cloths, as included therein under Class 6.

Sect. 6 includes all the several provisions in the beforenamed Act which can be brought into operation without repugnance to this Act and makes them as if they were part of it.

Sect. 7 repeals the clause in the former Act which appoints a registrar to have control over ornamental designs, and appoints a staff of officials consisting of a registrar (who shall have a seal of office) and subordinates, but retains all the provisions relating to them contained in the said Act which are not hereby repealed.

Sect. 8 regulates the duties of the registrar, also the kind of drawings and description of the design to be furnished to him, &c.

Sect. 9 empowers the registrar in his discretion to refuse to register a design under one of these Acts which belongs to the other: but his power is controlled by appeal to the Lords of the Committee of Privy Council.

Sect. 10 provides for the inspection and taking of copies of

* For any more particulars of this and the following sections than are given in this short statement, see the Act in the Appendix.

expired designs and for the inspection only (in presence of an official) of unexpired designs.

SECT. 11 is the interpretation clause, and SECT. 12 concludes the Act.

I now proceed to make a few observations concerning the purpose of this Act. It is important to notice that it consists simply in an enlargement of the principle of protecting copyright in designs from merely ornamental to useful designs. And a right apprehension of the purpose of the Act turns upon the effect of this distinction between ornamental and useful as intended by the legislature. Now whence is the proper view of this distinction to be gathered? I have hitherto endeavoured to trace the origin and growth of the copyright in ornamental designs and have stated that this kind of legal protection took its rise from the policy of encouraging the art of making designs of patterns for woven fabrics, and afterwards was extended to ornamenting other articles of manufacture. When advanced thus far it was found desirable still to extend the principle of protection so as to include designs for articles of utility. The present Act therefore is based upon its predecessor, and not independent of it—having grown out of it. Thus when we are considering what is intended now to be protected we are to bear this in mind, and also that the provisions of the former Act are to be applied in conjunction with this Act so far as they are unrepealed: whence it seems reasonable to infer that the legislature contemplated no such distinction between the two Acts as to make the registrations under them essentially different beyond that which is involved in the difference between ornament and utility. Still there is evidence of some difference being contemplated in the fact that in the present Act a description of the design is to be added to the drawings, and moreover that the drawings are to be made "on a proper geometric scale." While mere ornament was to be delineated, a drawing alone, which might be in perspective, (and a statement of the class to which it belonged,) sufficed to show the nature of the design; but utility as distinguished from orna-

ment is not apparent unless represented geometrically and to scale, and accompanied with a verbal description. Here it is manifest that effect in operation as distinguished from external effect is contemplated and provided for. Now it has been argued even from the words of the Act, Sect. 2, that a registration of a design having reference to some purpose of utility is practically the same thing as a patent for an invention, the difference being merely in the length of duration and cost: that indeed design ("non-ornamental" or useful) and invention are convertible terms. I am not aware that any one has stated this in so many words, but still some such proposition seems virtually to have been assumed as the basis of the argument, and upon this the reasoning has proceeded to treat registrations as little patents. The only apparent reason why so many persons argue in this manner is that their interest is involved in it: for the consistency of the view thus taken with the meaning of the words contained in the Act and with its spirit so far considered is any thing but obvious. This is abundantly clear from the following considerations. The thing protected is evidently the shape or configuration, not simply ornamental but useful, shape; nevertheless shape only—of either the whole article or part of it. The idea of form or shape seems to be all through attached to the word design. It is either a pattern, an ornamental shape, or an useful shape, and does not include a principle of construction which may exist in different shapes as a patentable invention does. The difficulty, however, lies in the particular degree of scope which can be said to be comprehended under a registration of an article of manufacture, the shape or configuration of which necessarily involves a certain "mechanical action, principle, contrivance, or application."*

In the case of a patent the "mechanical action, principle, &c. may be secured provided it be practically illustrated and suitably claimed in the specification, and therefore the patent is in a sense independent of forms and shapes, but the regis-

* See the registrar's notice in the Appendix.

tration is based upon shape or configuration, and in the terms of the Act corroborated by the registrar's notice nothing is thereby secured which is independent of, and separable from, shape or configuration.

Now to follow the principle involved in a given shape into any other shape whatever is strictly beyond the letter of the Act. And also, to speak strictly, it is difficult (perhaps impossible) to conceive of the least change being made in a shape or configuration which really has a material effect upon a mechanical action or principle, without in some degree producing a change (strictly) in such mechanical action or principle. And it seems fair to argue thus on the letter of the Act, because the idea is never to be lost sight of that the protection is given to the shape and to the principle only through the shape, by which the latter is distinguished from a shape which is merely ornamental. On the simple words of the Act (Section 2) then, taken together with the registrar's notice, there seems to be no ground on which to conclude that the scope of a registration extends beyond the precise shape or configuration of the article registered.

But it may be conceived that the legislature meant to give some scope to the registration beyond this from the circumstance of a description of the design being allowed when necessary to make the same intelligible and in certain cases to distinguish between the old and new parts thereof. Undoubtedly if not the slightest conceivable departure from the precise shape of the design were to be included, drawings would suffice without description, and therefore the provision in the Act for the latter tends to raise the supposition that some scope was intended to be given—how much does not appear.

Now what is in reason susceptible of inference on this point from what has been seen in reference to the spirit of the Act? Certainly nothing which goes the length of including that which is commonly understood by the word invention in reference to patents, even supposing we limit the word to the sense of mechanical invention. Indeed it is much more easy to

speak negatively than positively as to the meaning of the Act. And perhaps the most that can reasonably be urged is that something more was contemplated as attaching to a registration of a design having reference to some purpose of utility than the bare outline of the parts shown in the drawings filed by the registrar: the determination of that something being left, however, to the discretion of the magistrate or judge before whom the matter was to be brought in the event of alleged piracy. If it be true that there is no further direction than this given in the Act either expressly or impliedly respecting the scope of a registration, then it follows that there is much uncertainty in the protection of any article beyond its mere shape or configuration. Neither is there any positive doctrine on the subject to be gathered from precedents,* so that every case has to be determined according to what shall appear to the person trying it to be the equitable considerations involved in it. Here, however, the difficulty still follows us, because here is equity to be administered without the guidance of recognised principles which have received the sanction of authority. And surely it cannot be said that a magistrate can dispense with those aids which a judge requires, and that the unassisted judgment of the former is competent to determine difficult points of law and equity.

Nevertheless in the face of these difficulties many mechanical inventions are continually registered; indeed their number has greatly increased of late: and it can hardly be conceived that this would be the case if persons were not impressed with an idea that the registration gives some considerable protection beyond the mere shape of the parts, because that might be so easily evaded. It is therefore on this hitherto undefined, and perhaps undefinable, protection of a principle through a shape or of a shape, possessing attri-

* No case which has hitherto been tried seems to furnish any undoubted principles from which to infer what is meant by colourable evasion, as distinguished from a direct piracy, of a design registered under this Act.

butes of utility beyond its mere combination of lines, that so many persons are content to risk their money and their inventions. There is, however, this circumstance to be taken into consideration, which perhaps partly accounts for the fact: *viz.* that the very uncertainty of the scope of a registration in law and on principle has frequently operated in such a manner as to constitute its actual protection. For many of the public have been deterred from infringement because they did not know what constituted an infringement, and did not like to run the risk of a magistrate's decision, which they held to be extremely uncertain. Thus it is not to be inferred from the large number of mechanical inventions which are registered that such result is altogether due to a feeling of confidence on the part of their proprietors in their legality as *registered inventions* of considerable scope. And even were such the case the impression might nevertheless be unfounded: so that we are not able to gather from the things registered any thing like positive instruction as to the principle on which the extent of a registration is to be determined, the fact of registration forming no guarantee even of its legality.

There appears no reason, indeed, to doubt that the proprietors of many designs registered under this Act would fail in establishing their claims if brought fairly out and argued upon their merits as *protected inventions*. It may, perhaps, tend to illustrate this position if a case be cited, and a few observations made upon it. The case of *Kennedy and Asprey* v. *Coombs and Finlay*, reported in "Newton's London Journal of Arts, Sciences, and Manufactures, &c.," Vol. 26, Conjoined Series, page 111, furnishes an instance of a proprietor of a design registered under this Act, failing to establish a very common sort of claim, extending in fact to a principle independent of shape, although ostensibly only including a shape which necessarily involved the principle. The registered design alleged to have been infringed was for "an improved ink and light box," to be fitted into writing desks

or travelling cases, and to be so formed as to be capable of being opened without removal from its seat in the desk, &c. In order to effect this, the lid had to be changed in form, and the hinge brought up higher, so as to allow of the lid opening without projecting beyond the back of the box; a spring bolt also was placed in the lid of the box, on which bolt being drawn back the box would fly open. The case on the part of the plaintiffs was that such being the form of their registered article, and such the purpose of utility answered by it, the defendants had infringed by changing the forms of the parts so slightly as to amount only to a colourable variation, and selling the design in such slightly altered form. The defendants' counsel, however, on the cross examination of plaintiffs' witnesses elicited an admission that both the registered box, and also that sold by defendants "were as to form and shape similar to several old boxes produced by defendants," but the action was different. In what then did the registration as alleged consist? Not in the particular form or shape, but in the action. On this ground the magistrate dismissed the information, being satisfied from the statement made by defendants' counsel, and on his own reading of the Act, that the claim as set up by plaintiffs had reference to a mechanical contrivance instead of a design such as the Act contemplated.

Now, some instruction relative to the present point may be gathered from this case by considering it a little more minutely. The plaintiffs registered a design applicable to a portable ink and light box. The claim of originality as stated in the description filed with the registrar was restricted to a particular form of lid—the two parts or members of the hinge —and a spring bolt in the lid. The defendants had a different form of lid, adopted the kind of hinge which had been for many years applied to this description of box, and modified the old spring fixed to the interior of the front of the box by pressing against which the lid was allowed to fly open. Where then was the infringement? According to the plaintiffs it consisted in retaining the same general purpose of

utility under a slightly varied form or shape of the parts. But let us see to what the change amounted which was characterised as a colourable variation. The form of the lid was actually different so far as to render it necessary to change also the hinge in order to adapt it thereto in such a manner as to answer the same purpose of utility; the hinge also was so far necessarily altered, and the spring bolt, although accessible from the lid, was attached to the interior of the front of the box instead of to the lid, and in point of fact had essentially a different mechanical action, the one being horizontal, and having to be compressed in order to open the box, whereas the other was vertical and had to be drawn out in order to effect the same object. Hence, the doctrine sought to be established by plaintiffs goes the length of saying that a colourable variation of a registered design extends so far as to embrace a difference in actual shape, and also a difference in mechanical action so long as the same purpose of utility is answered by the forms of the parts.

And what is this but to say that the purpose of utility is registered, the particular design being only an illustration of such purpose?

Now the question arises, is it likely that the legislature intended to give such latitude as this to a registered design? Was it ever contemplated that the proprietor of a registered design was to be empowered by this Act to lay an information and recover for alleged damages in the summary manner provided for, when such complicated questions as we have seen are involved in the proceedings?

But this case has been cited merely as an illustration of the mode in which persons very commonly interpret the Act; and also in support of the position that if the question of protection of these mechanical inventions came to be tried on its simple merits, the claims of their proprietors would not be established to anything like the extent they imagine. And indeed, on such trial, I submit with confidence that the very principle, alleged by such persons, would be found to be hollow.

For it is manifest, from the words of the Act, that the protection must be attached either to the purpose of utility, answered by the shape, or else to the shape producing the useful effect. So far as there may be, in strictness of language, any difference between these two modes of stating the point, the terms used in the Act (Section 2) probably include both, but certainly nothing beyond that. Now the claim alleged by the plaintiffs in the case just considered (which is indeed a sample of a class) goes further than this, inasmuch as it affirms that a purpose of utility is protected which is independent of the particular shape registered.

The claim is to a spring bolt in the lid of the box, the spring of which is acted upon horizontally by compression in order to allow the lid to fly open. In the drawing a spring bolt of this description is represented as placed in the lid, and in the descripti[illegible] is so claimed. This being so it might perhaps be held as a colourable variation from the design to alter the proportion of the spring bolt, or its precise situation in the lid, or to make any change whatever, so long as that kind of spring bolt was inserted in the lid.

But where is the evidence from the words of the Act, and any authoritative interpretation it has received that any more scope than this could be given to such a claim? It is surely going an unauthorised length to say that another kind of spring bolt, applied to another part of the box, is a colourable variation merely because it can be acted upon in the lid, and so answers the same purpose of utility—albeit much more perfectly for mechanical reasons. To argue thus is evidently to confound a patent with a registration, and the protection of a purpose of utility with that of a design.

Thus it appears from the foregoing observations on both Acts that the following points are established:—The protection of copyright in designs at first had reference only to ornamenting a very limited number of articles of manufacture, then it was extended to various other articles specified under

different classes, and eventually to designs for articles of manufacture having reference to some purpose of utility, as distinguished from mere ornament. But looking at this order in the growth of this kind of legal protection, there is no evidence to show that in extending its applicability from ornamental to useful designs, the original notion of a design (or formation of parts) was to be superseded, and the idea of an invention (or principle of construction) substituted.

Hence, to say the least, it is extremely doubtful whether any of the numerous mechanical inventions which have been registered have that kind of legal protection which their authors intended to secure.

W. S.

Office for Patents, 50, *Chancery Lane*,
April, 1847.

APPENDIX.

5 & 6 VICT. CAP. 100.

An Act to consolidate and amend the Laws relating to the Copyright of Designs for ornamenting Articles of Manufacture. [10th August, 1842.]

WHEREAS by the several Acts mentioned in the Schedule (A.) to this Act annexed there was granted, in respect of the woven fabrics therein mentioned, the sole right to use any new and original pattern for printing the same during the period of three calendar months: And whereas by the Act mentioned in the Schedule (B.) to this Act annexed there was granted, in respect of all articles, except lace, and except the articles within the meaning of the Acts hereinbefore referred to, the sole right of using any new and original design for certain purposes, during the respective periods therein mentioned; but forasmuch as the protection afforded by the said Acts in respect of the application of designs to certain articles of manufacture is insufficient, it is expedient to extend the same, but upon the conditions hereinafter expressed; now, for that purpose, and for the purpose of consolidating the provisions of the said Acts, be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, That this Act shall come into operation on the first day of September, One thousand eight hundred and forty-two, and that thereupon all the said Acts mentioned in the said Schedules (A.) and (B.) to this Act annexed shall be and they are hereby repealed. Commencement of Act, and repeal of former Acts.

II. Provided always, and be it enacted, That notwithstanding such repeal of the said Acts every copyright in force under the same shall continue in force till the expiration of such copyright; and with regard to all offences or injuries committed against any such copyright before this Act shall come into operation, every penalty imposed and every remedy given by the said Acts, in relation to any such offence or injury, shall be applicable as if such Acts had not been repealed; but with regard to such offences or injuries committed against any such copyright after this Act shall come into operation, every penalty imposed and every remedy given by this Act in relation to any such offence or injury shall be applicable as if such copyright had been conferred by this Act. *Proviso as to existing copyrights.*

III. And with regard to any new and original design (except for sculpture and other things within the provisions of the several Acts mentioned in the Schedule (C.) to this Act annexed), whether such design be applicable to the ornamenting of any article of manufacture, or of any substance, artificial or Grant of copyright.

natural, or partly artificial and partly natural, and that whether such design be so applicable for the pattern, or for the shape or configuration, or for the ornament thereof, or for any two or more of such purposes, and by whatever means such design may be so applicable, whether by printing, or by painting, or by embroidery, or by weaving, or by sewing, or by modelling, or by casting, or by embossing, or by engraving, or by staining, or by any other means whatsoever, manual, mechanical, or chemical, separate or combined; be it enacted, That the proprietor of every such design, not previously published either within the United Kingdom of Great Britain and Ireland, or elsewhere, shall have the sole right to apply the same to any articles of manufacture, or to any such substances as aforesaid, provided the same be done within the United Kingdom of Great Britain and Ireland, for the respective terms hereinafter mentioned, such respective terms to be computed from the time of such design being registered according to this Act; (that is to say,)

In respect of the application of any such design to ornamenting any article of manufacture contained in the first, second, third, fourth, fifth, sixth, eighth, or eleventh of the classes following, for the term of three years:

In respect of the application of any such design to ornamenting any article of manufacture contained in the seventh, ninth, or tenth of the classes following, for the term of nine calendar months:

In respect of the application of any such design to ornamenting any article of manufacture or substance contained in the twelfth or thirteenth of the classes following, for the term of twelve calendar months:

Class 1.—Articles of manufacture composed wholly or chiefly of any metal or mixed metals:

Class 2.—Articles of manufacture composed wholly or chiefly of wood:

Class 3.—Articles of manufacture composed wholly or chiefly of glass:

Class 4.—Articles of manufacture composed wholly or chiefly of earthenware:

Class 5.—Paper Hangings:

Class 6.—Carpets:

Class 7.—Shawls, if the design be applied solely by printing, or by any other process by which colours are or may hereafter be produced upon tissue or textile fabrics:

Class 8.—Shawls not comprised in class 7:

Class 9.—Yarn, thread, or warp, if the design be applied by printing, or by any other process by which colours are or may hereafter be produced:

Class 10.—Woven fabrics, composed of linen, cotton, wool, silk, or hair, or of any two or more of such materials, if the design be applied by printing, or by any other process by which colours are or may hereafter be produced upon tissue or textile fabrics; excepting the articles included in Class 11:

Class 11.—Woven fabrics, composed of linen, cotton, wool, silk, or hair, or of any two or more of such materials, if the design be applied by printing, or by any other process by which colours are or may hereafter be produced upon tissue or textile fabrics, such woven fabrics being or coming within the description technically called furnitures, and the repeat of the design whereof shall be more than twelve inches by eight inches:

Class 12.—Woven fabrics, not comprised in any preceding class:

Class 13.—Lace, and any article of manufacture or substance not comprised in any preceding class.

Conditions of copyright.

IV. Provided always, and be it enacted, That no person shall be entitled to the benefit of this Act, with regard to any design in respect of the application thereof to ornamenting any article of manufacture, or any such substance, unless such design have before publication thereof been registered according to this Act, and unless at the time of such registration such design have been registered in respect of the application thereof to some or one of the articles of manufacture or substances comprised in the above-mentioned classes, by specifying the number of the class in respect of which such registration is made, and unless the name of such person shall be registered according to this Act as a proprietor of such design, and unless after publication of such design every such article of manufacture, or such substance to which the same shall be so applied, published by him, hath thereon, if the article of manufacture be a woven fabric for printing, at one end thereof, or, if of any other kind or such substance as aforesaid, at the end or edge thereof, or other convenient place thereon, the letters "Rd," together with such number or letter, or number and letter, and in such form as shall correspond with the date of the registration of such design according to the registry of designs in that behalf; and such marks may be put on any such article of manufacture or such substance, either by making the same in or on the material itself of which such article or such substance shall consist, or by attaching thereto a label containing such marks.

Registration.

Marks denoting a registered design.

The term "Proprietor" explained.

V. And be it enacted, That the author of any such new and original design shall be considered the proprietor thereof, unless he have executed the work on behalf of another person for a good or a valuable consideration, in which case such person shall be considered the proprietor, and shall be entitled to be registered in the place of the author; and every person acquiring for a good or a valuable consideration a new and original design, or the right to apply the same to ornamenting any one or more articles of manufacture, or any one or more such substances as aforesaid, either exclusively of any other person or otherwise, and also every person upon whom the property in such design or such right to the application thereof shall devolve, shall be considered the proprietor of the design in the respect in which the same may have been so acquired, and to that extent but not otherwise.

Transfer of copyright, and register thereof.

VI. And be it enacted, That every person purchasing or otherwise acquiring the right to the entire or partial use of any such design may enter his title in the register hereby provided, and any writing purporting to be a transfer of such design and signed by the proprietor thereof shall operate as an effectual transfer; and the registrar shall, on request, and the production of such writing, or in the case of acquiring such right by any other mode than that of purchase on the production of any evidence to the satisfaction of the registrar, insert the name of the new proprietor in the register; and the following may be the form of such transfer, and of such request to the registrar:

Form of Transfer, and Authority to register.

"I *A. B.* author [*or* proprietor] of design, No. having transferred my right thereto, [*or if such transfer be partial,*] so far as regards the ornamenting of [*describe the articles of manufacture or substances, or the locality with respect to which the right is transferred,*] to *B. C.* of do hereby authorise you to insert his name on the register of designs accordingly."

Form of Request to register.

"I *B. C.*, the person mentioned in the above transfer, do request you to register my name and property in the said design as entitled [*if to the entire use*] to the entire use of such design, [*or, if to the partial use,*] to the partial use of such design, so far as regards the application thereof [*describe the articles of manufacture, or the locality in relation to which the right is transferred*]."

But if such request to register be made by any person to whom any such design shall devolve otherwise than by transfer, such request may be in the following form:

"I *C. D.* in whom is vested by [*state bankruptcy or otherwise*] the design, No. [*or if such devolution be of a partial right,* so far as regards the application thereof] to [*describe the articles of manufacture or substance, or the locality in relation to which the right has devolved*]."

Piracy of designs.

VII. And for preventing the piracy of registered designs, be it enacted, That during the existence of any such right to the entire or partial use of any such design no person shall either do or cause to be done any of the following acts with regard to any articles of manufacture, or substances, in respect of which the copyright of such design shall be in force, without the license or consent in writing of the registered proprietor thereof; (that is to say,)

No person shall apply any such design, or any fraudulent imitation thereof for the purpose of sale, to the ornamenting of any article of manufacture, or any substance, artificial or natural, or partly artificial and partly natural:

No person shall publish, sell, or expose for sale any article of manufacture, or any substance, to which such design, or any fraudulent imitation thereof, shall have been so applied, after having received, either verbally or in writing, or otherwise from any source other than the proprietor of such design, knowledge that his consent has not been given to such application, or after having been served with or had left at his premises a written notice signed by such proprietor or his agent to the same effect.

Recovery of penalties for piracy.

VIII. And be it enacted, That if any person commit any such act he shall for every offence forfeit a sum not less than 5*l.* and not exceeding 30*l.* to the proprietor of the design in respect of whose right such offence has been committed; and such proprietor may recover such penalty as follows:

In England, either by an action of debt or on the case against the party offending, or by summary proceeding before two justices having jurisdiction where the party offending resides; and if such proprietor proceed by such summary proceeding, any justice of the peace acting for the county, riding, division, city, or borough where the party offending resides, and not being concerned either in the sale or manufacture of the article of manufacture, or in the design to which such summary proceeding relates, may issue a summons requiring such party to appear on a day and at a time and place to be named in such summons, such time not being less than eight days from the date thereof; and every such summons shall be served on the party offending, either in person or at his usual place of abode; and either upon the appearance or upon the default to appear of the party offending, any two or more of such justices may proceed to the hearing of the complaint, and upon proof of the offence, either by the confession of the party offending, or upon the oath or affirmation of one or more credible witnesses, which such justices are hereby authorised to administer, may convict the offender in a penalty of not

less than 5*l.* or more than 30*l.*, as aforesaid, for each offence, as to such justices doth seem fit; but the aggregate amount of penalties for offences in respect of any one design committed by any one person, up to the time at which any of the proceedings herein mentioned shall be instituted, shall not exceed the sum of 100*l.*; and if the amount of such penalty or of such penalties, and the costs attending the conviction, so assessed by such justices, be not forthwith paid, the amount of the penalty or of the penalties, and of the costs, together with the costs of the distress and sale, shall be levied by distress and sale of the goods and chattels of the offender, wherever the same happen to be in England; and the justices before whom the party has been convicted, or, on proof of the conviction, any two justices acting for any county, riding, division, city, or borough in England, where goods and chattels of the person offending happen to be, may grant a warrant for such distress and sale; and the overplus, if any, shall be returned to the owner of the goods and chattels, on demand; and every information and conviction which shall be respectively laid or made in such summary proceeding before two justices under this Act may be drawn or made out in the following forms respectively, or to the effect thereof, *mutatis mutandis*, as the case may require:

Form of Information.

"Be it remembered, That on the at in the county of *A. B.* of in the county of [*or C. D.* of in the county of at the instance and on the behalf of *A. B.* of in the county of] cometh before us and two of her Majesty's justices of the peace in and for the county of , and giveth us to understand that the said *A. B.*, before and at the time when the offence hereinafter mentioned was committed, was the proprietor of a new and original design for [*here describe the design*], and that within twelve calendar months last past, to wit, on the at in the county of *E. F.* of in the county of did [*here describe the offence*], contrary to the form of the Act passed in the year of the reign of her present Majesty, intituled, 'An Act to consolidate and amend the Laws relating to the Copyright of Designs for ornamenting Articles of Manufacture.'"

Form of Conviction.

"Be it remembered, That on the day of in the year of our Lord at in the county of *E. F.* of in the county aforesaid is convicted before us and two of her Majesty's justices of the peace for the said county, for that he the said *E. F.* on the day of in the year at in the county of did [*here describe the offence*] contrary to the form of the statute in that case made and provided; and we the said justices do adjudge that the said *E. F.* for his offence aforesaid hath forfeited the sum of to the said *A. B.*

In Scotland, by action before the court of session in ordinary form, or by summary action before the sheriff of the county where the offence may be committed or the offender resides, who, upon proof of the offence or offences, either by confession of the party offending or by the oath or affirmation of one or more credible witnesses, shall convict the offender, and find him liable in the penalty or penalties aforesaid, as also in expenses; and it shall be lawful for the sheriff, in pronouncing such judgment for the penalty or penalties and costs, to insert in such judgment a warrant, in the event of such penalty or penalties and costs not being paid, to levy and recover the amount of the same by poinding: Provided always, that it shall be lawful

to the sheriff, in the event of his dismissing the action and assoilzieing the defender, to find the complainer liable in expenses; and any judgment so to be pronounced by the sheriff in such summary application shall be final and conclusive, and not subject to review by advocation, suspension, reduction, or otherwise:

In Ireland, either by action in a superior court of law at Dublin or by civil bill in the civil bill court of the county or place where the offence was committed.

Proviso as to action for damages.

IX. Provided always, and be it enacted, That notwithstanding the remedies hereby given for the recovery of any such penalty as aforesaid, it shall be lawful for the proprietor in respect of whose right such penalty shall have been incurred (if he shall elect to do so) to bring such action as he may be entitled to for the recovery of any damages which he shall have sustained, either by the application of any such design or of a fraudulent imitation thereof, for the purpose of sale, to any articles of manufacture or substances, or by the publication, sale or exposure to sale, as aforesaid, by any person, of any article or substance to which such design or any fraudulent imitation thereof shall have been so applied, such person knowing that the proprietor of such design had not given his consent to such application.

Registration may in some cases be cancelled or amended.

X. And be it enacted, That in any suit in equity which may be instituted by the proprietor of any design or the person lawfully entitled thereto, relative to such design, if it shall appear to the satisfaction of the judge having cognizance of such suit that the design has been registered in the name of a person not being the proprietor or lawfully entitled thereto, it shall be competent for such judge, in his discretion, by a decree or order in such suit to direct either that such registration be cancelled (in which case the same shall thenceforth be wholly void), or that the name of the proprietor of such design, or other person lawfully entitled thereto, be substituted in the register for the name of such wrongful proprietor or claimant, in like manner as is herein-before directed in case of the transfer of a design, and to make such order respecting the costs of such cancellation or substitution, and of all proceedings to procure and effect the same, as he shall think fit; and the registrar is hereby authorised and required, upon being served with an official copy of such decree or order, and upon payment of the proper fee, to comply with the tenor of such decree or order, and either cancel such registration or substitute such new name, as the case may be.

Penalty for wrongfully using marks denoting a *registered design*.

XI. And be it enacted, That unless a design applied to ornamenting any article of manufacture or any such substance as aforesaid be so registered as aforesaid, and unless such design so registered shall have been applied to the ornamenting such article or substance within the United Kingdom of Great Britain and Ireland, and also after the copyright of such design in relation to such article or substance shall have expired, it shall be unlawful to put on any such article or such substance, in the manner herein-before required with respect to articles or substances whereto shall be applied a registered design, the marks herein-before required to be so applied, or any marks corresponding therewith or similar thereto; and if any person shall so unlawfully apply any such marks, or shall publish, sell, or expose for sale any article of manufacture, or any substance with any such marks so unlawfully applied, knowing that any such marks have been unlawfully applied, he shall forfeit for every such offence a sum not exceeding 5*l.*, which may be recovered by any person proceeding for the same by any of the ways herein-before directed with respect to penalties for pirating any such design.

Limitation of actions.

XII. And be it enacted, That no action or other proceeding for any offence or injury under this Act shall be brought after the expiration of twelve calendar

months from the commission of the offence; and in every such action or other proceeding the party who shall prevail shall recover his full costs of suit or of such other proceeding.

Justices may order payment of costs in cases of summary proceeding.

XIII. And be it enacted, That in the case of any summary proceeding before any two justices in England such justices are hereby authorised to award payment of costs to the party prevailing, and to grant a warrant for enforcing payment thereof against the summoning party, if unsuccessful, in the like manner as is herein-before provided for recovering any penalty with costs against any offender under this Act.

Registrar, &c. of designs to be appointed.

XIV. And for the purpose of registering designs for articles of manufacture, in order to obtain the protection of this Act, be it enacted, That the lords of the committee of privy council for the consideration of all matters of trade and plantations may appoint a person to be a registrar of designs for ornamenting articles of manufacture, and, if the lords of the said committee see fit, a deputy registrar, clerks, and other necessary officers and servants; and such registrar, deputy registrar, clerks, officers, and servants shall hold their offices during the pleasure of the lords of the said committee; and the commissioners of the treasury may from time to time fix the salary or remuneration of such registrar, deputy registrar, clerks, officers, and servants; and, subject to the provisions of this Act, the lords of the said committee may make rules for regulating the execution of the duties of the office of the said registrar; and such registrar shall have a seal of office.

Registrar's duties.

XV. And be it enacted, That the said registrar shall not register any design in respect of any application thereof to ornamenting any articles of manufacture or substances, unless he be furnished, in respect of each such application, with two copies, drawings, or prints of such design, accompanied with the name of every person who shall claim to be proprietor, or of the style or title of the firm under which such proprietor may be trading, with his place of abode or place of carrying on his business, or other place of address, and the number of the class in respect of which such registration is made; and the registrar shall register all such copies, drawings, or prints, from time to time successively, as they are received by him for that purpose; and on every such copy, drawing, or print he shall affix a number corresponding to such succession; and he shall retain one copy, drawing, or print, which he shall file in his office, and the other he shall return to the person by whom the same has been forwarded to him; and in order to give ready access to the copies of designs so registered, he shall class such copies of designs, and keep a proper index of each class.

Certificate of registration of design.

XVI. And be it enacted, That upon every copy, drawing, or print of an original design so returned to the person registering as aforesaid, or attached thereto, and upon every copy, drawing, or print thereof received for the purpose of such registration, or of the transfer of such design being certified thereon or attached thereto, the registrar shall certify under his hand that the design has been so registered, the date of such registration, and the name of the registered proprietor or the style or title of the firm under which such proprietor may be trading, with his place of abode or place of carrying on his business, or other place of address, and also the number of such design, together with such number or letter, or number and letter, and in such form as shall be employed by him to denote or correspond with the date of such registration; and such certificate made on every such original design, or on such copy thereof, and purporting to be signed by the registrar or deputy registrar, and purporting to have the seal of office of such registrar affixed thereto, shall, in the absence of evidence to the contrary, be sufficient proof, as follows:

Of the design, and of the name of the proprietor therein mentioned, having been duly registered; and

Of the commencement of the period of registry ; and

Of the person named therein as proprietor being the proprietor ; and

Of the originality of the design ; and

Of the provisions of this Act, and of any rule under which the certificate appears to be made, having been complied with :

And any such writing purporting to be such certificate shall, in the absence of evidence to the contrary, be received as evidence, without proof of the handwriting of the signature thereto, or of the seal of office affixed thereto, or of the person signing the same being the registrar or deputy registrar.

Inspection of registered designs.

XVII. And be it enacted, That every person shall be at liberty to inspect any design whereof the copyright shall have expired, paying only such fee as shall be appointed by virtue of this Act in that behalf ; but with regard to designs whereof the copyright shall not have expired, no such design shall be open to inspection, except by a proprietor of such design or by any person authorised by him in writing, or by any person specially authorised by the registrar, and then only in the presence of such registrar or in the presence of some person holding an appointment under this Act, and not so as to take a copy of any such design or of any part thereof, nor without paying for every such inspection such fee as aforesaid : Provided always, that it shall be lawful for the said registrar to give to any person applying to him, and producing a particular design, together with the registration mark thereof, or producing such registration mark only, a certificate stating whether of such design there be any copyright existing, and if there be, in respect to what particular article of manufacture or substance such copyright exists, and the term of such copyright, and the date of registration, and also the name and address of the registered proprietor thereof.

Application of fees of registration.

XVIII. And be it enacted, That the commissioners of the treasury shall from time to time fix fees to be paid for the services to be performed by the registrar, as they shall deem requisite, to defray the expenses of the said office, and the salaries or other remuneration of the said registrar, and of any other persons employed under him, with the sanction of the commissioners of the treasury, in the execution of this Act : and the balance, if any, shall be carried to the consolidated fund of the United Kingdom, and be paid accordingly into the receipt of her Majesty's Exchequer at Westminster ; and the commissioners of the treasury may regulate the manner in which such fees are to be received, and in which they are to be kept, and in which they are to be accounted for, and they may also remit or dispense with the payment of such fees in any cases where they may think it expedient so to do : Provided always, that the fee for registering a design to be applied to any woven fabric, mentioned or comprised in classes 7, 9, or 10, shall not exceed the sum of 1*s.* ; that the fee for registering a design to be applied to a paper hanging shall not exceed the sum of 10*s.* ; and that the fee to be received by the registrar for giving a certificate relative to the existence or expiration of any copyright in any design printed on any woven fabric, yarn, thread, or warp, or printed, embossed, or worked on any paper hanging, to any person exhibiting a piece end of a registered pattern, with the registration mark thereon, shall not exceed the sum of 2*s.* 6*d.*

Penalty for extortion.

XIX. And be it enacted, That if either the registrar or any person employed under him either demand or receive any gratuity or reward, whether in money or otherwise, except the salary or remuneration authorised by the commissioners of the treasury, he shall forfeit for every such offence 50*l.* to any person suing for the same by action of debt in the Court of Exchequer at Westminster ; and he shall also be liable to be either suspended or dismissed from his office, and rendered incapable of holding any situation in the said office, as the commissioners of the treasury see fit.

XX. And for the interpretation of this Act, be it enacted, That the following terms and expressions, so far as they are not repugnant to the context of this Act, shall be construed as follows; (that is to say) the expression "commissioners of the treasury" shall mean the lord high treasurer for the time being, or the commissioners of her Majesty's treasury for the time being, or any three or more of them; and the singular number shall include the plural as well as the singular number; and the masculine gender shall include the feminine gender as well as the masculine gender. Interpretation of Act.

XXI. And be it enacted, That this Act may be amended or repealed by any Act to be passed in the present session of parliament. Alteration of Act.

SCHEDULES referred to by the foregoing Act.

SCHEDULE (A.)

DATE OF ACTS.	TITLE.
27 Geo. III. c. 38. (1787.)	An Act for the Encouragement of the Arts of designing and printing Linens, Cottons, Calicoes, and Muslins, by vesting the Properties thereof in the Designers, Printers, and Proprietors for a limited Time.
29 Geo. III. c. 19. (1789.)	An Act for continuing an Act for the Encouragement of the Arts of designing and printing Linens, Cottons, Calicoes, and Muslins, by vesting the Properties thereof in the Designers, Printers, and Proprietors for a limited Time.
34 Geo. III. c. 23. (1794.)	An Act for amending and making perpetual an Act for the Encouragement of the Arts of designing and printing Linens, Cottons, Calicoes, and Muslins, by vesting the Properties thereof in the Designers, Printers, and Proprietors for a limited Time.
2 Vict. c. 13. (1839.)	An Act for extending the Copyright of Designs for Calico Printing to Designs for printing other woven Fabrics.

SCHEDULE (B.)

DATE OF ACT.	TITLE.
2 Vict. c. 17. (1839.)	An Act to secure to Proprietors of Designs for Articles of Manufacture the Copyright of such Designs for a limited Time.

SCHEDULE (C.)

DATE OF ACTS.	TITLE.
38 Geo. III. c. 71. (1798.)	An Act for encouraging the Art of making new Models and Casts of Busts and other Things therein mentioned.
54 Geo. III. c. 56. (1814.)	An Act to amend and render more effectual an Act for encouraging the Art of making new Models and Casts of Busts and other Things therein mentioned, and for giving further Encouragement to such Arts.

CLASSIFICATION OF ORNAMENTAL DESIGNS WITH TERMS OF COPYRIGHT.

Class.	Article.	Copyright.
1.	Articles composed wholly or chiefly of Metal	3 years
2.	Articles do. do. do. Wood	3 ,,
3.	Articles do. do. do. Glass	3 ,,
4.	Articles do. do. do. Earthenware	3 ,,
5.	Paper Hangings	3 ,,
6.	Carpets, Floorcloths, and Oil Cloths	3 ,,
7.	Shawls (pattern printed)	9 months
8.	Shawls (patterns not printed)	3 years
9.	Yarn, Thread or Warp (printed)	9 months
10.	Woven Fabrics (patterns printed except those included in Class 11)	9 ,,
11.	Woven Fabrics, Furnitures (patterns printed the repeat exceeding 12 in. by 8 in.)	3 years
12.	Woven Fabrics (patterns not printed)	12 months
13.	Lace and all other Articles	12 ,,

TABLE OF FEES.

Registering Designs:

	Copyright.	£	s.	d.
Class 1	3 years	3	0	0
Class 2	do.	1	0	0
Class 3	do.	1	0	0
Class 4	do.	1	0	0
Class 5	do.	0	10	0
Class 6	do.	1	0	0
Class 7	9 months	0	1	0
Class 8	3 years	1	0	0
Class 9	9 months	0	1	0
Class 10	do.	0	1	0
Class 11	3 years	0	5	0
Class 12	12 months	0	5	0
Class 13	do.	0	5	0
Transfer		1	0	0
Certifying Design same as Registration Fee, but for Class 1		1	0	0
Cancellation or Substitution		1	0	0
Search		0	2	6
Inspection of all the Designs of which the Copyright has expired, each Class		0	1	0
Inspection of all the Designs registered under the Act 2 & 3 Vict. c. 17		0	1	0
Taking Copies of expired Designs, each		0	1	0

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6 & 7 VICT. CAP. 45.

An Act to amend the Laws relating to the Copyright of Designs.

[22nd August, 1843.]

WHEREAS by an Act passed in the fifth and sixth years of the reign of her present Majesty, intituled, "An Act to consolidate and amend the Laws relating to the Copyright of Designs for ornamenting Articles of Manufacture," there was granted to the proprietor of any new and original design, with the exceptions therein mentioned, the sole right to apply the same to the ornamenting of any article of manufacture or any such substance as therein described during the respective periods therein mentioned: and whereas it is expedient to extend the protection afforded by the said Act to such designs hereinafter mentioned, not being of an ornamental character, as are not included therein: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, That this Act shall come into operation on the first day of September, one thousand eight hundred and forty-three. 5 & 6 Vict. c. 100. Commencement of Act.

II. And with regard to any new or original design for any article of manufacture having reference to some purpose of utility, so far as such design shall be for the shape or configuration of such article, and that whether it be for the whole of such shape or configuration, or only for a part thereof, be it enacted, That the proprietor of such design not previously published within the United Kingdom of Great Britain and Ireland or elsewhere shall have the sole right to apply such design to any article, or make or sell any article according to such design, for the term of three years, to be computed from the time of such design being registered according to this Act: provided always, that this enactment shall not extend to such designs as are within the provisions of the said Act, or of two other Acts passed respectively in the thirty-eighth and fifty-fourth years of the reign of his late Majesty King George the Third, and intituled respectively, "An Act for encouraging the Art of making new Models and Casts of Busts, and other Things therein mentioned," and "An Act to amend and render more effectual an Act for encouraging the Art of making new Models and Casts of Busts, and other Things therein mentioned." Grant of copyright. Proviso. 38 G. 3. c. 71. 54 G. 3. c. 56.

III. Provided always, and be it enacted, That no person shall be entitled to the benefit of this Act unless such design have before publication thereof been registered according to this Act, and unless the name of such person shall be registered according to this Act as a proprietor of such design, and unless after publication of such design every article of manufacture made by him according to such design, or on which such design is used, hath thereon the word "registered," with the date of registration. Conditions of copyright.

IV. And be it enacted, That unless a design applied to any article of manufacture be registered either as aforesaid or according to the provisions of the said first-mentioned Act, and also after the copyright of such design shall have expired, it shall be unlawful to put on any such article the word "registered," or to advertise the same for sale as a registered article; and if any person shall so unlawfully publish, sell, or expose or advertise for sale any such article of manufacture, he shall forfeit for every such offence a sum not exceeding five pounds nor less than one pound, which may be recovered by any person proceeding for the same by any of the remedies hereby given for the recovery of penalties for pirating any such design. Penalty for wrongfully using marks denoting a registered design.

Floor or oil cloths included in Class 6.

V. And be it enacted, That all such articles of manufacture as are commonly known by the name of floor cloths or oil cloths shall henceforth be considered as included in class six in the said first-mentioned Act in that behalf mentioned, and be registered accordingly.

Certain provisions of 5 & 6 Vict. c. 100, to apply to this Act.

VI. And be it enacted, That all and every the clauses and provisions contained in the said first-mentioned Act, so far as they are not repugnant to the provisions contained in this Act relating respectively to the explanation of the term proprietor, to the transfer of designs, to the piracy of designs, to the mode of recovering penalties, to actions for damages, to cancelling and amending registrations, to the limitation of actions, to the awarding of costs, to the certificate of registration, to the fixing and application of fees of registration, and to the penalty for extortion, shall be applied and extended to this present Act as fully and effectually, and to all intents and purposes, as if the said several clauses and provisoes had been particularly repeated and re-enacted in the body of this Act.

Appointment of registrar, &c.

VII. And be it enacted, That so much of the said first-mentioned Act as relates to the appointment of a registrar of designs for ornamenting articles of manufacture, and other officers, as well as to the fixing of the salaries for the payment of the same, shall be and the same is hereby repealed; and for the purpose of carrying into effect the provisions as well of this Act as of the said first-mentioned Act, the lords of the committee of the privy council for the consideration of all matters of trade and plantations may appoint a person to be registrar of designs for articles of manufacture, and, if the lords of the said committee see fit, an assistant registrar and other necessary officers and servants; and such registrar, assistant registrar, officers, and servants shall hold their offices during the pleasure of the lords of the said committee; and such registrar shall have a seal of office; and the commissioners of her Majesty's treasury may from time to time fix the salary or other remuneration of such registrar, assistant registrar, and other officers and servants; and all the provisions contained in the said first-mentioned Act, and not hereby repealed, relating to the registrar, deputy registrar, clerks, and other officers and servants thereby appointed and therein named, shall be construed and held to apply respectively to the registrar, assistant registrar, and other officers and servants to be appointed under this Act.

Registrar's duties.

VIII. And be it enacted, That the said registrar shall not register any design for the shape or configuration of any article of manufacture as aforesaid unless he be furnished with two exactly similar drawings or prints of such design, with such description in writing as may be necessary to render the same intelligible according to the judgment of the said registrar, together with the title of the said design, and the name of every person who shall claim to be proprietor, or of the style or title of the firm under which such proprietor may be trading, with his place of abode or place of carrying on business, or other place of address; and every such drawing or print, together with the title and description of such design, and the name and address of the proprietor aforesaid, shall be on one sheet of paper or parchment, and on the same side thereof; and the size of the said sheet shall not exceed twenty-four inches by fifteen inches; and there shall be left on one of the said sheets a blank space on the same side on which are the said drawings, title, description, name, and address, of the size of six inches by four inches, for the certificate herein mentioned; and the said drawings or prints shall be made on a proper geometric scale; and the said description shall set forth such part or parts of the said design (if any) as shall not be new or original; and the said registrar shall register all such drawings or prints from time to time as they are received by him for that purpose; and on every such drawing or print he shall affix a number corresponding to the order of succession in the register, and he shall retain one drawing or print which he

Drawings.

shall file at his office, and the other he shall return to the person by whom the same has been forwarded to him; and in order to give a ready access to the designs so registered he shall keep a proper index of the titles thereof.

Discretionary power as to registry vested in the registrar.

IX. And be it enacted, That if any design be brought to the said registrar to be registered under the said first-mentioned Act, and it shall appear to him that the same ought to be registered under this present Act, it shall be lawful for the said registrar to refuse to register such design otherwise than under the present Act and in the manner hereby provided; and if it shall appear to the said registrar that the design brought to be registered under the said first-mentioned Act or this Act is not intended to be applied to any article of manufacture, but only to some label, wrapper, or other covering in which such article might be exposed for sale, or that such design is contrary to public morality or order, it shall be lawful for the said registrar, in his discretion, wholly to refuse to register such design: Provided always, that the lords of the said committee of privy council may, on representation made to them by the proprietor of any design so wholly refused to be registered as aforesaid, if they shall see fit, direct the said registrar to register such design, whereupon and in such case the said registrar shall be and is hereby required to register the same accordingly.

Proviso.

Inspection of index of titles of designs, &c.

X. And be it enacted, That every person shall be at liberty to inspect the index of the titles of the designs, not being ornamental designs, registered under this Act, and to take copies from the same, paying only such fees as shall be appointed by virtue of this Act in that behalf; and every person shall be at liberty to inspect any such design, and to take copies thereof, paying such fee as aforesaid; but no design whereof the copyright shall not have expired shall be open to inspection, except in the presence of such registrar, or in the presence of some person holding an appointment under this Act, and not so as to take a copy of such design, nor without paying such fee as aforesaid.

Interpretation of Act.

XI. And, for the interpretation of this Act, be it enacted, That the following terms and expressions, so far as they are not repugnant to the context of this Act, shall be construed as follows; (that is to say,) the expression "commissioners of the treasury" shall mean the lord high treasurer for the time being, or the commissioners of her Majesty's treasury of the United Kingdom of Great Britain and Ireland for the time being, or any three or more of them; and the singular number shall include the plural as well as the singular number, and the masculine gender shall include the feminine gender as well as the masculine gender.

Alteration of Act.

XII. And be it enacted, That this Act may be amended or repealed by any Act to be passed in the present session of parliament.

REGISTRAR'S NOTICE.

Copyright of Designs (non-ornamental).

DESIGNS OFFICE.

9th September, 1843.

As the Act 6 & 7 Vict. c. 65, applies only to the *shape or configuration* of articles of utility, and not to any *mechanical action, principle, contrivance,* or *application* (except in so far as these may be dependent upon, and inseparable from, the shape or configuration), NO Design will be registered the description of which shall contain *a claim* for any such mechanical action, principle, contrivance, or application.

With this exception *all* Designs, the drawings and descriptions of which are properly prepared and made out, will be registered, *without reference to the nature or extent of the Copyright sought to be thereby acquired; which considerations must be left entirely* TO THE JUDGMENT AND DISCRETION OF THE PROPRIETOR OF THE DESIGN.

Parties are strongly recommended to read the Act before determining to register their designs, in order that they may be satisfied as to the nature, extent, and comprehensiveness of the protection afforded by it, of which the Registration will not constitute any guarantee.

By Order of the Registrar,

J. H. BOWEN, *Clerk.*

TABLE OF FEES.

	Stamp.			Fee.			Total.		
	£	s.	d.	£	s.	d.	£	s.	d.
Registering Design . . .	5	0	0	5	0	0	10	0	0
Certifying former Registration .	5	0	0	1	0	0	6	0	0
Registering and Certifying Transfer .	5	0	0	1	0	0	6	0	0
Cancellation or Substitution .	.		.	1	0	0	1	0	0
Inspecting Index of Titles . .	.		.	0	1	0	0	1	0
Inspecting Designs (expired Copyright) each vol.	.		.	0	1	0	0	1	0
Taking Copies of ditto, each Design .	.		.	0	2	0	0	2	0
Inspecting Designs (unexpired Copyrights), each design	.		.	0	5	0	0	5	0

William Stevens, Printer, Bell Yard, Lincoln's Inn.