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THE LAW

OF

PATENTS, DESIGNS

AND

TRADE MARKS,

AS CONTAINED IN THE

Act 46 & 47 Vic. Cap. 57,

TO AMEND AND CONSOLIDATE THE LAW

RELATING TO

PATENTS FOR INVENTIONS, REGISTRATION OF DESIGNS AND OF TRADE MARKS,

WITH

NOTES AND OBSERVATIONS,

AND

OFFICIAL NOTICE BY BOARD OF TRADE AS TO APPLICATIONS FOR PATENTS UNDER THE ACT.

BY

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OF THE MIDDLE TEMPLE.

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PREFACE.

THE "Patents, Designs and Trade Marks Act, 1883," has made many changes in the law of great importance, and most of the alterations in the Patent Law will probably be found to be beneficial to inventors, though a great deal will depend upon the spirit in which the Act is carried into effect.

The reduction of the Government fees to £4 for the first four years of the Patent, instead of £25 for the first three years, will be of great advantage to Inventors. I regret, however, that the fees required to keep the Patent in force after the fourth year have not been very much reduced, or abolished altogether, or perhaps rather altered to a special income tax on the profits made from the successful Inventions.

JAMES J. ASTON.

4, MIDDLE TEMPLE LANE,
October, 1883.

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INTRODUCTORY CHAPTER.

THE Act 46 & 47 Vic. c. 57, intituled "An Act to Amend and Consolidate the Law relating to Patents for Inventions, Registration of Designs and of Trade Marks," and the short title for which Act is "The Patents, Designs and Trade Marks Act, 1883," makes many alterations in the Patent Law, and will raise some questions worthy of consideration by inventors. 46 & 47 Vic. c. 57. Short title.

It is proposed to deal here with some two or three of the principal alterations and questions, leaving the rest of the Editor's observations for the notes, which will be found between the sections of the Act.

Inventors should not prepare their own specifications.

And first, it is perhaps desirable to observe that inventors will not, it is believed, find it easier to prepare their own papers, but, on the contrary, the alterations made by the Act will probably be found to render it more than ever necessary that the inventor should be advised by a skilful patent agent as to the title of his patent and the form of his provisional or complete specification, or of both where he files both.

May send papers by post.

The Act, s. 5, contains a useful proviso as to sending the papers by post to the Patent Office.

Advised not to have provisional specifications.

The first thing an inventor will have to consider under the Act will be whether he will prepare a provisional specification or not; and so far as the Editor can master the effect of the Act, he thinks it will be found that it will be in nearly every case very undesirable and of no practical utility, but rather a source of danger, to file a provisional specification at all. Provisional specifications were introduced by the Patent Act of 1852, now repealed, under the idea that a poor man might, at a cost of £5, get a provisional protection for six months, and which was understood at the time to give him a right to exhibit his invention without danger to a subsequent patent, and also, if the provisional protection was followed up by a subsequent patent, a right to sue all infringers of his invention after the date of his patent, which nearly always corresponded with the date of his provisional protection.

Old practice as to provisional specification.

Under the old Acts there was no comparison of the provisional specification with the complete specification by any officer in the Patent Office, and when compared in Court it was very seldom that a patent could be defeated because the complete specification did not agree with the provisional specification.

New practice.

Under the new Act the only beneficial effect of a provisional protection will be that, under s. 14, where an application for a patent in respect of an invention has been accepted with a provisional specification, the invention may, during the period between the date of the application and the date of sealing such patent, be used and published without prejudice to the patent to be afterwards granted for the same; but inasmuch as the patentee will have no right to sue for any infringement of his patent committed before his complete specification has been accepted by the office and published (ss. 10 & 13)—and this publication may not take place for many months after the provisional specification is left at the office—it would seem to be dangerous to show any provisional specification, as it might induce persons to infringe it, whilst they could do so without being liable for the infringement; and it is improbable that any person would, under the new Act, buy any patent right under the Act until the complete specification has been accepted and published by the Patent Office; and again, when a complete specification is left after a provisional specification, both specifications will be referred to an examiner for the purpose of ascertaining whether the complete specification has been prepared in the prescribed manner, and whether

No right to sue for infringement until publication of complete specification.

the invention particularly described in the complete specification is substantially the same as that which is described in the provisional specification, and as the examiner to whom the two specifications will be referred may, and probably will be, a different examiner to the one to whom the provisional specification was referred, the double examination would seem to increase the chances of some serious objection being taken to the complete specification.

Complete specification.

The preparation of the complete specification will require more consideration than hitherto: under the old Acts, a complete specification was good without any specific claim as to the invention the patentee wished to secure, and although most modern complete specifications concluded with a claim, it very often was little if anything more than a statement that the inventor claimed the invention thereinbefore substantially described, without saying definitely or distinctly in the claim in what the invention consisted.

Under the new Act (s. 5, sub-sec. 5) the complete specification must end with a distinct statement of the invention claimed, and this provision of the Act would hardly seem to be met by a statement of a claim for the invention "substantially as described."

Reference to examiner.

Every application for a patent, whether

accompanied by a provisional or a complete specification, will be referred, under s. 6, by the comptroller of the Patent Office to an examiner, who will ascertain and report to the comptroller whether the nature of the invention has been fairly described, and the application, specification and drawings, if any, have been prepared in the prescribed manner, and whether the title sufficiently indicates the subject-matter of the invention.

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

The applicant may appeal from the decision of the comptroller to the law officer, who, if required, must hear the applicant and the comptroller, and may make an order determining whether and subject to what conditions, if any, the application shall be accepted (s. 7, sub-secs. 2 and 3).

Comparison of complete and provisional specifications.

Where a complete specification is left after a provisional specification, the comptroller will refer both specifications to an examiner, for

the purpose of ascertaining whether the complete specification has been prepared in the prescribed manner, and whether the invention particularly described in the complete specification is substantially the same as that which is described in the provisional specification (s. 9, sub-sec. 1).

If the examiner reports that the conditions in the Act before contained (*see* s. 5) have not been complied with, the comptroller may refuse to accept the complete specification, unless and until the same shall have been amended to his satisfaction, but any such refusal is subject to an appeal to the law officer, and the law officer will, if required, hear both applicant and the comptroller, and may make an order determining whether and subject to what conditions (if any) the complete specifications shall be accepted (s. 9, sub-secs. 2 and 3).

Acceptance of complete specification to be advertised.

On the acceptance of the complete specification, the comptroller will advertise the acceptance; and the application and specification or specifications, with the drawings, if any, will then be open to public inspection (s. 10).

Opposition to grant of patent.

Any person may, at any time within two months from the date of the advertisement of the acceptance of a complete specification, give notice at the Patent Office of opposition to the grant of the patent, on the ground of the

applicant having obtained the invention from him, or from a person of whom he is the legal personal representative, or on the ground that the invention has been patented in this country, on an application of prior date, or on the ground of an examiner having reported to the comptroller that the specification appears to him to comprise the same invention as is comprised in a specification having the same or a similar title, and accompanying a previous application, but on no other ground (s. 11, sub-sec. 1).

When such notice or notices are given, the comptroller will give notice of the opposition or oppositions to the applicant, and will on the expiration of the two months allowed under the last-mentioned sub-section, after hearing the applicant and the person or persons who have given notice of opposition, if desirous of being heard, decide on the case, but subject to appeal to the law officer (s. 11, sub-sec. 2).

The law officer will, if required, hear the applicant and any person or persons who have given notice of opposition, and being, in the opinion of the law officer, entitled to be heard in opposition to the grant; and the law officer will determine whether the grant ought or ought not to be made; and the law officer may, if he thinks fit, obtain the assistance of an expert, who will be paid such remuneration as

the law officer, with the consent of the Treasury, shall appoint (s. 11, sub-secs. 3 and 4).

The above provisions, as to the complete specification, have been gone through thus carefully for the reason that an important question will no doubt arise as to their effect after they have been completed. What do they lead up to and what is to be gained by them by the inventor or the public? Do they alter the conditions on which a patent is to be granted, as to the complete specification required under the old Acts, so that the inventor's complete specification having passed through the above ordeal satisfactorily, he may be said to have "by and in his complete specification particularly described the nature of his invention," and may be relieved from the express condition always contained under the previous Acts in the patent, that the patent shall be void if the complete specification to be filed under the patent, or already filed before the patent is granted, "does not particularly describe and ascertain the nature of the invention, and in what manner the same is to be performed?"

A series of new operations as to the complete specification having been gone through under the new Act, is not the best exponent of the result of these operations to be found in the form of the patent giving effect to the

result of the operations, and stating that the inventor has "by and in his complete specification particularly described the nature of his invention," *and omitting altogether the old express condition* that the patent should be void if the complete specification did not particularly describe the invention, &c.

And secondly, if the operations to be gone through are considered, do they not point to the same result? A complete specification under the old Acts was filed in any form the inventor chose to frame it.

And in the new Act many alterations are made, and provision is made that the complete specification must particularly describe and ascertain the nature of the invention, and in what manner the same is to be performed, and must be accompanied by drawings, if required, and must end with a distinct statement of the invention claimed; and whether these requirements have or have not been fulfilled has to be decided upon by an examiner and the comptroller, and the law officer on appeal, and the complete specification may possibly go before the law officer again, with the assistance of an expert, on a further appeal by one of the public after publication; and though the insufficiency of the specification is not a ground on which the public can oppose the grant, yet it is very possible that it may come

into consideration and discussion, and lead to an amendment of the specification on an opposition, on the ground that the invention has been patented in this country on an application of prior date; and unless the specification does particularly describe the invention, it is difficult to see how the question of whether it is or is not anticipated by another specification can be satisfactorily decided.

Thirdly—There does not seem to be any practical difficulty in holding that the true construction of the Act is to the effect that the sufficiency of the specification is to be taken as decided by the result of the operations gone through, as the patentee could only sue for a breach of the invention disclosed and described in his complete specification, anything kept back and not disclosed and described would not be protected by his patent.

Section 26, sub-sec. 3, ought perhaps to be noticed, but when properly construed it would seem to have no real bearing upon the above question, as it must, it is submitted, be read as if it were written *subject to the alterations made by the Act.*

Section 26, sub-sec. 3, is as follows:—"Every ground on which a patent might at the commencement of this Act be repealed by *scire facias* shall be available by way of defence to

an action of infringement, and shall also be a ground of revocation."

Now supposing the nonfulfilment of the old express condition to be a ground upon which a patent could have been repealed, so equally would the other old conditions—say as to the payment of fees—have been ground for a similar application to repeal; these conditions are altered by the Act, and to construe this section as if it said any defence existing *before* the Act shall be a good defence *after* the Act, would be to make the Act of no effect. It is therefore submitted that the last-mentioned clause must be read as suggested, subject to the alterations made by the Act, and that it leaves it an open question whether the Act has not, as suggested, altered the old *express condition* in the patent as to the sufficiency of the complete specification.

It ought perhaps to be observed, that although patents are to be granted for 14 years, practically speaking they will not in many cases give the inventor so long a time as 14 years to reap the fruits of his discovery. His complete specification need only be filed within nine months from the date of his application (s. 8), and it will probably take at least another month, and it may take much longer, before it is accepted (*see* s. 9, sub-sec. 4); and as before-mentioned, until it is accepted

and the acceptance advertised, the inventor has no remedy for any infringements (*see* ss. 10 & 13), nor can he institute any proceedings for any infringement until his patent has been granted to him (*see* s. 15).

Designs.

What is a design.

With respect to designs, any *new and original* design, not previously published in the United Kingdom, applicable to any article of manufacture, or to any substance artificial or natural, or partly artificial and partly natural, whether the design is applicable for the pattern, or the shape or configuration, or the ornament thereof, or for any two or more of such purposes, and by whatever means it is applicable, whether by printing, painting, embroidering, weaving, sewing, modelling, casting, embossing, engraving, staining, or any other means whatever, manual, mechanical or chemical, separate or combined (not being a design for a sculpture, or other thing within the protection of the Sculpture Copyright Act of the year 1814, 54 Geo. III. c. 56), may, on application to the comptroller, be registered as a copyright design under this Act (s. 47 and 60).

Applications must be in proper form and signed.

The application to register must be made in the forms given in the first schedule to the Act, or such other form as may be from time to time prescribed.

Specimens or

The application must contain a statement

of the nature of the design and the class or classes of goods for which registration is desired, and must be lodged at the office, together with copies of the drawings, photographs, or tracings of the design, sufficient, in the opinion of the comptroller, to enable him to identify the design; or, instead of copies, exact representations or specimens of the design; but the comptroller has power to refuse any drawings, representations or specimens which, in his opinion, are not suitable for the official records, and it should be borne in mind that, if exact representations or specimens of the design are not deposited at the time of making the application, it will be necessary to lodge such exact specimens before delivery or sale of any article to which a registered design has been applied. Each such article must be marked with the prescribed mark, words, or figures denoting that the design is registered, before being sold, otherwise the copyright will cease, unless the proprietor can show that he took proper steps to ensure the marking of the article. (*See* ss. 50 & 51.)

copies of design to be lodged with application.

Every article to which a registered design is applied to bear the registration mark.

The same design can, if accepted, be registered in any number of classes; and in case an applicant be doubtful as to the class in which a design should be registered, the comptroller may decide the question (s. 47, sub-sec. 4 and 5). The comptroller is empowered, if he thinks fit, to refuse the registration of a design, but

Design may be registered in more than one class.

Comptroller may refuse registration.

the party aggrieved by such refusal may appeal from his decision to the Board of Trade, who, if required, will determine whether registration is to be permitted (s. 47, sub-sec. 6 and 7).

Cesser of design if not used.

If a registered design is used in manufacture in any foreign country, and is not used in this country within six months of its registration in this country, the copyright will cease (s. 54).

Certificate of registration.

When a design is registered, the comptroller will grant a certificate to that effect; and when expedient, he has power to grant a copy or copies of such certificate (s. 49).

Copyright to last for five years.

Subject to the provisions of the Act, the copyright will last for five years (s. 50), at the expiration of which time, or before, if the copyright shall have ceased, the design will be open to the inspection of the public, and copies of such design can then be taken by any person on payment of the prescribed fee; but during the existence of the copyright, the design can only be seen by the proprietor, or some person authorised in writing by him, or by a person authorised by the comptroller or the Court, and then only upon furnishing such information as will enable the comptroller to identify the design, and the inspection must be made in the presence of the comptroller, or an officer acting under him, and the person making the in-

Inspection of design.

spection will not be entitled to copy the design or any part thereof (s. 52).

Information as to existence of copyright.

Under s. 53, on the request of any person producing a particular design, together with its mark of registration, or furnishing such information as will enable the comptroller to identify the design, on payment of the prescribed fee, will be informed whether the registration still exists in respect of such design, and of the class or classes of goods, the date of registration, and the name and address of the registered proprietor.

Register of proprietors of designs.

A register of designs will be kept at the Patent Office, and will contain the names and addresses of proprietors of registered designs, notifications of assignments of registered designs, and such other matters as may from time to time be prescribed. (*See* s. 55.) These registers will be open for the inspection of the public (s. 88), but no entry of any trust will be made in any register kept under the Act (s. 85).

When exhibition of design will not invalidate registration.

The exhibition at an Industrial or International Exhibition, certified as such by the Board of Trade, or the exhibition elsewhere, during the holding of the Exhibition, without the privity or consent of the proprietor of a design, or of any article to which a design is applied, or the publication during the holding of any such exhibition of a description of a design, will not prevent or invalidate

the registration of the design, provided that, before exhibiting the design or article, or publishing a description of the design, the exhibitor gives the comptroller the prescribed notice of his intention to do so, and the application for registration is made within six months from the date of the opening of the Exhibition (s. 57).

Penalty on piracy of registered design.

When a piracy or fraudulent imitation of a design has been committed, the proprietor of the design can recover, as a simple contract debt, a sum not exceeding £50 from the party offending, or he may bring an action for damages should he choose to do so (ss. 58 and 59).

Trade Marks.

Alterations in practice.

The practice relating to trade marks having been placed upon a very fair footing by the previous trade mark Acts now repealed, the alterations made by the present Act are very few, but still are somewhat important, owing to the increased facilities which they give to applicants for registration.

Application for registration.

Should the comptroller refuse an application to register a mark, the party applying can now appeal against such decision to the Board of Trade, who may, should it seem expedient, refer the appeal to the High Court of Justice (s. 62, sub-secs. 4 and 5), and (s. 64) after giving a list of the particulars of which a mark must

consist, by sub-sec. (*c*), states that a distinctive device, mark, brand, heading, label, ticket or *fancy word* or *words not in common use*, may be registered as a trade mark. This is of wider scope than previous Acts, and will probably invite a large increase in applications, although it will probably lend considerable aid to litigation in this respect, owing to the elasticity of the clause. The foregoing remarks apply to new marks, viz., those not in existence prior to August 13th, 1875; old marks, viz., marks used before August 13th, 1875, can be registered in almost whatever form they may be. New proprietors of old marks should be careful to state in their application how the mark came into their possession, such as by "successors in business, &c.," or by "purchasing the good-will, &c." The Act does not require an application to register an old mark to be supported by a statutory declaration.

Fancy word may be registered.

Another new feature is, that when the registration of a mark is not completed within twelve months from the date of application, through default on the part of the applicant, it will then be considered to be abandoned, and any further proceedings should be commenced by a fresh application (s. 63). A registered proprietor under the new Act can use his mark in any colour, notwithstanding it may be registered in a particular colour (s. 67).

Registration of mark to be completed within twelve months.

Application must be signed.

The application to register a trade mark should be in the form set forth in the first schedule to the Act, and must be signed by the proprietor or some person on his behalf. The application should then be left at or sent by post to the Patent Office, accompanied with two copies of the mark on foolscap paper, if registration is required in one class of goods only; but should it be desired to register the mark in more than one class, then one additional copy of the mark must be sent for each extra class in which registration is required. Before applying to register a new mark, it is always advisable to search the register in order to see if there is a similar mark already registered. This will frequently save expense, for when once a fee is accepted by the comptroller, it cannot be returned or used for any other purpose.

Separate applications to be made for registration of different marks.

If a person wishes to register more than one mark in the same or different classes of goods, it will be necessary to make separate applications for each mark; but under s. 66, a person claiming to be the proprietor of several trade marks which, while resembling each other in the material particulars thereof, yet differ in respect of the goods for which they are respectively used or proposed to be used, or numbers, or prices, or quality, or names of places, can register such trade marks as a

series in one registration, and such series can only be assigned or transmitted *as a whole*; but for all other purposes, each of the marks composing a series will be deemed and treated as registered separately; and under s. 70 a trade mark, when registered, can only be assigned in connection with the good-will of the business concerned in the particular goods or classes of goods for which it has been registered, and such trade marks will be determinable with such good-will. When more than one mark is registered in the same class, or the same mark is registered in various classes, a considerable reduction is made in the fees.

Reduction of fees.

When a mark is accepted by the comptroller, it will be necessary for the applicant to forward a wood-block, or an electrotype of the mark, for the purpose of advertising the same in the journal provided for that purpose; and when the prescribed time has elapsed, supposing there has been no notice of opposition lodged, and after paying the registration fee, a notification of the registration will then be issued; this document, however, will be of no avail as evidence, a certificate signed by the comptroller being required for that purpose (s. 96).

Advertising the mark before registration.

When more than one person separately claims to register the same mark at the same time, and for the same class of goods, the comp-

Comptroller may refuse registration.

troller may refuse to register any of them until their rights have been determined according to law, and he will not register in the same class a mark identical or similar with one already registered in that class. (*See* ss. 71 and 72.)

Marks used by more than three persons to be common to the trade.

Any mark publicly used previous to August 13th, 1875, by more than three persons in the same or similar description of goods, will be considered common to the trade in such goods (s. 74, sub-sec. 3).

Opposition to registration.

In the event of a mark being opposed, the person opposing must, within two months of the first advertisement of the application, give notice in duplicate at the Patent Office of opposition to the mark, one copy of which notice will be sent to the applicant. Within two months after such notice has been given, the applicant should send a counter-statement, in duplicate, of the grounds upon which he relies for his application, and if he does not do so, his application will be considered abandoned; should the applicant send such counter-statement, one copy will be forwarded to the person who gave notice of opposition, who will then be required to give security, as the comptroller may think necessary, for such costs as may be awarded; and if after fourteen days from the date of being required so to do the security is not given, the opposition will be considered to be withdrawn, but should such

security be given, the comptroller will inform the applicant of the fact in writing, and thereupon the case will be deemed to stand for the determination of the High Court of Justice (s. 69).

Mark must be registered to recover damages for infringment.

No proceeding can be taken to recover damages for infringement, &c., unless the mark is registered, or, in the case of an old mark in use before August 13th, 1875, registration has been refused. The comptroller will, on request, grant a certificate of the refusal of the application to register a mark (s. 77).

Right of first proprietor.

The registration of a mark is *primâ facie* evidence of the right of the registered proprietor, and after the expiration of five years from the date of registration is conclusive evidence of such right, subject to the provisions of the Act (s. 76).

Removal of Trade Mark after 14 years, unless fee paid.

Within three months, and not less than two months before the expiration of fourteen years from the date of registration, the comptroller is required to send a notice to the proprietor, stating that if the proper fees are not paid within the fourteen years the mark will be removed from the register; a second notice to the same effect is required to be given, and if the fees are not paid within three months from the expiration of the fourteen years, the mark will then be removed from the register; but after such removal, the comptroller has power

to restore any mark, should he think fit to do so, upon the required fees being paid. In the event of a mark, being removed from the register at the end of fourteen years, the comptroller will, nevertheless, for the purpose of any application for registration during the five years next after the date of such removal, deem such mark to be a trade mark which is already registered (s. 79).

Doubt whether fees to be paid every 14 years.

It was probably intended that the fees under the last-mentioned section should be payable every 14 years, but it may well be doubted whether the words in s. 79, sub.-sec. 2, give effect to such intention.

Assignments, &c., to be registered.

All assignments of trade marks should be registered, and any other matters which may be considered necessary, but no entry of any trust will be allowed. (*See* ss. 78 and 85.)

Power to alter the register.

The comptroller has power to cancel an entry on the register, or part of an entry, upon request in writing, but such request must be accompanied by a statutory declaration, or the proprietor may apply to the High Court of Justice to rectify the register, but notice must first be given to the comptroller of such intended application. (*See* ss. 90, 91 and 92.)

Office copies.

Office copies, under seal, of any document filed at the Patent Office, will be accepted as evidence (s. 89).

Any person knowingly making, or causing to be made, a false entry, will be guilty of a misdemeanour, and any person falsely representing an article to be "patented" or "registered," will be liable to a fine not exceeding £5 (ss. 93 and 105).

Falsification of registers.

When the comptroller is empowered to act according to his discretion, he is not to use such power adversely to the applicant without giving him the opportunity of being heard, either personally or by his agent (s. 94).

Comptroller to hear applicant or agent personally.

The comptroller may, in any case of doubt or difficulty arising in the administration of any of the provisions of the Act, apply to either of the law officers for directions in the matter (s. 95); but of course this power should not be exercised in any case in which the matter may have to go before the law officers in appeal from the comptroller.

The "Commissioners of Patents' Journal," of the 23rd October, 1883, contained an official notice from the Board of Trade as to applications for patents under the Act. A copy of this notice will be found at the end of the Act.

PATENTS, DESIGNS AND TRADE MARKS ACT, 1883.

[46 & 47 Vic. c. 57.]

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PATENTS, DESIGNS AND TRADE MARKS ACT, 1883.

[46 & 47 Vic.]

CHAPTER 57.

An Act to amend and consolidate the Law relating to Patents for Inventions, Registration of Designs and of Trade Marks.

25th August, 1883.

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

PART I.

Part I. Preliminary.

Preliminary.

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

Part I. Preliminary.

Division of Act into parts.

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

Part I.—Preliminary.
Part II.—Patents.
Part III.—Designs.
Part IV.—Trade Marks.
Part V.—General.

Commencement of Act.

3. This Act, except where it is otherwise expressed, shall commence from and immediately after the Thirty-first day of December, One thousand eight hundred and eighty-three.

Part II. Patents.

PART II.

PATENTS.

Application for and Grant of Patent.

Persons entitled to apply for patent.

4. (1.) Any person, whether a British subject or not, may make an application[1] for a patent.

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

Application and specification.

5. (1.) An application for a patent must

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[1] *See* form in the first schedule to the Act.

[2] Only one or more of such persons need be the true and first inventor or inventors. (*See* s. 5, sub-sec. 2.)

be made in the form set forth in the first schedule to this Act, or in such other form as may be from time to time prescribed; and must be left at, or sent by post to, the Patent Office, in the prescribed manner.

(2.) An application must contain a declaration to the effect that the applicant is in possession of an invention, whereof he, or in the case of a joint application, one or more of the applicants, claims or claim to be the true and first inventor or inventors, and for which he or they desires or desire to obtain a patent; and must be accompanied by either a provisional or complete specification.[1]

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

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

(5.) A specification, whether provisional or complete, must commence with the title, and in the case of a complete specification must

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[1] *See* Forms "B" and "C" in the first schedule to this Act. And *see* also observations in the Introductory Chapter, as to provisional and complete specifications.

Part II. Patents.

end with a distinct statement of the invention claimed.[1]

Reference of application to examiner.

6. The comptroller shall refer every application to an examiner,[2] who shall ascertain and report to the comptroller[2] whether the nature of the invention has been fairly described, and the application, specification and drawings (if any) have been prepared in the prescribed manner, and the title sufficiently indicates the subject-matter of the invention.

Power for comptroller to refuse application or require amendment.

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

(2.) Where the comptroller requires an amendment, the applicant may appeal from his decision to the law officer.[3]

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[1] The distinct statement of the invention, claimed at the end of the specification, is a new provision, and would seem to require much greater particularity in the statement of claims to inventions than hitherto required.

[2] The comptroller and examiners are to be appointed by the Board of Trade, under s. 83 of the Act.

[3] Law officer means Her Majesty's Attorney-General or Solicitor-General for England. (*See* s. 117 of the Act.)

(3.) The law officer shall, if required, hear the applicant and the comptroller, and may make an order determining whether and subject to what conditions,[1] if any, the application shall be accepted.

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

(5.) If after an application has been made, but before a patent has been sealed, an application is made, accompanied by a specification bearing the same or a similar title,[2] it shall be the duty of the examiner to report to the comptroller whether the specification appears to him to comprise the same invention; and if he reports in the affirmative, the comptroller shall give notice to the applicants that he has so reported.

(6.) Where the examiner reports in the affirmative, the comptroller may determine, subject to an appeal to the law officer, whether the

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[1] This would seem to point to the result discussed in the Introductory Chapter, viz., that the law officer may require any alterations he pleases in the specification, and, practically speaking, may possibly be said to settle the specifications brought before him.

[2] It will be observed that this does not include an inquiry as to patents prior to the application, and is not at all of the same nature as the opposition by one of the public on the ground that the invention has been patented in this country on an application of prior date to the inventor's application. (*See* s. 11, sub-sec. 1.)

Part II. Patents.

invention comprised in both applications is the same, and if so, he may refuse to seal a patent on the application of the second applicant.

Time for leaving complete specification.

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

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

Comparison of provisional and complete specification.

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

(2.) If the examiner reports that the conditions hereinbefore contained have not been complied with, the comptroller may refuse to accept the complete specification unless and until the same shall have been amended to his satisfaction[1]; but any such

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[1] *See* observations in Introductory Chapter as to provisional and complete specifications.

refusal shall be subject to appeal to the law officer.

(3.) The law officer shall, if required, hear the applicant and the comptroller, and may make an order determining whether and subject to what conditions,[1] if any, the complete specification shall be accepted.

(4.) Unless a complete specification is accepted within twelve months from the date of application, then (save in the case of an appeal having been lodged against the refusal to accept) the application shall, at the expiration of those twelve months, become void.

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

Advertisement on acceptance of complete specification.

10. On the acceptance of the complete specification the comptroller shall advertise the acceptance; and the application and

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[1] This seems to point to the result discussed in the Introductory Chapter as to the sufficiency of the complete specification.

Part II. Patents.

specification or specifications with the drawings (if any) shall be open to public inspection.[1]

Opposition to grant of patent.

11. (1.) Any person may at any time within two months from the date of the advertisement of the acceptance of a complete specification, give notice at the Patent Office of opposition to the grant of the patent on the ground of the applicant having obtained the invention from him, or from a person of whom he is the legal representative, or on the ground that the invention has been patented in this country on an application of prior date, or on the ground of an examiner having reported to the comptroller that the specification appears to him to comprise the same invention as is comprised in a specification bearing the same or a similar title, and accompanying a previous application, but on no other ground.

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

(3.) The law officer shall, if required, hear

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[1] This would seem to be the "publication" of the complete specification referred to in s. 13.

the applicant and any person so giving notice and being, in the opinion of the law officer, entitled to be heard in opposition to the grant, and shall determine whether the grant ought or ought not to be made.[1]

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

Sealing of patent.

12. (1.) If there is no opposition, or, in case of opposition, if the determination is in favour of the grant of a patent, the comptroller shall cause a patent to be sealed with the seal of the Patent Office.

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

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

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[1] The law officer may, under this section, have to decide the question whether the patent sought for has been anticipated by another patent, and this is sometimes a question of great difficulty, and might involve hearing evidence on oath, and a long inquiry. (*See* the decision of the House of Lords as to this question overruling the decision of a majority of the Judges, Betts *v.* Menzies, 10 House of Lords, Cases 117, and 31 Law Journal Reports, New Series, Queen's Bench 233.) The law officer, under the Act, will be able to hear evidence on oath. (*See* s. 38.)

Part II. Patents.

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

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

Date of patent.

13. Every patent shall be dated and sealed as of the day of the application: Provided, that no proceedings shall be taken in respect of an infringement committed before the publication of the complete specification:[1] Provided also, that in case of more than one application for a patent for the same invention, the sealing of a patent on one of those applications shall not prevent the sealing of a patent on an earlier application.

Provisional Protection.

Provisional protection.

14. Where an application for a patent in respect of an invention has been accepted, the

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[1] The publication referred to would seem to be the advertisement of the acceptance of the complete specification under s. 10. This is an important limitation of the 14 years granted by the patent, and may reduce the profits to be derived from the invention from 14 years to even less than 13 years. (*See* s. 9, sub-sec. 4.)

invention may, during the period between the date of the application and the date of sealing such patent, be used and published without prejudice to the patent to be granted for the same,[1] and such protection from the consequences of use and publication is in this Act referred to as provisional protection.

Protection by complete Specification.

Effect of acceptance of complete specification.

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

Patent.

Extent of patent.

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

Term of patent.

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

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[1] This is the only advantage of provisional protection, and it seems to be one of very doubtful value. (*See* observations in the Introductory Chapter.)

Part II. Patents.

(2.) But every patent shall, notwithstanding anything therein or in this Act, cease if the patentee fails to make the prescribed payments within the prescribed times.[1]

(3.) If, nevertheless, in any case, by accident, mistake or inadvertence, a patentee fails to make any prescribed payment within the prescribed time, he may apply to the comptroller for an enlargement of the time for making that payment.

(4.) Thereupon the comptroller shall, if satisfied that the failure has arisen from any of the above-mentioned causes, on receipt of the prescribed fee for enlargement, not exceeding ten pounds, enlarge the time accordingly, subject to the following conditions:

(*a*.) The time for making any payment shall not in any case be enlarged for more than three months.

(*b*.) If any proceeding shall be taken in respect of an infringement of the patent committed after a failure to make any payment within. the prescribed time, and before the enlargement thereof, the Court before which the proceeding is proposed to be taken

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[1] *See* these payments in the second schedule to the Act; they may be reduced under s. 24, sub.-sec. 2, by the Board of Trade with the consent of the Treasury.

may, if it shall think fit, refuse to award or give any damages in respect of such infringement.

Amendment of Specification.

Amendment of specification.

18. (1.) An applicant or a patentee may, from time to time, by request in writing left at the Patent Office, seek leave to amend his specification, including drawings forming part thereof, by way of disclaimer, correction, or explanation, stating the nature of such amendment and his reasons for the same.

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

(3.) Where such notice is given the comptroller shall give notice of the opposition to the person making the request, and shall hear and decide the case, subject to an appeal to the law officer.

(4.) The law officer shall, if required, hear the person making the request and the person so giving notice, and being in the opinion of the law officer entitled to be heard in opposition to the request, and shall determine whether and subject to what conditions, if any, the amendment ought to be allowed.

Part II. Patents.

(5.) Where no notice of opposition is given, or the person so giving notice does not appear, the comptroller shall determine whether and subject to what conditions, if any, the amendment ought to be allowed.

(6.) When leave to amend is refused by the comptroller, the person making the request may appeal from his decision to the law officer.

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

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

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

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

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

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

Restriction on recovery of damages.

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

Advertisement of amendment.

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

Compulsory Licences.

Power for Board to order grant of licences.

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

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[1] This is a new provision, and will very probably be found to be a most valuable provision in favour of inventors.

Part II. Patents.

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

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

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

the Board may order the patentee to grant licences[1] on such terms as to the amount of royalties, security for payment, or otherwise, as the Board, having regard to the nature of the invention and the circumstances of the case, may deem just, and any such order may be enforced by mandamus.

Register of Patents.

Register of patents.

23. (1.) There shall be kept at the Patent Office a book called the Register of Patents, wherein shall be entered the names and addresses of grantees of patents, notifications of assignments and of transmissions of patents, of licences under patents, and of amendments, extensions and revocations of patents, and such other matters affecting the validity or proprietorship of patents as may from time to time be prescribed.

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[1] This is a new provision, and will probably be found beneficial to inventors.

(2.) The register of patents shall be *primâ facie* evidence of any matters by this Act directed or authorised to be inserted therein.[1]

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

Fees.

Fees in schedule.

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

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

Extension of Term of Patent.

Extension of term of patent on petition to Queen in Council.

25. (1.) A patentee may, after advertising

[1] *See* s. 90 as to rectification of register.

Part II. Patents.

in manner directed by any rules made under this section his intention to do so, present a petition to Her Majesty in Council, praying that his patent may be extended for a further term; but such petition must be presented at least six months before the time limited for the expiration of the patent.

(2.) Any person may enter a caveat, addressed to the Registrar of the Council at the Council Office, against the extension.

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

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

(5.) If the Judicial Committee report that the patentee has been inadequately remunerated by his patent, it shall be lawful for Her Majesty in Council to extend the term of the patent for a further term, not exceeding seven, or in exceptional cases, 14 years; or to order the grant of a new patent for the term therein

mentioned, and containing any restrictions, conditions, and provisions that the Judicial Committee may think fit.

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

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

Revocation.

Revocation of patent.

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

(2.) Revocation of a patent may be obtained on petition to the Court.[1]

(3.) Every ground on which a patent might, at the commencement of this Act, be repealed by *scire facias*, shall be available by way of

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[1] The Court means (subject to the provisions for Scotland, Ireland and the Isle of Man) Her Majesty's High Court of Justice in England. (*See* s. 117.)

Part II. Patents.

defence to an action of infringement, and shall also be a ground of revocation.[1]

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

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

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

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

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

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

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[1] This must mean *subject to the alterations made by the Act*, and the clause cannot, it is considered, be read as if it were written, "Every ground on which a patent might, *before* the commencement of the Act, &c." (*See* observations as to this in Introductory Chapter.)

anything claimed by the patentee as his invention.

(5.) The plaintiff must deliver with his petition particulars of the objections on which he means to rely, and no evidence shall, except by leave of the Court or a judge, be admitted in proof of any objection of which particulars are not so delivered.

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

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

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

Crown.

Patent to bind Crown.

27. (1.) A patent shall have to all intents the like effect as against Her Majesty the

Part II. Patents.

Queen, her heirs and successors, as it has against a subject.[1]

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

Legal Proceedings.

Hearing with assessor.

28. (1.) In an action or proceeding for infringement or revocation of a patent, the Court may, if it thinks fit, and shall, on the request of either of the parties to the proceeding, call in the aid of an assessor specially qualified,[2] and try and hear the case wholly or partially with his assistance; the action shall be tried without a jury unless the Court shall otherwise direct.

---

[1] This is a new right given to inventors, and in some cases will be very beneficial to them.

[2] This provision is new, and very probably will not prove beneficial to inventors, as upon a question of novelty or utility it might be very difficult to convince an assessor

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

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

Delivery of particulars.

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

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

(3.) If the defendant disputes the validity

"specially qualified" that any improvement is novel or useful. It is also objectionable as giving patronage to the Court, which had much better be exercised by some independent authority, and especially as, under sub-sec. 3, the Court will have to settle the remuneration to be paid to the assessor; the remuneration will be payable out of money sprovided by Parliament (s. 83, sub-sec. 2).

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of the patent, the particulars delivered by him must state on what grounds he disputes it, and if one of those grounds is want of novelty, must state the time and place of the previous publication or user alleged by him.

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

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

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

Order for inspection, &c., in action.

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

Certificate of validity questioned and costs thereon.

31. In an action for infringement of a patent[1], the Court or a Judge may certify that the validity of the patent came in question; and if the Court or a Judge so certifies, then in any subsequent action for infringement the plaintiff in that action, on obtaining a final order or judgment in his favour, shall have his full costs, charges and expenses as between solicitor and client, unless the Court or Judge trying the action certifies that he ought not to have the same.

Remedy in case of groundless threats of legal proceedings.

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

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[1] This must mean when the patentee succeeds in the action. (*See* the repealed provisions 5 and 6 Will. IV. c. 83, s. 3, where it is expressly so provided; but strangely enough, this limitation is not in the corresponding section 43 of the (also repealed) Act 15 and 16 Vic. c. 83.)

Part II. Patents.

such threats: Provided, that this section shall not apply if the person making such threats with due diligence commences and prosecutes an action for infringement of his patent.[1]

Miscellaneous.

Patent for one invention only.

33. Every patent may be in the form in the first schedule to this Act, and shall be granted for one invention only, but may contain more than one claim; but it shall not be competent for any person in an action or other proceeding to take any objection to a patent on the ground that it comprises more than one invention.

Patent on application of representative of deceased inventor.

34. (1.) If a person possessed of an invention dies without making application for a patent for the invention, application may be made by, and a patent for the invention granted to his legal representative.

(2.) Every such application must be made within six months of the decease of such person, and must contain a declaration by the legal representative, that he believes such person to be the true and first inventor of the invention.

Patent to first inventor not invalidated by application in fraud of him.

35. A patent granted to the true and first inventor shall not be invalidated by an application in fraud of him, or by provisional

[1] This is a new provision and of very doubtful utility, though it may give rise to very considerable annoyance and litigation.

protection obtained thereon, or by any use or publication of the invention subsequent to that fraudulent application during the period of provisional protection.

Assignment for particular places.

36. A patentee may assign his patent for any place in or part of the United Kingdom, or Isle of Man, as effectually as if the patent were originally granted to extend to that place or part only.[1]

Loss or destruction of patent.

37. If a patent is lost or destroyed, or its non-production is accounted for to the satisfaction of the comptroller, the comptroller may at any time cause a duplicate thereof to be sealed.

Proceedings and costs before law officer.

38. The law officers may examine witnesses on oath and administer oaths for that purpose under this part of this Act, and may from time to time make, alter, and rescind rules regulating references and appeals to the law officers and the practice and procedure before them under this part of this Act; and in any proceeding before either of the law officers under this part of this Act the law officer may order costs to be paid by either party, and any such order may be made a rule of the Court.[2]

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[1] This is a new provision, and will most probably prove very useful and beneficial to patentees.

[2] This provision is very large, and suggests the idea that *many* law officers may be necessary to carry the Act

Part II. Patents.

Exhibition at Industrial or International Exhibition not to prejudice patent rights.

39. The exhibition of an invention at an industrial or international exhibition, certified as such by the Board of Trade, or the publication of any description of the invention during the period of the holding of the exhibition, or the use of the invention for the purpose of the exhibition in the place where the exhibition is held, or the use of the invention during the period of the holding of the exhibition by any person elsewhere, without the privity or consent of the inventor, shall not prejudice the right of the inventor or his legal personal representative to apply for and obtain provisional protection and a patent in respect of the invention or the validity of any patent granted on the application, provided that both the following conditions are complied with, namely :—

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

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

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into effect, it seems indeed hardly probable that the Act can be efficiently carried into effect without one or more permanent law officers, appointed exclusively for the business of the Patent Office.

Publication of illustrated journal, indexes, &c.

40. (1.) The comptroller shall cause to be issued periodically an illustrated journal of patented inventions, as well as reports of patent cases decided by Courts of law, and any other information that the comptroller may deem generally useful or important.[1]

(2.) Provision shall be made by the comptroller for keeping on sale copies of such journal, and also of all complete specifications of patents for the time being in force, with their accompanying drawings, if any.[2]

(3.) The comptroller shall continue in such form as he may deem expedient, the indexes and abridgments of specifications hitherto published, and shall from time to time prepare and publish such other indexes, abridgments of specifications, catalogues, and other works relating to inventions, as he may see fit.

Patent Museum.

41. The control and management of the existing Patent Museum and its contents shall, from and after the commencement of this Act, be transferred to and vested in the Department of Science and Art, subject to such directions as Her Majesty in Council may see fit to give.

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[1] This, no doubt, means such cases as he thinks necessary to be reported. It is not clear who is to furnish the reports to the comptroller. Is he to employ a staff of reporters?

[2] It is strange that provisional specifications are not included in this provision.

Part II. Patents.

Power to require models on payment.

42. The Department of Science and Art may at any time require a patentee to furnish them with a model of his invention on payment to the patentee of the cost of the manufacture of the model; the amount to be settled, in case of dispute, by the Board of Trade.

Foreign vessels in British waters.

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

(2.) But this section shall not extend to vessels of any foreign State of which the laws authorise subjects of such foreign State, having patents or like privileges for the exclusive use or exercise of inventions within its territories, to prevent or interfere with the use of such inventions in British vessels while in the ports of such foreign State, or in the waters within the jurisdiction of its Courts, where such inventions are not so used for the manufacture or preparation of anything intended to be sold in or exported from the territories of such foreign State.

Assignment to Secretary for War of certain inventions.

44. (1.) The inventor of any improvement in instruments or munitions of war, his executors, administrators, or assigns (who are in this section comprised in the expression "the inventor") may (either for or without valuable consideration) assign to Her Majesty's Principal Secretary of State for the War Department (hereinafter referred to as "the Secretary of State"), on behalf of Her Majesty, all the benefit of the invention and of any patent obtained or to be obtained for the same; and the Secretary of State may be a party to the assignment.

(2.) The assignment shall effectually vest the benefit of the invention and patent in the Secretary of State for the time being on behalf of Her Majesty, and all covenants and agreements therein contained for keeping the invention secret and otherwise shall be valid and effectual (notwithstanding any want of valuable consideration), and may be enforced accordingly by the Secretary of State for the time being.

(3.) Where any such assignment has been made to the Secretary of State, he may at any time before the application for a patent for the invention, or before publication of the specification or specifications, certify to the comptroller his opinion that, in the interest of the public service, the particulars of the inven-

tion and of the manner in which it is to be performed should be kept secret.

(4.) If the Secretary of State so certifies, the application or specification or specifications with the drawings (if any), and any amendment in the specification or specifications, and any copies of such documents and drawings, shall, instead of being left in the ordinary manner at the Patent Office, be delivered to the comptroller in a packet sealed by authority of the Secretary of State.

(5.) Such packet shall until the expiration of the term or extended term during which a patent for the invention may be in force, be kept sealed by the comptroller, and shall not be opened save under the authority of an order of the Secretary of State, or of the law officers.

(6.) Such sealed packet shall be delivered at any time during the continuance of the patent, to any person authorised, by writing under the hand of the Secretary of State, to receive the same, and shall, if returned, to the comptroller, be again kept sealed by him.

(7.) On the expiration of the term or extended term of the patent, such sealed packet shall be delivered to any person authorised, by writing under the hand of the Secretary of State, to receive it.

(8.) Where the Secretary of State certifies as aforesaid, after an application for a patent

has been left at the Patent Office, but before the publication of the specification or specifications, the application, specification or specifications, with the drawings (if any), shall be forthwith placed in a packet sealed by authority of the comptroller, and such packet shall be subject to the foregoing provisions respecting a packet sealed by authority of the Secretary of State.

(9.) No proceeding by petition or otherwise shall lie for revocation of a patent granted for an invention in relation to which the Secretary of State has certified as aforesaid.

(10.) No copy of any specification or other document or drawing, by this section required to be placed in a sealed packet, shall in any manner whatever be published or open to the inspection of the public, but save as in this section otherwise directed, the provisions of this part of this Act shall apply in respect of any such invention and patent as aforesaid.

(11.) The Secretary of State may, at any time by writing under his hand, waive the benefit of this section with respect to any particular invention, and the specifications, documents and drawings shall be thenceforth kept and dealt with in the ordinary way.

(12.) The communication of any invention for any improvement in instruments or munitions of war to the Secretary of State, or to any person or persons authorised by him to investi-

Part II. Patents.

gate the same or the merits thereof, shall not, nor shall anything done for the purposes of the investigation, be deemed use or publication of such invention so as to prejudice the grant or validity of any patent for the same.

Existing Patents.

Provisions respecting existing patents.

45. (1.) The provisions of this Act relating to applications for patents and proceedings thereon shall have effect in respect only of applications made after the commencement of this Act.

(2.) Every patent granted before the commencement of this Act, or on an application then pending, shall remain unaffected by the provisions of this Act relating to patents binding the Crown, and to compulsory licences.

(3.) In all other respects (including the amount and time of payment of fees) this Act shall extend to all patents granted before the commencement of this Act, or on applications then pending, in substitution for such enactments as would have applied thereto if this Act had not been passed.[1]

(4.) All instruments relating to patents granted before the commencement of this

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[1] *See* s. 113, which does not seem to agree with the above provisions, and it may be a question which section is to take effect on patents granted subsequent to the 31st December, 1883, on applications pending on that date.

Act required to be left or filed in the Great Seal Patent Office shall be deemed to be so left or filed if left or filed before or after the commencement of this Act in the Patent Office.

Definitions.

Definitions of patent, patentee, and invention.

46. In and for the purposes of this Act—

"Patent" means letters patent for an invention:

"Patentee" means the person for the time being entitled to the benefit of a patent:

"Invention" means any manner of new manufacture the subject of letters patent and grant of privilege within section six of the Statute of Monopolies (that is, the Act of the twenty-first year of the reign of King James the First, chapter three, intituled "An Act concerning monopolies and dispensations with penal laws and the forfeiture thereof"),[1] and includes an alleged invention.

In Scotland "injunction" means "interdict."

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[1] This section is as follows: "Provided and be it declared and enacted that any declaration before mentioned shall not extend to any letters patents and grants of privilege for the term of 14 years or under hereafter to be made, of the sole working or making of any manner of new manufactures within this realm, to the true and first inventor or inventors of such manufactures which others at the time of making such letters patent and grants shall not use, so as also they be not contrary to the law nor mischievous to the State, by raising prices of commodities at home, or hurt of trade, or generally

Part III.
Designs.

PART III.

DESIGNS.

Registration of Designs.

Application for registration of designs.

47. (1.) The comptroller may, on application[1] by or on behalf of any person claiming to be the proprietor of any new or original design not previously published in the United Kingdom,[2] register the design under this part of this Act.

(2.) The application must be made in the form set forth in the first schedule to this Act, or in such other form as may be from time to time prescribed, and must be left at, or sent by post to the Patent Office in the prescribed manner.

(3.) The application must contain a statement of the nature of the design, and the class or classes of goods in which the applicant desires that the design be registered.

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inconvenient, the said 14 years to be accounted from the date of the first letters patents or grant of such privilege hereafter to be made, but that the same shall be of force as they should be if this Act had never been made, and of none other."

[1] The application must be signed by the applicant or by some person on his behalf; in the case of a registered Company it is usual for the Managing Director or Secretary to sign.

[2] *See* ss. 103 & 104 as to arrangements with the Colonies or foreign countries.

(4.) The same design may be registered in more than one class.

(5.) In case of doubt as to the class in which a design ought to be registered, the comptroller may decide the question.

(6.) The comptroller may, if he thinks fit, refuse to register any design presented to him for registration, but any person aggrieved by any such refusal may appeal therefrom to the Board of Trade.

(7.) The Board of Trade shall, if required, hear the applicant and the comptroller, and may make an order determining whether, and subject to what conditions, if any, registration is to be permitted.

Drawings, &c., to be furnished on application.

48. (1.) On application for registration of a design the applicant shall furnish to the comptroller the prescribed number of copies of drawings, photographs or tracings of the design sufficient, in the opinion of the comptroller, for enabling him to identify the design; or the applicant may, instead of such copies, furnish exact representations or specimens of the design.[1]

(2.) The comptroller may, if he thinks fit, refuse any drawing, photograph, tracing, representation or specimen which is not, in his opinion, suitable for the official records.

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[1] It would be advisable to lodge exact representations of the design. *See* s. 50, sub-s. 2.

Part III. Designs.

Certificate of registration.

49. (1.) The comptroller shall grant a certificate of registration to the proprietor of the design when registered.

(2.) The comptroller may, in case of loss of the original certificate, or in any other case in which he deems it expedient, grant a copy or copies of the certificate.

Copyright in registered Designs.

Copyright on registration.

50. (1.) When a design is registered, the registered proprietor of the design shall, subject to the provisions of this Act, have copyright in the design during five years from the date of registration.

(2.) Before delivery on sale of any articles to which a registered design has been applied, the proprietor must (if exact representations or specimens were not furnished on the application for registration), furnish to the comptroller the prescribed number of exact representations or specimens of the design; and if he fails to do so, the comptroller may erase his name from the register, and thereupon his copyright in the design shall cease.

Marking registered designs.

51. Before delivery on sale of any articles to which a registered design has been applied, the proprietor of the design shall cause each such article to be marked with the prescribed mark, or with the prescribed word or words, or figures, denoting that the design is registered;

and if he fails to do so the copyright in the design shall cease, unless the proprietor shows that he took all proper steps to ensure the marking of the article.

Inspection of registered designs.

52. (1.) During the existence of copyright in a design, the design shall not[1] be open to inspection except by the proprietor, or a person authorised in writing by the proprietor, or a person authorised by the comptroller or by the Court, and furnishing such information as may enable the comptroller to identify the design, nor except in the presence of the comptroller, or of an officer acting under him, nor except on payment of the prescribed fee; and the person making the inspection shall not be entitled to take any copy of the design, or of any part thereof.

(2.) When the copyright in a design has ceased, the design shall be open to inspection, and copies thereof may be taken by any person on payment of the prescribed fee.

Information as to existence of copyright.

53. On the request of any person producing a particular design, together with its mark of registration, or producing only its mark of registration, or furnishing such information as may enable the comptroller to

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[1] This seems to be a very singular provision and one that ought to be repealed. *See* s. 53, which authorises the comptroller to give information which any inquirer ought to be able to get for himself.

Part III. Designs.

identify the design, and on payment of the prescribed fee, it shall be the duty of the comptroller to inform such person whether the registration still exists in respect of such design, and if so, in respect of what class or classes of goods, and stating also the date of registration, and the name and address of the registered proprietor.

Cesser of copyright in certain events.

54. If a registered design is used in manufacture in any foreign country, and is not used in this country within six months of its registration in this country, the copyright in the design shall cease.[1]

Register of Designs.

Register of designs.

55. (1.) There shall be kept at the Patent Office a book called the Register of Designs, wherein shall be entered the names and addresses of proprietors of registered designs, notifications of assignments and of transmissions of registered designs, and such other matters as may from time to time be prescribed.

(2.) The register of designs shall be *primâ facie* evidence of any matters by this Act directed or authorised to be entered therein.[2]

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[1] *See* also ss. 103 & 104 as to the registration of foreign designs in England.

[2] The comptroller's certificate of any entry will be accepted as *primâ facie* evidence. (*See* s. 96.)

Fees.

Fees on registration, &c.

56. There shall be paid in respect of applications and registration, and other matters under this part of this Act, such fees as may be from time to time, with the sanction of the Treasury, prescribed by the Board of Trade; and such fees shall be levied and paid to the account of Her Majesty's Exchequer in such manner as the Treasury shall from time to time direct.

Industrial and International Exhibitions.

Exhibition at industrial or international exhibition not to prevent or invalidate registration.

57. The exhibition at an industrial or international exhibition, certified as such by the Board of Trade, or the exhibition elsewhere during the period of the holding of the exhibition, without the privity or consent of the proprietor, of a design, or of any article to which a design is applied, or the publication during the holding of any such exhibition, of a description of a design, shall not prevent the design from being registered, or invalidate the registration thereof, provided that both the following conditions are complied with; namely:—

(*a.*) The exhibitor must, before exhibiting the design or article or publishing a description of the design, give the comptroller the prescribed notice of his intention to do so; and

Part III. Designs.

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

Legal Proceedings.

Penalty on piracy of registered design.

58. During the existence of copyright in any design—

(*a.*) It shall not be lawful for any person without the licence or written consent of the registered proprietor to apply such design, or any fraudulent or obvious imitation thereof, in the class or classes of goods in which such design is registered, for purposes of sale, to any article of manufacture, or to any substance, artificial or natural, or partly artificial and partly natural; and

(*b.*) It shall not be lawful for any person to publish or expose for sale any article of manufacture or any substance to which such design, or any fraudulent or obvious imitation thereof, shall have been so applied, knowing that the same has been so applied without the consent of the registered proprietor.

Any person who acts in contravention of this section shall be liable for every offence to forfeit a sum not exceeding fifty pounds to the registered proprietor of the design, who

may recover such sum as a simple contract debt by action in any Court of competent jurisdiction.

Action for damages.

59. Notwithstanding the remedy given by this Act for the recovery of such penalty as aforesaid, the registered proprietor of any design may (if he elects to do so) bring an action for the recovery of any damages arising from the application of any such design, or of any fraudulent or obvious imitation thereof for the purpose of sale, to any article of manufacture or substance, or from the publication, sale, or exposure for sale by any person of any article or substance to which such design, or any fraudulent or obvious imitation thereof, shall have been so applied, such person knowing that the proprietor had not given his consent to such application.

Definitions.

Definition of "design," "copyright."

60. In and for the purposes of this Act—

"Design" means any design applicable to any article of manufacture, or to any substance artificial or natural, or partly artificial and partly natural, whether the design is applicable for the pattern, or for the shape or configuration, or for the ornament thereof, or for any two or more of such purposes, and by whatever means it is applicable, whether by

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printing, painting, embroidering, weaving, sewing, modelling, casting, embossing, engraving, staining, or any other means whatever, manual, mechanical, or chemical, separate or combined, not being a design for a sculpture, or other thing within the protection of the Sculpture Copyright Act of the year 1814 (54 George III. c. 56).

"Copyright" means the exclusive right to apply a design to any article of manufacture, or to any such substance as aforesaid, in the class or classes in which the design is registered.

Definition of proprietor.

61. The author of any new and original design shall be considered the proprietor thereof, unless he executed the work on behalf of another person for a good or valuable consideration, in which case such person shall be considered the proprietor, and every person acquiring for a good or valuable consideration a new and original design, or the right to apply the same to any such article or substance as aforesaid, either exclusively of any other person or otherwise, and also every person on 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.[1]

[1] *See* s. 87 as to assignment, &c., of copyright.

PART IV.

TRADE MARKS.

Registration of Trade Marks.

Application for registration.

62. (1.) The comptroller may, on application[1] by or on behalf of any person claiming to be the proprietor of a trade mark, register the trade mark.

(2.) The application must be made in the form set forth in the first schedule to this Act, or in such other form as may be from time to time prescribed, and must be left at, or sent by post to, the Patent Office in the prescribed manner.

(3.) The application must be accompanied by the prescribed number[2] of representations of the trade mark, and must state the particular goods or classes[3] of goods in connection with which the applicant desires the trade mark to be registered.

(4.) The comptroller may, if he thinks fit, refuse to register a trade mark, but any such

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[1] The application should be signed by the proprietor, or by some person on his behalf, or in the case of a registered Company, by the Managing Director or Secretary.

[2] Two copies of the mark must accompany the application, and an extra copy for every additional class after the first.

[3] It is advisable to search the particular class in which registration is desired before leaving an application to register a new mark.

Part IV. Trade Marks.

refusal shall be subject to appeal to the Board of Trade, who shall, if required, hear the applicant and the comptroller, and may make an order determining whether, and subject to what conditions, if any, registration is to be permitted.

(5.) The Board of Trade may, however, if it appears expedient, refer the appeal to the Court; and in that event the Court shall have jurisdiction to hear and determine the appeal, and may make such order as aforesaid.

Limit of time for proceeding with application.

63. Where registration of a trade mark has not been or shall not be completed within twelve months from the date of the application, by reason of default on the part of the applicant, the application shall be deemed to be abandoned.

Conditions of registration of trade mark.

64. (1.) For the purposes of this Act, a trade mark must consist of or contain at least one of the following essential particulars:

(*a.*) A name of an individual or firm printed, impressed, or woven in some particular and distinctive manner; or

(*b.*) A written signature, or copy of a written signature, of the individual or firm applying for registration thereof as a trade mark; or

(*c.*) A distinctive device, mark, brand, heading, label, ticket, or fancy word or words not in common use.

(2.) There may be added to any one or more of these particulars any letters, words or figures, or combinations of letters, words or figures, or of any of them.

(3.) Provided that any special and distinctive word or words, letter, figure or combination of letters or figures, or of letters and figures, used as a trade mark before the thirteenth day of August, one thousand eight hundred and seventy-five, may be registered as a trade mark under this part of this Act.

Connection of trade mark with goods.

65. A trade mark must be registered for particular goods or classes of goods.

Registration of a series of marks.

66. When a person claiming to be the proprietor of several trade marks which, while resembling each other in the material particulars thereof, yet differ in respect of (*a*) the statement of the goods for which they are respectively used or proposed to be used, or (*b*) statements of numbers, or (*c*) statements of price, or (*d*) statements of quality, or (*e*) statements of names of places, seeks to register such trade marks, they may be registered as a series in one registration. A series of trade marks shall be assignable and transmissible only as a whole, but for all other purposes each of the trade marks composing a series shall be deemed and treated as registered separately.

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Trade marks may be registered in any colour.

67. A trade mark may be registered in any colour, and such registration shall (subject to the provisions of this Act) confer on the registered owner the exclusive right to use the same in that or any other colour.

Advertisement of application.

68. Every application for registration of a trade mark under this part of this Act shall, as soon as may be after its receipt, be advertised by the comptroller.

Opposition to registration.

69. (1.) Any person may within two months of the first advertisement of the application, give notice in duplicate at the Patent Office, of opposition to registration of the trade mark, and the comptroller shall send one copy of such notice to the applicant.

(2.) Within two months after receipt of such notice, or such further time as the comptroller may allow, the applicant may send to the comptroller a counter statement in duplicate of the grounds on which he relies for his application, and if he does not do so, shall be deemed to have abandoned his application.

(3.) If the applicant sends such counter statement, the comptroller shall furnish a copy thereof to the person who gave notice of opposition, and shall require him to give security in such manner and to such amount as the comptroller may require for such costs as may be awarded in respect of such opposition; and if such security is not given within 14

days after such requirement was made or such further time as the comptroller may allow, the opposition shall be deemed to be withdrawn.

(4.) If the person who gave notice of opposition duly gives such security as aforesaid, the comptroller shall inform the applicant thereof in writing, and thereupon the case shall be deemed to stand for the determination of the Court.

Assignment and transmission of trade mark.

70. A trade mark, when registered, shall be assigned and transmitted only in connection with the good-will of the business concerned in the particular goods or classes of goods for which it has been registered, and shall be determinable with that good-will.[1]

Conflicting claims to registration.

71. Where each of several persons claims to be registered as proprietor of the same trade mark, the comptroller may refuse to register any of them until their rights have been determined according to law, and the comptroller may himself submit or require the claimants to submit their rights to the Court.

Restrictions on registration.

72. (1.) Except where the Court has decided that two or more persons are entitled to be registered as proprietors of the same trade mark, the comptroller shall not register in respect of the same goods or description of goods a trade mark identical with one already

[1] The assignment must be registered at the Patent Office, s. 78.

Part IV. Trade Marks.

on the register with respect to such goods or description of goods.

(2.) The comptroller shall not register with respect to the same goods or description of goods a trade mark so nearly resembling a trade mark already on the register with respect to such goods or description of goods as to be calculated to deceive.

Further restriction on registration.

73. It shall not be lawful to register as part of or in combination with a trade mark any words the exclusive use of which would by reason of their being calculated to deceive or otherwise, be deemed disentitled to protection in a Court of justice, or any scandalous design.

Saving for power to provide for entry on register of common marks as additions to trade marks.

74. (1.) Nothing in this Act shall be construed to prevent the comptroller entering on the register, in the prescribed manner, and subject to the prescribed conditions, as an addition to any trade mark—

(*a.*) In the case of an application for registration of a trade mark used before the Thirteenth day of August One thousand eight hundred and seventy-five—

Any distinctive device, mark, brand, heading, label, ticket, letter, word, or figure, or combination of letters, words or figures, though the same is common to the trade in the goods with respect to which the application is made;

(*b.*) In the case of an application for registration of a trade mark not used before the Thirteenth day of August One thousand eight hundred and seventy-five—

Any distinctive word or combination of words, though the same is common to the trade in the goods with respect to which the application is made;

(2.) The applicant for entry of any such common particular, or particulars, must, however, disclaim in his application any right to the exclusive use of the same, and a copy of the disclaimer shall be entered on the register.

(3.) Any device, mark, brand, heading, label, ticket, letter, word, figure, or combination of letters, words or figures, which was or were before the Thirteenth day of August, One thousand eight hundred and seventy-five, publicly used by more than three persons on the same or a similar description of goods, shall, for the purposes of this section, be deemed common to the trade in such goods.

Effect of Registration.

75. Registration of a trade mark shall be deemed to be equivalent to public use of the trade mark. Registration equivalent to public use.

Part IV. Trade Marks.

Right of first proprietor to exclusive use of trade mark.

76. The registration of a person as proprietor of a trade mark, shall be *primâ facie* evidence of his right to the exclusive use of the trade mark, and shall, after the expiration of five years from the date of the registration, be conclusive evidence of his right to the exclusive use of the trade mark, subject to the provisions of this Act.[1]

Restrictions on actions for infringement, and on defence to action in certain cases

77. A person shall not be entitled to institute any proceeding to prevent or to recover damages for the infringement of a trade mark unless, in the case of a trade mark capable of being registered under this Act, it has been registered in pursuance of this Act, or of an enactment repealed by this Act, or, in the case of any other trade mark in use before the Thirteenth of August, One thousand eight hundred and seventy-five, registration thereof under this part of this Act, or of an enactment repealed by this Act, has been refused. The comptroller may, on request, and on payment of the prescribed fee, grant a certificate that such registration has been refused.

Register of Trade Marks.

Register of trade marks.

78. There shall be kept at the Patent Office a book called the Register of Trade

[1] To continue registrations in force, new fees are payable at the end of the first 14 years (s. 79), and it was probably intended that new fees should be payable every 14 years, but it is doubtful whether the Act will have that effect (s. 79, sub-sec. 2).

Marks, wherein shall be entered the names and addresses of proprietors of registered trade marks, notifications of assignments and of transmissions of trade marks, and such other matters as may be from time to time prescribed.

Removal of trade mark after 14 years unless fee paid.

79. (1.) At a time not being less than two months nor more than three months before the expiration of 14 years from the date of the registration of a trade mark, the comptroller shall send notice to the registered proprietor that the trade mark will be removed from the register unless the proprietor pays to the comptroller before the expiration of such 14 years (naming the date at which the same will expire) the prescribed fee; and if such fee be not previously paid, he shall at the expiration of one month from the date of the giving of the first notice send a second notice to the same effect.

(2.) If such fee be not paid before the expiration of such 14 years, the comptroller may after the end of three months from the expiration of such 14 years remove the mark from the register, and so from time to time at the expiration of every period of 14 years.

(3.) If before the expiration of the said three months the registered proprietor pays the said fee, together with the additional prescribed fee, the comptroller may without removing such trade mark from the register accept the

Part IV. Trade Marks.

said fee as if it had been paid before the expiration of the said 14 years.

(4.) Where after the said three months a trade mark has been removed from the register for nonpayment of the prescribed fee, the comptroller may, if satisfied that it is just so to do, restore such trade mark to the register on payment of the prescribed additional fee.

(5.) Where a trade mark has been removed from the register for nonpayment of the fee or otherwise, such trade mark shall nevertheless, for the purpose of any application for registration during the five years next after the date of such removal, be deemed to be a trade mark which is already registered.

Fees.

Fees for registration, &c.

80. There shall be paid in respect of applications and registration and other matters under this part of this Act, such fees as may be from time to time, with the sanction of the Treasury, prescribed by the Board of Trade; and such fees shall be levied and paid to the account of Her Majesty's Exchequer in such manner as the Treasury may from time to time direct.

Sheffield Marks.

Registration by Cutlers' Company of Sheffield marks.

81. With respect to the master, wardens, searchers, assistants, and commonalty of the Company of Cutlers, in Hallamshire, in the

county of York (in this Act called the Cutlers' Company), and the marks or devices (in this Act called Sheffield marks) assigned or registered by the master, wardens, searchers, and assistants of that Company, the following provisions shall have effect:

(1.) The Cutlers' Company shall establish and keep at Sheffield a new register of trade marks (in this Act called the Sheffield register):

2. The Cutlers' Company shall enter in the Sheffield register, in respect of cutlery, edge tools, or raw steel, and the goods mentioned in the next sub-section, all the trade marks entered before the commencement of this Act, in respect of cutlery, edge tools, or raw steel, and such goods in the register established under the Trade Marks Registration Act, 1875, belonging to persons carrying on business in Hallamshire, or within six miles thereof, and shall also enter in such register, in respect of the same goods, all the trade marks which shall have been assigned by the Cutlers' Company, and actually used before the commencement of this Act, but which have not been entered in the register established under the Trade Marks Registration Act, 1875.

Part IV. Trade Marks.

(3.) An application for registration of a trade mark used on cutlery, edge tools, or on raw steel, or on goods made of steel, or of steel and iron combined, whether with or without a cutting edge, shall, if made after the commencement of this Act by a person carrying on business in Hallamshire, or within six miles thereof, be made to the Cutlers' Company:

(4.) Every application so made to the Cutlers' Company shall be notified to the comptroller in the prescribed manner, and unless the comptroller within the prescribed time gives notice to the Cutlers' Company that he objects to the acceptance of the application, it shall be proceeded with by the Cutlers' Company in the prescribed manner:

(5.) If the comptroller gives notice of objection as aforesaid, the application shall not be proceeded with by the Cutlers' Company, but any person aggrieved may appeal to the Court.

(6.) Upon the registration of a trade mark in the Sheffield register the Cutlers' Company shall give notice thereof to the comptroller, who shall thereupon enter the mark in the register of trade

marks; and such registration shall bear date as of the day of application to the Cutlers' Company, and have the same effect as if the application had been made to the comptroller on that day:

(7.) The provisions of this Act, and of any general rules made under this Act, with respect to application for registration in the register of trade marks, the effect of such registration, and the assignment and transmission of rights in a registered trade mark shall apply in the case of applications and registration in the Sheffield register; and notice of every entry made in the Sheffield register must be given to the comptroller by the Cutlers' Company, save and except that the provisions of this sub-section shall not prejudice or affect any life, estate, and interest of a widow of the holder of any Sheffield mark which may be in force in respect of such mark at the time when it shall be placed upon the Sheffield register:

(8.) Where the comptroller receives from any person not carrying on business in Hallamshire or within six miles thereof an application for registration of a trade mark used on cutlery, edge tools, or on raw steel, or on goods made of steel, or

Part IV. Trade Marks.

of steel and iron combined, whether with or without a cutting edge, he shall in the prescribed manner notify the application and proceedings thereon to the Cutlers' Company :

(9.) At the expiration of five years from the commencement of this Act the Cutlers' Company shall close the Cutlers' register of corporate trade marks, and thereupon all marks entered therein shall, unless entered in the Sheffield register, be deemed to have been abandoned :

(10.) A person may (notwithstanding anything in any Act relating to the Cutlers' Company) be registered in the Sheffield register as proprietor of two or more trade marks :

(11.) A body of persons, corporate or not corporate, may (notwithstanding anything in any Act relating to the Cutlers' Company) be registered in the Sheffield register as proprietor of a trade mark or trade marks :

(12.) Any person aggrieved by a decision of the Cutlers' Company in respect of anything done or omitted under this Act may, in the prescribed manner, appeal to the comptroller, who shall have power to confirm, reverse or modify

the decision, but the decision of the comptroller shall be subject to a further appeal to the Court :

(13.) So much of the Cutlers' Company's Acts as applies to the summary punishment of persons counterfeiting Sheffield corporate marks, that is to say, the fifth section of the Cutlers' Company's Act of 1814, and the provisions in relation to the recovery and application of the penalty imposed by such last-mentioned section contained in the Cutlers' Company's Act of 1791, shall apply to any mark entered in the Sheffield register.

PART V.

GENERAL.

Patent Office and Proceedings thereat.

Patent Office.

82. (1.) The Treasury may provide for the purposes of this Act an office with all requisite buildings and conveniences, which shall be called, and is in this Act referred to as, the Patent Office.

(2.) Until a new patent office is provided, the offices[1] of the Commissioners of Patents

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[1] These offices are at 25, Southampton Buildings, Chancery Lane, London, W.C.

Part V. General.

for inventions and for the registration of designs and trade marks existing at the commencement of this Act, shall be the Patent Office within the meaning of this Act.

(3.) The Patent Office shall be under the immediate control of an officer called the comptroller general of patents, designs, and trade marks, who shall act under the superintendence and direction of the Board of Trade.

(4.) Any act or thing directed to be done by or to the comptroller may, in his absence, be done by or to any officer for the time being in that behalf authorised by the Board of Trade.

Officers and clerks.

83. (1.) The Board of Trade may at any time after the passing of this Act, and from time to time, subject to the approval of the Treasury, appoint the comptroller-general of patents, designs, and trade marks, and so many examiners and other officers and clerks, with such designations and duties as the Board of Trade think fit, and may from time to time remove any of those officers and clerks.

(2.) The salaries of those officers and clerks shall be appointed by the Board of Trade, with the concurrence of the Treasury, and the same and the other expenses of the execution of this Act shall be paid out of money provided by Parliament.

Seal of Patent Office.

84. There shall be a seal for the Patent Office, and impressions thereof shall be judicially noticed and admitted in evidence.

Trust not to be entered in registers.

85. There shall not be entered in any register kept under this Act, or be receivable by the comptroller, any notice of any trust, expressed, implied or constructive.

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

86. The comptroller may refuse[1] to grant a patent for an invention, or to register a design or trade mark of which the use would, in his opinion, be contrary to law or morality.

Entry of assignments and transmissions in registers.

87. Where a person becomes entitled by assignment, transmission, or other operation of law, to a patent, or to the copyright in a registered design, or to a registered trade mark, the comptroller shall on request, and on proof of title to his satisfaction, cause the name of such person to be entered as proprietor of the patent, copyright in the design, or trade mark, in the register of patents, designs, or trade marks, as the case may be. The person for the time being entered in the register of patents, designs or trade marks, as proprietor of a patent, copyright in a design or trade mark, as the case may be, shall, subject to any rights appearing from such register to be vested in any other person, have power absolutely to assign, grant licences as to, or

[1] There does not appear to be any appeal from such a refusal.

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otherwise deal with the same, and to give effectual receipts for any consideration for such assignment, licence, or dealing. Provided, that any equities in respect of such patent, design, or trade mark may be enforced in like manner as in respect of any other personal property.

Inspection of and extracts from registers.

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

Sealed copies to be received in evidence.

89. Printed or written copies or extracts, purporting to be certified by the comptroller and sealed with the seal of the Patent Office, of or from patents, specifications, disclaimers and other documents in the Patent Office, and of or from registers and other books kept there, shall be admitted in evidence in all Courts in Her Majesty's dominions, and in all proceedings, without further proof or production of the originals.

Rectification of registers by Court.

90. (1.) The Court may on the application of any person aggrieved by the omission without sufficient cause of the name of any person from any register kept under this Act, or by any entry made without sufficient cause in any such

register, make such order for making, expunging or varying the entry, as the Court thinks fit; or the Court may refuse the application; and in either case may make such order with respect to the costs of the proceedings as the Court thinks fit.

(2.) The Court may in any proceeding under this section decide any question that it may be necessary or expedient to decide for the rectification of a register, and may direct an issue to be tried for the decision of any question of fact, and may award damages to the party aggrieved.

(3.) Any order of the Court rectifying a register shall direct that due notice of the rectification be given to the comptroller.

Power for comptroller to correct clerical errors.

91. The comptroller may, on request in writing, accompanied by the prescribed fee—

(*a.*) Correct any clerical error in or in connection with an application for a patent, or for registration of a design or trade mark; or

(*b.*) Correct any clerical error in the name, style or address of the registered proprietor of a patent, design, or trade mark.

(*c.*) Cancel the entry or part of the entry of a trade mark on the register: Provided, that the applicant accompanies his request by a statutory declaration

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made by himself, stating his name, address, and calling, and that he is the person whose name appears on the register as the proprietor of the said trade mark.

Alteration of registered mark.

92. (1.) The registered proprietor of any registered trade mark may apply to the Court for leave to add to or alter such mark in any particular, not being an essential particular within the meaning of this Act, and the Court may refuse or grant leave on such terms as it may think fit.

(2.) Notice of any intended application to the Court under this section shall be given to the comptroller by the applicant; and the comptroller shall be entitled to be heard on the application.

(3.) If the Court grants leave, the comptroller shall, on proof thereof and on payment of the prescribed fee, cause the register to be altered in conformity with the order of leave.

Falsification of entries in registers.

93. If any person makes or causes to be made a false entry in any register kept under this Act, or a writing falsely purporting to be a copy of an entry in any such register, or produces or tenders, or causes to be produced or tendered in evidence, any such writing, knowing the entry or writing to be false, he shall be guilty of a misdemeanour.

Exercise of discretionary power by comptroller.

94. Where any discretionary power is by this Act given to the comptroller, he shall not exercise that power adversely to the applicant for a patent, or for amendment of a specification, or for registration of a trade mark or design, without (if so required within the prescribed time by the applicant) giving the applicant an opportunity of being heard personally or by his agent.

Power of comptroller to take directions of law officers.

95. The comptroller may, in any case of doubt or difficulty arising in the administration of any of the provisions of this Act, apply to either of the law officers for directions in the matter.

Certificate of comptroller to be evidence.

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

Applications and notices by post.

97. (1.) Any application, notice, or other document authorised or required to be left, made, or given at the Patent Office or to the comptroller, or to any other person under this Act, may be sent by a prepaid letter through the post, and if so sent shall be deemed to have been left, made, or given respectively at the time when the letter containing the same

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would be delivered in the ordinary course of post.

(2.) In proving such service or sending, it shall be sufficient to prove that the letter was properly addressed and put into the post.

Provision as to days for leaving documents at office.

98. Whenever the last day fixed by this Act, or by any rule for the time being in force, for leaving any document or paying any fee at the Patent Office, shall fall on Christmas Day, Good Friday, or on a Saturday or Sunday, or any day observed as a holiday at the Bank of England, or any day observed as a day of public fast or thanksgiving, herein referred to as excluded days, it shall be lawful to leave such document, or to pay such fee on the day next following such excluded day or days if two or more of them occur consecutively.

Declaration by infant, lunatic, &c.

99. If any person is, by reason of infancy, lunacy, or other inability, incapable of making any declaration or doing anything required or permitted by this Act or by any rules made under the authority of this Act, then the guardian or committee (if any) of such incapable person, or if there be none, any person appointed by any Court or Judge possessing jurisdiction in respect of the property of incapable persons, upon the petition of any person on behalf of such incapable person, or of any other person interested in the making such declaration or doing such thing, may

make such declaration or a declaration as nearly corresponding thereto as circumstances permit, and do such thing in the name and on behalf of such incapable person, and all acts done by such substitute shall for the purposes of this Act be as effectual as if done by the person for whom he is substituted.

Transmission of certified printed copies of specifications, &c.

100. Copies of all specifications, drawings, and amendments left at the Patent Office after the commencement of this act, printed for and sealed with the seal of the Patent Office, shall be transmitted to the Edinburgh Museum of Science and Art, and to the Enrolments Office of the Chancery Division in Ireland, and to the Rolls Office in the Isle of Man, within 21 days after the same shall respectively have been accepted or allowed at the Patent Office; and certified copies of or extracts from any such documents shall be given to any person requiring the same on payment of the prescribed fee; and any such copy or extract shall be admitted in evidence in all Courts in Scotland and Ireland and in the Isle of Man without further proof or production of the originals.

Power for Board of Trade to make general rules for classifying goods and regulating business of Patent Office.

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

(*a.*) For regulating the practice of registration under this Act:

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(*b.*) For classifying goods for the purposes of designs and trade marks:

(*c.*) For making or requiring duplicates of specifications, amendment, drawings, and other documents:

(*d.*) For securing and regulating the publishing and selling of copies, at such prices and in such manner as the Board of Trade think fit, of specifications, drawings, amendments, and other documents:

(*e.*) For securing and regulating the making, printing, publishing and selling of indexes to, and abridgments of, specifications and other documents in the Patent Office; and providing for the inspection of indexes and abridgments and other documents:

(*f.*) For regulating (with the approval of the Treasury) the presentation of copies of Patent Office publications to patentees and to public authorities, bodies, and institutions at home and abroad:

(*g.*) Generally for regulating the business of the Patent Office, and all things by this Act placed under the direction or control of the comptroller, or of the Board of Trade.

(2.) Any of the forms in the First Schedule

to this Act may be altered or amended by rules made by the Board as aforesaid.

(3.) General rules may be made under this section at any time after the passing of this Act, but not so as to take effect before the commencement of this Act, and shall (subject as hereinafter mentioned) be of the same effect as if they were contained in this Act, and shall be judicially noticed.

(4.) Any rules made in pursuance of this section shall be laid before both Houses of Parliament, if Parliament be in session at the time of making thereof, or, if not, then as soon as practicable after the beginning of the then next session of Parliament, and they shall also be advertised twice in the official journal to be issued by the comptroller.

(5.) If either House of Parliament, within the next 40 days after any rules have been so laid before such House, resolve that such rules or any of them ought to be annulled, the same shall after the date of such resolution be of no effect, without prejudice to the validity of anything done in the meantime under such rules or rule, or to the making of any new rules or rule.

Annual reports of comptroller.

102. The comptroller shall, before the first day of June in every year, cause a report respecting the execution by or under him of this Act to be laid before both Houses of

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Parliament, and therein shall include for the year to which each report relates all general rules made in that year under or for the purposes of this Act, and an account of all fees, salaries, and allowances, and other money received and paid under this Act.

International and Colonial Arrangements.

International arrangements for protection of inventions, designs, and trade marks.

103. (1.) If Her Majesty is pleased to make any arrangement with the government or governments of any foreign State or States for mutual protection of inventions, designs and trade marks, or any of them, then any person who has applied for protection for any invention, design, or trade mark in any such State, shall be entitled to a patent for his invention or to registration of his design or trade mark (as the case may be) under this Act, in priority to other applicants; and such patent or registration shall have the same date as the date of the protection obtained in such foreign state.

Provided, that his application is made, in the case of a patent, within seven months, and in the case of a design or trade mark, within four months from his applying for protection in the foreign State with which the arrangement is in force.

Provided, that nothing in this section contained shall entitle the patentee or proprietor

of the design or trade mark to recover damages for infringements happening prior to the date of the actual acceptance of his complete specification, or the actual registration of his design or trade mark in this country, as the case may be.

(2.) The publication in the United Kingdom, or the Isle of Man, during the respective periods aforesaid of any description of the invention, or the use therein during such periods of the invention, or the exhibition or use therein during such periods of the design, or the publication therein during such periods of a description or representation of the design, or the use therein during such periods of the trade mark, shall not invalidate the patent which may be granted for the invention, or the registration of the design or trade mark:

(3.) The application for the grant of a patent, or the registration of a design, or the registration of a trade mark under this section, must be made in the same manner as an ordinary application under this Act: Provided that, in the case of trade marks, any trade mark the registration of which has been duly applied for in the country of origin may be registered under this Act:

(4.) The provisions of this section shall apply only in the case of those foreign States with respect to which Her Majesty shall from

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time to time by Order in Council declare them to be applicable, and so long only in the case of each State as the Order in Council shall continue in force with respect to that State.

Provision for colonies and India.

104. (1.) Where it is made to appear to Her Majesty that the legislature of any British possession has made satisfactory provision for the protection of inventions, designs and trade marks, patented or registered in this country, it shall be lawful for Her Majesty from time to time, by Order in Council, to apply the provisions of the last preceding section, with such variations or additions, if any, as to Her Majesty in Council may seem fit, to such British possession.

(2.) An Order in Council under this Act shall, from a date to be mentioned for the purpose in the Order, take effect as if its provisions had been contained in this Act; but it shall be lawful for Her Majesty in Council to revoke any Order in Council made under this Act.

Offences.

Penalty on falsely representing articles to be patented.

105. (1.) Any person who represents that any article sold by him is a patented article, when no patent has been granted for the same, or describes any design or trade mark applied to any article sold by him as registered which is not so, shall be liable for every offence, on

summary conviction, to a fine not exceeding five pounds.

(2.) A person shall be deemed, for the purposes of this enactment, to represent that an article is patented, or a design or a trade mark is registered, if he sells the article with the word "patent," "patented," "registered," or any word or words expressing or implying that a patent or registration has been obtained for the article stamped, engraved, or impressed on, or otherwise applied to the article.

Penalty on unauthorised assumption of Royal arms.

106. Any person who, without the authority of Her Majesty, or any of the Royal Family, or of any Government Department, assumes or uses in connection with any trade, business, calling or profession, the Royal arms, or arms so nearly resembling the same as to be calculated to deceive, in such a manner as to be calculated to lead other persons to believe that he is carrying on his trade, business, calling, or profession by or under such authority as aforesaid, shall be liable on summary conviction to a fine not exceeding twenty pounds.[1]

Scotland, Ireland, &c.

Saving for Courts in Scotland.

107. In any action for infringment of a patent in Scotland the provisions of this Act,

[1] This section is of very doubtful value, and may give rise to very vexatious litigation.

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with respect to calling in the aid of an assessor, shall apply, and the action shall be tried without a jury, unless the Court shall otherwise direct, but otherwise, nothing shall affect the jurisdiction and forms of process of the Courts in Scotland in such an action, or in any action or proceeding respecting a patent hitherto competent to those Courts.

For the purposes of this section "Court of Appeal" shall mean any Court to which such action is appealed.

Summary proceedings in Scotland.

108. In Scotland any offence under this Act declared to be punishable on summary conviction may be prosecuted in the Sheriff Court.

Proceedings for revocation of patent in Scotland.

109. (1.) Proceedings in Scotland for revocation of a patent shall be in the form of an action of reduction at the instance of the Lord Advocate, or at the instance of a party having interest, with his concurrence, which concurrence may be given on just cause shown only.

(2.) Service of all writs and summonses in that action shall be made according to the forms and practice existing at the commencement of this Act.

Reservation of remedies in Ireland.

110. All parties shall, notwithstanding anything in this Act, have in Ireland their remedies under or in respect of a patent as if the same had been granted to extend to Ireland only.

General saving for jurisdiction of Courts.

111. (1.) The provisions of this Act conferring a special jurisdiction on the Court as defined by this Act, shall not, except so far as the jurisdiction extends, affect the jurisdiction of any Court in Scotland or Ireland in any proceedings relating to patents, or to designs, or to trade marks; and with reference to any such proceedings in Scotland, the term "the Court" shall mean any Lord Ordinary of the Court of Session, and the term "Court of Appeal" shall mean either Division of the said Court; and with reference to any such proceedings in Ireland, the terms "the Court" and "the Court of Appeal" respectively mean the High Court of Justice in Ireland and Her Majesty's Court of Appeal in Ireland.

(2.) If any rectification of a register under this Act is required in pursuance of any proceeding in a Court in Scotland or Ireland, a copy of the order, decree, or other authority for the rectification, shall be served on the comptroller, and he shall rectify the register accordingly.

Isle of Man.

112. This Act shall extend to the Isle of Man, and

(1.) Nothing in this Act shall affect the jurisdiction of the Courts in the Isle of Man, in proceedings for infringement or in any action or proceeding respecting

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a patent, design, or trade mark competent to those Courts;

(2.) The punishment for a misdemeanour under this Act, in the Isle of Man, shall be imprisonment for any term not exceeding two years, with or without hard labour, and with or without a fine not exceeding one hundred pounds, at the discretion of the Court;

(3.) Any offence under this Act committed in the Isle of Man which would in England be punishable on summary conviction may be prosecuted, and any fine in respect thereof recovered at the instance of any person aggrieved, in the manner in which offences punishable on summary conviction may for the time being be prosecuted.

Repeal; Transitional Provisions; Savings.

Repeal and saving for past operation of repealed enactments, &c.

113. The enactments described in the third schedule to this Act are hereby repealed.[1] But this repeal of enactments shall not—

(*a.*) Affect the past operation of any of those enactments, or any patent or copyright, or right to use a trade mark granted or acquired, or application pending, or appointment made, or compensation granted, or order or direction made or

[1] *See* sec. 45 of the Act, and note thereto.

given, or right, privilege, obligation, or liability acquired, accrued, or incurred, or anything duly done or suffered under or by any of those enactments before or at the commencement of this Act; or

(*b.*) Interfere with the institution or prosecution of any action or proceeding, civil or criminal, in respect thereof, and any such proceeding may be carried on as if this Act had not been passed; or

(*c.*) Take away or abridge any protection or benefit in relation to any such action or proceeding.

Former registers to be deemed continued.

114. (1.) The registers of patents and of proprietors kept under any enactment repealed by this Act shall respectively be deemed parts of the same book as the register of patents kept under this Act.

(2.) The registers of designs and of trade marks kept under any enactment repealed by this Act shall respectively be deemed parts of the same book as the register of designs and the register of trade marks kept under this Act.

Saving for existing rules.

115. All general rules made by the Lord Chancellor or by any other authority under any enactment repealed by this Act, and in force at the commencement of this Act, may at any time after the passing of this Act be repealed, altered or amended by the Board of

Part V. General.

Trade, as if they had been made by the Board under this Act, but so that no such repeal, alteration, or amendment shall take effect before the commencement of this Act; and, subject as aforesaid, such general rules shall, so far as they are consistent with and are not superseded by this Act, continue in force as if they had been made by the Board of Trade under this Act.

Saving for prerogative.

116. Nothing in this Act shall take away, abridge, or prejudicially affect the prerogative of the Crown in relation to the granting of any letters patent, or to the withholding of a grant thereof.

General Definitions.

General definitions.

117. (1.) In and for the purposes of this Act, unless the context otherwise requires:—

"Person" includes a body corporate;

"The Court" means (subject to the provisions for Scotland, Ireland, and the Isle of Man) Her Majesty's High Court of Justice in England;

"Law Officer" means Her Majesty's Attorney-General, or Solicitor-General for England;

"The Treasury" means the Commissioners of Her Majesty's Treasury;

"The Comptroller" means the Comptroller General of Patents, Designs and Trade Marks;

"Prescribed" means prescribed by any of the Schedules to this Act, or by general rules under or within the meaning of this Act;

"British possession" means any territory or place situate within Her Majesty's dominions, and not being or forming part of the United Kingdom, or of the Channel Islands, or of the Isle of Man, and all territories and places under one legislature, as hereinafter defined, are deemed to be one British possession for the purposes of this Act:

"Legislature" includes any person or persons who exercise legislative authority in the British possessions; and where there are local legislatures as well as a central legislature, means the central legislature only.

In the application of this Act to Ireland, "summary conviction" means a conviction under the Summary Jurisdiction Acts, that is to say, with reference to the Dublin Metropolitan Police District, the Acts regulating the duties of justices of the peace and of the police for such district, and elsewhere in Ireland the Petty Sessions (Ireland) Act, 1851, and any Act amending it.

SCHEDULES.

First Schedule.

THE FIRST SCHEDULE.

Forms of Application, &c.

FORM A.

£1 Stamp.

Section 5.

Form of Application for Patent.

I, (*a*) *John Smith*, of 29, *Perry Street*, *Birmingham*, in the county of *Warwick*, *Engineer*, do solemnly and sincerely declare that I am in possession of an invention for (*b*) "*Improvements in Sewing Machines;*" that I am the true and first inventor thereof; and that the same is not in use by any other person or persons to the best of my knowledge and belief; and I humbly pray that a patent may be granted to me for the said invention.

(*a*) Here insert name, address and calling of inventor.

(*b*) Here insert title of invention.

And I make the above solemn declaration conscientiously believing the same to be true,

First Schedule.

and by virtue of the provisions of the Statutory Declarations Act, 1835.

(c) Signature of inventor.

(c) *John Smith.*

Declared at *Birmingham*, in the county of *Warwick*, this day of 18 .

Before me,

(d) Signature and title of the officer before whom the declaration is made.

(d) *James Adams,*
Justice of the Peace.

NOTE.—Where the above declaration is made out of the United Kingdom, the words "and by virtue of the Statutory Declarations Act, 1835," must be omitted; and the declaration must be made before a British consular officer, or where it is not reasonably practicable to make it before such officer, then before a public officer duly authorised in that behalf.

FORM B.

FORM OF PROVISIONAL SPECIFICATION.

(a) Here insert title as in declaration.
(b) Here insert name, address and calling of inventor as in declaration.

Improvements in Sewing Machines. (a)

I, (b) *John Smith*, of 29, *Perry Street*, *Birmingham*, in the county of *Warwick*, *Engineer*, do hereby declare the nature of my invention for "*Improvements in Sewing Machines*," to be as follows (c):—

(c) Here insert short description of invention.

* * * * *

(d) Signature of inventor.

(d) *John Smith.*

Dated this day of 18 .

NOTE.—No stamp is required on this document.

First Schedule.

£3 Stamp.

FORM C.

FORM OF COMPLETE SPECIFICATION.

Improvements in Sewing Machines. (*a*.)

I, (*b*) *John Smith*, of 29, *Perry, Street, Birmingham*, in the County of *Warwick, Engineer*, do hereby declare the nature of my invention for "*Improvements in Sewing Machines*," and in what manner the same is to be performed, to be particularly described and ascertained in and by the following statement (*c*) :—

* * * *

Having now particularly described and ascertained the nature of my said invention and in what manner the same is to be performed, I declare that what I claim is (*d*).

1.

2.

3. &c.

(*e*) *John Smith*.

Dated this day of 18 .

(*a*) Here insert title, as in declaration.

(*b*) Here insert name, address, and calling of inventor, as in declaration.

(*c*) Here insert full description of invention.

(*d*) Here state distinctly the features of novelty claimed.

(*e*) Signature of inventor.

FORM D.

Section 33

FORM OF PATENT.

VICTORIA, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith: To all to whom these presents shall come greeting:

First Schedule.

Whereas, *John Smith*, of 29, *Perry Street*, *Birmingham* in the county of *Warwick*, *Engineer*, hath by his solemn declaration represented unto us that he is in possession of an invention for "*Improvements in Sewing Machines*," that he is the true and first inventor thereof, and that the same is not in use by any other person to the best of his knowledge and belief:

And whereas the said inventor hath humbly prayed that we would be graciously pleased to grant unto him (hereinafter together with his executors, administrators, and assigns, or any of them, referred to as the said patentee) our Royal Letters Patent for the sole use and advantage of his said invention:

And whereas the said inventor hath by and in his complete specification particularly described the nature of his invention[1]:

And whereas we being willing to encourage all inventions which may be for the public good, are graciously pleased to condescend to his request:

Know ye, therefore, that We, of our especial grace, certain knowledge, and mere motion do by these presents, for us, our heirs and suc-

---

[1] See Introductory Chapter as to this recital, and the omission of the old *express condition* as to complete specification.

cessors, give and grant unto the said patentee our especial licence, full power, sole privilege, and authority, that the said patentee by himself, his agents, or licensees, and no others, may at all times hereafter during the term of years herein mentioned, make, use, exercise, and vend the said invention within our United Kindom of Great Britain and Ireland, and Isle of Man, in such manner as to him or them may seem meet, and that the said patentee shall have and enjoy the whole profit and advantage from time to time accruing by reason of the said invention, during the term of fourteen years from the date hereunder written of these presents: And to the end that the said patentee may have and enjoy the sole use and exercise and the full benefit of the said invention, We do by these presents for us our heirs and successors, strictly command all our subjects whatsoever within our United Kingdom of Great Britain and Ireland, and the Isle of Man, that they do not at any time during the continuance of the said term of fourteen years, either directly or indirectly, make use of or put in practice the said invention, or any part of the same, nor in anywise imitate the same, nor make or cause to be made any addition thereto or subtraction therefrom, whereby to pretend themselves the inventors thereof, without the consent, licence or agree-

First Schedule.

ment of the said patentee in writing under his hand and seal, on pain of incurring such penalties as may be justly inflicted on such offenders for their contempt of this our Royal command, and of being answerable to the patentee according to law for his damages thereby occasioned: Provided that these our letters patent are on this condition, that, if at any time during the said term it be made to appear to us, our heirs, or successors, or any six or more of our Privy Council, that this our grant is contrary to law, or prejudicial or inconvenient to our subjects in general, or that the said invention is not a new invention as to the public use and exercise thereof within our United Kingdom of Great Britain and Ireland, and Isle of Man, or that the said patentee is not the first and true inventor thereof within this realm as aforesaid, these our letters patent shall forthwith determine, and be void to all intents and purposes, notwithstanding anything hereinbefore contained: Provided also, that if the said patentee shall not pay all fees by law required to be paid in respect of the grant of these letters patent, or in respect of any matter relating thereto at the time or times, and in manner for the time being by law provided; and also if the said patentee shall not supply or cause to be supplied, for our service all such articles of the

said invention as may be required by the officers or commissioners administering any department of our service in such manner, at such times, and at and upon such reasonable prices and terms as shall be settled in manner for the time being by law provided, then, and in any of the said cases, these our letters patent, and all privileges and advantages whatever hereby granted shall determine and become void, notwithstanding anything hereinbefore contained: Provided also that nothing herein contained shall prevent the granting of licences in such manner and for such considerations as they may by law be granted: And lastly, we do by these presents for us, our heirs and successors, grant unto the said patentee that these our letters patent shall be construed in the most beneficial sense for the advantage of the said patentee. In witness whereof we have caused these our letters to be made patent this

One thousand eight hundred

and and to be sealed as of the

One thousand eight hundred and

Seal of Patent Office.

First Schedule.

Section 47.

FORM E.

Form of Application for Registration of Design.

_____ day of _____ 18 .

You are hereby requested to register the accompanying _____ Design, in Class _____ in the name of (*a*) _____ of _____ who claims to be the Proprietor thereof, and to return the same to _____

Statement of nature of Design _____

Registration Fees enclosed £ ,, s.

(*a*) Here insert legibly the name and address of the individual or firm.

To the Comptroller,
Patent Office,
25, *Southampton Buildings*,
Chancery Lane, W.C.

(Signed) _____

_____

FORM F.

First Schedule.

Form of Application for Registration of Trade Mark.

Section 62.

(One representation to be fixed within this square, and two others on separate sheets of foolscap of same size).

(Representations of a larger size may be folded, but must be mounted upon linen and affixed hereto).

You are hereby requested to register the accompanying trade mark, [*In Class* — *Iron in bars, sheets, and plates; in Class* — *Steam engines and boilers; and in Class* — *Warming Apparatus*], in the name of (*a*) , who claims to be the proprietor thereof.

(*a*) Here insert legibly the name, address and business of the individual or firm.

Registration Fees enclosed £ ,, s.

To the Comptroller,
Patent Office,
25, *Southampton Buildings,*
Chancery Lane, W.C.

(Signed)_____

Note.—If the trade mark has been in use before August, 13, 1875, state length of user.

Second Schedule.

THE SECOND SCHEDULE.

Section 24.

Fees on instruments for obtaining Patents, and Renewal.

(*a.*) *Up to sealing.*

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

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

On certificate of renewal				50	0	0

(*c.*) *Further before end of seven years, or in the case of patents granted after the commencement of this Act, before the end of eight years from date of patent.*

On certificate of renewal				100	0	0

Or in lieu of fees of £50 *and* £100 *the following annual fees:—*

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

THE THIRD SCHEDULE.

Third Schedule.

Enactments Repealed.

Section 113.

21 James I. c. 3. [1623.]	The Statute of Monopolies. In part; namely,— Sections 10, 11 and 12.
5 & 6 Will. IV. c. 62. [1835.] In part.	The Statutory Declarations Act, 1835. In part; namely,— Section 11.
5 & 6 Will. IV. c. 83. [1835.]	An Act to amend the law touching letters patent for inventions.
2 & 3 Vic. c. 67. [1839.]	An Act to amend an Act of the 5th and 6th years of the reign of King William IV., intituled "An Act to "amend the law touching letters "patent for inventions."
5 & 6 Vic. c. 100. [1842.]	An Act to consolidate and amend the laws relating to the copyright of designs for ornamenting articles of manufacture.
6 & 7 Vic. c. 65. [1843.]	An Act to amend the laws relating to the copyright of designs.
7 & 8 Vic. c. 69. (*a*) [1844.] In part.	An Act for amending an Act passed in the 4th year of the reign of His late Majesty, intituled "An Act for "the better administration of justice "in His Majesty's Privy Council, "and to extend its jurisdiction and "powers." In part; namely,— Sections 2 to 5, both included.
13 & 14 Vic. c. 104. [1850.]	An Act to extend and amend the Acts relating to the copyright of designs.
15 & 16 Vic. c. 83. [1852.]	The Patent Law Amendment Act, 1852.
16 & 17 Vic. c. 5. [1853.]	An Act to substitute stamp duties for fees on passing letters patent for inventions, and to provide for the purchase for the public use of certain indexes of specifications.

(*a*) NOTE.—Sections 6 and 7 of this Act are repealed by the Statute Law Revision (No. 2) Act, 1874.

Third Schedule.

16 & 17 Vic. c. 115. [1853.]	An Act to amend certain provisions of the Patent Law Amendment Act, 1852, in respect of the transmission of certified copies of letters patent and specifications to certain offices in Edinburgh and Dublin, and otherwise to amend the said Act.
21 & 22 Vic. c. 70. [1858.]	An Act to amend the Act of the 5th and 6th years of Her present Majesty, to consolidate and amend the laws relating to the copyright of designs for ornamenting articles of manufacture.
22 Vic. c. 13. [1859.]	An Act to amend the law concerning patents for inventions with respect to inventions for improvements in instruments and munitions of war.
24 & 25 Vic. c. 73. [1861.]	An Act to amend the law relating to the copyright of designs.
28 & 29 Vic. c. 3. [1865.]	The Industrial Exhibitions Act, 1865.
33 & 34 Vic. c. 27. [1870.]	The Protection of Inventions Act, 1870.
33 & 34 Vic. c. 97. [1870.]	The Stamp Act, 1870. In part; namely,— Section 65, and in the schedule the words and figures. "Certificate of the registration of a design...£5 0 0. And *see* s. 65."
38 & 39 Vic. c. 91. [1875.]	The Trade Marks Registration Act, 1875.
38 & 39 Vic. c. 93. [1875.]	The Copyright of Designs Act, 1875.
39 & 40 Vic. c. 33. [1876.]	The Trade Marks Registration Amendment Act, 1876.
40 & 41 Vic. c. 37. [1877.]	The Trade Marks Registration Extension Act, 1877.
43 & 44 Vic. c. 10. [1880.]	The Great Seal Act, 1880. In part; namely,— Section 5.
45 & 46 Vic. c. 72. [1882.]	The Revenue, Friendly Societies, and National Debt Act, 1882. In part; namely,— Section 16.

The following notice is copied from the "Commissioners of Patents' Journal," October 23rd, 1883:—

THE NEW PATENT LAW.

With the object of affording information to the public until the new rules under the Act are completed, the following notice is issued by direction of the Board of Trade:—

NOTICE.

1. Applications and all other documents will be required upon strong wide-ruled fools-cap paper (written or printed on one side only), having a margin of two inches on the left-hand part thereof. The use of parchment will be discontinued. Copies of specifications will no longer be required.

2. The sizes of the drawings will remain unchanged, but they will be required upon drawing paper instead of on parchment. A copy of the drawings will be required upon thin Bristol Board.

3. Forms of application (stamped) will be placed on sale at the chief post-offices in the United Kingdom.

4. The forms required for an application will be—(a), for provisional protection: Application form and form of provisional specification;

(b), for complete protection: Application form and form of complete specification. Where a complete specification is not left in the first instance, it may be left at any time within nine months after application for provisional protection.

5. The fees will be 1*l.* for each stamped form of application, and 3*l.* for each stamped form of complete specification. No fee will be charged for the form for provisional specification.

6. Applications may be left at the Patent Office or sent by post. If sent by post, they must be addressed to the Comptroller, Patent Office.

7. The "Declaration" in the application form must be made by the inventor or inventors. All other documents may be prepared and signed by agents.

NOTE.—"Applications" for letters patent made during the present year must be proceeded with in accordance with the existing laws and rules.

H. READER LACK.

Office of Commissioners of Patents,
25, Southampton Buildings,
Chancery Lane.

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