THE

Patents, Designs & Trade Marks Act,

1883,

AND THE RULES AND FORMS THEREUNDER,

WITH NOTES AND INTRODUCTORY CHAPTERS.

THE

PATENTS, DESIGNS & TRADE MARKS

ACT, 1883,

And the Rules and Forms thereunder,

WITH

NOTES AND INTRODUCTORY CHAPTERS.

BY

W. R. BOUSFIELD, M.A.,

Late Whitworth Scholar,

ASSOCIATE OF THE INSTITUTION OF CIVIL ENGINEERS,

OF THE INNER TEMPLE, BARRISTER-AT-LAW.

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PREFACE.

In the arrangement of this book, it has been thought desirable, as far as possible, to bring together under each of the more important sections of the Act, in the form of Notes, all the information specially relevant to the section. Often, however, the discussion of a matter arising under a section has been relegated to the Introduction; where are also to be found short summaries of practice and procedure. The Rules under the Act, with other matters, are to be found in the Appendix. It is hoped that any difficulties, to which this arrangement may give rise, will be made clear by the cross-references, or by the aid of the Index and Table of Contents.

W. R. B.

4, Crown Office Row, Temple.
January, 1884.

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PATENTS, DESIGNS AND TRADE MARKS ACT, 1883.

INTRODUCTION.

Part I.—PATENTS.

Chap. I.—General Remarks.

The prerogative of the Crown to grant letters patent under the Great Seal, creating a monopoly of the working of a new manufacture, seems to have been recognized by the common law of England from time immemorial. The extension of this prerogative by the Crown in various directions, and the creation of numerous monopolies which sacrificed the public advantage to the enrichment of favoured individuals, resulted in the Statute of Monopolies (21 Jac. 1, c. 3), which, in sweeping away the whole system of monopolies which had grown up, excepted only (*a*) letters patent for the term of fourteen years or under for "the sole working or making of any manner of new manufactures within this realm, to the true and first inventor and inventors of such manufactures, which others at the time of

(*a*) Some minor exceptions occur which are of no present importance. Of these exceptions, some are repealed by the present Act.

making such letters patents and grants shall not use."

Various statutes have since been passed from time to time, developing the Patent Law and laying down rules of procedure. All these statutes, except the Statute of Monopolies, are now repealed, and the law and procedure with regard to patents is now regulated by the present Act, except for the saving as to existing patents (sect. 45), and as to the past operation of the repealed Acts (sect. 113).

The Act incorporates most of the provisions of the preceding statutes, but in some cases with important amendments, chiefly with regard to procedure.

The Patent Office, and the business there conducted, which has reference not only to patents, but also to designs and trade marks, is placed under the control of an official who is styled "the Comptroller-General of Patents, Designs and Trade Marks," or, more shortly, "the Comptroller." The comptroller has initial jurisdiction with respect to all applications, but subject to appeal either to the law officers of the Crown, or the Board of Trade, or the High Court of Justice, as the case may be.

Thus, it will be seen, that the functions of the Commissioners of Patents and of the Lord Chancellor with respect to patents have ceased.

Theory of Patents under the Act.

An alteration of the theory of the law of patents which results incidentally from the present Act, should not be overlooked. A patent under the Act is a document under the seal of the Patent Office, by which a monopoly of the working of an invention is granted to an inventor by virtue of the provisions of the Act, which document derives its force and validity solely from the Act.

Letters patent under the Great Seal are not affected by the Act, nor is the prerogative of the Crown in reference to granting such letters patent.

A patent for an invention under the Act, although in the form of the Queen's letters patent, is not in fact a grant by the Crown, and does not in any way derive force or validity from any act of the Crown, and, in fact, the Crown makes no grant. A patent under the Act is simply the creation of the statute, and has nothing in common with the Queen's letters patent, either as regards the rights conferred by it, or the incidents to which it is subject, except so far as these are provided for by the Act.

The rights conferred by a patent under the Act are determined by the following device. The document, which by the Act is called "a patent," is a document containing words which, if written on parchment and sealed with the Great Seal, would constitute the Queen's letters patent, granting the privileges therein specified. By sect. 12, sub-sect. 2 of the Act, a patent sealed with the seal of the Patent Office is to have the same effect as if it were sealed with the Great Seal of the United Kingdom. Hence, by means of this device, the effect of a patent is shortly determined; that is to say, a document in the form of the Queen's letters patent is sealed with a certain seal, which by virtue of the Act gives the patentee the same rights as would have been conferred by the Queen's letters patent of the same tenour.

The conditions of validity of a patent under the Act are roughly determined by sect. 26, sub-sect. 3, which provides that every ground of invalidity of a patent before the Act shall be a ground of invalidity of a patent under the Act, but this must be taken to be qualified so as not to extend

to cases where the old conditions of validity may be inapplicable. In addition to these, certain other conditions are imposed by the Act itself (see *post*, pp. 26, 27).

Hence the net result seems to be that the statutory patent created by the Act is pretty much the same in its incidents as the old letters patent, but it may be important to bear in mind the separate road by which this similar result is arrived at.

INTRODUCTION.—CHAP. II.

PROCEDURE FOR OBTAINING A PATENT.

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General Outline of Procedure.

THE procedure for obtaining a patent has been modified in a way such that in the majority of cases a considerable simplification will result, though in some cases an opposite result may ensue.

The proceedings from the time of an application to the sealing of a patent may be divided into two periods, viz.:—

1st. From the date of the application to the date of the acceptance of the complete specification.

2nd. From the acceptance of the complete specification to the sealing of the patent.

The proceedings during the first period are different, according as the application is made with a provisional or a complete specification.

The proceedings during the second period are the same in either case, and are *nil*, except when there is opposition to the grant of the patent.

The following tables will indicate the steps to be taken in the respective cases during the first period. Where a step is one which will not necessarily occur in every case, it is included in brackets.

The sections of the Act which refer to the steps are also included in brackets.

PROCEEDINGS ON APPLICATION WITH PROVISIONAL SPECIFICATION.

APPLICATION (sect. 5).
Reference of Application to Examiner, and
Report of Examiner thereon (sect. 6).
{ Order of Amendment by Comptroller (sect. 7).
{ [Appeal from Comptroller to Law Officer.]
{ [Amendment of Application.]
ACCEPTANCE OF APPLICATION, and Notice thereof to Applicant.
FILING COMPLETE SPECIFICATION (within nine months from application) (sect. 8).
Reference of Specifications to Examiner, and
Report of Examiner thereon (sect. 9).
{ Order of Amendment by Comptroller.
{ [Appeal from Comptroller to Law Officer.]
{ [Amendment of Specification.]
ACCEPTANCE OF COMPLETE SPECIFICATION (within twelve months from application), and Advertisement thereof (sects. 9 and 10).

PROCEEDINGS ON APPLICATION WITH COMPLETE SPECIFICATION.

APPLICATION (sect. 5).
Reference of Application to Examiner, and
Report of Examiner thereon (sect. 6).
{ Order of Amendment by Comptroller (sect. 7).
{ [Appeal from Comptroller to Law Officer.]
{ [Amendment.]
ACCEPTANCE OF APPLICATION AND COMPLETE SPECIFICATION, and Notice thereof to Applicant and Advertisement thereof (sects. 7 and 10).

When the complete specification has been accepted, it, together with the application and the provisional specification (if any), lies open to public inspection for a period of two months, during which time any person may give notice of opposition (as to which see next Chapter); but if no notice of opposition be given, the patent will be sealed after the expiration of the two months.

In the majority of cases applications will no doubt be made with a provisional specification, as

the applicant has then a further period of nine months in which to perfect his invention before he is under the necessity of leaving his complete specification. During this time, however, the patentee has no protection against infringement (sect. 13), but has merely protection against the invalidation of his patent by user or publication of his invention. This consideration, as also the simplification of procedure involved, will, in some cases, where the invention is fully developed, render it more advantageous to make the application with a complete specification.

Details of Procedure on Application.

The application for a patent must be made in Form A (*post*, p. 218), except when the invention is communicated from abroad, in which case the application must be made in Form A1 (*post*, p. 218). The application must be signed by the applicant himself, but every other document may be signed by an agent on behalf of the applicant (P. R. 8, *post*, p. 158). The application must be accompanied by a statement of an address of the applicant or his agent, to which communications from the Patent Office may be sent (P. R. 9, *post*, p. 158). The application and all other documents except drawings must be written or printed on paper of the official size (P. R. 10, *post*, p. 158), and may be sent to the comptroller through the post (P. R. 19, *post*, p. 159). For regulations as to size, &c. of drawings and copies thereof, see P. R. 28—30 (*post*, p. 161).

Every application must relate to one invention only (sect. 33, *post*, p. 88),—a provision the exact scope of which it may be very difficult to practically determine. If by inadvertence two

inventions are included in one application, provision for protecting each by separate patents is made (P. R. 23, *post*, p. 88).

The application must be accompanied by a provisional specification of the invention in Form B (*post*, p. 219), or by a complete specification in Form C (*post*, p. 220). The provisional specification must describe the nature of the invention, and if for this purpose drawings are required, they must be furnished. (As to the requirements for drawings, see P. R. 28—30, *post*, p. 161.)

If the application is made in the first instance with a provisional specification, then, within nine months from the date of application (sect. 8, *post*, p. 57), the applicant must furnish a complete specification of his invention in Form C (*post*, p. 220).

The requisite forms can be obtained at various post offices (see list of post offices, *post*, p. 215). The fees upon the application and specifications are paid by stamps impressed on the forms, the amounts of which are given in the schedule (*post*, p. 203). All documents may be sent through the post (P. R. 19, *post*, p. 159).

If no objection to the application or specification is taken, nothing remains to be done by the applicant but to receive his patent, and to keep it up by due payment of fees from time to time in either of the alternative methods which the Act affords. (See second schedule to the Act, *post*, p. 154.)

Objections by the Comptroller.

If, however, the examiner reports unfavourably upon the application, or upon the complete specification, the comptroller may require amendment (sects. 7 and 9, *post*, pp. 56, 57); but before doing

so he must afford the applicant an opportunity of being heard upon the question, and give him ten days' notice of the hearing (P. R. 11, *post*, p. 158). Within five days from the delivery of this notice the applicant must notify to the comptroller whether he wishes to be heard on the matter (P. R. 12, *post*, p. 158); and in any case the comptroller may require written or oral explanation on any points. In any hearing, the applicant may be represented by a patent agent or solicitor or counsel, or otherwise by agent duly authorized (P. R. 8, *post*, p. 158). Where the examiner has reported that there is a prior application in respect of the same invention, the prior applicant is also entitled to be heard. (As to this case, see *post*, p. 13.)

Where the decision of the comptroller does not give satisfaction, appeal may be made to the law officer, notice of which must be given at the Patent Office within fourteen days from the date of the decision appealed against. Procedure on these appeals is regulated by a special set of Rules (see *post*, p. 169).

In addition to difficulties raised by the officials of the Patent Office, opposition to the grant of the patent may be raised by an outsider (sect. 11, *post*, p. 59). This subject is considered in the next Chapter.

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General Remarks.

The proceedings which may be taken to oppose the grant of a patent to an applicant are regulated by sect. 11 of the Act and the rules made thereunder (P. R. 32—41, *post*, pp. 59—61.)

For two months from the date of advertisement of the complete specification, it lies open to public inspection, and within that time any person may give notice of opposition. The opposition is heard and determined by the comptroller at the expiration of this period, subject to appeal to the law officer.

In future, therefore, opposition will be allowed only at one stage, viz., after advertisement of complete specification; and the opponent will have, by the perusal of the complete specification, the fullest materials for ascertaining whether his opposition is well grounded. This arrangement may have the effect of increasing the number of oppositions; but, on the other hand, the provision that on an appeal to the law officer, only a person "in the opinion of the law officer entitled to be

heard in opposition to the grant," may have the effect of limiting the number of oppositions.

The available grounds of opposition are limited by the Act to three—

(1) Fraud.
(2) A prior patent.
(3) A prior application.

Upon this it may be noted, in the first place, that want of novelty in an invention is no longer a ground upon which opposition can be based, unless that want of novelty is shown by a prior English specification. Evidence of prior user or prior publication is no longer admissible in opposition to the grant of a patent, and unless the invention has previously been patented, the grant of a patent therefor, although the invention may not be new, cannot be opposed.

In the second place, it should be observed that, by sect. 13 (*post*, p. 62), the practice of "racing for the seal" is effectually abolished. Hitherto, where there have been two applications for a patent for the same subject-matter, a patent has been generally refused to the prior applicant, if in the meantime the second applicant has succeeded in getting his patent sealed first (*a*). By sect. 13 of the Act, the sealing of the second applicant's patent is not to prevent the sealing of a patent to the first applicant. Hence, under the present Act, priority of application gives a right to the sealing of the patent, which can only be contested on the ground of fraud, in cases where it is alleged that the applicant obtained the invention from the opponent.

In the third place, it should be noted that where there has been reasonable doubt upon the facts

(*a*) *Re Bates and Redgate's Application*, L. R. 4 Ch. 577; 38 L. J. Ch. 501.

and circumstances in any opposition, it has been the practice to allow the patent to proceed, and leave the parties to their remedies in a Court of law, and it may be assumed that this course will still be taken (*b*).

The materials on which an opposition is based are thus extended by the Act, but the classes of persons entitled to oppose may possibly be restricted, and the grounds of opposition are cut down. It may be assumed, however, that the principles on which oppositions will be decided will be analogous to those under the older Acts. The practice of different law officers has, however, not always been consistent.

Oppositions on the Ground of Fraud.

Opposition is allowed on the ground that the applicant has obtained the invention from the opponent or a person whose legal representative he is.

In such cases there are three positions, in one of which the opponent may find himself.

(1.) The opponent may have already applied for a patent for the invention, and the fraudulent application may be subsequent to his own.

In this case the opponent's course is clear. He has only to give notice of opposition and prove his case, and the subsequent application will be refused. Even if the true inventor by accident omits to oppose, and the subsequent fraudulent applicant should obtain his patent, it will of course be invalid, and this, under sect. 13, will not prevent the first applicant from getting his patent.

(*b*) See *Re Russell's Patent*, 2 De G. & J. 130; *Re Simpson and Isaac's Patent*, 21 L. T. Rep. 81.

(2.) The opponent may have applied for a patent for the invention, but the fraudulent application may be prior to his own.

In this case, the inventor is protected by sect. 35 (*post*, p. 89) from the consequences of the previous fraudulent application.

(3.) The opponent may not have applied for a patent.

In this case, his best course, if he wishes to obtain a patent for the invention, will be at once to apply for a patent as soon as the fraud is discovered, and to give notice of opposition when the time arrives. Sect. 35 of the Act expressly protects him from any publication which may be made by the fraudulent applicant during his period of provisional protection.

If the fraud is not discovered until the patent is granted, the inventor has still a remedy under sect. 26 (*post*, p. 79). He may present a petition for revocation of the patent, and on this being obtained, may himself apply for a patent for the invention.

Opposition on the Ground of a Prior Patent.

There is nothing in the Act to prevent opposition being raised on this ground by *any* person, or to prevent his appearing before the comptroller; but the law officer will only hear a person who is, in his opinion, entitled to be heard. It may probably be assumed that any person who would be practically commercially affected by the grant would be heard.

Opposition on the Ground of a pending Prior Application.

Where the examiner reports on an application that there is a prior application pending for a similar invention, two courses seem to be open to the prior applicant. He may appear upon the hearing of the question whether the second appli-

cant's application shall be allowed to proceed, in which case he will not be allowed to see the second applicant's specification (P. R. 16, *post*, p. 159); or he may give notice of opposition in regular form (under sect. 11, and P. R. 32—41, *post*, pp. 59—61), in which case he will have the advantage of seeing the specification. If fraud enters into the matter, such opposition would also come under the first head of permissible grounds. But it often happens that two inventors independently hit at about the same time on the same invention, and in such a case the position of the first applicant seems to be impregnable. Even if by oversight the second applicant should obtain his patent, this will not prevent the sealing of the first applicant's patent (under sect. 13). And if the first applicant is in time with his opposition, he will be able to prevent the second applicant from getting a patent at all. Where two patents for the same invention are actually granted to rival inventors upon concurrent applications, it would seem that the second applicant's patent is void, even though granted before that of the first applicant. For the question is, who is the "first and true inventor;" and as the law does not recognize a man as an inventor who keeps his invention secret, therefore, when the first applicant applies (even though the invention was long previously made, but kept secret by the second applicant), it would appear that he becomes in law the first and true inventor.

Details of Procedure on Opposition.

Notice of opposition to an application must be given within two months from the date of advertisement of the acceptance of the complete specification. The notice may be in Form D (*post*, p. 220). The requirements as to the notice and subsequent proceedings will be found in sect. 11 and P. R. 32—41 (*post*, pp. 59—61).

INTRODUCTION.—CHAPTER IV.

AMENDMENT.

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General Remarks.

THE law as to amendments of letters patent and specifications has been materially altered by the Act (sects. 18—21, *post*, pp. 65—69.)

The statute 5 & 6 Will. 4, c. 83, provided not only for amendment of the specification, but also of the letters patent themselves, so far as related to the title of the invention, but the latter provision is omitted by the present Act. Possibly the reason for this is to be found in the provision for official examination as to the accord of the title with the invention, but the omission presumes the infallibility of the officials of the Patent Office.

The amendment contemplated by the present Act has reference simply to "the specification," a term which is used in many parts of the Act to include the provisional specification as well as the complete specification.

Amendment may be made, even before the patent is granted, at the instance of the applicant,

and after the patent is granted, at the instance of the patentee or the person or persons for the time being entitled to the benefit of the patent.

Procedure on Amendments.

A request in writing for amendment is to be left at the Patent Office, stating the nature of the amendment and the reasons therefor. The request may be made in Form F (*post*, p. 221). The application will then be advertised, and within one month any person may give notice of opposition to the amendment. Where there is opposition the comptroller will hear the parties, and decide the case. The requirements of the Patent Office as to notices, declarations and other proceedings, are to be found in P. R. 48—56 (*post*, p. 66). An appeal lies from the comptroller to the law officer, but he may refuse to hear an opponent who is not, in his opinion, entitled to be heard, whilst the comptroller appears to have no such discretion. It may be presumed that the law officer will require of the opponent that he should have some direct interest in the matter. The law officer has power to impose conditions on the party seeking to amend. These conditions will probably, as heretofore, take the form of a restriction on the patentee with respect to the prosecution of actions upon the amended patent, whether for past infringement of the patent (*a*), or, under some circumstances, for future infringements (*b*). If there is no opposition the allowance of the amendment

(*a*) See *Re Smith's Patent*, Mac. P. C. 232; *Re Harrison's Patent*, Mac. P. C. 32.

(*b*) *Re Medlock's Patent*, 22 Newt. Lond. J., N. S. 69; *Re Tranter's Patent*, Johns. Pat. Man. 182.

will be determined by the comptroller subject to appeal to the law officer.

In cases where the propriety of allowing a particular amendment, as being or not being in accordance with statutory requirements, has come into question, the practice in the past has been for the law officer to allow the amendment in a doubtful case, at the risk of the applicant (*a*). Possibly this practice may be modified by the fact that it is provided that "no amendment shall be allowed" which does not fulfil the requirements, and it may possibly be held that the applicant must satisfy the law officer that the amendment is a permissible one.

Scope and Nature of permissible Amendments.

No amendment is to be allowed which would make the amended specification claim an invention substantially larger than or different from that originally claimed. The form in which this limitation is stated by the Act, though leaving room for ingenious argument as to its application in many cases, obviates doubts which arose under the old provision that the amendment must not "extend the exclusive right granted by the letters patent." Under this provision it was held, that where the patentee had not by his specification complied with the condition of the letters patent in particularly describing and ascertaining the nature of the invention, an amendment which supplemented the imperfect description enabled him to assert a right under the patent which he could not have maintained upon the original specification, and therefore such amendment was void as extend-

(*a*) See 1 W. P. C. 642, n. (*e*).

ing the exclusive right(*a*). No doubt such an amendment as was the subject of consideration in the case of *Ralston* v. *Smith* would still be void as making the specification claim a different invention. It would appear, however, that the present Act expressly contemplates an amendment which would remedy an imperfect specification. At all events, any amendment, if allowed, is to be deemed, in all Courts and for all purposes, part of the specification, and could only be objected to on the ground either that it made the amended specification claim a larger or different invention, or that it was not in the nature of "disclaimer, correction, or explanation." An amendment is now permissible under one or all of these three heads,—to disclaim, to correct, or to explain.

Amendments by way of Disclaimer.

It may be presumed that disclaimers will be allowed in future in similar instances to those in which they have heretofore been permitted. Amongst other cases, they have been allowed—

(1.) To eliminate one or more claims of novelty (which is the usual case).

(2.) To change a claim for the separate parts into a claim for the combination of the parts(*b*).

(3.) To excise a claim for a part of the invention which was badly described or of no utility (*c*).

(*a*) *Ralston* v. *Smith*, 11 H. L. C. 223—per Ld. Chelmsford.

(*b*) *Re Smith's Patent*, Mac. P. C. 232; *Re Bateman and Moore's Patent*, Mac. P. C. 116.

(*c*) *Re Medlock's Patent*, 22 Newt. Lond. J., N. S. 69.

Amendments by way of Correction.

Amendments by way of *correction* would, strictly speaking, be directed to something *incorrect* in the specification. Mere clerical errors in letterpress or drawings would obviously come under this head. Also it would seem that correction of a misleading or incorrect description or drawings is included in the scope of this part of the Act. In many cases an amendment might be said to fall either under the head of "correction" or under the head of "explanation," which latter appears to be the more inclusive.

Amendments by way of Explanation.

This head of amendments may be extended to include a very wide range, but its scope will of course be limited by the decisions of the law officers. The use of the word *explanation* would, however, seem to contemplate the supplementing generally of an imperfect description, which might even extend to the addition of new drawings to the specification. That is to say, under this head, a specification which did not originally comply with the condition of "particularly describing and ascertaining the nature of the invention," might be made to do so by means of an explanatory amendment.

Effect of Amendment.

From a perusal of the whole section it would appear that the amendment is to be an actual amendment of the specification itself, and the specification is to be read as amended. Hitherto the amendment has taken the shape of a separate document which was read together with the specification, and it has been often held that the meaning of the patentee was to be gathered

by reading the whole unamended specification, including any excised parts, together with the amending document. Under this Act there is no amending document to be read with the specification, but an amended specification to be read as amended.

The specification is to be read as amended, in all Courts and for all purposes. Hence in considering the validity of the patent, whether on the ground of novelty, sufficient description, or otherwise, the specification as amended is to be taken as if it stood in its amended form when originally filed. But no damages are to be given in respect of infringement before disclaimer, "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." These words would appear to be applicable only to an amendment by way of disclaimer, though in the Act they are made to apply to amendments of all kinds. Hence, unless the section should receive a somewhat strained construction (which would practically involve the substitution in the clause of the words "original *specification*" for the words "original *claim*"), it may be apprehended that where an amendment is merely by way of correction or explanation, and does not affect the original claim of invention, the patentee may bring an action and recover damages for infringements of date prior to the amendment.

Where an injunction has been granted to restrain infringement of a patent and an amendment is afterwards made, it would appear that the effect of the amendment is to dissolve the previous injunction and render it of no avail (*a*).

The effect of an amendment which does not

(*a*) See *Dudgeon* v. *Thomson*, L. R., 3 App. Cas. 34.

fulfil the statutory requirements, appears to be as doubtful under the new Act as it was previously.

Under the Act 5 & 6 Will. 4, c. 83, it was provided that a person might file a disclaimer not being such as to extend the exclusive right granted by the letters patent, and *such* disclaimer should be deemed and taken to be part of the letters patent or specification. Hence, if the disclaimer was not *such* as permitted by the Act, it would appear to have been void and of none effect (except as it might operate as an admission of a defect).

Under the present Act the clause as to the scope of amendments (sect. 18, sub-s. 8) is inserted apparently by way of a direction to the officials. "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." The clause would appear to mean "no amendment shall be allowed *to be made*;" but if, notwithstanding this direction, an improper amendment be allowed, then sub-s. 9 says, without apparent limitation, "the amendment shall in all Courts and for all purposes be deemed to form part of the specification."

Probably the true construction of the section on this point is to be obtained by reading into sub-s. 9 the words, "if in accordance with the provisions of this Act," and the sub-section would then read, "the amendment (*if in accordance with the provisions of this Act*) shall in all Courts and for all purposes be deemed to form part of the specification."

It would then seem to follow that if an amendment were not by way of disclaimer, correction,

or explanation, or if it made the amended specification claim an invention substantially larger than or substantially different from the original invention, it would not be deemed part of the specification, that is, it would be void. It is difficult to see how an improper amendment can have any effect in invalidating a patent, except in so far as it, or rather the original request for permission to amend, may operate as an admission of invalidity.

Disclaimer pending an Action.

Section 19 (*post*, p. 63) provides that in an action for infringement or proceeding for revocation of a patent, the Court may give the patentee leave to apply at the Patent Office for leave to amend by way of disclaimer, and in the meantime direct the trial of the action to stand over. This provision it will be noticed does not extend to amendment by way of correction or explanation.

The effect of such an amendment, if allowed, is not clear. Sect. 18 is stated not to apply "when and so long as any action for infringement or other legal proceeding in reference to a patent is pending." If this is to be taken literally, there is no provision that an amendment is to be deemed part of the specification, and the amendment would, in this case, be useless. But the same remark would also apply to an amendment made under sect. 18. Hence, it would appear that sect. 18, sub-s. 10, cannot be read literally, but must be read with the words in brackets understood, thus—"The foregoing provisions of this section (*with regard to obtaining leave to amend*) do not apply when and so long as any action for infringement or other legal proceeding in relation to a patent is pending."

If this be so, then the effect of a proper disclaimer, made pending action, would be to remedy defects of want of novelty, and thus, so far, to set the patent on its legs for the purposes of the action. Hence, an injunction might be obtained upon the amended patent, but no damages would be given unless the patentee established to the satisfaction of the Court that his original claim was framed in good faith, and with reasonable skill and knowledge.

From comparison of similar cases, it may be assumed that such an amendment would generally be allowed only upon terms of the plaintiff paying costs subsequent to the issue of the writ (except costs incurred by the defence of non-infringement, &c.), if the defendant, within a certain time from the amendment, should elect to submit to an injunction.

Other Amendments.

By sect. 91 (*post*, p. 138) it is provided that the comptroller may, on request in writing accompanied by the prescribed fee, correct any clerical error in or in connection with an application for a patent, or in the name, style, or address of the registered proprietor of a patent.

By P.R. 18 (*post*, p. 159) it is provided that "Any document for the amending of which no special provision is made by the said Act may be amended, and any irregularity in procedure which, in the opinion of the comptroller, may be obviated without detriment to the interests of any person, may be corrected, if and on such terms as the comptroller may think fit."

The provisions as to rectification of the register by the Court are to be found in sect. 90 (*post*, p. 136).

INTRODUCTION.—Chap. V.

CONDITIONS OF VALIDITY OF A PATENT.

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General Conditions.

The conditions of validity of a patent under the Act are loosely defined by sect. 26, sub-s. 3 (*post*, p. 79), which says:—"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."

The grounds on which a patent under the Act might possibly be held to be, or to have become invalid, may be ranged and examined under four heads, as follows:—

I. That the patent does not satisfy the requirements of the Statute of Monopolies.

II. That the grant has been made upon a false suggestion of the patentee.

III. That the requirements of the Patents, Designs and Trade Marks Act, 1883, and Rules made thereunder, have not been complied with.

IV. That some of the conditions or provisoes of the patent have been violated.

Some of the objections which may be taken to the validity of a patent come under more than one of the above heads.

Objections to Validity.—Head I.

With regard to the first head of objections, such objections would arise apart from the express provisions of the Act, because a patent being a grant of a monopoly is still subject to the Statute of Monopolies, except so far as it is expressly relieved from the prohibitions of that statute. Hence the following would be good objections to the patent under the Statute of Monopolies:—

(1.) That the patentee was not the true and first inventor.
(2.) That the invention was not subject-matter for a patent, not being a manufacture.
(3.) That the invention was not new.
(4.) That the invention was not useful.

Head II.

Objections under the second head arise from the provision of sect. 26, sub-s. 3, which makes the old ground of objection, that a patent was obtained upon a false suggestion, applicable to patents under the Act. The chief objections to the validity of a patent which might be raised under this head would be:—

(1.) That the applicant's declaration was false in a material particular.
(2.) That the complete specification did not particularly describe and ascertain the nature of the invention, and in what manner the same was to be performed.
(3.) That the provisional specification did not describe the nature of the invention, as

such invention appears upon the complete specification.

With regard to the second of these objections, an alteration of the law, which may have important bearings, should be carefully noticed. Before the Act, letters patent were granted before the complete specification was filed, but subject to the condition of its being filed within a certain time. This condition henceforth disappears from the patent, as the complete specification is in all cases to be filed before the patent is granted, but instead thereof we have inserted in the patent a recital that "the inventor hath in his complete specification particularly described the nature of his invention." And in the complete specification the inventor says, "I do hereby declare the nature of my invention, &c." Hence an objection on the score of insufficiency of specification now arises under the present head, on the ground of a false suggestion upon which the patent was obtained.

With regard to the third objection, arising from the complete specification making a claim of invention wider than or different from the invention described in the provisional specification, it may be taken to arise simply from sect. 26, as an objection which would previously have been a ground of invalidity (*a*), or it may be taken to arise upon the ground of the patentee, either in his provisional or complete specification, having made a false declaration as to the nature of his invention.

Head III.

It is not easy to see how far a non-compliance with the requirements of the Act and Rules might,

(*a*) See *Bailey* v. *Roberton*, 3 App. Cas. 1055; *United Telephone Co.* v. *Harrison, Cox-Walker & Co.*, 21 Ch. D. 720.

in some cases, be held to invalidate the patent, if granted notwithstanding that certain requirements were not complied with. For instance, the Act requires that the application must be made in a certain form, left in a prescribed manner, and on paper of a certain size; that the provisional specification must commence with the title, and that the complete specification must commence with the title and end with a distinct statement of the invention claimed.

With regard to such of the requirements of the Act or Rules as may give rise to objections under other heads, as, for instance, the requirement that the complete specification must describe the nature of the invention, there is no difficulty.

With regard, however, to such requirements as seem otherwise to have no sanction attached to the command, it is more difficult to see the effect of non-compliance. Would it, for instance, be a good objection to a patent, that the specification did not end with a distinct statement of the invention claimed? Such questions depend, to some degree, upon the alternative which is to be understood after the "must" of the Act. It may mean either that certain things "must" be done, *otherwise the patent will be invalid*, or else, *otherwise the patent will not be granted*. Possibly different "musts" will be differently dealt with, but as to the majority of such requirements it seems probable that they are only conditions to be observed by applicants in getting their patents, and that if, notwithstanding an omission, the patent be granted, the scope of the condition would not extend to invalidate the patent so granted.

It should be noted that the validity of a patent under the Act in no way depends on the existence of foreign patents for the same invention.

Head IV.

If the provisoes and conditions inserted in the patent are not complied with, the patent will become void. These conditions are—

(1.) That all fees must be regularly paid.
(2.) That the patentee shall supply the invention, if required, for the service of the Crown.

INTRODUCTION.

Part II.—DESIGNS.

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General Remarks.

COPYRIGHT in ornamental designs has been the subject of a series of statutes, commencing in the year 1787. Copyright in designs applicable to purposes of utility, and having relation to the shape or configuration of the article, was first established in the year 1843. All the existing statutes, with reference to copyright in both ornamental and useful designs, are repealed by the present Act, and no distinction is made between the two classes. Any new or original 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," is capable of registration under the present Act (sect. 47, *post*, p. 99, and sect. 60, *post*, p. 110), except designs which are protected by the provisions of the Sculpture Copyright Act of 1814 (see note to sect. 60, *post*, p. 110).

Copyright in a registered design exists for five years (sect. 50, *post*, p. 103), and the registered proprietor can proceed against those who may

infringe his rights, either for penalties under sect. 58 (*post*, p. 108), or for damages under sect. 59 (*post*, p. 109).

Procedure on Application for Registration.

Designs may be registered in one or more classes, and, for the purpose of registration, articles of manufacture are divided into fourteen classes (see Table of Classes, *post*, p. 208). The application must be made in Form E (*post*, p. 230), and may be made and signed by the proprietor, or, it would seem, by any person on his behalf (see sect. 47, sub-s. 1, and D. R. 6, *post*, pp. 99, 100). The author of the design is the person to be registered as the proprietor, unless the design was executed on behalf of another person for good or valuable consideration, in which case such other person should be registered as proprietor (sect. 61, *post*, p. 111). The application must contain a statement of the nature of the design, and the class or classes in which registration is required (sect. 47, sub-s. 3, *post*, p. 99). Where there is doubt as to the class in which the article falls, the comptroller will decide the question (sect. 47, sub-s. 5, *post*, p. 99). The application must be made upon paper of the prescribed size (see D. R. 8, *post*, p. 100), and must be accompanied by the prescribed number of representations of the design (see sect. 48, and D. R. 9, *post*, pp. 101, 102). The fees, of the amounts specified in the schedule (*post*, p. 205), are payable by stamps impressed on the forms, which may be purchased at various post offices (see list, *post*, p. 215).

If no difficulties be raised at the Patent Office the design will in due course be registered, and a certificate of registration will be sent to the applicant (D. R. 11, *post*, p. 175). But objections to registration may be raised by the comptroller.

Objections to Registration.

The comptroller may, if he thinks fit, refuse to register any design, or may impose conditions upon the applicant, but before coming to a decision adverse to the applicant he must grant him a hearing, of which he must give ten days' notice (D. R. 13, *post*, p. 101). Within five days from the receipt of such notice the applicant must notify whether he intends to be heard on the matter (D. R. 14, *post*, p. 101). Upon the hearing, the applicant may be heard personally, or he may be represented by his agent, solicitor, or counsel (D. R. 6, *post*, p. 174).

If the applicant is dissatisfied with the decision of the comptroller, he may appeal therefrom to the Board of Trade. In such case the applicant must, within one month from the decision appealed against, leave at the Designs Branch of the Patent Office a notice of appeal (see Form F, *post*, p. 230), accompanied by a statement of the grounds of appeal and the applicant's case in support thereof (D. R. 16 and 17, *post*, p. 101), and he must at the same time send a copy of the notice to the secretary of the Board of Trade, No. 7, Whitehall Gardens (D. R. 18, *post*, p. 101). The Board of Trade may thereupon give such directions as they think fit for the hearing of the appeal, and will give the applicant notice of the time and place appointed for the hearing (D. R. 19 and 20, *post*, p. 101). If registration is ultimately refused, it would seem that the applicant may proceed further under sect. 90 (*post*, p. 136).

Effect of Registration.

Registration of a new design gives the registered proprietor the exclusive right to apply the design to any article in the class or classes in which the

design is registered, for the term of five years from the date of registration, subject to compliance with the provisions of the Act. It would seem that the *registered* proprietor has alone the right to bring any action for damages or penalties for infringements. If the true proprietor as defined by sect. 61 (*post*, p. 111) is not the *registered* proprietor, it would seem that before being able to enforce his rights, he must apply for rectification of the register under sect. 90 (*post*, p. 136).

The registered proprietor has the right absolutely to assign and otherwise deal with the copyright (sect. 87, *post*, p. 136).

The entry in the register is *primâ facie* evidence of the matters entered (sect. 55, sub-s. 2, *post*, p. 106).

Conditions of Validity and Maintenance of Copyright in Designs.

The initial requisite for validity of copyright in a design is that the design must be new or original, and not previously published in the United Kingdom (sect. 47, sub-s. 1, *post*, p. 99). If it subsequently should turn out that the design was previously published, the registration would be invalid. It is to be observed that the design need not necessarily be *original*, *i. e.*, the work or invention of the applicant, but it must be *new*, and must be registered by or on behalf of "the proprietor" (see sect. 61, *post*, p. 111).

Before delivery on sale of any articles to which the design has been applied, the prescribed number of representations must be furnished to the comptroller, otherwise he may erase the proprietor's name from the register, and the copyright will cease (sect. 50, sub-s. 2, *post*, p. 103, and sect. 48 and D. R. 9, *post*, p. 101).

In order to preserve the exclusive rights of the

proprietor it is necessary that every article sold, to which the design has been applied, should be marked as registered in the prescribed manner, otherwise the copyright will cease, unless the proprietor shows that he took all proper steps to ensure the marking of the article (sect. 51 and D. R. 32, *post*, p. 103).

Where a design is used in manufacture in any foreign country, it is necessary that it should be used in this country within six months of the date of registration, otherwise the copyright will cease (see sect. 54, *post*, p. 105).

B.

D

INTRODUCTION.

Part III.—TRADE MARKS.

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General Remarks.

THE general law of trade marks was fashioned and moulded by the Courts of law and equity long before it became the subject of any special legislation; and it was held that where a person had affixed to goods made or traded in by him, and sent by him into the market, a distinctive mark to denote that the goods were of his manufacture or selection, or had been otherwise dealt with by him, he was entitled to be protected from the use by others of such distinctive mark.

By the Trade Marks Registration Act, 1875, a register of trade marks was established, and the enforcement of any rights under a trade mark was made conditional upon its registration, and the kinds of marks which might in future be registered were defined by the Act.

The Trade Marks Registration Act, 1875, together with the two amending Acts of 1876

and 1877, are repealed by the Patents, Designs and Trade Marks Act, 1883, by which the registration of trade marks is in future to be regulated.

Some changes in the law are introduced by the present Act, but it incorporates the chief provisions of the previous Acts, and also some of the provisions of the Rules made under those Acts.

Kinds of Trade Marks which may be registered.

Sect. 64 (*post*, p. 116) of the present Act defines the kinds of trade marks which may be registered.

In future, any new trade mark must consist of or contain one of the following essential particulars, viz. :—

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

(*b*) A copy of a written signature of the individual or firm applying for the registration thereof.

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

As to these classes it may be noticed—

Firstly, that mere collocations of ordinary words or letters cannot alone form a new trade mark, but any combination of letters, words or figures may be combined with any of the particulars in the three classes.

Secondly, that the mere name of a firm cannot be registered as a trade mark unless printed, impressed or woven in a particular or distinctive manner. But a name of an individual registered as a trade mark need not be the name of the individual or firm applying for registration. Any name may be registered if it be such as

would not be likely to give rise to deception, in which case it would be inadmissible under sect. 73 (*post*, p. 124).

Thirdly, that fancy words not in common use are now admissible as trade marks, such words having been inadmissible under the Trade Marks Registration Act, 1875.

Fourthly, that a trade mark may be registered in any colour, and such registration will confer the right to use the trade mark in that or any other colour (see sect. 67, *post*, p. 118).

But with regard to trade marks in use before the 13th August, 1875 (the date of the passing of the first Act requiring registration), a wider range is admissible. Not only may trade marks containing the above essential particulars be registered, but also "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 13th August, 1875." No trade mark in use before the 13th August, 1875, will be registered unless it comes within the categories mentioned above; but if registration of any trade mark in use before 13th August, 1875, is applied for and refused, the owner of the trade mark is not prejudiced by such refusal, but can still protect his exclusive rights (if any) by legal proceedings (see sect. 77, *post*, p. 126).

Under sect. 74 (*post*, p. 124), there may also be added to any trade mark certain devices, combinations of words, or other particulars in common use in the trade—such, for instance, as the words "Fixed Stars," in common use in the trade with reference to the class of cigar lights which have the end for burning so attached to the stick as not to drop off (*a*). With regard to such particulars in common use before the 13th August, 1875,

(*a*) See *Re J. B. Palmer's Trade Mark*, 24 Ch. D. 504.

public use by three persons suffices to show common use.

Classification of Goods.

A trade mark must be registered for particular goods or classes of goods (sect. 65, *post*, p. 118). All goods have been classified by the T. M. R. into fifty classes, of which the last class includes all goods not included in any of the other classes (for table of classification, see *post*, pp. 209—214). Where any doubt arises as to the class in which any goods fall, the question will be determined by the comptroller (T. M. R. 6, *post*, p. 183).

The same trade mark may be registered with regard to various goods in one class or in different classes; and a series of trade marks, which are similar in essential particulars, and have reference to different goods, may be registered as a series (see sect. 66, *post*, p. 118). Where a trade mark is registered in one registration with respect to a series of goods, a considerable saving of fees is effected (see Table of Fees, *post*, p. 206); but the series is only assignable as a whole (sect. 66, *post*, p. 118). Where, however, there are distinct registrations of the same trade mark with reference to various goods, each registration may be dealt with separately, and the trade mark may be assigned with reference only to some of such goods.

It may be noted that the classification of goods appears to be made simply for convenience of registration and indexing. The only way in which the applicant for registration appears to be affected by the classification is, that, in registering with regard to various goods in the same class, one set of fees covers the whole registration; whereas, if the goods are in different classes, separate fees

must be paid, unless the marks are registered in a series (see Remarks, *post*, p. 44).

Procedure on Application for Registration.

The prescribed form for application for registration of a trade mark (Form F, *post*, p. 235) makes provision for the registration of a trade mark only in respect of such species of goods as are contained in one and the same class. Where it is desired to register a trade mark in respect of various goods which are not all contained in one class, separate application forms must be used in respect of each class, and separate sets of fees paid (see Schedule of Fees, *post*, p. 206).

Where it is desired to register a number of trade marks which are the same in material particulars, but differ as to statements of goods, numbers, price, quality, or names of places, such trade marks may be registered in one series (sect. 66, *post*, p. 118). Such a series so registered is assignable and transmissible only as a whole, although, for all other purposes, the various members of the series are treated as subjects of separate registrations.

All applications must be made in Form F (*post*, p. 235). Stamped forms may be purchased at various post offices (see list, *post*, p. 215).

The application may be signed by the applicant or a member of the applying firm; or, in the case of a body corporate, by the secretary or other principal officer of the corporation, or, in any case, by an agent on behalf of the applicant (T. M. R. 7, 8, *post*, p. 184, and note (*d*) to Form F, *post*, p. 235).

The application must be upon paper of the prescribed size (T. M. R. 11, *post*, p. 113), and must be accompanied by three representations of the trade mark for goods in all classes except

Classes 23 to 35 inclusive (see *post*, p. 211, for these classes), and for goods in these classes, four representations must be supplied. One of the representations is to be affixed to the application form, and the remainder to be sent on separate half-sheets of paper (T. M. R. 13, *post*, p. 113). When the application is in respect of a series of trade marks, a representation of each one of the series must be affixed to the form of application (T. M. R. 14, *post*, p. 114).

With respect to metal goods the application must state of what metals the goods are made (T. M. R. 12, *post*, p. 113).

Where a mark includes words printed in other than the Roman character, a "translation" of such words must be given (T. M. R. 15, *post*, p. 114).

When the application is in respect of a trade mark in use by the applicant or his predecessor in business prior to the 13th August, 1875, it must contain a statement of the time during which, and the person by whom, it was so used (T. M. R. 10, *post*, p. 113).

The applicant may also be required to furnish blocks or electrotypes of his trade mark for the purposes of the official paper (T. M. R. 27, 28, *post*, p. 119).

If no difficulties be raised at the Patent Office or otherwise, the application will, after advertisement in the official paper, be registered in due course. But objections to the registration may be raised by the comptroller, or opposition to the registration by an outsider.

Objections to Registration.

The comptroller may, if he thinks fit, refuse to register a trade mark (sect. 62, *post*, p. 112), or he may impose conditions upon the applicant; but

before coming to any determination adverse to the applicant, he must grant him a hearing, of which he must give him ten days' notice (T. M. R. 17, *post*, p. 115). Within five days from the receipt of such notice, the applicant must notify whether or no he intends to be heard on the matter (T. M. R. 18, *post*, p. 115). Upon the hearing, the applicant may be heard personally, or he may be represented by his agent, solicitor or counsel (T. M. R. 8, *post*, p. 113, and 17, *post*, p. 115).

If the applicant is dissatisfied with the decision of the comptroller, he may appeal therefrom to the Board of Trade. In such case, the applicant must, within one month from the decision appealed against, leave at the Trade Marks Branch of the Patent Office a notice of appeal, accompanied by a statement of the grounds of appeal and the applicant's case in support thereof (T. M. R. 20, 21, *post*, p. 115); and he must, at the same time, send a copy of the notice to the Secretary of the Board of Trade, No. 7, Whitehall Gardens (T. M. R. 22). The Board of Trade may, if they please, refer the appeal to the High Court of Justice (sect. 62, sub-s. 5, *post*, p. 112); but if they decide to hear the appeal, they will give such directions as they think fit with regard to the proceedings (T. M. R. 23, *post*, p. 115), and will give the applicant notice of the time and place appointed for hearing (T. M. R. 24, *post*, p. 115).

Opposition to Registration.

Every application for registration of a trade mark will be advertised by the comptroller in the official paper (sect. 68, *post*, p. 118); and within two months of the first advertisement of the application any person may give notice of opposition to the registration. The notice, containing a statement of the grounds of opposition,

may be in Form J (*post*, p. 237); and an unstamped duplicate of the notice is to be left with the notice at the Patent Office (sect. 69, sub-s. 1, *post*, p. 120). A copy of this notice will be sent by the comptroller to the applicant.

Within two months after the receipt of such notice, the applicant must send to the comptroller a counter-statement (in duplicate) containing the grounds on which the applicant relies in answer to the grounds of opposition (sect. 69, sub-s. 2, *post*, p. 120). A copy of this notice will be sent by the comptroller to the opponent.

Before further proceedings are taken, the opponent will be required to give security for costs, and if the security is not given within fourteen days from the requirement thereof, the opposition will be deemed to be withdrawn (sect. 69, sub-s. 3, *post*, p. 120). If the security is duly given, notice will be given to the applicant, and the case will then stand for determination by the High Court of Justice.

Up to this point the proceedings can be conducted by the applicant or any agent. The further proceedings in the High Court must be conducted by the applicant personally or through a solicitor.

Within one month, or such further time as may be allowed, the applicant must issue a summons in the High Court for an order that, notwithstanding the opposition, the registration may proceed, or must take other proceedings in the High Court for the determination of the case. Of the taking of such steps, the applicant must give notice to the comptroller, by sending to the Patent Office a copy of the summons or other initiatory proceeding, bearing an indorsement of service signed by the applicant or his solicitor, or of acceptance of service signed by the opponent

or his solicitor. Unless such notice is duly given, the application will be deemed to be abandoned (T. M. R. 29, *post*, p. 121).

These proceedings having been taken, the matter will stand and come on in due course for the determination of the Court.

Concurrent Applications in respect of same Trade Mark.

It may happen that there are concurrent applications for registration in respect of the same trade mark. Where this is the case, the comptroller may refuse to register any of the applicants until their rights have been determined according to law; and the comptroller may himself submit, or require the applicants to submit, their rights to the High Court (sect. 71, *post*, p. 122). It may happen that more than one person may be entitled to use a trade mark in respect of certain goods, but until it has been determined by the Court that this is the case, the comptroller cannot register, upon the application of another person, in respect of any description of goods, a trade mark which is already registered in respect of such description of goods (sect. 72, *post*, p. 123).

Before refusing to register any of the applicants in respect of the same trade mark, the comptroller must appoint a day for hearing the applicants, and give them ten days' notice of the hearing, and within five days from the receipt of the notice those who wish to be heard must give notice thereof to the comptroller (T. M. R. 40, *post*, p. 122, and 17, 18, *post*, p. 185). Whether any of them desire to be heard or not, the comptroller may require them to submit a statement in writing, or to attend to make oral explanations (T. M. R. 41, *post*, p. 122).

If, after hearing the applicants, the comptroller decides to refuse to register any of them until their rights have been determined, the comptroller may submit, or may require the applicants to submit, a special case to the High Court, to determine the rights of the parties, which special case may be settled by the parties, or, if they differ, by the comptroller (T. M. R. 42, 43, *post*, p. 123).

It would seem that, upon refusal of the comptroller to register all or any of the applicants, any of the applicants may appeal to the Board of Trade (under T. M. R. 20—24, *post*, p. 186), but where a special case is to be submitted to the Court, such an appeal would be of little advantage.

Effect of Registration.

Prior to the time when trade marks were officially registered, public user of a trade mark was necessary in order to acquire an exclusive right to the trade mark.

The primary effect of registration is, that it is equivalent to public use of the trade mark in conferring exclusive rights (sect. 75, *post*, p. 125). During the first five years from the date of registration, the registration is *primâ facie* evidence of the exclusive right (sect. 76, *post*, p. 125), but it would seem to be open to any person to show that he had used the trade mark prior to the date of registration. But after the expiration of such five years the registration is conclusive evidence of the right, subject only to compliance with the provisions of the Act; as, for instance, with respect to the character of the trade mark, its assignment with the goodwill of the business, the registration being kept on foot, &c. (sect. 77, *post*, p. 126).

A further effect of registration is to place the

proprietor in a position to enforce his rights with respect thereto. Without such registration, no action for damages or injunction can be commenced, except in the case of a trade mark in use prior to the 13th August, 1875, the registration of which has been refused by the comptroller (sect. 77, *post*, p. 126).

The registered proprietor has the power absolutely to assign and otherwise deal with the trade mark (sect. 87, *post*, p. 136).

With regard to the extent of the exclusive rights conferred by registration of a trade mark with respect to a particular description of goods, it would appear that the exclusive right to use the trade mark extends only to the particular description of goods, and not to other goods in the same class. Sect. 76 speaks, without limitation, of the "*right to the exclusive use of the trade mark*," but it would seem that the words "*in connection with the particular descriptions of goods in respect of which it is registered*" must be imported into the section. This would appear from a comparison together of sect. 65 (*post*, p. 118), which limits registration to particular goods, sect. 70 (*post*, p. 122), which connects the life of the trade mark with the goodwill of the business in the particular goods, and sect. 72 (*post*, p. 123), which forbids registration with respect to any description of goods of any mark already registered in respect of those goods, but does not forbid registration of the identical trade mark by another person with respect to other descriptions of goods in the same class. The term "description of goods" would appear to indicate a subdivision of a "class." Thus, in Class 18, for "Engineering, architectural and building contrivances," it would seem that "diving apparatus" and "electric and pneumatic bells" are different "descriptions of goods," though included in the same "class."

Conditions of Validity and Maintenance of Trade Mark Rights.

The initial conditions for the validity of trade mark rights are that the trade mark must consist of or contain one of the essential particulars mentioned in sect. 64 (*post*, p. 116); and further, that the trade mark must not be identical with or similar to one previously registered in respect of the same description of goods (sect. 72, *post*, p. 123).

In order to maintain trade mark rights, the trade mark must remain associated with the goodwill of the business to which it originally belonged; and if such goodwill should determine, the trade mark rights will determine simultaneously (sect. 70, *post*, p. 122).

No limit is placed upon the life of a trade mark, provided it remains connected with the goodwill of the business; but, before the expiration of fourteen years from the date of registration, a further fee must be paid (sect. 79, *post*, p. 128).

Sheffield Marks.

In the year 1623 the cutlers living in Hallamshire, or within six miles thereof, were incorporated by a statute of James I. under the name of "The Master, Wardens, Searchers, Assistants and Commonalty of the Company of Cutlers in Hallamshire in the County of York." By a series of subsequent statutes the constitution and rights of the Company have been modified, and the functions of the Company determined in reference to marks on cutlery and tools having a cutting edge (*a*).

(*a*) The following are the statutes relating to the Cutlers' Company:—21 Jac. I. c. 31; 31 Geo. III. c. 58; 41 Geo. III. c. 97 (Local); 54 Geo. III. c. 119 (Local); 23 Vict. c. *xliii* (Local); 38 & 39 Vict. c. 91 (The Trade Marks Registration Act, 1875). With the exception of the Trade Marks Registration Act, 1875, all these statutes are still in force.

Under these statutes, any person carrying on the manufacture of the specified articles having a cutting edge may become a member of the Company, and have a mark assigned to him; and thereupon he obtains the exclusive right to use such mark in his trade, within the limits of the district.

By the Trade Marks Registration Act, 1875, the Cutlers' Company was placed in communication with the Registrar of Trade Marks established under that Act.

The present Act repeals the provisions of the Trade Marks Registration Act, 1875, extends the functions of the Cutlers' Company, and establishes the relations of the Cutlers' Company with the Trade Marks Branch of the Patent Office upon a new footing (sect. 81, *post*, p. 130).

The Cutlers' Company are to keep at Sheffield a new register of trade marks, to be called "The Sheffield Register." The Cutlers' Company are in future to deal exclusively with all trade marks in their district, used, not only on cutlery and edge tools, but also on raw steel and goods made of steel, or of steel and iron combined, whether with or without a cutting edge. Any application with respect to registration of a trade mark on any of the goods just enumerated, which is made by a person carrying on business in the Cutlers' district, is to be made to the Cutlers' Company, and not to the Patent Office; but any such application in respect of such goods, made by a person outside the district, is to be made to the Patent Office, under the general provisions of this Act. When a trade mark is registered in the Sheffield Register, notice will be given to the comptroller, and the trade mark will also be entered in the Register of Trade Marks in London, and the proprietor of the mark will have the exclusive right to the use thereof throughout the realm.

Provision is made for the communication of applications made in Sheffield to the Patent Office, and *vice versâ*, so that the same mark may not be registered by different persons in London and in Sheffield. The general provisions of the Act with respect to trade marks are to apply to Sheffield marks; but special rules of procedure with respect to Sheffield applications have also been made (see T. M. R. 53—56, *post*, p. 133).

THE

PATENTS, DESIGNS AND TRADE MARKS ACT,

1883.

[For Index to the Sections of the Act, see Table of Contents prefixed to this Book.]

THE PATENTS, DESIGNS, AND TRADE MARKS ACT, 1883.

(46 & 47 Vict. c. 57.)

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

Preliminary.

Short title.

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

Division of Act into parts.

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

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

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.

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 for a patent.

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

(a) This section appears to introduce no alteration in the law as it stood before the Act, but upon reading the section in conjunction with sub-section 2 of the next section, it would appear to have been intended by the framers of the Act that in future a patent might be granted to an inventor or inventors jointly with other persons who had no share in making the invention, but might be merely associated with the inventor for commercial purposes. There can be no doubt that this has been largely done under the existing system, probably upon the ground that the persons associated with the real inventor may have made some slight suggestion during the working out of the invention, and possibly a very slight share in the invention might be held to justify the association. The Statute of Monopolies renders illegal all monopolies, except letters patent for inventions granted to "the true and first inventor and inventors." No case appears to have arisen in which the validity of a patent was questioned upon the ground that one of the grantees had no share in making the invention, but it seems possible that such a patent would have been held to be void under the Statute of Monopolies. Now sect. 5, sub-sect. 2 of the present Act appears to contemplate such a grant, but the Act does not anywhere expressly repeal the presumed prohibitory enactment of the Statute of Monopolies with respect thereto, and it therefore appears to be doubtful whether a grant to an inventor jointly with a person who took no part in making the invention might not still be held to be illegal.

Application and specification.

[1852, ss. 6, 9.]

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

(2.) An application must contain a declaration to the effect that the applicant is in possession of

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an invention, whereof he, or in the case of a joint application, one or more of the applicants(**b**), claims or claim to be the true and first inventor or inventors(**c**), and for which he or they desires or desire to obtain a patent; and must be accompanied by either provisional or complete specification.

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

(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 (**e**).

(5.) A specification, whether provisional or complete, must commence with the title, and in the case of a complete specification must end with a distinct statement of the invention claimed (**e**).

(**a**) The "prescribed" forms and manner are to be gathered from the following Rules. The Rules vary the forms given by the Act. For list of post offices where stamped forms may be obtained, see *post*, p. 215.

P.R. 5.—"The Forms A, B, and C in the First Schedule to "the said Act shall be altered or amended by the substitution "therefor respectively of the Forms A, A1, B and C in the "Second Schedule hereto."

P.R. 6.—"(1.) An application for a patent shall be made "either in the Form A or the Form A1 (*post*, p. 218), set "forth in the Second Schedule hereto, as the case may be.

"(2.) The Form B (*post*, p. 219) in such Schedule of pro- "visional specification and the Form C (*post*, p. 220) of "complete specification shall respectively be used."

P.R. 27.—"An application for a patent for an invention "communicated from abroad shall be made in the Form A1 "set forth in the Second Schedule hereto."

P.R. 8.—"An application for a patent must be signed "by the applicant, but all other communications between the "applicant and the comptroller, and all attendances by the "applicant upon the comptroller, may be made by or through "an agent duly authorised to the satisfaction of the comp-

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"troller, and if he so require, resident in the United "Kingdom."

P.R. 9.—"The application shall be accompanied by a "statement of an address to which all notices, requisitions, "and communications of every kind may be made by the "comptroller or by the Board of Trade, and such statement "shall thereafter be binding upon the applicant unless and "until a substituted statement of address shall be furnished "by him to the comptroller. He may in any particular case "require that the address mentioned in this rule be in the "United Kingdom."

P.R. 10.—"All documents and copies of documents sent to "or left at the Patent Office or otherwise furnished to "the comptroller or to the Board of Trade shall be written "or printed in large and legible characters in the English "language upon strong wide ruled paper (on one side only), "of a size of 13 inches by 8 inches, leaving a margin of two "inches on the left-hand part thereof, and the signature "of the applicants or agents thereto must be written in a "large and legible hand. Duplicate documents shall at any "time be left, if required by the comptroller."

P.R. 19.—"Any application, notice, or other document "authorized or required to be left, made, or given at the "Patent Office or to the comptroller or to any other person "under these Rules may be sent by a prepaid letter through "the post, and if so sent shall be deemed to have been left, "made, or given respectively at the time when the letter "containing the same would be delivered in the ordinary "course of post.

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

P.R. 28.—"The drawings accompanying provisional or "complete specifications shall be made upon half-sheets or "sheets of imperial drawing paper, to be within a border line "of 19 inches by 12 inches, or 27 inches by 19 inches, with a "margin of half-an-inch all round."

P.R. 29.—"A copy of the drawings will be required "upon *rolled* imperial drawing paper or upon thin Bristol "board of the same dimensions as the original drawing or "drawings. All the lines must be absolutely black, Indian "ink of the best quality to be used, and the same strength or "colour of the ink maintained throughout the drawing. "Any shading must be in lines clearly and distinctly drawn "and as open as is consistent with the required effect. Section "lines should not be too closely drawn. No colour must be "used for any purpose upon the copy of the drawings. All

"letters and figures of reference must be bold and distinct. "The border line should be one fine line only. The drawings "must not be folded, but must be delivered at the Patent "Office either in a perfectly flat state or rolled upon a roller "so as to be free from creases or breaks."*

P.R. 30.—"Where a complete specification is left at the "Patent Office after a provisional specification has been "accepted, the complete specification and drawing or drawings "accompanying the same, as well as the copy thereof, must "be prepared in accordance with Rules 10, 28, and 29."

P.R. 31.—"Every applicant for the grant of a patent shall "in addition to the drawings to be furnished with his complete "specification, furnish the comptroller with a drawing illus- "trative of the feature or features of novelty constituting his "invention. Such drawing must be prepared in the manner "prescribed for the copy of the original drawing or drawings "accompanying the specification, but must not cover a space "exceeding 16 square inches. The drawing must be accom- "panied by a concise explanatory statement on foolscap "paper and legibly written or printed."

There may possibly be some doubt as to whether the last rule could be enforced on patentees, as it seems to go beyond the terms of the Act or powers of making rules under the Act (see sect. 101, *post*, p. 141).

For a short account of the steps to be taken in order to obtain a patent, see *ante*, pp. 5—9.

(**b**) See note to sect. 4 (*ante*, p. 50). The validity of a patent granted to an inventor, jointly with a person taking no part in the invention, appears doubtful.

(**c**) The words "true and first inventor" include a person to whom a new invention is communicated from abroad, so that a patent agent, or any other person, in taking out a patent for an invention communicated to him from abroad, is legally the true and first inventor.†

(**d**) The stipulation that a provisional specification must describe the nature of the invention is the same as under the old law. The added stipulation that it must be accompanied by drawings, if required, is in accordance with what has

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* As the drawings accompanying the provisional and complete specification respectively are copied at the Patent Office for publication by the process of photo-lithography, this rule must be strictly observed in order that correct copies may be made.

† See *Marsden* v. *The Saville Street Foundry*, 3 Ex. D. 204.

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already been the practice in some instances, and points to the necessity of a little more precision than has been usual heretofore. Of course the requirements which may be made as to drawings are entirely under official control, but it would seem to be intended that the drawings required (if any) should be, in the case of a provisional specification, such as are required to describe the nature of the invention, and in the case of a complete specification, such as are required to particularly ascertain in what manner it is to be practically performed. In the preparation of the provisional specification, it should, however, be borne in mind that whilst the invention is in a nascent state, it is advisable to describe it as broadly as possible, and hence the object to be kept in view in drawing it should be to make it at the same time sufficiently precise to satisfy the requirements of the Patent Office, and sufficiently broad to cover any developments of the invention that may be made before the complete specification is filed. So long as the description in the provisional specification is comprehensive enough to include all that is claimed in the complete specification, no objection can be taken to the patent when granted on the ground that the provisional specification is too broad.*

(e) The condition that the complete specification must "particularly describe and ascertain the nature of the invention, and in what manner it is to be performed," is now made statutory, instead of being inserted in the letters patent themselves, but it is the same as heretofore. The addition of a claiming clause or clauses to the end of the specification, which has been for a long time the usual but not invariable practice, is now made obligatory. Hence it will now be more than ever necessary that the "claims" should be drawn with the greatest care, so as completely to define what is the novelty intended to be protected.

Reference of application to examiner.

6. The comptroller shall refer every application to an examiner, who shall ascertain and report to the comptroller whether the nature of the inven-

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* *Penn* v. *Bibby*, L. R., 2 Ch. 127; *Newall* v. *Elliot*, 4 C. B., N. S. 269.

tion has been fairly described, and the application, specification, and drawings (if any) have been prepared in the prescribed manner (a), and the title sufficiently indicates the subject-matter of the invention. § 6.

(a) As to the requirements of the Patent Office with regard to the preparation of the application and specification, see the preceding section and the Rules there referred to.

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

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

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

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

(a) For outline of procedure under section 7, see *ante*, pp. 8 and 9, and pp. 13 and 14. The following Rules determine the procedure :—

P.R. 11.—"Before exercising any discretionary power "given to the comptroller by the said Act adversely to the "applicant for a patent or for amendment of a specification, "the comptroller shall give ten days' notice, or such longer "notice as he may think fit, to the applicant of the time when "he may be heard personally or by his agent before the "comptroller."

P.R. 12.—"Within five days from the date when such "notice would be delivered in the ordinary course of post, or "such longer time as the comptroller may appoint in such "notice, the applicant shall notify to the comptroller whether "or not he intends to be heard upon the matter."

P.R. 13.—"Whether the applicant desires to be heard or "not, the comptroller may at any time require him to submit "a statement in writing within a time to be notified by the "comptroller, or to attend before him and make oral explanations with respect to such matters as the comptroller may "require."

P.R. 14.—"The decision or determination of the comptroller in the exercise of any such discretionary power as "aforesaid shall be notified by him to the applicant, and any "other person affected thereby."

P.R. 15.—"The term 'applicant' in Rules 11, 12, and "13 shall include an applicant whose specification bears a "title the same as or similar to that of the specification of a "prior applicant, and has been reported on by the examiner."

P.R. 16.—"Such prior and second applicant respectively "may attend the hearing of the question whether the invention comprised in both applications is the same, but neither "party shall be at liberty to inspect the specification of the "other."

The procedure on appeals to the law officer is regulated by special rules (see *post*, p. 169).

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 (a).

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

(a) The word "months" in this section means calendar months,* so that if the date of the application be (say) the 12th of January, the complete specification must be left not later than the 12th of October following. It has been decided that the period is to be computed exclusive of the day of the date of the application.†

The complete specification may be sent by post to the Patent Office, and if so sent must be posted so that in the ordinary course of post it will reach the Patent Office during the hours at which it is open, not later than the last day of the nine months (see sect. 97, *post*, p. 139).

Where the last day for leaving the complete specification falls on a Saturday, or a Sunday, or on Christmas Day, Good Friday, or any Bank Holiday, it may be left upon the next day to the excluded day or days (see sect. 98, *post*, p. 140).

Comparison of provisional and complete specification.

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

(2.) If the examiner reports that the conditions hereinbefore contained have not been complied with, the comptroller may refuse to accept the

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* See 13 & 14 Vict. c. 21, s. 4.

† *Watson* v. *Pears*, 2 Camp. 294; *Russell* v. *Ledsam*, 14 M. & W. 582.

§ 9. complete specification unless and until the same shall have been amended to his satisfaction; but any such refusal shall be subject to appeal to the law officer.

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

(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 (b).

(a) For details of proceedings where the examiner reports unfavourably on the complete specification, see *ante*, pp. 8 & 9. The procedure is the same as under section 7. See the Rules there set out (*ante*, p. 56).

(b) What practice may grow up under this clause it is impossible to predict. Possibly where in an action there are objections founded on matters which are the subject of an examiner's report, the report may be called for by one or other party, but it is difficult to see how the report could affect the question.

Advertisement on acceptance of

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

tions with the drawings (if any) shall be open to public inspection.

complete specification. [1852, ss. 9, 12, 29; 1853, s. 2.]

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 (a).

Opposition to grant of patent. [1852, ss. 12—14.]

(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 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.

(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. [1852, s. 8.]

(a) For an account of proceedings in opposition, see *ante*, p. 10. The following Rules regulate the procedure :—

P.R. 32.—" A notice of opposition to the grant of a patent

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" shall state the ground or grounds on which the person " giving such notice (hereinafter called the opponent) intends to " oppose the grant, and shall be signed by him. Such notice " shall state his address for service in the United Kingdom."

P.R. 33.—" On receipt of such notice a copy thereof shall " be furnished by the comptroller to the applicant."

P.R. 34.—" Where the ground or one of the grounds of " opposition is that the invention has been patented in this " country on an application of prior date, the title, number, " and date of the patent granted on such prior application " shall be specified on the notice."

P.R. 35.—" Within 14 days after the expiration of two " months from the date of the advertisement of the accept- " ance of a complete specification, the opponent shall leave " at the Patent Office statutory declarations in support of his " opposition, and deliver to the applicant a list thereof."

P.R. 36.—" Within 14 days from the delivery of such list " the applicant shall leave at the Patent Office statutory de- " clarations in answer, and deliver to the opponent a list " thereof, and within seven days from such delivery the " opponent shall leave at the Patent Office his statutory " declarations in reply, and deliver to the applicant a list " thereof. Such last-mentioned declarations shall be confined " to matters strictly in reply.

" Copies of the declarations mentioned in this and the last " preceding Rule may be obtained either from the Patent " Office or from the opposite party."

P.R. 37.—" No further evidence shall be left on either " side except by leave of the comptroller upon the written " consent of the parties duly notified to him, or by special " leave of the comptroller on application made to him for " that purpose."

P.R. 38.—" Either party making such application shall " give notice thereof to the opposite party, who shall be " entitled to oppose the application."

P.R. 39.—" On the completion of the evidence the comp- " troller shall appoint a time for the hearing of the case, and " shall give to the parties seven days' notice at the least of " such appointment."

P.R. 40.—" On the hearing of the case no opposition shall " be allowed in respect of any ground not stated in the " notice of opposition, and where the ground or one of the " grounds is that the invention has been patented in this " country on an application of prior date, the opposition shall " not be allowed upon such ground unless the title, number,

" and date of the patent granted on such prior application " shall have been duly specified in the notice of opposition." § 11.

P.R 41.—"The decision of the comptroller in the case " shall be notified by him to the parties."

For the various forms, see *post*, p. 217.

The procedure on appeals to the law officer is regulated by special rules (see *post*, p. 169).

Sealing of patent. [1852, ss. 18—22.]

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 (a).

(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—

(*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 (b).

(a) Upon the effect of this and the preceding sub-section upon the nature and theory of patents for inventions, see *ante*, pp. 2, 3.

(b) As to this sub-section see the following Rule:—

P.R. 24.—" An application for a patent by the legal repre- " sentative of a person who has died possessed of an inven- " tion shall be accompanied by an official copy of or extract " from his will or the letters of administration granted of his " estate and effects in proof of the applicant's title as such " legal representative."

Date of patent. [1852, s. 23.]

13. Every patent shall be dated and sealed as of the day of the application (a): Provided that no proceedings shall be taken in respect of an infringement committed before the publication of the complete specification (b): 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 (c).

(a) Before the Patent Law Amendment Act, 1852, letters patent under the Great Seal had the nature of a record, and hence no question as to the date of sealing being different from what appeared by the patent could be raised, and the date which appeared could alone be looked to for all purposes.* With regard to patents under the Patent Law Amendment Act, 1852, the same result was produced by the enactment of sect. 24 of that Act, that letters patent bearing date as of any day prior to the actual date of sealing, should be "of the same force and validity as if they had been sealed on the day as of which the same were expressed to be sealed and bear date." This provision is not re-enacted by the present Act (except in the modified form to be found in sects. 13 and 15), so that it is possible that different results may ensue in some cases where the date of the grant has to be considered.†

(b) See sect. 15, *post*, and the note thereto.

(c) As to the effect of this last proviso in abolishing the custom of "racing for the seal," see *ante*, p. 11.

Provisional Protection.

Provisional protection. [1852, s. 8.]

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

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* *Ludford* v. *Gretton*, Plow. 491.

† See, for instance, the case of *Holste* v. *Robertson*, 46 L. J., Ch. 1.

tection from the consequences of use and publication is in this Act referred to as provisional protection. § 14.

Protection by Complete Specification.

15. After the acceptance of a complete specification and until the date of sealing a patent in respect thereof, or the expiration of the time for sealing, the applicant shall have the like privileges and rights as if a patent for the invention had been sealed on the date of the acceptance of the complete specification: Provided that an applicant shall not be entitled to institute any proceeding for infringement unless and until a patent for the invention has been granted to him. Effect of acceptance of complete specification. [1852, s. 9.]

The effect of this section, together with the preceding sections 13 and 14, is as follows:—From the date of the application the inventor is immediately protected against any subsequent user or publication of his invention. From the date of the acceptance of the complete specification the inventor has the full rights of a patentee, but if his rights are infringed he must wait till his patent is sealed before he can bring his action. To reconcile this section with sect. 13, it should be noted that the acceptance of complete specification and its publication should be simultaneous (under sect. 10).

Patent.

16. Every patent when sealed shall have effect throughout the United Kingdom and the Isle of Man. Extent of patent. [1852, s. 18.]

It will be observed that patents no longer extend, as heretofore, to the Channel Islands.

17.—(1.) The term limited in every patent for the duration thereof shall be fourteen years from its date. Term of patent. [1853, c. 5. s. 2.]

(2.) But every patent shall, notwithstanding

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anything therein or in this Act, cease if the patentee fails to make the prescribed payments within the prescribed times (a).

(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 (b).

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

(a) For prescribed payments, see schedule, p. 154, *post*. It will be observed that an alternative method of annual payment of fees is provided, which is much more advantageous to the patentee than the payment of the two lump sums of 50*l*. and 100*l*. before the ends of the fourth and eighth years respectively.

(b) With regard to applications for enlargement of time, it must be observed that the patentee must satisfy the comptroller that the failure arose from one of the specified causes. The following rule has reference to such applications:—

P.R. 46.—"An application for an enlargement of the time

" for making a prescribed payment shall state in detail the " circumstances in which the patentee by accident, mistake, " or inadvertence has failed to make such payment, and the " comptroller may require the patentee to substantiate by " such proof as he may think necessary the allegations con- " tained in the application for enlargement." (See Form K, *post*, p. 224.) **§ 17.**

Amendment of Specification (a).

Amendment of specification. [1835, s. 1. 1844, s. 5. 1852, s. 39.]

18.—(1.) An applicant or a patentee (**b**) may, from time to time, by request in writing left at the Patent Office, seek leave to amend his specification (**c**), 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 (**d**), 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 (**e**), if any, the amendment ought to be allowed.

(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 (**e**), if any, the amendment ought to be allowed.

(6.) When leave to amend is refused by the

§ 18. 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 (e), 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 (f).

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

(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 (i).

(a) Upon this section, see Introductory Chapter on Amendments (*ante*, p. 15). The following rules regulate the procedure :—

P.R. 48.—"A request for leave to amend a specification "shall be signed by the applicant or patentee and accom- "panied by a copy of the original specification and draw- "ings, showing in red ink the proposed amendment, and shall "be advertised by publication of the request and the nature "of the proposed amendment in the official journal of the "Patent Office, and in such other manner (if any) as the "comptroller may in each case direct." (See Form F, *post*, p. 221.)

P.R. 49.—"A notice of opposition to the amendment shall "state the ground or grounds on which the person giving "such notice (hereinafter called the opponent) intends to "oppose the amendment, and shall be signed by him. Such "notice shall state his address for service in the United "Kingdom." (See Form G, *post*, p. 221.)

P.R. 50.—"On receipt of such notice a copy thereof shall

" be furnished by the comptroller to the applicant or patentee, " as the case may be (hereinafter called the applicant)." § 18.

P.R. 51.—"Within 14 days after the expiration of one " month from the first advertisement of the application for " leave to amend, the opponent shall leave at the Patent " Office statutory declarations in support of his opposition, " and deliver to the applicant a list thereof."

P.R. 52.—"Upon such declarations being left, and such " list being delivered, the provisions of Rules 36, 37, 38 and " 39 shall apply to the case, and the further proceedings " therein shall be regulated in accordance with such pro- " visions as if they were here repeated." (See *post*, p. 163.)

P.R. 53.—"The decision of the comptroller in the case " shall be notified by him to the parties."

P.R. 54.—"Where leave to amend is given the applicant " shall, if the comptroller so require, and within a time to " be limited by him, leave at the Patent Office a new " specification and drawings as amended, to be prepared in " accordance with Rules 10, 28 and 29." (See *post*, pp. 158, 161.)

P.R. 55.—"Where a request for leave to amend is made " by or in pursuance of an order of the Court or a judge, " an official or verified copy of the order shall be left with " the request at the Patent Office."

P.R. 56.—"Every amendment of a specification shall be " forthwith advertised by the comptroller in the official journal " of the Patent Office, and in such other manner (if any) as " the comptroller may direct."

(**b**) Under this section it would appear that an amendment of either the provisional or complete specification may be applied for, and even before the patent is sealed. The application to amend may be made by an assignee of the patentee; as, under sect. 46, the term "patentee" includes the person for the time being entitled to the benefit of the patent.

(**c**) There is now no provision for amendment of the title of a patent.

(**d**) For the prescribed manner, see P. R. 48, above.

(**e**) As to conditions, see *ante*, p. 16.

(**f**) As to the effect of this provision, see *ante*, pp. 17, 18, and p. 21.

(**g**) This provision is similar to that in the Patent Law Amendment Act, 1852, sect. 39, and prevents any objection

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on the ground that the party making the amendment had no authority to do so, unless the amendment has been made fraudulently.

(h) As to the effect of this provision, see *ante*, pp. 19—22.

(i) Where an action is pending, amendment by way of disclaimer pending the action is provided for by the following section 19.

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

19. 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, and may direct that in the meantime the trial or hearing of the action shall be postponed.

As to the effect of this section, and the terms which would probably be imposed under it, see *ante*, pp. 22 and 23. The application for leave to amend, if necessary, should be made immediately after the delivery of the particulars of objections in the action.

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.

This section applies to amendments made both in the ordinary way and also pending an action. But it appears that where the amendment is only by way of correction or explanation, and the original claim is not touched, damages would be obtainable for prior infringements, notwithstanding such amendment (see *ante*, p. 20).

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

See P. R. 56, *ante*, p. 67.

Compulsory Licenses.

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 licenses on reasonable terms— Power for Board to order grant of licenses.

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

The procedure under this section is provided for by P. R. 57—63, as follows:—

P.R. 57.—"A petition to the Board of Trade for an order "upon a patentee to grant a license shall show clearly the "nature of the petitioner's interest, and the ground or "grounds upon which he claims to be entitled to relief, and "shall state in detail the circumstances of the case, the terms "upon which he asks that an order may be made, and the "purport of such order."

P.R. 58.—"The petition and an examined copy thereof "shall be left at the Patent Office, accompanied by the "affidavits, or statutory declarations and other documentary "evidence (if any) tendered by the petitioner in proof of the "alleged default of the patentee."

P.R. 59.—"Upon perusing the petition and evidence, "unless the Board of Trade shall be of opinion that the order "should be at once refused, they may require the petitioner

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" to attend before the comptroller, or other person or persons " appointed by them, to receive his or their directions as to " further proceedings upon the petition."

P.R. 60.—" If and when a *primâ facie* case for relief has " been made out to the satisfaction of the Board of Trade, the " petitioner shall upon their requisition, and on or before a " day to be named by them, deliver to the patentee copies of " the petition and of the affidavits or statutory declarations " and other documentary evidence (if any) tendered in sup- " port thereof."

P.R. 61.—" Within fourteen days after the day of such " delivery the patentee shall leave at the Patent Office his " affidavits or statutory declarations in opposition to the " petition, and deliver copies thereof to the petitioner."

P.R. 62.—" The petitioner within fourteen days from such " delivery shall leave at the Patent Office his affidavits, or " statutory declarations in reply, and deliver copies thereof to " the petitioner; such last-mentioned affidavits or declarations " shall be confined to matters strictly in reply."

P.R. 63.—" Subject to any further directions which the " Board of Trade may give the parties shall then be heard at " such time, before such person or persons, in such manner, " and in accordance with such procedure as the Board of " Trade may, in the circumstances of the case, direct, but so " that full opportunity shall be given to the patentee to show " cause against the petition."

For forms of application and petition, see Forms H and H1, *post*, p. 222.

Register of Patents.

Register of patents. [1852, ss. 34, 35.]

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 licenses 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 (a).

(2.) The register of patents shall be primâ facie evidence of any matters by this Act directed or authorized to be inserted therein (b).

(3.) Copies of deeds, licenses, and any other

documents affecting the proprietorship in any letters patent or in any license thereunder, must be supplied to the comptroller in the prescribed manner for filing in the Patent Office (c). § 23.

(a) The procedure with regard to registration, and the matters which are to be registered, &c., are provided for by P. R. 64—76, as follows:—

P.R. 64.—"Upon the sealing of a patent the comptroller "shall cause to be entered in the Register of Patents the "name, address, and description of the patentee as the grantee "thereof, and the title of the invention."

P.R. 65.—"Where a person becomes entitled to a patent "or to any share or interest therein, by assignment either "throughout the United Kingdom and the Isle of Man, or "for any place or places therein, or by transmission or other "operation of law, a request for the entry of his name in the "register as such complete or partial proprietor of the patent, "or of such share or interest therein, as the case may be, "shall be addressed to the comptroller, and left at the Patent "Office." (For Form of Request, see *post*, p. 224.)

P.R. 66.—"Such request shall in the case of individuals be "made and signed by the person requiring to be registered as "proprietor, or by his agent duly authorized to the satisfac-"tion of the comptroller, and in the case of a body corporate "by their agent, authorized in like manner."

P.R. 67.—"Every such request shall state the name, "address, and description of the person claiming to be en-"titled to the patent, or to any share or interest therein, as the "case may be (hereinafter called the claimant), and the par-"ticulars of the assignment, transmission, or other operation "of law by virtue of which he requires to be entered in the "register as proprietor, so as to show the manner in which, "and the person or persons to whom, the patent, or such "share or interest therein as aforesaid, has been assigned or "transmitted."

P.R. 68.—"Every assignment and every other document "containing, giving effect to, or being evidence of, the trans-"mission of a patent or affecting the proprietorship thereof as "claimed by such request, except such documents as are "matters of record, shall be produced to the comptroller, "together with the request above prescribed, and such other "proof of title as he may require for his satisfaction.

"As to a document which is a matter of record, an official "or certified copy thereof shall in like manner be produced "to the comptroller."

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P.R. 69.—"There shall also be left with the request an "examined copy of the assignment or other document above "required to be produced.

"As to a document which is a matter of record, an official "or certified copy shall be left with the request in lieu of an "examined copy."

P.R. 70.—"A body corporate may be registered as pro- "prietor by its corporate name."

P.R. 71.—"Where an order has been made by her Majesty "in Council for the extension of a patent for a further term "or for the grant of a new patent, or where an order has been "made by the Court for the revocation of a patent or the "rectification of the register under section 90 of the said Act, "or otherwise affecting the validity or proprietorship of the "patent, the person in whose favour such order has been made "shall forthwith leave at the Patent Office an office copy of "such order. The register shall thereupon be rectified or the "purport of such order shall otherwise be duly entered in "the register, as the case may be."

P.R. 72.—"Upon the issue of a certificate of payment under "Rule 45, the comptroller shall cause to be entered in the "Register of Patents a record of the amount and date of pay- "ment of the fee on such certificate."

P.R. 73.—"If a patentee fails to make any prescribed pay- "ment within the prescribed time or any enlargement thereof "duly granted, such failure shall be duly entered in the "register."

P.R. 74.—"An examined copy of every license granted "under a patent shall be left at the Patent Office by the "licensee, with a request that a notification thereof may be "entered in the register. The licensee shall cause the accu- "racy of such copy to be certified as the comptroller may "direct, and the original license shall at the same time be "produced and left at the Patent Office if required for further "verification." (For Form of Request, see *post*, p. 225.)

P.R. 75.—"The Register of Patents shall be open to the "inspection of the public on every week day between the "hours of ten and four, except on the days and at the times "following:—

"(*a*) Christmas Day, Good Friday, the day observed as "her Majesty's birthday, days observed as days of "public fast or thanksgiving, and days observed as "holidays at the Bank of England; or

"(*b*) Days which may from time to time be notified by a "placard posted in a conspicuous place at the Patent "Office;

"(*c*) Times when the register is required for any purpose "of official use."

P.R. 76.—"Certified copies of any entry in the register, or "certified copies of, or extracts from patents, specifications, "disclaimers, affidavits, statutory declarations, and other "public documents in the Patent Office, or of or from "registers and other books kept there, may be furnished by "the comptroller on payment of the prescribed fee." **§ 23.**

Under these Rules there are to be registered, in addition to the matters specially mentioned in sect. 23, notifications of the following matters, viz. :—

Rectifications of register under sect. 90 ;
Payments of fees on renewals of patents ;
Failures to make prescribed payments.

As to rectification of the register, see sect. 90 (*post*, p. 136).

Under the Patent Law Amendment Act two registers have been kept at the Patent Office—the register of patents and the register of proprietors; in the former of which entries have been made of official acts and matters relating to letters patent, and in the latter of which have been entered in full copies of deeds affecting the property in letters patent.

Under this section a single register called the Register of Patents is to be kept, which will combine the functions of the two former registers, and of which these former registers are to be deemed part (under sect. 114).

With regard to the matters to be registered in the Register of Patents, it is to be particularly noticed that, whereas in the old register there were to be entered "the assignment of any letters patent" and "any license under letters patent," under the new Act there are to be entered merely "notifications" of assignments, transmissions and licenses ; full copies being, however, supplied for filing in the Patent Office.

Hence it may be presumed that the new Register of Patents will be of much less formidable dimensions than the old register.

From sect. 85, it would appear that the legal estate only in the patent is to be the subject of registration, and no notice of any trust is to be permitted to appear on the register.

(**b**) By this sub-sect., the Register of Patents is made *primâ facie* evidence of any matters by the Act directed or authorized to be inserted therein ; and by sect. 89, a certified copy

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of any entry in the register is to be admitted in evidence without production of the register itself.

The corresponding provision of the Patent Law Amendment Act was to the effect that certified copies of entries should be proof of the assignment or proprietorship as therein expressed.

It is to be observed that the proviso in sect. 35 of the Patent Law Amendment Act, that until an entry in the register is made the grantee of the patent is to be presumed to be the proprietor, finds no place in the present Act. The Act says that certain matters "shall be entered" in the register; but to the direction, no sanction appears to be attached. It would seem, therefore, to be in the nature of a direction to the officials of the Patent Office, and the registration of assignments, &c. appears to be not obligatory on proprietors as a condition precedent to a right of action. But it should be noticed that, under sect. 87 (*post*, p. 135), the registered proprietor has the absolute right of dealing with the patent, subject to existing equities.

(c) See P. R. 64—74, *ante*, pp. 71 and 72.

Fees.

Fees in schedule. [1853, c. 5, s. 3.]

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 (a); 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.

(a) The fees thus prescribed will be found in the First Schedule to the P. R., *post*, p. 203. All fees are payable by stamped forms, which may be obtained at various post offices (see list, *post*, p. 215).

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With regard to the payment of fees on renewal of patents, P. R. 42—45 provide as follows :—

P.R. 42.—"If a patentee intends at the expiration of the "fourth or eighth year from the date of his patent to make "the prescribed payment for keeping the same in force, he "shall, seven days at least before such expiration, give notice "to the comptroller of such intention, and shall, before the "expiration of such fourth or eighth year, as the case may "be, leave at the Patent Office a form of certificate of pay-"ment, duly stamped, subject as hereinafter provided, with "the prescribed fee of 50*l.* or 100*l.*, as the case may be."

P.R. 43.—"In the case of patents granted before the com-"mencement of the said Act, the above Rule shall be read as "if the words 'seventh year' were therein written instead "of the words 'eighth year.'"

P.R. 44.—"If the patentee intends to pay annual fees in "lieu of the above-mentioned fees of 50*l.* and 100*l.*, he shall, "seven days at least before the expiration of the fourth and "each succeeding year during the term of the patent, until "and inclusive of the thirteenth year thereof, give notice to the "comptroller of such intention, and shall, before the expira-"tion of such respective periods as aforesaid, leave at the "Patent Office a form of certificate of payment, duly stamped, "with the fee prescribed to be paid at such periods respec-"tively."

P.R. 45.—"On due compliance with these Rules, and as "soon as may be after such respective periods as aforesaid, "or any enlargement thereof respectively duly granted, the "comptroller shall give to the patentee a certificate that the "prescribed payment has been duly made."

Extension of Term of Patent.

Extension of term of patent on petition to Queen in Council. [1835, s. 4. 1839, s. 2. 1844, ss. 2, 3.]

25.—(1.) A patentee (a) may, after advertising in manner directed by any Rules made under this section (b) 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.

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(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 (**c**).

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

(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 (**b**).

(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.

(**a**) The term "patentee" must here, as elsewhere, be read as defined in sect. 46, so that this clause would read "The "person for the time being entitled to the benefit of a patent

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"may," &c. Hence it appears that the petition should be presented by the person or persons, or company, or other body beneficially entitled to the patent, and that a bare legal estate need not be represented, although it generally would be. It may be assumed that the new patent would probably be granted to the person beneficially entitled. Heretofore the proper person to petition, and the person to whom the new letters patent were generally granted, where the original patentee had parted with his interest, has been the legal assignee.*

(b) No Rules have at present been made under this section, and the old Rules are therefore still in force. For these Rules, see, *post*, pp. 171.

(c) Sub-sects. 4 and 5 indicate generally that, in order to entitle a person to extension of his patent, it must be shown that the profits derived from the patent have been inadequate, having regard to the nature and merits of the invention. This has always been required; but the explicit statement of this requisite would seem to show that it is intended to make it the main factor in the question. But as "all the circumstances of the case" are to be considered, no great change of practice is necessarily involved.

The circumstances and considerations to which weight has been chiefly given heretofore are as follows:—

(1.) It must be shown that the invention is a meritorious invention of *practical utility*.

(2.) A *primâ facie* case of validity must be made out, but unless ground of invalidity is clearly shown, doubts as to validity will not generally be considered.†

(3.) It must appear that all reasonable means have been used to make the invention productive.‡

(4.) It must be shown that, having regard to the nature and

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* *Re Wright's Patent*, 1 W. P. C. 561; *Re Southworth's Patent*, 1 W. P. C. 487; *Re Pettit Smith's Patent*, 7 M. P. C. C. 133; *Re Newton's Patent*, 14 M. P. C. C. 156.

† *Re Woodcroft's Patent*, 2 W. P. C. 30; *Re Pinkus' Patent*, 12 Jur. 234; *Re Heath's Patent*, 2 W. P. C. 247; *Re Bett's Patent*, 1 M. P. C. C., N. S. 49; *Re Hill's Patent*, 1 M. P. C. C., N. S. 262; *Re McInne's Patent*, 5 M. P. C. C., N. S. 72.

‡ *Re Honiball's Patent*, 9 M. P. C. C. 393; *Re Norton's Patent*, 1 M. P. C. C., N. S. 339.

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merits of the invention, the patentee's remuneration has been inadequate, owing to the circumstances of the case, such as opposition by the public,* adverse litigation,† or pecuniary embarrassment.‡

In considering the remuneration of the patentee, it is to be observed that regard is to be had to the profits made by the patentee *as such*; that is to say, profits made by reason of the existence of the patent, over and above mere manufacturer's profits, which might have been made without the existence of any patent.

In considering the profits of the patentee as such, it would appear that the following, amongst other items, may be deducted from the gross profits:—

(1.) Manufacturer's profit.§

(2.) Value of patentee's time expended on patents, or to obtain the profit.‖

(3.) Cost of introducing the invention.¶

(4.) Cost of patent and experiments, litigation, &c.**

A clear statement of all the profits is required, and it has been held that the statement must include profits from foreign patents for the invention.†† But where an assignee applying for extension is not the owner of the foreign patents, profits from such patents would not be profits made by "the patentee," for the real patentee would not in such case be the "patentee" within the meaning of the Act under sect. 46.

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* *Re Stafford's Patent*, 1 W. P. C. 563; *Re Roberts' Patent*, 1 W. P. C. 573.

† *Re Pettit and Smith's Patent*, 7 M. P. C. C. 133; *Re Heath's Patent*, 8 M. P. C. C. 217.

‡ *Re Wright's Patent*, 1 W. P. C. 575; *Re Downton's Patent*, 1 W. P. C. 565.

§ *Re Galloway's Patent*, 1 W. P. C. 729; *Re Bett's Patent*, 1 M. P. C. C., N. S. 49.

‖ *Re Roberts' Patent*, 1 W. P. C. 575; *Re Carr's Patent*, L. R., 4 P. C. 539.

¶ *Re Poole's Patent*, 4 M. P. C. C., N. S. 452.

** *Re Roberts' Patent*, 1 W. P. C. 575; *Re Kay's Patent*, 1 W. P. C. 572; *Re Galloway's Patent*, 1 W. P. C. 729; *Re Bett's Patent*, 1 M. P. C. C., N. S. 49; *Re Hill's Patent*, 1 M. P. C. C., N. S. 258.

†† *Re Adair's Patent*, 6 App. Cas. 176; *Re Johnson's Patent*, 8 M. P. C. C., N. S. 291.

(d) In the past conditions have been inserted, amongst other things— § 25.

(1.) As to the use of the invention in her Majesty's service (but the insertion of this condition has been sometimes refused).*

(2.) As to the price at which the patented articles were to be sold.†

(3.) Generally, as to any matters in which it might be requisite to secure the rights or interests of inventors, licensees, and other parties interested in the patent.‡

Probably, as under sect. 27 a patent is in future to bind the Crown, no condition as to use by the Crown of the invention will in future be generally imposed.

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 (**a**).

(3.) Every ground (**b**) 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.

(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 authorized by the Attorney-

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* *Re Hardy's Patent*, 6 M. P. C. C. 441.

† *Re Pettit Smith's Patent*, 7 M. P. C. C. 133; *Re Carpenter's Patent*, 2 M. P. C. C., N. S. 191 (n.); *Re Lancaster's Patent*, 2 M. P. C. C., N. S. 189.

‡ *Re Herbert's Patent*, 4 M. P. C. C., N. S. 300; *Re Mallet's Patent*, 4 M. P. C. C., N. S. 175; *Re Bodmer's Patent*, 6 M. P. C. C. 441; *Re Normandy's Patent*, 9 M. P. C. C. 452; *Re Markwith's Patent*, 13 M. P. C. C. 310; *Re Wright's Patent*, 1 W. P. C. 561; *Re Whitehouse's Patent*, 1 W. P. C. 473.

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General in England or Ireland, or the Lord Advocate in Scotland:

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

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

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

(5.) The plaintiff must deliver with his petition particulars of the objections on which he means to rely (**d**), 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 (**e**).

(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 (f). § 26.

(a) The practice of the repeal of patents by *scire facias* has fallen of late years into almost entire disuse. As one cause of this may be mentioned the great expense with which the proceedings have been attended; but probably the chief reason is to be found in the fact that a disclaimer may be made during the proceedings, which may cure any defects of want of novelty in parts of the invention claimed, or want of insufficient distinction in the specification of what is new from what is old.

Under this Act revocability is made one of the incidents of a patent, and revocation may be obtained on petition to the Court with even less expense than would be incurred in an ordinary action for infringement of the same patent.

The proceedings at the trial will be of much the same kind and in the same order as in an action for infringement, except that the issue of irfringement will be wanting.

Disclaimer during the proceedings, for the purpose of validating the patent, is still to be allowed under sect. 19, subsect. 1; but probably in most cases, where amendment during the proceedings is allowed, it will be on terms of the patentee paying costs previous to disclaimer. Leave to disclaim, if necessary, should be applied for immediately after the delivery of the petitioner's particulars.

(b) As to the grounds on which a patent might be held invalid, see *ante*, pp. 24—28. This section defines the conditions under which a patent under the Act is valid or invalid, see *ante*, p. 3.

(c) The persons mentioned in paragraphs (*c*), (*d*), and (*e*) of this sub-section may present a petition for revocation as of right; but any other person must obtain leave to present his petition, as mentioned in paragraph (*b*).

(d) These particulars will be similar to those in an action for infringement; as to which, see sect. 29, note (*b*), *post*, p. 85.

(e) As to conditions on which amendment of particulars is allowed, see note (*c*) to sect. 29, *post*, p. 86.

(f) This completes the remedy provided for an inventor

§ 26. against a person who fraudulently obtains or seeks to obtain a patent for the invention; as to which, see *ante*, pp. 12—14.

Crown.

Patent to bind Crown.

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

(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.

This section makes an important change in the law. Hitherto a patent has been held not to affect the right of the Crown to use any invention without compensation to the patentee, although, as a matter of fact, such compensation has nearly always been given.* But it has further been held that a person who supplied patented articles to the Crown under a contract did not stand in the same position as the Crown, and was liable to the patentee.† The effect of the above section seems, however, to be as much in favour of the Crown as of the patentee, as it places the patentee at the mercy of the Treasury, not only as heretofore in cases in which the Crown itself becomes the user or manufacturer of the invention, but also in cases where the Crown is supplied through a manufacturer under a contract; in which latter case, the patentee has been able heretofore to make his own terms with such manufacturer.

This section does not apply to patents granted or applied for before the 1st January, 1884 (see sect. 45, sub-sect. 2, *post*, p. 95).

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* *Feather* v. *The Queen*, 6 B. & S. 257; 35 L. J., Q. B. 200.
† *Dixon* v. *London Small Arms Company*, 1 App. Cas. 632.

Legal Proceedings.

Hearing with assessor. [See Jud. Act, 1873, ss. 56, 57.]

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

(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.

The Judicature Act, 1873, sect. 56, gives the Court or the Court of Appeal power to call in the aid of an assessor. The above section of the present Act goes beyond this, in that either party upon the trial may demand, as of right, that an assessor shall be called in; and the Judicial Committee has also power to call in an assessor. And a further point of importance is, that the right to a jury is taken away, though this right has been rarely exercised of late.

It should be noted that an action for infringement of a patent has been held to be a matter requiring scientific investigation within sect. 57 of the Judicature Act, 1873,* and as such, the issues in it may be referred under that section to an official or special referee for trial under that section. (See R. S. C. 1883, Ord. XXXVI. r. 5.)

Delivery of particulars. [1835, ss. 5, 6;

29.—(1.) In an action for infringement of a patent the plaintiff must deliver with his statement

* See *Saxby* v. *The Gloucester Wagon Company*, W. N., 1880, p. 28.

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[1852, ss. 41, 43.]

of claim, or by order of the Court or the judge, at any subsequent time, particulars of the breaches complained of (a).

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

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

(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 (c).

(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.

No alteration of importance is made in the proceedings prior to and upon the trial of actions for infringement of patents, but by the new Rules of the Supreme Court, 1883, under which the length of pleadings is very much cut down, the pleadings become short and purely formal.

(a) Particulars of breaches should be such as to give full, fair and distinct notice of the case of alleged infringement.* They should inform the defendant, on the one hand, what

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* *Needham* v. *Oxley*, 1 H. & M. 248; *Batley* v. *Kynock*, L. R., 19 Eq. 229.

machines (for instance) made, used or sold by him are alleged to infringe,* and, on the other hand, what portion of the plaintiff's invention is alleged to be infringed.† The latter information should be given, where practicable, by reference to the claiming clauses, or to pages and lines of the plaintiff's specification. § 29.

(b) Particulars of objections with regard to novelty must state time and place of alleged prior user or publication. In addition to this, according to the existing practice, they should generally specify which portions of the plaintiff's invention are alleged to be anticipated, by reference to the claiming clauses or pages and lines of his specification, if necessary, and should also point out which portions of the publications are alleged to be anticipatory, by reference to pages and lines, if necessary.‡

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* *Jones* v. *Lee*, 25 L. J., Ex. 241.

† *Wren* v. *Weild*, 4 Q. B. 213.

‡ *Fisher* v. *Dewick*, 4 Bing. N. C. 708; *Hull* v. *Bolland*, 1 H. & N. 134; *Heath* v. *Unwin*, 10 M. & W. 684; *Sugg* v. *Silber*, 2 Q. B. D. 493; *Russell* v. *Ledsam*, 11 M. & W. 647; *Flower* v. *Lloyd*, 45 L. J., Ch. 746; *Plimpton* v. *Spiller*, 20 Sol. Journ., 1876, p. 860; *London and Leicester Hosiery Company* v. *Higham*, not reported, but see "Engineering," 6th July, 1883. The following is a short report of the case:—

London and Leicester Hosiery Company v. *Higham*, Q. B. D. 1882.—L.—No. 2,680.

3rd July, 1883. Coram, Lord Coleridge, L. C. J., and Denman and Manisty, JJ.

This was a motion on behalf of the defendants by way of appeal from an order of Huddleston, B., at chambers, by which defendants were ordered to deliver further and better particulars of objections, by stating what portions of the specifications in the particulars already delivered were alleged to anticipate the plaintiff's inventions, with references to pages and lines of such specifications; and also what portions of the plaintiff's inventions were alleged to have been published or used prior to the dates of the several letters patent of the plaintiffs therefor, with reference to the claiming clauses of the specifications of such letters patent.

Clement Higgins for the appellant.

W. R. Bousfield for the respondents, was not heard.

Lord Coleridge, L. C. J., said that nothing in the world was ever more reasonable than the order complained of. If the defendant pleaded honestly, he must needs know what he

§ 29. And they should also generally give names and addresses of persons by whom prior user is alleged.*

If the particulars delivered are not sufficiently precise, the proper course is to apply for an order for further and better particulars, since the generality of the particulars cannot be objected to at the trial, and any evidence which is within the scope of the particulars will be admitted.†

Interrogatories may also be administered to obtain further information than is afforded by the particulars. ‡

(c) Where the defendant applies for leave to amend his particulars of objections, by adding other instances of prior user or publication, the order is now made upon terms of the plaintiff having a certain time within which he may elect whether he will discontinue his action, and that, if he elect to discontinue, he shall have costs incurred since the time when the first particulars of objection were delivered.§

Order for inspection, &c. in action. [1852, s. 42.]

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.

Under the Rules of the Supreme Court, 1883, Ord. L. r. 3, the Court or a judge has power to order inspection in any cause or matter, "of any property or thing, being the subject of such cause or matter, or as to which any question may arise

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really relied on, and that being so, it was only fair that he should give the required information. The appeal must be dismissed with costs.

Denman and Manisty, JJ., concurred.

* *Galloway* v. *Bleaden*; 1 W. P. C. 268 (n.); *Palmer* v. *Cooper*, 9 Exch. 231; *Penn* v. *Bibby*, 1 Eq. 548; *Birch* v. *Mather*, 22 Ch. D. 629, and on appeal, W. N. 1883, p. 2.

† *Neilson* v. *Harford*, 8 M. & W. 806.

‡ *Birch* v. *Mather*, 22 Ch. D. 629, and on appeal, W. N. 1883, p. 2.

§ *Edison Telephone Company* v. *India Rubber Company*, 17 Ch. D. 137, where the form of order is given in note on p. 139.

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therein, and for all or any of the purposes aforesaid to authorize any persons to enter upon or into any land or building in the possession of any party to such cause or matter, and for all or any of the purposes aforesaid to authorize any samples to be taken, or any observation to be made or experiment to be tried, which may be necessary or expedient for the purpose of obtaining full information or evidence."

This Rule, together with the above section of the present Act, appears to give the widest discretion in the matter of inspection. The section is in nearly the same words as the corresponding section of the Patent Law Amendment Act, 1852, under which orders for inspection have been made of both the defendant's premises, machinery, and processes, and also of plaintiff's machinery, made according to his patented invention.*

When inspection would disclose important trade secrets, leave has been refused.† As to the course which may be taken in such cases, see *Badische Anilin und Soda Fabrik* v. *Levinstein*, 24 Ch. D. 156.

Certificate of validity questioned and costs thereon. [1835, s. 3; 1852, s. 43.]

31. In an action for infringement of a patent, 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 a 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

* See *Bovill* v. *Moore*, 2 Coop. C. C. 56 (n.); *Russell* v. *Cowley*, 1 W. P. C. 458; *Davenport* v. *Jepson*, 1 N. R. 307; *Singer Sewing Machine Company* v. *Wilson*, 5 N. R. 505.

† *Piggott* v. *Anglo-American Telegraph Company*, 19 L. T., Rep. (N. S.) 46.

§ 32. 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 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.

This section introduces an important alteration of law. Hitherto the law has been that a person who issued circulars threatening proceedings for infringement, *bonâ fide*, might do so with impunity, and without being answerable for any damage which might be thereby caused, although, if the alleged infringement were shown not to be such, he might be restrained by injunction from continuing to issue such circulars.* In future, however, under this section, if the charge of infringement be not substantiated, he will be liable to answer in damages for any injury caused, unless he brings his action for infringement with due diligence.

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.

Provision is made for an inadvertent application in contravention of this section by the following Rule:—

P.R. 23.—"Where a person making application for a patent "includes therein by mistake, inadvertence, or otherwise,

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* *Halsey* v. *Brotherhood*, 15 Ch. D. 514; affirmed, 19 Ch. D. 386.

"more than one invention, he may, after the refusal of the "comptroller to accept such application, amend the same so "as to apply to one invention only, and may make application "for separate patents for each such invention accordingly. § 33.

"Every such application shall bear the date of the first "application, and shall, together therewith, be proceeded with "in the manner prescribed by the said Act and by these Rules, "as if every such application had been originally made on "that date for one invention only."

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. Patent on application of representative of deceased inventor.

(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.

Form A. (*post*, p. 218), which is the only form provided which is applicable to an application under this section, seems hardly suited to the circumstances of the case, but must be used under sect. 5 (*ante*, p. 50). The application must be accompanied by proof of the applicant's title as legal representative (P. R. 24, *post*, p. 161).

35. A patent granted to the true and first inventor shall not be invalidated by an application in fraud of him, or by provisional protection obtained thereon, or by any use or publication of the invention subsequent to that fraudulent application during the period of provisional protection. Patent to first inventor not invalidated by application in fraud of him. [1852, s. 10.]

This provision is necessary for the completo protection of an inventor from fraudulent appropriation of his invention; as to which, see *ante*, pp. 12—14, and sect. 26, sub-s. 8, *ante*, p. 80.

36. A patentee may assign his patent for any place in or part of the United Kingdom, or Isle of Assignment for particular places. [1852, s. 35.]

§ 36. Man, as effectually as if the patent were originally granted to extend to that place or part only.

Loss or destruction of patent. [1852, s. 22.]

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.

Rules regulating appeals to the law officers have been made under this section; see *post*, p. 169.

Exhibition at industrial or international exhibition not to prejudice patent rights. [1865, s. 3; 1870, s. 2.]

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 pre-

scribed notice of his intention to do so; and § 39.

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

The following Rule applies to this section:—

P.R. 17.—"Any person desirous of exhibiting an invention at an industrial or international exhibition, or of publishing any description of the invention during the period of the holding of the exhibition, or of using the invention for the purpose of the exhibition in the place where the exhibition is held, shall, after having obtained from the Board of Trade a certificate that the exhibition is an industrial or international one, give to the comptroller seven days' notice of his intention to exhibit, publish, or use the invention, as the case may be.

"For the purpose of identifying the invention in the event of an application for a patent being subsequently made, the applicant shall furnish to the comptroller a brief description of his invention, accompanied, if necessary, by drawings, and such other information as the comptroller may in each case require."

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.

(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.

(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,

§ 40. catalogues, and other works relating to inventions, as he may see fit.

For the purposes of the illustrated journal the following provision is made:—

P.R. 31.—"Every applicant for the grant of a patent shall, "in addition to the drawings to be furnished with his com- "plete specification, furnish the comptroller with a drawing "illustrative of the feature or features of novelty constituting "his invention. Such drawing must be prepared in the "manner prescribed for the copy of the original drawing or "drawings accompanying the specification, but must not cover "a space exceeding sixteen square inches. The drawing "must be accompanied by a concise explanatory statement "on foolscap paper and legibly written or printed."

But it may be open to doubt whether this Rule is not *ultra vires*, as the provision therein contained seems to be without the scope of sect. 101, under which the Rule is made.

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.

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. [1852, s. 26.]

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. § 43.

(2.) But this section shall not extend to vessels of any foreign state of which the laws authorize 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. [1859.]

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

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before the application for a patent for the invention, or before publication of the specification or specifications, certify to the comptroller his opinion that, in the interest of the public service, the particulars of the invention and of the manner in which it is to be performed should be kept secret.

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

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

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 (a).

(2.) Every patent granted before the commence-

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ment 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 licenses.

(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(a).

(4.) All instruments relating to patents granted before the commencement of this Act required to be left or filed in the Great Seal Patent Office shall be deemed to be so left or filed if left or filed before or after the commencement of this Act in the Patent Office.

(a) In a document issued by the Patent Office in December, 1883, entitled, "Information for *Intending Applicants* for Patents for Inventions," appears the following curious paragraph :—

"The fees to be paid upon applications made prior to the
" 1st of January, 1884, are :—
" (*a*) The seventh year's payment, which under the con-
" ditions of letters patent is payable before the end
" of the seventh year, must be paid as heretofore in
" one sum of 100*l*.
" (*b*) The payments, which under the condition of the
" letters patent are payable before the end of the
" third year (1884), are, by the Act of 1883, made
" payable before the end of the fourth year (1885);
" the fee may be paid either in one sum or by annual
" payments. (See Schedule of Fees.)
" (*c*) The stamp duties required under the Patent Law
" Amendment Acts of 1852–3, must be paid upon
" subsequent proceedings in connection with appli-
" cations made prior to 1st January, 1884, up to and
" including the 5*l*. stamp duty upon filing the 'final'
" specification as required by Act. All applications
" under the Acts of 1852—3 must be completed in
" accordance with their provisions up to the stage
" of filing the final specification. Patents granted
" upon applications made prior to the 1st January,

" 1884, are exempt from the provisions of the Act of " 1883 as to the compulsory grant of licenses." § 45.

The construction thus placed by the Patent Office upon the foregoing section appears to be incorrect. The following is suggested as the true solution of the enigma afforded by the section:—

(1.) With regard to applications made before the 1st January, 1884, and upon which patents had not at that date been granted, every such application must be proceeded with under the old law, and such fees paid as were required by the old law, up to the time when the patent is sealed.

(2.) With regard to all patents actually sealed, whatever may have been the dates of the applications, immediately the patent is sealed it is subject to the general provisions of the Act.

(3.) With regard to all patents sealed before the 1st January, 1884, it should be remembered that there is inserted in all such letters patent a condition that such letters patent shall be void unless the stamp duties of 50*l.* and 100*l.* are paid before the end of the third and seventh years respectively, and unless the letters patent be produced at the Patent Office, stamped with the proper stamp, before the expiration of the respective periods. Hence, notwithstanding the provision of the above section, it would appear that such payments must be made in the manner prescribed by the conditions of the letters patent, otherwise the letters patent will be void. Hence, also, the alternative method of payment of fees by annual payments does not appear to apply to patents sealed before the 1st January, 1884.

(4.) With regard to patents to be sealed after the 1st January, 1884, upon applications pending before that date, it would appear that such patents ought to be in the form provided by the present Act, and further payments of fees, after such patents are sealed, are regulated by the Act. Patentees should take steps to ensure that such patents are granted in the new form, and not in the old form.

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(5.) With regard to complete specifications filed after the 1st January, 1884, the fee made payable by the Act appears to be 3*l.*, and not 5*l.*, as stated by the Patent Office.

(6.) With regard to all applications made after the 1st January, 1884, all proceedings and fees are regulated by this Act.

It should be remembered that, under sect. 113, the past operation and effect of the repealed enactments and proceedings pending or to be taken in respect thereof are not to be affected. For instance, supposing that a patent granted before the 1st January, 1884, has become void through the lapse of a foreign patent under sect. 25 of the Patent Law Amendment Act, 1852, it would seem that the repeal of this statute does not have the effect of setting the patent on its legs again.

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 (a):

[1852, s. 55.] "Invention" means any manner of new manufacture the subject of letters patent and grant of privilege within section six of the Statute of Monopolies (that is, the Act of the twenty-first year of the reign of King James the First, chapter three, intituled "An Act concerning monopolies and dispensations with penal laws and the forfeiture thereof"), and includes an alleged invention.

In Scotland "injunction" means "interdict."

(a) This definition of the word "patentee" must be carefully borne in mind in reading the Act, as it has a very important effect in many places. The definition dispenses with all the old provisions as to the rights of assignees, as they are now placed in all cases in the position of the patentee.

PART III.

DESIGNS.

Registration of Designs.

Application for registration of designs. [1842, ss. 4, 15; 1843, s. 8; 1850, s. 1.]

47.—(1.) The comptroller may, on application by or on behalf of any person claiming to be the proprietor of any new or original (**a**) design not previously published in the United Kingdom, 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 (**b**).

(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.

(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 (**c**).

(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 (**c**).

(**a**) As to what have been held to be new or original designs, see the cases cited below.*

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* *Adams* v. *Clementson*, 12 Ch. D. 714; *Lazarus* v. *Charles*, 16 Eq. 117; *Harrison* v. *Taylor*, 3 H. & N. 301; 4. H. & N. 815; *Norton* v. *Nicholls*, 7 W. R. 421; 27 L. J., Q. B. 225.

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(b) For a short outline of procedure in registering a design, see *ante*, pp. 30, 31. The stamped forms required may be obtained at various post offices. (See list of post offices, *post*, p. 215.) The following Rules have reference to applications for registration:—

D.R. 4.—"An application for the registration of a design "shall be made in the Form E. in the Second Schedule hereto. "(See *post*, p. 230.) The remaining forms in such Schedule "may be used in all cases to which they are applicable."

D.R. 5.—"For the purposes of the registration of designs "and of these Rules, goods are classified in the manner "appearing in the Third Schedule hereto." (See *post*, p. 208.)

D.R. 6.—"All communications between an applicant for the "registration of a design and the comptroller or the Board of "Trade, as the case may be, may be made by or through an "agent duly authorized to the satisfaction of the comptroller."

D.R. 7.—"An application for the registration of a design "shall, with the prescribed fee (see *post*, p. 205), be left at "the Patent Office, Designs Branch, or be sent prepaid by "post, addressed to the comptroller at the Patent Office "(Designs Branch), 25, Southampton Buildings, Chancery "Lane, London."

D.R. 8.—"An application for the registration of a design, "and all drawings, sketches, photographs, or tracings of a "design, and all other documents sent to or left at the Patent "Office, Designs Branch, or otherwise furnished to the comp-"troller or to the Board of Trade, shall be written, printed, "copied, or drawn upon strong wide-ruled foolscap paper (on "one side only), of the size of 13 inches by 8 inches, leaving "a margin of not less than one inch and a-half on the left-"hand part thereof, and the signature of the applicants or "agents thereto must be written in a large and legible hand.

"The comptroller may in any particular case vary the re-"quirements of this Rule as he may think fit."

D.R. 10.—"On receipt of an application for registration "the comptroller shall send to the applicant an acknowledg-"ment thereof."

D.R. 12.—"Any application, notice, or other document "authorized or required to be left, made, or given at the "Patent Office, or to the comptroller, or to any other person "under these Rules, 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 con-"taining the same would be delivered in the ordinary course "of post.

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

(c) For a short outline of proceedings upon applications to which objections are raised by the comptroller, see *ante*, p. 31. The hearings of objections and appeals to the Board of Trade are regulated by the following Rules:— § 47.

D.R. 13.—"Before exercising any discretionary power "given to the comptroller by the said Act adversely to an "applicant for registration of a design the comptroller shall "give him ten days' notice of the time when he may be heard "personally or by his agent before the comptroller."

D.R. 14.—"Within five days from the date when such "notice would be delivered in the ordinary course of post, "the applicant shall notify to the comptroller whether or not "he intends to be heard upon the matter."

D.R. 15.—"The decision or determination of the comptroller "in the exercise of any such discretionary power as aforesaid "shall be notified to the applicant."

D.R. 16.—"Where the comptroller refuses to register a "design, and the applicant intends to appeal to the Board of "Trade from such refusal, he shall, within one month from "the date of the decision appealed against, leave at the "Patent Office, Designs Branch, a notice of such his inten-"tion." (See Form F, *post*, p. 230.)

D.R. 17.—"Such notice shall be accompanied by a state-"ment of the grounds of appeal, and of the applicant's case "in support thereof."

D.R. 18.—"The applicant shall forthwith on leaving such "notice send a copy thereof to the Secretary of the Board "of Trade, No. 7, Whitehall Gardens, London."

D.R. 19.—"The Board of Trade may thereupon give such "directions (if any) as they may think fit for the purpose of "the hearing of the appeal for the Board of Trade."

D.R. 20.—"Seven days' notice, or such shorter notice as "the Board of Trade may in any particular case direct, of the "time and place appointed for the hearing of the appeal "shall be given to the comptroller and the applicant."

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. Drawings, &c. to be furnished on application. [1842, s. 15; 1843, s. 5; 1858, s. 8.]

§ 48. (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.

The following Rule refers to the requirements of this section:—

D.R. 9.—"An application for the registration of a de-
"sign shall be accompanied by a sketch or drawing, or
"by three exactly similar drawings, photographs, or trac-
"ings of the design, or by three specimens of the design,
"and shall, in describing the nature of the design, state
"whether it is applicable for the pattern or for the shape or
"configuration of the design, and the means by which it is
"applicable.

"When sketches, drawings, or tracings are furnished they
"must be fixed.

"When the articles to which designs are applied are not
"of a kind which can be pasted into books, drawings, photo-
"graphs, or tracings of such designs shall be furnished."

The obscure provisions of this Rule are explained by the following instruction, issued by the comptroller:—

"If it is desired to secure a date of registration at once, one
"sketch of the design may be sent with the application form.
"In this case the design, if accepted, will be registered as of
"the date on which it was received; but no certificate will be
"issued until three exact drawings or specimens have been
"sent in substitution for the sketch. Or,

"The application may be complete in the first instance if
"applicant sends three exactly similar drawings, photographs,
"or specimens."

For further details of requirements as to drawings, specimens, &c., see Designs Instructions, 5—11, *post*, p. 181.

Unless the requirements of this section are complied with before delivery on sale of any articles to which the design has been applied, the copyright will cease (sect. 50, sub-sect. 2, *post*, p. 103).

Certificate of registration. [1842, s. 16.]

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. § 49.

In connection with this section occurs the following Rule:—

D.R. 11.—"If the comptroller determines to register a "design, he shall as soon as may be send to the applicant a "certificate of such registration in the prescribed form, sealed "with the seal of the Patent Office."

Copyright in registered Designs.

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. Copyright on registration. [1842, s. 3; 1858, s. 3.]

(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.

For requirements as to representations, see sect. 48, *ante*, p. 101.

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. Marking registered designs. [See 1842, s. 4; 1858, s. 4.]

The marking of articles to which registered designs are applied is regulated by the following Rule:—

D.R. 32.—"Before the delivery on sale of any article to

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" which a registered design has been applied, the proprietor " of such design shall, if such article is included in any of the " classes one to twelve in the Third Schedule hereto (see " *post*, p. 208), cause each such article to be marked with the " abbreviation 'R^{D}' and the number appearing on the cer- " tificate of registration, and shall, if such article is included " in the classes thirteen or fourteen in the Third Schedule " hereto, cause each such article to be marked with the abbre- " viation 'REG^{D}'."

Articles sold abroad by an English or foreign proprietor must also be so marked.*

Inspection of registered designs. [1842, s. 17.]

52.—(1.) During the existence of copyright in a design, the design shall not be open to inspection except by the proprietor, or a person authorized in writing by the proprietor, or a person authorized 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.

In connection with this section occurs the following Rule:—

D.R. 33.—" On such days and during such hours as the " comptroller shall from time to time determine and notify " by a placard posted at the Patent Office any person paying " the prescribed fee may, on production of the number of any " design of which the copyright has ceased, inspect such " design, and any person paying the prescribed fee (see *post*, " p. 205) may take a copy or copies of such design."

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* *Sazarin* v. *Hamel*, 32 L. J., Ch. 380.

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 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.

Information as to existence of copyright. [1842, s. 17.]

See the following Rule :—

D.R. 35.—"The comptroller may, on receipt of the pre-
" scribed fee (see *post*, p. 205), make searches among the
" designs registered at the Patent Office after the commence-
" ment of the Act, and inform any person requesting him
" so to do whether a particular design produced by such
" person, and to be applied to goods in any particular class,
" is or is not identical with or an obvious imitation of any
" design applied to such goods and registered since the com-
" mencement of the Act."

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.

Cesser of copyright in certain events.

This provision is not very clearly worded, but probably the true reading is, that the words "within six months of its registration in this country" refer not only to the use in this country, but in the foreign country. If this be the true view the section would read:—"If a registered design is used in manufacture in any foreign country (*within six months of its registration in this country*), and is not used in this country within six months of its registration in this country, the copyright in the design shall cease."

Register of Designs.

Register of designs. [See 1875, c. 93, s. 3.]

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 authorized to be entered therein.

As to the effect of registration, see *ante*, p. 31, and sect. 87, *post*, p. 135.

The following Rules regulate the procedure with respect to entries in the register :—

D.R. 21.—"Upon the sealing of a certificate of registration "the comptroller shall cause to be entered in the Register of "Designs the name, address, and description of the registered "proprietor, and the date upon which the application for "registration was received by the comptroller, which day "shall be deemed to be the date of the registration."

D.R. 22.—"Where a person becomes entitled to the copy-"right in a registered design, or to any share or interest "therein, by assignment, transmission, or other operation of "law, or where a person acquires any right to apply the "design either exclusively or otherwise, a request for the "entry of his name in the register as such proprietor of the "design, or as having acquired such right, as the case may be, "(hereinafter called the claimant,) shall be addressed to the "comptroller, and left at the Patent Office, Designs Branch."

D.R. 23.—"Every such request shall, in the case of an "individual, be made and signed by the person requiring to "be registered as proprietor; and in the case of a firm or "partnership, by some one or more members of such firm or "partnership, or, in either case, by his or their agent re-"spectively duly authorized to the satisfaction of the comp-"troller, and, in the case of a body corporate, by their agent "authorized in like manner." (See Form K, *post*, p. 232.)

D.R. 24.—"Every such request shall state the name, "address, and description of the claimant, and the particulars "of the assignment, transmission, or other operation of law "by virtue of which the request is made, so as to show the

"manner in which and the person or persons to whom the "design has been assigned or transmitted, or the person or "persons who has or have acquired such right as aforesaid, as "the case may be."

D.R. 25.—"Every such request shall be accompanied by a "statutory declaration to be thereunder written verifying the "several statements therein, and declaring that the particulars "above described comprise every material fact and document "affecting the proprietorship of the design or the right to "apply the same, as the case may be, as claimed by such "request."

D.R. 26.—"The claimant shall furnish to the comptroller "such other proof of title as he may require for his satisfac-"tion."

D.R. 27.—"A body corporate may be registered as pro-"prietor by its corporate name."

D.R. 28.—"Where an order has been made by the Court, "under section 90 of the said Act (*post*, p. 136), the person in "whose favour such order has been made shall forthwith leave "at the Patent Office an office copy of such order. The register "shall thereupon be rectified, or the purport of such order "shall otherwise be duly entered in the register, as the case "may be."

Fees.

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. Fees on registration, &c.

For schedule of fees payable, see *post*, p. 205. The fees must be paid by means of the stamped forms, which are obtainable at various post offices. (See list of post offices, *post*, p. 215.)

Industrial and International Exhibitions.

57. The exhibition at an industrial or international exhibition, certified as such by the Board of Trade, or the exhibition elsewhere during the Exhibition at industrial or international exhibition not

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to prevent or invalidate registration. [1865, s. 4; 1870, s. 3.]

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

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

The following Rule applies to this section :—

D.R. 36.—"Any person desirous of exhibiting a design, or "any article to which a design has been applied, at an "industrial or international exhibition, or of publishing a "description of a design during the period of the holding of "the exhibition, shall, after having obtained from the Board "of Trade a certificate that the exhibition is an industrial or "international one, give to the comptroller seven days' notice "in writing of his intention to exhibit the design or article, "or to publish a description of the design, as the case may "be." (See Form L, *post*, p. 233.)

"For the purpose of identifying the design in the event of "an application to register the same being subsequently made, "the applicant shall furnish to the comptroller a brief descrip-"tion of the nature of the design, accompanied by a sketch "or drawing thereof, and such other information as the comp-"troller may in each case require."

Legal Proceedings.

Penalty on piracy of registered design. [1842, s. 7; 1850, s. 2.]

58. During the existence of copyright in any design—

(*a*) It shall not be lawful for any person without the license 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

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(*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. [1842, s. 9.]

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." [1842, s. 3.]

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 (a), 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 (fifty-fourth George the Third, chapter fifty-six)(b).

"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.

(a) It seems doubtful whether such designs as a metal eyelet-hole introduced into a label to prevent its tearing, or a mechanical contrivance for raising and lowering a parasol handle, would be within the terms of the section.* A design for "shape or configuration" must not depend for its essence upon the mechanical combination. †

(b) The matters and things within the protection of the Sculpture Copyright Act (54 Geo. 3, c. 56, s. 1) are "any new and original sculpture, or model, or copy, or cast of the human figure or human figures, or any bust or busts of any part or parts of the human figure, clothed in drapery or

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* *Margetson* v. *Wright*, 2 De G. & Sm. 425; *Millingen* v. *Picken*, 1 C. B. 809. See also *Windover* v. *Smith*, 11 W. R. 323.

† *Reg.* v. *Bessel*, 16 Q. B. 810.

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otherwise, or of any animal or animals, or of any part or parts of any animal combined with the human figure or otherwise, or of any subject being matter of invention in sculpture, or of any *alto* or *basso relievo* representing any of the matters or things hereinbefore mentioned, or any cast from nature of the human figure, or of any part or parts of the human figure, or of any cast from nature of any animal, or of any part or parts of any animal, or of any such subject containing or representing any of the matters and things before mentioned."

Definition of proprietor. [1842, s. 5.]

61. The author of any new and original design shall be considered the proprieter 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.

The proprietor, as defined by this section, is the person in whose name the design should be registered. Where a person other than the true proprietor has been fraudulently or otherwise registered as the proprietor, it would seem that the proper course for the true proprietor to adopt is to take steps for the rectification of the register by the insertion of his own name as proprietor, under sect. 90 (*post*, p. 136).

PART IV.

TRADE MARKS.

Registration of Trade Marks.

Application for registration.

62.—(1.) The comptroller may, on application 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 (**a**).

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

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

(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 (**b**).

(**a**) For a short account of the procedure in registering a trade mark, see *ante*, pp. 38, 39. The following Rules have reference to applications for registration:—

T.M.R. 4.—"The Form F in the First Schedule to the said "Act shall be altered or amended by the substitution there-"for of the Form F in the Second Schedule to these Rules."

T.M.R. 5.—"(1) An application for registration of a trade

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" mark shall be made in the Form F (*post*, p. 235) in the " Second Schedule to these Rules; (2) The remaining forms " in such schedule may be used in all cases to which they are " applicable."

T.M.R. 6.—" For the purposes of trade marks registration " and of these Rules, goods are classified in the manner " appearing in the Third Schedule hereto (*post*, p. 209).

" If any doubt arises as to what class any particular " description of goods belongs to, the doubt shall be deter- " mined by the comptroller."

T.M.R. 7.—" An application for registration of a trade " mark, if made by any firm or partnership, may be signed by " some one or more members of such firm or partnership, as " the case may be. (See Instruction 11, *post*, p. 197.)

" If the application be made by a body corporate, it may " be signed by the secretary or other principal officer of such " body corporate." (See Instruction 11, *post*, p. 197.)

T.M.R. 8.—" An application for registration and all other " communications between the applicant and the comptroller " may be made by or through an agent duly authorized to " the satisfaction of the comptroller." (See Instruction 12, *post*, p. 197.)

T.M.R. 9.—" On receipt of the application, the comptroller " shall furnish the applicant with an acknowledgment thereof."

T.M.R. 10.—" Where application is made to register a trade " mark which was used by the applicant or his predecessors in " business before the 13th of August, 1875, the application " shall contain a statement of the time during which and of " the person by whom it has been so used in respect of the " goods mentioned in the application."

T.M.R. 11.—" Subject to any other directions that may be " given by the comptroller, all applications, notices, counter- " statements, representations of marks, papers having repre- " sentations affixed, or other documents required by the said " Act or by these Rules to be left with or sent to the comp- " troller or to the Cutlers' Company, shall be upon foolscap " paper of a size of 13 inches by 8 inches, and shall have on " the left-hand part thereof a margin of not less than one " inch and a half."

T.M.R. 12.—" In the case of an application for the registra- " tion of a trade mark used on any metal goods, other than " cutlery, edge tools, and raw steel, the applicant shall state " in the specification of goods in the form of application, of " what metal or metals the goods in respect to which he applies " are made."

T.M.R. 13.—" Subject to any other directions that may be

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" given by the comptroller, three representations of each trade " mark, except in the case of marks applied for in Classes 23 " to 35 inclusive, must be supplied upon paper of the size " aforesaid, and must be of a durable nature. One of such " representations must be made upon or affixed to the form of " application, the others upon separate half-sheets. In the " case of trade marks exceeding the limits of the foolscap " paper of the size aforesaid, such marks may be pasted and " folded upon the sheets of foolscap.

" In the case of marks applied for in Classes 23 to 35 inclu- " sive, the applicant shall supply four representations of each " mark for each class. (See Table of Classes, *post*, p. 209; and " see also Instruction 15, *post*, p. 198.)

" Where a drawing or other representation or specimen " cannot be given in manner aforesaid, a specimen or copy of " the trade mark may be sent either of full size or on a " reduced scale, and in such form as the comptroller may " think most convenient.

" The comptroller may, if dissatisfied with the representa- " tion of a trade mark, require a fresh representation, either " before he proceeds with the application or before he re- " gisters the trade mark.

" The comptroller may also, in exceptional cases, deposit in " the Patent Office a specimen or copy of any trade mark " which cannot conveniently be shown by a representation, " and may refer thereto in the register in such manner as he " may think fit." (See Instructions 16, 17, *post*, p. 198.)

T.M.R. 14.—" When an application relates to a series of " trade marks differing from one another in respect of the " particulars mentioned in section 66 of the said Act, a re- " presentation of each trade mark of the series shall be made " or affixed upon the form of application and also upon each of " the separate half-sheets of paper aforesaid."

T.M.R. 15.—" Wherever a mark consists of or includes " words printed in other than Roman character, there shall " be given at the foot or on the back of each representation a " translation of such words, signed by the applicant or his " agent."

T.M.R. 16.—" Any application, statement, notice, or other " document authorized or required to be left, made, or given " at the Patent Office, or to the comptroller, or to any other " person under these Rules, may be sent by a prepaid letter " through the post, and if so sent shall be deemed to have " been left, made, or given respectively at the time when the " letter containing the same would be delivered in the ordinary " course of post.

" In proving such service or sending, it shall be sufficient

" to prove that the letter was properly addressed and put into " the post." § 62.

(b) For a short outline of proceedings upon applications to which objections are raised, see *ante*, pp. 39 and 40. The hearing of objections and appeals to the Board of Trade are regulated by the following Rules:—

T.M.R. 17.—" Before exercising any discretionary power " given to the comptroller by the said Act adversely to the " applicant for registration of a trade mark, the comptroller " shall give him ten days' notice of the time when he may be " heard personally or by his agent before the comptroller."

T.M.R. 18.—" Within five days from the date when such " notice would be delivered in the ordinary course of post, the " applicant shall notify to the comptroller whether or not he " intends to be heard upon the matter."

T.M.R. 19.—" The decision of the comptroller in the exer- " cise of any such discretionary power as aforesaid shall be " notified to the applicant."

T.M.R. 20.—" Where the comptroller refuses to register a " trade mark, and the applicant intends to appeal to the " Board of Trade from such refusal, he shall, within one " month from the date of the decision appealed against, leave " at the Patent Office, Trade Marks Branch, a notice of such " his intention." (See Form H, *post*, p. 236.)

T.M.R. 21.—" Such notice shall be accompanied by a state- " ment of the grounds of appeal, and of the applicant's case " in support thereof."

T.M.R. 22.—" The applicant shall forthwith on leaving " such notice send a copy thereof to the secretary of the " Board of Trade, No. 7, Whitehall Gardens, London."

T.M.R. 23.—" The Board of Trade may thereupon give " such directions (if any) as they may think fit with respect " to evidence, or otherwise, for the purpose of the hearing of " the appeal by the Board of Trade, or for the purpose of " their referring the appeal to the Court to hear and deter- " mine the same."

T.M.R. 24.—" Where the Board of Trade intend to hear " the appeal, seven days' notice, or such shorter notice as the " Board of Trade may in any particular case direct, of the " time and place appointed for the hearing, shall be given to " the comptroller and the applicant."

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 Limit of time for proceeding with application.

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of default on the part of the applicant, the application shall be deemed to be abandoned.

Conditions of registration of trade mark. [1875, c. 91, s. 10.]

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*) 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 (**b**) not in common use.

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

(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 (**c**) (**d**).

(**a**) See remarks on this section, *ante*, pp. 35—37.

Restrictions upon certain points are laid down by sects. 72, 73 (*post*, p. 123), and by the following Instructions issued by the comptroller (see *post*, p. 200):—

29. "Ornamental or coloured groundwork, such as "tartans or checks, cannot be claimed as part of a mark "unless such groundwork be included within the mark by "some border or lines."

30. "The Royal Arms, or arms so nearly resembling "them as to be calculated to deceive, and the words 'regis- "tered,' 'registered design,' 'copyright,' 'entered at Sta- "tioners' Hall,' 'to counterfeit this is forgery,' 'patent,' "'patented,' will not be registered under the Patents, "Designs, and Trade Marks Act, 1883, and should not,

"therefore, appear upon the representations of trade marks "forming part of an application." § 64.

31. "The following will not be registered as trade marks, "or as prominent parts of trade marks, unless the marks "have been used before 13th August, 1875:—

"Representations of her Majesty the Queen, or of any "member of the royal family.

"Representations of the Royal Crown.

"National arms or flags.

"Prize or exhibition medals."

(**b**) The admissibility of fancy words to form the essential particular of a trade mark is new. Under the old Acts such trade marks could be registered if in use before 1875, but could not be registered as new trade marks. This amendment of the law will be of especial advantage to manufacturers of new materials, &c., which they designate by novel words of their own invention. Such words, if sufficiently out of the common, may now be registered as trade marks and the exclusive right to use them thus obtained.

A word in foreign characters has been held to be a distinctive device.*

(**c**) By sect. 74 of the Act there may also be added to any trade mark certain devices, words, and other particulars which are or were in common use in the trade, subject to the conditions of that section being complied with (see sect. 74, *post*, p. 124).

(**d**) The scope of this clause is now considerably modified, as the majority of registrations under this clause were formerly of fancy words, which can now be registered apart from this clause, under sub-sect. 1 of the section.

Mere combinations of letters have been held to be within the terms of the corresponding section of the repealed Act.† But it was also held that a single letter could not be registered as a trade mark under that section.‡ This section, however, differs from the repealed section in that the words "letter" and "figure" in the singular number are expressly inserted, so that it would seem that even a single letter might now be registered as a trade mark under sect. 64, sub-sect. 3.

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* *Re Rotheram's Trade Mark*, 14 Ch. D. 585.

† *Re Barrow's Trade Marks*, 5 Ch. D. 353; *Ransome* v. *Graham*, "Engineering," Vol. 33, pp. 466, 485.

‡ *Re Mitchell's Trade Mark*, 7 Ch. D. 36.

Connection of trade mark with goods. [1875, c. 91, s. 2.]

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

For the classification of goods made under the Act, see *post*, p. 209.

According to the Instructions issued by the comptroller (see *post*, p. 200):—

"When there appears on the face of a trade mark an "indication of the goods to which the mark is applied, the "claim for its registration must be in respect of those goods "only."

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.

See remarks on this section, *ante*, pp. 37, 38.

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.

The following Rules relate to such advertisement:—

T.M.R. 25.—"Every application shall be advertised by the "comptroller in the official paper, during such times, and in "such manner, as the comptroller may direct.

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"If no representation of the trade mark be inserted in the "official paper in connexion with the advertisement of an "application, the comptroller shall refer in such advertise- "ment to the place or places where a specimen or representa- "tion of the trade mark is deposited for exhibition."

T.M.R. 26.—"The official paper for the purposes of these "Rules shall be some paper published under the direction of "the Board of Trade, or such other paper as such Board may "from time to time direct." (The official paper is the *Trade Marks Journal*. See Instruction 6, *post*, p. 196.)

T.M.R. 27.—"For the purposes of such advertisement the "applicant may be required to furnish a wood block or "electrotype (or more than one, if necessary) of the trade "mark, of such dimensions as may from time to time be "directed by the comptroller, or with such other information "or means of advertising the trade mark as may be required "by the comptroller; and the comptroller, if dissatisfied with "the block or electrotype furnished by the applicant or his "agent, may require a fresh block or electrotype before pro- "ceeding with the advertisement."

T.M.R. 28.—"When an application relates to a series of "trade marks differing from one another in respect of the "particulars mentioned in section 66 of the said Act, the "applicant may be required to furnish a wood block or "electrotype (or more than one, if necessary) of any or of "each of the trade marks constituting the series; and the "comptroller may, if he thinks fit, insert with the advertise- "ment of the application a statement of the manner in "respect of which the several trade marks differ from one "another."

The following further Instructions on these matters have been issued by the comptroller (see *post*, p. 199) :—

21. "A trade mark cannot in any case be entered upon "the register until two months after its advertisement in the "official paper."

22. "A wood-block or electrotype must be furnished "for each mark in each class claimed (except in the case of "classes 23, 24, and 25, for which no blocks or electrotypes "are required), but no block or electrotype should be for- "warded until a formal demand for it is sent by the comp- "troller." (See Table of Classes, *post*, p. 209.)

23. "In the case of a series of trade marks differing only "in respect of the particulars mentioned in section 66 of the "Patents, Designs, and Trade Marks Act, 1883, a wood-block "or electrotype must be furnished for each mark in the "series for each class claimed."

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24. "The wood-blocks or electrotypes furnished must "correspond *exactly* with the representations, must afford "*perfectly distinct* impressions of the marks, and must be "upon a scale sufficiently large to reproduce the marks "faithfully. Worn or mutilated blocks or electrotypes cannot "be accepted."

25. "The largest space available for the insertion of any "single block or electrotype is eight and a-half inches broad "by ten inches deep.

"When a block or electrotype *exceeds two inches in depth*, a "charge for additional space is made, at the rate of two "shillings for every inch or part of an inch beyond the two "inches."

26. "The number given by the comptroller should *not* "be cut on the face of the block or electrotype, but should "be *marked upon the side* in such a manner as to secure its "identification."

27. "All blocks or electrotypes should be sent to the "Patent Office, Trade Marks Branch, together with the "papers marked 'Form 2,' and with the representation of "the mark sent for the guidance of the applicant in prepar-"ing the blocks or electrotypes."

28. "The blocks or electrotypes supplied for the adver-"tisement of trade marks cannot in any case be returned to "applicants."

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 (a).

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

(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.

(a) For a short outline of the procedure on oppositions and remarks on this section, see *ante*, pp. 40—43. The following Rule relates to the proceedings to be taken under this section:—

T.M.R. 29.—"(1.) Where a case stands for the determina-
" tion of the Court, under the provisions of section 69 of the
" said Act, the comptroller shall require the applicant within
" one month, or such further time as the comptroller may
" allow, to issue a summons in the chambers of a judge of
" her Majesty's High Court of Justice for an order that not-
" withstanding the opposition of which notice has been given
" the registration of the trade mark be proceeded with by the
" comptroller, or to take such other proceedings as may be
" proper and necessary for the determination of the case by
" the Court.

"(2.) The applicant shall thereupon issue such summons,
" or take such other proceedings as aforesaid, within the
" period of one month above named, or such further time as
" the comptroller may allow, and shall also within the like
" period give notice thereof to the comptroller.

"(3.) If the applicant shall fail to issue such summons, or
" to take such other proceedings, of which failure the non-
" receipt by the comptroller of the said notice shall be
" sufficient proof, the applicant shall be deemed to have
" abandoned his application.

"(4.) Such notice to the comptroller shall be given by
" delivering at or sending to the Patent Office a copy of the
" summons or other initiatory proceeding bearing an endorse-
" ment of service signed by the applicant or his solicitor, or
" an endorsement of acceptance of service signed by the
" opponent or his solicitor."

§ 69. Under the Rules of the Supreme Court, 1883 (Ord. LXV. r. 1), the Court has jurisdiction as to costs, from the time when the opponent gives security for costs.*

(b) For form of bond which may be used, see *post*, p. 244. Under Instruction 34:—

34. "Before he is required to bring an opposition matter before "the Court under Rule 29, the applicant is afforded an oppor- "tunity of objecting, if he think fit, to the solvency of the "security for the costs which may be awarded in respect of "the opposition."

Assignment and transmission of trade mark. [1875, c. 91, s. 2.]

70. A trade mark, when registered, shall be assigned and transmitted only in connexion with the goodwill of the business concerned in the particular goods or classes of goods for which it has been registered, and shall be determinable with that goodwill.

Conflicting claims to registration. [See 1875, c. 91, s. 5.]

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.

See remarks on this section, *ante*, pp. 42, 43. It would seem that under the following section the comptroller is bound to refuse to register more than one applicant in respect of the same trade mark with regard to the same description of goods. Before, however, he refuses any applicant or claimant he must, under T.M.R. 17, 18 and 19, afford him an opportunity of being heard. The following Rules have especial reference to this section:—

T.M.R. 40.—"The term 'applicant' in Rules 17, 18, and "19 shall include each of several persons claiming to be re- "gistered as proprietor of the same trade mark."

T.M.R. 41.—"Whether all of such persons so claiming "require to be heard before the comptroller or not, he may,

* See *Re Brandreth's Trade Mark*, 9 Ch. D. 618.

" before exercising the discretion vested in him by section 71 " of the said Act, require such persons, or any or either of them, " to submit a statement in writing within a time to be notified " by him, or to attend before him and make oral explanations " with respect to such matters as the comptroller may require." § 71.

T.M.R. 42.—" Where each of several persons claims to be " registered as proprietor of the same trade mark, and the " comptroller refuses to register any of them until their rights " have been determined according to law, the manner in which " the rights of such claimants may be submitted to the Court " by the comptroller, or if the comptroller so require, by the " claimants, shall, unless the Court otherwise order, be by a " special case; and such special case shall be filed and pro- " ceeded with in like manner as any other special case sub- " mitted to the Court, or in such other manner as the Court " may direct."

T.M.R. 43.—" Where the special case is to be submitted *to* " [qy. '*by*'] the parties, it may be agreed to by them, or if " they differ, may be settled by the comptroller on payment " of the prescribed fees." (See List of Fees, *post*, p. 206.)

Restrictions on registration. [1875, c. 91, s. 6.]

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

(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 (b).

(a) See remarks, *ante*, p. 42; and as to the meaning of the phrase "description of goods," see *ante*, p. 44.

(b) Under sect. 79 (*post*, p. 128), a trade mark which has been removed from the register for any reason is nevertheless to be considered as still registered with regard to any application during five years from the date of removal. Hence, even when a trade mark has lapsed, no similar trade mark will,

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during the succeeding five years, be registered with respect to the same description of goods.

For cases where leave to register a trade mark similar to one already on the register, with respect to the same or another description of goods, has been refused or granted, see the cases cited below.*

Further restriction on registration. [1875, c. 91, s. 6.]

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

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* *Re Hargreave's Trade Mark*, 11 Ch. D. 669; *Re Worthington & Company's Trade Mark*, 14 Ch. D. 8; *Re F. Braby & Company's Application*, 21 Ch. D. 223.

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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.

For illustrations of cases to which the provisions of this section would apply, see the cases cited below.*

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. [1875, c. 91, s. 2.]

See remarks on this section, *ante*, pp. 43, 44.

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.

Right of first proprietor to exclusive use of trade mark. [1875, c. 91, s. 3.]

See remarks on this section, *ante*, p. 43.

The expiration of five years does not exclude evidence that

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* *Re Barrow's Trade Marks*, 5 Ch. D. 353; *Re J. B. Palmer's Trade Mark*, 24 Ch. D. 504.

§ 76. the trade mark was not one which was capable of registration, or ought never to have been registered.*

Restrictions on actions for infringement, and on defence to action in certain cases.
[1875, c. 91, s. 1; 1876, ss. 1, 2.]

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.
[See 1875, c. 91, s. 7.]

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

The following Rules have reference to entries in and alterations of the register, and procedure thereon:—

T.M.R. 30.—"As soon as may be after the expiration of "two months from the date of the first advertisement of the "application, the comptroller shall, subject to any such sum- "mons or other proceeding as aforesaid and the determina- "tion of the Court thereon, if he is satisfied that the applicant "is entitled to registration, and on payment of the prescribed "fee, enter the name, address, and description of the appli- "cant in the Register of Trade Marks as the registered

* *Re J. B. Palmer's Application*, 21 Ch. D. 47.

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" proprietor of the trade mark in respect of the particular " goods or classes of goods described in his application."

T.M.R. 31.—" In case of the death of any applicant for a " trade mark after the date of his application, and before the " trade mark applied for has been entered on the register, " the comptroller, after the expiration of the prescribed period " of advertisement, may, on being satisfied of the applicant's " death, enter on the register, in place of the name of such " deceased applicant, the name, address, and description of " the person owning the goodwill of the business, if such " ownership be proved to the satisfaction of the comptroller."

T.M.R. 32.—"Upon registering any trade mark the comp- " troller shall enter in the register the date on which the " application for registration was received by the comptroller " (which day shall be deemed to be the date of the registra- " tion) and such other particulars as he may think neces- " sary."

T.M.R. 34.—"Where a person becomes entitled to a regis- " tered trade mark by assignment, transmission, or other " operation of law, a request for the entry of his name in " the register as proprietor of the trade mark shall be ad- " dressed to the comptroller, and left at the Patent Office." The request must be made in Form K (*post*, p. 238. See Instruction 42, *post*, p. 202).

T.M.R. 35.—"Such request shall in the case of an indivi- " dual be made and signed by the person requiring to be " registered as proprietor, and in the case of a firm or part- " nership by some one or more members of such firm or " partnership, or in either case by his or their agent respec- " tively duly authorized to the satisfaction of the comptroller, " and in the case of a body corporate by their agent, autho- " rized in like manner."

T.M.R. 36.—" Every such request shall state the name, " address, and description of the person claiming to be entitled " to the trade mark (hereinafter called the claimant), and the " particulars of the assignment, transmission, or other opera- " tion of law, by virtue of which he requires to be entered " in the register as proprietor, so as to show the manner in " which, and the person or persons to whom, the trade mark " has been assigned or transmitted, and so as to show further " that it has been so assigned or transmitted in connexion " with the goodwill of the business concerned in the particular " goods or classes of goods for which the trade mark has been " registered."

T.M.R. 37.—" Every such request shall be accompanied by " a statutory declaration to be thereunder written, verifying

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" the several statements therein, and declaring that the par-
" ticulars above described comprise every material fact and
" document affecting the proprietorship of the trade mark as
" claimed by such request."

T.M.R. 38.—" The claimant shall furnish to the comp-
" troller such other proof of title and of the existence and
" ownership of such goodwill as aforesaid as he may require
" for his satisfaction."

T.M.R. 39.—" A body corporate may be registered as pro-
" prietor by its corporate name."

T.M.R. 44.—" Where an order has been made by the Court
" in either of the following cases, viz.:—
" (*a*) Allowing an appeal under section 62 of the said Act;
" (*b*) Disallowing an opposition to registration under
" section 69; or,
" (*c*) Under the provisions of sections 72, 90, or 92 of the
" said Act,
" the person in whose favour such order has been made,
" or such one of them, if more than one, as the comptroller
" may direct, shall forthwith leave at the Patent Office an
" office copy of such order. The register shall thereupon be
" rectified or altered, or the purport of such order shall other-
" wise be duly entered in the register, as the case may be."

T.M.R. 45.—" Where a trade mark has been removed
" from the register for nonpayment of the prescribed fee
" or otherwise, under the provisions of section 79 of the said
" Act, the comptroller shall cause to be entered in the re-
" gister a record of such removal, and the cause thereof."

T.M.R. 46.—" If the registered proprietor of a trade mark
" send to the comptroller, together with the prescribed fee,
" notice of an alteration in his address, the comptroller shall
" alter the register accordingly." (See Form M, *post*, p. 239.)

T.M.R. 47.—" Whenever an order is made by the Court
" for making, expunging, or varying an entry from or in the
" register, the comptroller shall, if he thinks that such rectifi-
" cation or variation should be made public, and at the
" expense of the person applying for the same, publish, by
" advertisement or otherwise, and in such manner as he
" thinks just, the circumstances attending the rectification
" or variation in the register."

Removal of trade mark after fourteen years unless fee paid.

79.—(1.) At a time not being less than two months nor more than three months before the expiration of fourteen 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 fourteen 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. § 79.

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

80. There shall be paid in respect of applications and registration and other matters under this Fees for registration, &c.

§ 80. 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.

For schedule of fees, see *post*, p. 206. All fees must be paid by means of stamped forms, which may be obtained at various post offices. (See list of post offices, *post*, p. 215.)

Sheffield Marks.

Registration by Cutlers' Company of Sheffield marks.

[See 1875, c. 91, s. 9.]

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

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have not been entered in the register established under the Trade Marks Registration Act, 1875:

(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

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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 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:

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(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.

For a short account of the Cutlers' Company and their marks, see *ante*, p. 45.

The following Rules have been made with reference to this section:—

T.M.R. 53.—"All applications to the Cutlers' Company for "registration of a trade mark, under section 81 of the said "Act, shall be in duplicate, accompanied by the prescribed "fees and representations."

T.M.R. 54.—"The Cutlers' Company shall, within seven "days of the receipt by them of an application to register a "trade mark, send the comptroller one copy of such application, by way of notice thereof, together with two representations of the mark for each class for which the applicant "seeks registration."

T.M.R. 55.—"(1.) The time within which the comptroller "shall give notice to the Cutlers' Company of any objection he "may have to the acceptance of an application for registration "made to the said company shall be one month from the date "of the receipt by the comptroller of the notice from the said "company of the making of the application.

"(2.) If no such objection is made by the comptroller, the "Cutlers' Company shall require the applicant to send the "comptroller a wood block or electrotype as the comptroller "may direct, and the comptroller shall if satisfied with such "wood block or electrotype, advertise the application in the

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" same manner as an application made to him at the Patent " Office.

" (3.) The manner in which the comptroller shall notify to " the Cutlers' Company an application and proceedings thereon " made as mentioned in sub-section 8 of section 81 of the said " Act shall be by sending to the Cutlers' Company a copy of " the official paper containing the application of which notice " is required to be given, with a note distinguishing such " application."

T.M.R. 56.—"The provisions of these Rules (see *post*, pp. " 183–191), as to forms, representations, the proceedings on " opposition to registration, registration, and all subsequent " proceedings shall, as far as the circumstances allow, apply " to all applications to register made to the Cutlers' Company, " and to all proceedings consequent thereon."

The following instruction has also been issued by the comptroller as to Sheffield marks (see Instruction 37, *post*, p. 201):—

"Applications made to the Cutlers' Company in pursuance " of section 81 of the Patents, Designs, and Trade Marks " Act, 1883, should be made on Form '*F.*,' the address in the " left-hand corner to be, 'To the Cutlers' Company, Sheffield,' " instead of 'To the Comptroller,' and should be left at, or " sent by post to, the Cutlers' Hall, Sheffield.

"Each application should be accompanied by an unstamped " copy on foolscap paper. (See Rule 53.)

"Applications sent by post should be addressed—

" CHAS. MACRO WILSON, Esq.,
" The Law Clerk,
" The Cutlers' Hall, Sheffield."

PART V.

GENERAL.

Patent Office and Proceedings thereat.

Patent Office.

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

(2.) Until a new Patent Office is provided, the offices of the Commissioners of Patents for inventions and for the registration of designs and trade marks existing at the commencement of this Act shall be the Patent Office within the meaning of this Act.

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(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 authorized by the Board of Trade.

Officers and clerks.
[1852, ss. 5—8, 49.]

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.
[1852, s. 2.]

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 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 comp-

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troller 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 licenses as to, or otherwise deal with, the same and to give effectual receipts for any consideration for such assignment, license, 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.
[1852, ss. 34, 35.]

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.
[1853, c. 115, s. 4.]

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.
[1875, c. 91, s. 5.]

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,

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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.

This section is a modification of sect. 5 of the Trade Marks Registration Act, 1875, but it applies not only to the register of trade marks, but also the registers of patents and designs.

With regard to the registers of trade marks and designs, the section appears to authorize a recourse to the Court by an applicant for registration, whose application has been refused by the comptroller and the Board of Trade.

But with regard to the register of patents, the section hardly appears to cover the case of a refusal to grant a patent, although such a case seems to be of a character similar to that of the refusal of registration of a trade mark or design.

With regard to the register of trade marks, the section would appear to apply also to the following cases:—

(1.) Where it is desired to remove from the register a trade mark which was not a proper subject for registration, either as being a mark which was common property in the trade, or as being a mark so nearly similar to another as to be calculated to deceive, or as otherwise not complying with the provisions of the Act.

(2.) Where a trade mark has been registered by a person other than the true proprietor thereof.

With regard to the register of designs, the section would appear to apply also to the following cases:—

(1.) Where it is desired to cancel the registration of a design

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which was not new or original, or not a proper subject for registration under sect. 60 (*ante*, p. 110).

(2.) Where a design has been registered by a person other than the true proprietor thereof.

And, generally, with regard to all the registers, the section applies in cases where any entry has been wrongly made or refused.

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 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.

The following rule refers to this section:—

T.M.R. 48.—"Whenever the registered proprietor of any "trade mark intends to apply for the leave of the Court to "add to or to alter such trade mark, under section 92 of the "said Act, the notice to be given to the comptroller shall be "given fourteen days at least before such application. If "leave be granted on such application, the applicant shall "forthwith supply to the comptroller such a number of "representations of the trade mark, as altered, as he may "deem sufficient."

Falsification of entries in registers. [1852, s. 37.]

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 misdemeanor.

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. [1852, s. 38; 1875, c. 91, s. 5.]

96. A certificate purporting to be under the hand of the comptroller as to any entry, matter, or thing which he is authorized 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 authorized or required to be left made or given at the Patent Office or to the comptroller, or

§ 97. to any other person under this Act, may be sent by a prepaid letter through the post; and if so sent shall be deemed to have been left made or given respectively at the time when the letter containing the same would be delivered in the ordinary course of post.

(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 twenty-one days after the same shall respectively have been accepted or allowed at the Patent Office; and certified copies of or extracts from any such document 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.

[See 1852, s. 3.]

[1852, ss. 29, 30.]

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

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

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

(*c*) For making or requiring duplicates of specifications, 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

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

Three sets of Rules have been made under this section for patents, designs and trade marks respectively, all dated 21st December, 1883 (see *post*, pp. 157, 174, 183).

Annual reports of comptroller. [1852, ss. 3, 51.]

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

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.

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(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 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. **§ 104.**

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 unauthorized assumption of Royal arms.

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

Scotland; Ireland; &c.

Saving for Courts in Scotland. [1852, s. 43.]

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

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.

[1852, ss. 35, 43.]

(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. [1852, s. 29.]

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. [1875, c. 91, s. 10.]

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 Scot-

land, 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. § 111.

(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.

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

(1.) Nothing in this Act shall affect the jurisdiction of the courts in the Isle of Man, in proceedings for infringement or in any action or proceeding respecting a patent, design, or trade mark competent to those courts;

(2.) The punishment for a misdemeanor 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. 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 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 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.

All such Rules, except the Rules of Procedure on Applications for Extensions of Patents to the Judicial Committee of the Privy Council, have been repealed (see P.R. 78, *post*, p. 168; T.M.R. 60, *post*, p. 193; and D.R. 37, *post*, p. 179).

Saving for prerogative. [1852, s. 16.]

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 corporate body:

"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:

"Comptroller" means the Comptroller-General of Patents, Designs, and Trade Marks:

"Prescribed" means prescribed by any of the

§ 117. 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 possession; 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.

THE FIRST SCHEDULE.

Forms A, B and C have been replaced by Forms A, A1, B and C (*post*, pp. 218—220), by P.R. 5 (*post*, p. 157).

Form D.

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:

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:

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

Know ye, therefore, that We, of our especial grace, certain knowledge, and mere motion do by these presents, for us, our heirs and successors, give and grant unto the said patentee our especial license, full power, sole privilege, and authority, that the said patentee by himself, his agents,

or licensees, and no others, may at all times hereafter during the term of years herein mentioned, make, use, exercise, and vend the said invention within our United Kingdom of Great Britain and Ireland, and Isle of Man, in such manner as to him or them may seem meet, and that the said patentee shall have and enjoy the whole profit and advantage from time to time accruing by reason of the said invention, during the term of fourteen years from the date hereunder written of these presents: And to the end that the said patentee may have and enjoy the sole use and exercise and the full benefit of the said invention, We do by these presents for us our heirs and successors, strictly command all our subjects whatsoever within our United Kingdom of Great Britain and Ireland, and the Isle of Man, that they do not at any time during the continuance of the said term of fourteen years either directly or indirectly make use of or put in practice the said invention, or any part of the same, nor in anywise imitate the same, nor make or cause to be made any addition thereto or subtraction therefrom, whereby to pretend themselves the inventors thereof, without the consent licence or agreement of the said patentee in writing under his hand and seal, on pain of incurring such penalties as may be justly inflicted on such offenders for their contempt of this our Royal command, and of being answerable to the patentee according to law for his damages thereby occasioned: Provided 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.)

FORM E.

See Form E. (*post*, p. 230), which is prescribed by D.R. 4 (*post*, p. 174).

FORM F

has been replaced by Form F (*post*, p. 235) by T.M.R. 4 (*post*, p. 183).

THE SECOND SCHEDULE.

Fees on Instruments for obtaining Patents, and Renewal.

(*a*) *Up to sealing.*

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

(*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 the fees of 50*l.* *and* 100*l.* *the following annual fees:—*

Before the expiration of the fourth year from the date of the patent				10	0	0
,,	,,	fifth	,, ,,	10	0	0
,,	,,	sixth	,, ,,	10	0	0
,,	,,	seventh	,, ,,	10	0	0
,,	,,	eighth	,, ,,	15	0	0
,,	,,	ninth	,, ,,	15	0	0
,,	,,	tenth	,, ,,	20	0	0
,,	,,	eleventh	,, ,,	20	0	0
,,	,,	twelfth	,, ,,	20	0	0
,,	,,	thirteenth	,, ,,	20	0	0

THE THIRD SCHEDULE.

Enactments repealed.

21 James 1, c. 3 - - [1623.]	The Statuto of Monopolies. In part; namely,— Sections ten, olevon, and twelvo.
5 & 6 Will. 4, c. 62 [1835.] In part.	The Statutory Declarations Act, 1835. In part; namely,— Section eleven.
5 & 6 Will. 4, c. 83 [1835.]	An Act to amend the law touching letters patent for inventions.
2 & 3 Vict. c. 67 - - [1839.]	An Act to amend an Act of the fifth and sixth years of the reign of King William the Fourth, intituled "An Act to amend the law "touching letters patent for inventions."
5 & 6 Vict. c. 100 - [1842.]	An Act to consolidate and amend the laws relating to the copyright of designs for ornamenting articles of manufacture.
6 & 7 Vict. c. 65 - - [1843.]	An Act to amend the laws relating to the copyright of designs.
7 & 8 Vict. c. 69 (*a*) [1844.] In part.	An Act for amending an Act passed in the fourth year of the reign of his late Majesty, intituled "An Act for the better adminis- "tration of justice in his Majesty's Privy "Council, and to extend its jurisdiction "and powers." In part; namely,— Sections two to five, both included.
13 & 14 Vict. c. 104 [1850.]	An Act to extend and amend the Acts relating to the copyright of designs.
15 & 16 Vict. c. 83 - [1852.]	The Patent Law Amendment Act, 1852.
16 & 17 Vict. c. 5 - [1853.]	An Act to substitute stamp duties for fees on passing letters patent for inventions, and to provide for the purchase for the public use of certain indexes of specifications.
16 & 17 Vict. c. 115 [1853.]	An Act to amend certain provisions of the Patent Law Amendment Act, 1852, in respect of the transmission of certified copies of letters patent and specifications to certain offices in Edinburgh and Dublin, and otherwise to amend the said Act.

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

THE THIRD SCHEDULE.—*Enactments repealed*—continued.

21 & 22 Vict. c. 70 [1858.]	An Act to amend the Act of the fifth and sixth years of her present Majesty, to consolidate and amend the laws relating to the copyright of designs for ornamenting articles of manufacture.
22 Vict. c. 13 - - - [1859.]	An Act to amend the law concerning patents for inventions with respect to inventions for improvements in instruments and munitions of war.
24 & 25 Vict. c. 73 [1861.]	An Act to amend the law relating to the copyright of designs.
28 & 29 Vict. c. 3 [1865.]	The Industrial Exhibitions Act, 1865.
33 & 34 Vict. c. 27 [1870.]	The Protection of Inventions Act, 1870.
33 & 34 Vict. c. 97 [1870.]	The Stamp Act, 1870. In part; namely,— Section sixty-five, and in the schedule the words and figures. "Certificate of the registration of a design, 5*l*. And see section 65."
38 & 39 Vict. c. 91 [1875.]	The Trade Marks Registration Act, 1875.
38 & 39 Vict. c. 93 [1875.]	The Copyright of Designs Act, 1875.
39 & 40 Vict. c. 33 [1876.]	The Trade Marks Registration Amendment Act, 1876.
40 & 41 Vict. c. 37 [1877.]	The Trade Marks Registration Extension Act, 1877.
43 & 44 Vict. c. 10 [1880.]	The Great Seal Act, 1880. In part; namely,— Section five.
45 & 46 Vict. c. 72 [1882.]	The Revenue, Friendly Societies, and National Debt Act, 1882. In part; namely,— Section sixteen.

APPENDIX.

PATENTS RULES.

By virtue of the provisions of the Patents Designs and Trade Marks Act, 1883, the Board of Trade do hereby make the following Rules:—

Short Title.

1. These Rules may be cited as the Patents Rules, 1883. Short title.

Commencement.

2. These Rules shall come into operation from and immediately after the 31st day of December, 1883. Commencement.

Interpretation.

3. In the construction of these Rules, any words herein used defined by the said Act shall have the meanings thereby assigned to them respectively. Interpretation.

Fees.

4. The fees to be paid under the above-mentioned Act, in addition to the fees mentioned in the Second Schedule thereto, so far as it relates to patents, shall be those specified in the list of fees in the First Schedule to these Rules (*post*, p. 203). Fees.

Forms.

5. The Forms A, B and C in the First Schedule to the said Act shall be altered or amended by the substitution therefor respectively of the Forms A, A1, B and C in the Second Schedule hereto (*post*, pp. 218—220). Forms. Alterations.

6.—(1.) An application for a patent shall be made either in the Form A or the Form A1 set forth in the Second Schedule hereto, as the case may be (*post*, p. 218). Application.

(2.) The Form B in such Schedule of provisional specification and the Form C of complete specification shall respectively be used (*post*, pp. 219, 220). Specification.

Other forms.

(3.) The remaining forms set forth in such Schedule may, as far as they are applicable, be used in any proceedings under these Rules. (See list of forms, *post*, p. 217.)

GENERAL.

Hours of business.

7. The Patent Office shall be open to the public every week-day during the hours of ten and four, except on the days and times following:—

Christmas Day.
Good Friday.
The day observed as Her Majesty's birthday.
The days observed as days of public fast or thanksgiving, or as holidays at the Bank of England.

Agency.

8. An application for a patent must be signed by the applicant, but all other communications between the applicant and the comptroller and all attendances by the applicant upon the comptroller may be made by or through an agent duly authorized to the satisfaction of the comptroller, and if he so require resident in the United Kingdom.

Statement of address.

9. The application shall be accompanied by a statement of an address to which all notices, requisitions, and communications of every kind may be made by the comptroller or by the Board of Trade, and such statement shall thereafter be binding upon the applicant unless and until a substituted statement of address shall be furnished by him to the comptroller. He may in any particular case require that the address mentioned in this rule be in the United Kingdom.

Size, &c., of documents.

10. All documents and copies of documents sent to or left at the Patent Office or otherwise furnished to the comptroller or to the Board of Trade shall be written or printed in large and legible characters in the English language upon strong wide ruled paper (on one side only), of a size of 13 inches by 8 inches, leaving a margin of two inches on the left-hand part thereof, and the signature of the applicants or agents thereto must be written in a large and legible hand. Duplicate documents shall at any time be left, if required by the comptroller.

Exercise of discretionary power by comptroller.
Notice of hearing.

11. Before exercising any discretionary power given to the comptroller by the said Act adversely to the applicant for a patent or for amendment of a specification, the comptroller shall give ten days' notice, or such longer notice as he may think fit, to the applicant of the time when he may be heard personally or by his agent before the comptroller.

Notice by applicant.

12. Within five days from the date when such notice would be delivered in the ordinary course of post, or such longer time as the comptroller may appoint in such notice, the applicant

shall notify to the comptroller whether or not he intends to be heard upon the matter. (See Form E, *post*, p. 221.)

Comptroller may require statement, &c.

13. Whether the applicant desires to be heard or not, the comptroller may at any time require him to submit a statement in writing within a time to be notified by the comptroller, or to attend before him and make oral explanations with respect to such matters as the comptroller may require.

Decision to be notified to parties.

14. The decision or determination of the comptroller in the exercise of any such discretionary power as aforesaid shall be notified by him to the applicant, and any other person affected thereby.

Definition of "applicant."

15. The term "applicant" in Rules 11, 12, and 13 shall include an applicant whose specification bears a title the same as or similar to that of the specification of a prior applicant, and has been reported on by the examiner.

Prior and second applicant may attend hearing.

16. Such prior and second applicant respectively may attend the hearing of the question whether the invention comprised in both applications is the same, but neither party shall be at liberty to inspect the specification of the other.

Industrial or *international* exhibitions.

17. Any person desirous of exhibiting an invention at an industrial or international exhibition, or of publishing any description of the invention during the period of the holding of the exhibition, or of using the invention for the purpose of the exhibition in the place where the exhibition is held, shall, after having obtained from the Board of Trade a certificate that the exhibition is an industrial or international one, give to the comptroller seven days' notice of his intention to exhibit, publish, or use the invention, as the case may be.

For the purpose of identifying the invention in the event of an application for a patent being subsequently made the applicant shall furnish to the comptroller a brief description of his invention accompanied, if necessary, by drawings, and such other information as the comptroller may in each case require. (See Form O, *post*, p. 226.)

Power of amendment, &c.

18. Any document for the amending of which no special provision is made by the said Act may be amended, and any irregularity in procedure, which in the opinion of the comptroller may be obviated without detriment to the interests of any person, may be corrected, if and on such terms as the comptroller may think fit.

Documents by post.

19. Any application, notice, or other document authorized or required to be left, made, or given at the Patent Office or to the comptroller or to any other person under these Rules may be sent by a prepaid letter through the post, and if so sent shall be deemed to have been left, made, or given respectively

at the time when the letter containing the same would be delivered in the ordinary course of post.

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

Affidavits.

20. Affidavits may, except where otherwise prescribed by these Rules, be used as evidence in any proceedings thereunder when sworn to in any of the following ways, viz. :—

(1.) In the United Kingdom before any person authorized to administer oaths in the Supreme Court of Judicature or before a justice of the peace for the county or place where it is sworn or made.

(2.) In any place in the British dominions out of the United Kingdom before any court, judge, or justice of the peace or any person authorized to administer oaths there in any court.

(3.) In any place out of the British dominions before a British minister, or person exercising the functions of a British minister, or a British consul, vice-consul, or other person exercising the functions of a British consul, or a notary public, or before a judge or magistrate.

Statutory declarations.

21. Where any statutory declaration prescribed by these Rules, or used in any proceedings thereunder, is made out of the United Kingdom, the words, "and by virtue of the Statutory Declarations Act, 1835," must be omitted, and the declaration shall (unless the context otherwise requires) be made in the manner prescribed in Rule 20, sub-section (3).

Application with Provisional or Complete Specification.

Order of recording applications.

22. Applications for a patent sent by prepaid letter through the post shall, as far as may be practicable, be opened and numbered in the order in which the letters containing the same have been respectively delivered in the ordinary course of post.

Applications left at the Patent Office otherwise than through the post shall be in like manner numbered in the order of their receipt at the Patent Office.

Application for separate patents by way of amendment.

23. Where a person making application for a patent includes therein by mistake, inadvertence, or otherwise, more than one invention, he may, after the refusal of the comptroller to accept such application, amend the same so as to apply to one invention only, and may make application for separate patents for each such invention accordingly.

Every such application shall bear the date of the first appli-

cation, and shall, together therewith, be proceeded with in the manner prescribed by the said Act and by these Rules as if every such application had been originally made on that date for one invention only.

Application by representative of deceased inventor.

24. An application for a patent by the legal representative of a person who has died possessed of an invention shall be accompanied by an official copy of or extract from his will or the letters of administration granted of his estate and effects in proof of the applicant's title as such legal representative.

Notice and advertisement of acceptance.

25. On the acceptance of an application with a provisional or complete specification the comptroller shall give notice thereof to the applicant, and shall advertise such acceptance in the official journal of the Patent Office.

Inspection on acceptance of complete specification.

26. Upon the publication of such advertisement of acceptance in the case of an application with a complete specification, the application and specification or specifications with the drawings (if any) may be inspected at the Patent Office upon payment of the prescribed fee.

Application on Communication from Abroad.

Communication from abroad.

27. An application for a patent for an invention communicated from abroad shall be made in the Form A 1 set forth in the Second Schedule hereto (*post*, p. 218).

Sizes and Methods of Preparing Drawings accompanying Provisional or Complete Specifications.

Size of drawings.

28. The drawings accompanying provisional or complete specifications shall be made upon half-sheets or sheets of imperial drawing paper, to be within a border line of 19 inches by 12 inches, or 27 inches by 19 inches, with a margin of half an inch all round.

Copies of drawings.

29. A copy of the drawings will be required upon *rolled* imperial drawing paper or upon thin Bristol board of the same dimensions as the original drawing or drawings. All the lines must be absolutely black, Indian ink of the best quality to be used, and the same strength or colour of the ink maintained throughout the drawing. Any shading must be in lines clearly and distinctly drawn and as open as is consistent with the required effect. Section lines should not be too closely drawn. No colour must be used for any purpose upon the copy of the drawings. All letters and figures of reference must be bold and distinct. The border line should be one fine line only. The drawings must not be folded, but must be delivered at the Patent Office either in a perfectly

flat state, or rolled upon a roller so as to be free from creases or breaks.*

30. Where a complete specification is left at the Patent Office after a provisional specification has been accepted the complete specification and drawing or drawings accompanying the same, as well as the copy thereof, must be prepared in accordance with Rules 10, 28, and 29.

Illustrated Journal.

Additional drawing to be furnished.

31. Every applicant for the grant of a patent shall, in addition to the drawings to be furnished with his complete specification, furnish the comptroller with a drawing illustrative of the feature or features of novelty constituting his invention. Such drawing must be prepared in the manner prescribed for the copy of the original drawing or drawings accompanying the specification, but must not cover a space exceeding sixteen square inches. The drawing must be accompanied by a concise explanatory statement on foolscap paper and legibly written or printed.

Opposition to Grants of Patents.

Notice of opposition.

32. A notice of opposition to the grant of a patent shall state the ground or grounds on which the person giving such notice (hereinafter called the opponent) intends to oppose the grant, and shall be signed by him. Such notice shall state his address for service in the United Kingdom.

Copy for applicant.

33. On receipt of such notice a copy thereof shall be furnished by the comptroller to the applicant.

Particulars of prior patent.

34. Where the ground or one of the grounds of opposition is that the invention has been patented in this country on an application of prior date, the title, number, and date of the patent granted in such prior application shall be specified in the notice.

Opponent's evidence.

35. Within fourteen days after the expiration of two months from the date of the advertisement of the acceptance of a complete specification, the opponent shall leave at the Patent Office statutory declarations in support of his opposition, and deliver to the applicant a list thereof.

Applicant's evidence.

36. Within fourteen days from the delivery of such list the applicant shall leave at the Patent Office statutory declara-

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* As the drawings accompanying the provisional and complete specification respectively are copied at the Patent Office for publication by the process of photo-lithography, this rule must be strictly observed in order that correct copies may be made.

tions in answer, and deliver to the opponent a list thereof, and within seven days from such delivery the opponent shall leave at the Patent Office his statutory declarations in reply, and deliver to the applicant a list thereof. Such last-mentioned declarations shall be confined to matters strictly in reply. Evidence in reply.

Copies of the declarations mentioned in this and the last preceding Rule may be obtained either from the Patent Office or from the opposite party.

37. No further evidence shall be left on either side except by leave of the comptroller upon the written consent of the parties duly notified to him, or by special leave of the comptroller on application made to him for that purpose. Closing of evidence.

38. Either party making such application shall give notice thereof to the opposite party, who shall be entitled to oppose the application.

39. On the completion of the evidence the comptroller shall appoint a time for the hearing of the case, and shall give to the parties seven days' notice at the least of such appointment. Notice of hearing.

40. On the hearing of the case no opposition shall be allowed in respect of any ground not stated in the notice of opposition, and where the ground or one of the grounds is that the invention has been patented in this country or an application of prior date, the opposition shall not be allowed upon such ground unless the title, number, and date of the patent granted on such prior application shall have been duly specified in the notice of opposition. Disallowance of opposition in certain cases.

41. The decision of the comptroller in the case shall be notified by him to the parties. Decision to be notified to parties.

Certificates of Payment or Renewal.

42. If a patentee intends at the expiration of the fourth or eighth year from the date of his patent to make the prescribed payment for keeping the same in force, he shall seven days at least before such expiration give notice to the comptroller of such intention, and shall, before the expiration of such fourth or eighth year, as the case may be, leave at the Patent Office a form of certificate of payment, duly stamped, subject as hereinafter provided, with the prescribed fee of 50*l.* or 100*l.*, as the case may be. Payment of fees of 50*l.* and 100*l.* for continuance of patent.

43. In the case of patents granted before the commencement of the said Act, the above Rule shall be read as if the words "seventh year" were therein written instead of the words "eighth year." As to patents granted before commencement of Act.

Payment of annual fees in lieu of 50*l.* and 100*l.*

44. If the patentee intends to pay annual fees in lieu of the above-mentioned fees of 50*l.* and 100*l.*, he shall seven days at least before the expiration of the fourth and each succeeding year during the term of the patent, until and inclusive of the 13th year thereof, give notice to the comptroller of such intention, and shall, before the expiration of such respective periods as aforesaid, leave at the Patent Office a form of certificate of payment, duly stamped with the fee prescribed to be paid at such periods respectively.

Certificate of payment.

45. On due compliance with these Rules, and as soon as may be after such respective period as aforesaid, or any enlargement thereof respectively duly granted, the comptroller shall give to the patentee a certificate that the prescribed payment has been duly made.

Enlargement of Time.

Enlargement of time for payments.

46. An application for an enlargement of the time for making a prescribed payment shall state in detail the circumstances in which the patentee by accident, mistake, or inadvertence has failed to make such payment, and the comptroller may require the patentee to substantiate by such proof as he may think necessary the allegations contained in the application for enlargement.

In other cases.

47. The time prescribed by these Rules for doing any act, or taking any proceeding thereunder, may be enlarged by the comptroller if he think fit, and upon such notice to other parties, and proceedings thereon, and upon such terms, as he may direct.

Amendment of Specification.

Request for leave to amend.

Advertisement.

48. A request for leave to amend a specification shall be signed by the applicant or patentee and accompanied by a copy of the original specifications and drawings, showing in red ink the proposed amendment, and shall be advertised by publication of the request and the nature of the proposed amendment in the official journal of the Patent Office, and in such other manner (if any) as the comptroller may in each case direct.

Notice of opposition.

49. A notice of opposition to the amendment shall state the ground or grounds on which the person giving such notice (hereinafter called the opponent) intends to oppose the amendment, and shall be signed by him. Such notice shall state his address for service in the United Kingdom.

Copy for the applicant.

50. On receipt of such notice a copy thereof shall be furnished by the comptroller to the applicant or patentee, as the case may be (hereinafter called the applicant).

51. Within fourteen days after the expiration of one month from the first advertisement of the application for leave to amend, the opponent shall leave at the Patent Office statutory declarations in support of his opposition and deliver to the applicant a list thereof. Opponent's evidence.

52. Upon such declarations being left, and such list being delivered, the provisions of Rules 36, 37, 38, and 39, shall apply to the case, and the further proceedings therein shall be regulated in accordance with such provisions as if they were here repeated. Further proceedings.

53. The decision of the comptroller in the case shall be notified by him to the parties. Decision to be notified to parties.

54. Where leave to amend is given the applicant shall, if the comptroller so require, and within a time to be limited by him, leave at the Patent Office a new specification and drawings as amended, to be prepared in accordance with Rules 10, 28, and 29. Requirements thereon.

55. Where a request for leave to amend is made by or in pursuance of an order of the Court or a judge, an official or verified copy of the order shall be left with the request at the Patent Office. Leave by order of Court.

56. Every amendment of a specification shall be forthwith advertised by the comptroller in the official journal of the Patent Office, and in such other manner (if any) as the comptroller may direct. Advertisement of amendment

Compulsory Licenses.

57. A petition to the Board of Trade for an order upon a patentee to grant a license shall show clearly the nature of the petitioner's interest, and the ground or grounds upon which he claims to be entitled to relief, and shall state in detail the circumstances of the case, the terms upon which he asks that an order may be made, and the purport of such order. Petition for compulsory grant of licenses.

58. The petition and an examined copy thereof shall be left at the Patent Office, accompanied by the affidavits, or statutory declarations, and other documentary evidence (if any) tendered by the petitioner in proof of the alleged default of the patentee. To be left with evidence at Patent Office.

59. Upon perusing the petition and evidence, unless the Board of Trade shall be of opinion that the order should be at once refused, they may require the petitioner to attend before the comptroller, or other person or persons appointed by them, to receive his or their directions as to further proceedings upon the petition. Directions as to further proceedings unless petition refused.

60. If and when a *primâ facie* case for relief has been made out to the satisfaction of the Board of Trade, the petitioner Procedure.

shall upon their requisition, and on or before a day to be named by them, deliver to the patentee copies of the petition and of the affidavits or statutory declarations and other documentary evidence (if any) tendered in support thereof.

Petitioner's evidence.

Patentee's evidence.

61. Within 14 days after the day of such delivery the patentee shall leave at the Patent Office his affidavits or statutory declarations in opposition to the petition, and deliver copies thereof to the petitioner.

Evidence in reply.

62. The petitioner within 14 days from such delivery shall leave at the Patent Office his affidavits, or statutory declarations in reply, and deliver copies thereof to the petitioner; such last-mentioned affidavits or declarations shall be confined to matters strictly in reply.

Further proceedings.

63. Subject to any further directions which the Board of Trade may give, the parties shall then be heard at such time, before such person or persons, in such manner, and in accordance with such procedure as the Board of Trade may, in the circumstances of the case, direct, but so that full opportunity shall be given to the patentee to show cause against the petition.

Register of Patents.

Entry of grant.

64. Upon the sealing of a patent the comptroller shall cause to be entered in the register of patents the name, address, and description of the patentee as the grantee thereof, and the title of the invention.

Request for entry of subsequent proprietorship.

65. Where a person becomes entitled to a patent or to any share or interest therein, by assignment either throughout the United Kingdom and the Isle of Man, or for any place or places therein, or by transmission or other operation of law, a request for the entry of his name in the register as such complete or partial proprietor of the patent, or of such share or interest therein, as the case may be, shall be addressed to the comptroller, and left at the Patent Office.

Signature of request.

66. Such request shall in the case of individuals be made and signed by the person requiring to be registered as proprietor, or by his agent duly authorized, to the satisfaction of the comptroller, and in the case of a body corporate by their agent authorized in like manner.

Particulars to be stated in request.

67. Every such request shall state the name, address, and description of the person claiming to be entitled to the patent, or to any share or interest therein, as the case may be (hereinafter called the claimant), and the particulars of the assignment, transmission, or other operation of law, by virtue of which he requires to be entered in the register as proprietor, so as to show the manner in which, and the person or persons

to whom, the patent, or such share or interest therein as aforesaid, has been assigned or transmitted.

Production of documents of title and other proof.

68. Every assignment and every other document containing, giving effect to, or being evidence of, the transmission of a patent or affecting the proprietorship thereof as claimed by such request, except such documents as are matters of record, shall be produced to the comptroller, together with the request above prescribed, and such other proof of title as he may require for his satisfaction.

As to a document which is a matter of record, an official or certified copy thereof shall in like manner be produced to the comptroller.

Copies for Patent Office.

69. There shall also be left with the request an examined copy of the assignment or other document above required to be produced.

As to a document which is a matter of record, an official or certified copy shall be left with the request in lieu of an examined copy.

Body corporate.

70. A body corporate may be registered as proprietor by its corporate name.

Entry of orders of the Privy Council or of the Court.

71. Where an order has been made by her Majesty in Council for the extension of a patent for a further term or for the grant of a new patent, or where an order has been made by the Court for the revocation of a patent or the rectification of the register under sect. 90 of the said Act or otherwise affecting the validity or proprietorship of the patent, the person in whose favour such order has been made shall forthwith leave at the Patent Office an office copy of such order. The register shall thereupon be rectified or the purport of such order shall otherwise be duly entered in the register, as the case may be.

Entry of payment of fees on issue of certificate.

72. Upon the issue of a certificate of payment under Rule 45, the comptroller shall cause to be entered in the Register of Patents a record of the amount and date of payment of the fee on such certificate.

Entry of failure to pay fees.

73. If a patentee fails to make any prescribed payment within the prescribed time or any enlargement thereof duly granted, such failure shall be duly entered in the register.

Entry of licenses.

74. An examined copy of every license granted under a patent shall be left at the Patent Office by the licensee, with a request that a notification thereof may be entered in the register. The licensee shall cause the accuracy of such copy to be certified as the comptroller may direct, and the original license shall at the same time be produced and left at the Patent Office if required for further verification.

Hours of inspection of register.

75. The register of patents shall be open to the inspection of the public on every week day between the hours of ten and four, except on the days and at the times following:—

(*a*) Christmas Day, Good Friday, the day observed as Her Majesty's birthday, days observed as days of public fast or thanksgiving, and days observed as holidays at the Bank of England; or

(*b*) Days which may from time to time be notified by a placard posted in a conspicuous place at the Patent Office;

(*c*) Times when the register is required for any purpose of official use.

Certified copies of documents.

76. Certified copies of any entry in the register, or certified copies of, or extracts from, patents, specifications, disclaimers, affidavits, statutory declarations, and other public documents in the Patent Office, or of or from registers and other books kept there, may be furnished by the comptroller on payment of the prescribed fee.

Power to Dispense with Evidence, &c.

77. Where, under these Rules, any person is required to do any act or thing, or to sign any document, or to make any declaration on behalf of himself or of any body corporate, or any document or evidence is required to be produced to or left with the comptroller, or at the Patent Office, and it is shown to the satisfaction of the comptroller that from any reasonable cause such person is unable to do such act or thing, or to sign such document, or make such declaration, or that such document or evidence cannot be produced or left as aforesaid, it shall be lawful for the comptroller, with the sanction of the Board of Trade, and upon the production of such other evidence, and subject to such terms as they may think fit, to dispense with any such act or thing, document, declaration, or evidence.

Repeal.

Repeal.

78. All General Rules made by the Lord Chancellor, or by any other authority, under the Patent Law Amendment Acts, and in force on the 31st day of December, 1883, shall be and they are hereby repealed as from that date, without prejudice, nevertheless, to any application then pending.

Dated the 21st day of December 1883.

(Signed) J. CHAMBERLAIN,
President of the Board of Trade.

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

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

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

III. A copy of such notice of intention to appeal shall be sent by the party so intending to appeal to the law officers' clerk at Room 549, Royal Courts of Justice, London; and when there has been an opposition before the comptroller, to the opponent or opponents; and when the comptroller has refused to seal a patent on the ground that a previous application for a patent for the same invention is pending, to the prior applicant.

IV. Upon notice of appeal being filed, the comptroller shall forthwith transmit to the law officers' clerk all the papers relating to the matter of the application in respect of which such appeal is made.

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

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

VII. Such notice shall in all cases be given to the comptroller and the appellant; and, when there has been an opposition before the comptroller, to the opponent or opponents; and, when the comptroller has refused to seal a patent on the ground that an application for a patent for the same invention is pending, to the prior applicant.

VIII. The evidence used on appeal to the law officer shall be the same as that used at the hearing before the comptroller; and no further evidence shall be given, save as to

matters which have occurred or come to the knowledge of either party, after the date of the decision appealed against, except with the leave of the law officer upon application for that purpose.

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

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

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

XII. If any costs so ordered to be paid be not paid within fourteen days after the amount thereof has been so fixed or ascertained, or such shorter period as shall be directed by the law officer, the party to whom such costs are to be paid may apply to the law officer for an order for payment under the provisions of sect. 38 of the Act.

XIII. All documentary evidence required, or allowed by the law officer to be filed, shall be subject to the same regulations, in all respects, as apply to the procedure before the comptroller, and shall be filed in the Patent Office, unless the law officer shall order to the contrary.

XIV. Any notice or other document required to be given to the law officers' clerk, under these Rules, may be sent by a prepaid letter through the post.

HENRY JAMES, A.G.
FARRER HERSCHELL, S.G.

PRIVY COUNCIL RULES.

RULES TO BE OBSERVED IN PROCEEDINGS BEFORE THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL UNDER THE ACT OF THE 5TH AND 6TH WILL. IV., INTITULED "AN ACT TO AMEND THE LAW TOUCHING LETTERS PATENT FOR INVENTIONS" (CAP. 83).

RULE I.

A party intending to apply by petition, under sect. 2 of the said act, shall give public notice by advertising in the London Gazette three times, and in three London papers, and three times in some country paper published in the town where or near to which he carries on any manufacture of anything made according to his specification, or near to or in which he resides, in case he carries on no such manufacture, or published in the county where he carries on such manufacture, or where he lives, in case there shall not be any paper published in such town, that he intends to petition his Majesty under the said section, and shall in such advertisements state the object of such petition, and give notice of the day on which he intends to apply for a time to be fixed for hearing the matter of his petition (which day shall not be less than four weeks from the date of the publication of the last of the advertisements to be inserted in the London Gazette), and that on or before such day, notice must be given of any opposition intended to be made to the petition; and any person intending to oppose the said application shall lodge notice to that effect at the Council Office, on or before such day so named in the said advertisements, and having lodged such notice shall be entitled to have from the petitioner four weeks' notice of the time appointed for the hearing.

RULE II.

A party intending to apply by petition, under sect. 4 of the said act, shall in the advertisements directed to be published by the said section, give notice of the day on which he intends to apply for a time to be fixed for hearing the matter of his petition (which day shall not be less than four weeks from the date of the publication of the last of the advertisements to be

inserted in the London Gazette), and that on or before such day caveats must be entered; and any person intending to enter a caveat shall enter the same at the Council Office, on or before such day so named in the said advertisements; and having entered such caveat, shall be entitled to have from the petitioner four weeks' notice of the time appointed for the hearing.

Rule III.

Petitions under sects. 2 and 4 of the said act must be presented within one week from the insertion of the last of the advertisements required to be published in the London Gazette.

Rule IV.

All petitions must be accompanied with affidavits of advertisements having been inserted according to the provisions of sect. 4 of the said act, and the 1st and 2nd of these rules, and the matters in such affidavits may be disputed by the parties opposing upon the hearing of the petitions.

Rule V.

All persons entering caveats under sect. 4 of the said act, and all parties to any former suit or action touching letters patent, in respect of which petitions shall have been presented under sect. 2 of the said act, and all persons lodging notices of opposition under the 1st of these rules, shall respectively be entitled to be served with copies of petitions presented under the said sections, and no application to fix a time for hearing shall be made without affidavit of such service.

Rule VI.

All parties served with petitions shall lodge at the Council Office, within a fortnight after such service, notice of the grounds of their objections to the granting of the prayers of such petitions.

Rule VII.

Parties may have copies of all papers lodged in respect of any application under the said act, at their own expense.

Rule VIII.

The registrar of the Privy Council, or other officer to whom it may be referred to tax the costs incurred in the matter of any petition presented under the said act, shall allow or disallow in his discretion all payments made to persons of science or skill examined as witnesses to matters of opinion chiefly.

Rule IX.

A party applying for an extension of a patent, under sect. 4 of the said act, must lodge at the Council Office six printed copies of the specification, and also four copies of the balance sheet of expenditure and receipts relating to the patent in question, which accounts are to be proved on oath before the lords of the committee at the hearing. In the event of the applicant's specification not having been printed, and if the expense of making six copies of any drawing therein contained or referred to would be considerable, the lodging of two copies only of such specification and drawing will be deemed sufficient.

All copies mentioned in this rule must be lodged not less than one week before the day fixed for hearing the application.

The Judicial Committee will hear the Attorney-General, or other counsel, on behalf of the Crown, against granting any application made under either the 2nd or 4th section of the said act, in case it shall be thought fit to oppose the same on such behalf.

DESIGNS RULES.

By virtue of the provisions of the Patents, Designs, and Trade Marks Act, 1883, the Board of Trade do hereby make the following Rules:—

Commencement.

1. These Rules may be cited as the Designs Rules, 1883, and shall come into operation from and immediately after the 31st day of December, 1883.

Interpretation.

Interpretation.

2. In the construction of these Rules any words herein used defined by the said Act shall have the meanings thereby assigned to them respectively.

Fees.

Fees.

3. The fees to be paid under the said Act, so far as it relates to applications for and registration of designs, shall be the fees specified in the First Schedule hereto (*post*, p. 205).

Forms.

Forms.

4. An application for the registration of a design shall be made in the Form E. in the Second Schedule hereto (*post*, p. 230). The remaining forms in such Schedule may be used in all cases to which they are applicable.

Classification of Goods.

Classification of goods.

5. For the purposes of the registration of designs and of these Rules, goods are classified in the manner appearing in the Third Schedule hereto. (See Table of Classes, *post*, p. 208.)

Application for Registration.

Agents.

6. All communications between an applicant for the registration of a design and the comptroller or the Board of Trade, as the case may be, may be made by or through an agent duly authorized to the satisfaction of the comptroller.

Address of comptroller.

7. An application for the registration of a design shall, with the prescribed fee, be left at the Patent Office, Designs Branch, or be sent prepaid by post, addressed to the comptroller at the Patent Office (Designs Branch), 25, Southampton Buildings, Chancery Lane, London.

Size of papers.

8. An application for the registration of a design, and all drawings, sketches, photographs, or tracings of a design, and all other documents sent to or left at the Patent Office (Designs Branch), or otherwise furnished to the comptroller or to the Board of Trade, shall be written, printed, copied, or drawn upon strong wide-ruled foolscap paper (on one side only), of the size of 13 inches by 8 inches, leaving a margin of not less than one inch and a half on the left-hand part thereof, and the signature of the applicants or agents thereto must be written in a large and legible hand.

The comptroller may in any particular case vary the requirements of this Rule as he may think fit.

Sketches and drawings.

Nature of design.

9. An application for the registration of a design shall be accompanied by a sketch or drawing, or by three exactly similar drawings, photographs, or tracings of the design, or by three specimens of the design, and shall, in describing the nature of the design, state whether it is applicable for the pattern or for the shape or configuration of the design, and the means by which it is applicable. (See Designs Instructions 4, *post*, p. 180.)

When sketches, drawings, or tracings are furnished they must be fixed.

When the articles to which designs are applied are not of a kind which can be pasted into books, drawings, photographs, or tracings of such designs shall be furnished.

Acknowledgment to applicant.

10. On receipt of an application for registration the comptroller shall send to the applicant an acknowledgment thereof.

Notice of registration.

11. If the comptroller determines to register a design, he shall as soon as may be send to the applicant a certificate of such registration in the prescribed form, sealed with the seal of the Patent Office.

Applications may be sent by post.

12. Any application, notice, or other document authorized or required to be left, made, or given at the Patent Office or to the comptroller or to any other person under these Rules may be sent by a prepaid letter through the post, and if so sent shall be deemed to have been left, made, or given respectively at the time when the letter containing the same would be delivered in the ordinary course of post.

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

Hearing by comptroller.

13. Before exercising any discretionary power given to the comptroller by the said Act adversely to an applicant for registration of a design the comptroller shall give him ten days' notice of the time when he may be heard personally or by his agent before the comptroller.

Hearing by comptroller.

14. Within five days from the date when such notice would be delivered in the ordinary course of post, the applicant shall notify to the comptroller whether or not he intends to be heard upon the matter.

Notification of comptroller's decision.

15. The decision or determination of the comptroller in the exercise of any such discretionary power as aforesaid shall be notified to the applicant.

Appeal to the Board of Trade.

Notice of appeal to Board of Trade.

16. Where the comptroller refuses to register a design, and the applicant intends to appeal to the Board of Trade from such refusal, he shall, within one month from the date of the decision appealed against, leave at the Patent Office, Designs Branch, a notice of such his intention.

Statement on appeal.

17. Such notice shall be accompanied by a statement of the grounds of appeal, and of the applicant's case in support thereof.

Notice to Secretary of Board of Trade.

18. The applicant shall forthwith on leaving such notice send a copy thereof to the Secretary of the Board of Trade, No. 7, Whitehall Gardens, London.

Directions by Board of Trade.

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

Notice of time of hearing.

20. Seven days' notice, or such shorter notice as the Board of Trade may in any particular case direct, of the time and place appointed for the hearing of the appeal shall be given to the comptroller and the applicant.

Register of Designs.

Registering design.

21. Upon the sealing of a certificate of registration the comptroller shall cause to be entered in the register of designs the name, address, and description of the registered proprietor, and the date upon which the application for registration was received by the comptroller, which day shall be deemed to be the date of the registration.

Subsequent proprietors.

22. Where a person becomes entitled to the copyright in a registered design, or to any share or interest therein, by assignment, transmission, or other operation of law, or where a person acquires any right to apply the design either ex-

clusively or otherwise, a request for the entry of his name in the register as such proprietor of the design, or as having acquired such right, as the case may be (hereinafter called the claimant), shall be addressed to the comptroller, and left at the Patent Office, Designs Branch.

Signature to request.

23. Every such request shall, in the case of an individual, be made and signed by the person requiring to be registered as proprietor; and in the case of a firm or partnership, by some one or more members of such firm or partnership, or, in either case, by his or their agent respectively duly authorized to the satisfaction of the comptroller; and in the case of a body corporate, by their agent authorized in like manner.

Particulars in request.

24. Every such request shall state the name, address, and description of the claimant, and the particulars of the assignment, transmission, or other operation of law by virtue of which the request is made, so as to show the manner in which and the person or persons to whom the design has been assigned or transmitted, or the person or persons who has or have acquired such right as aforesaid, as the case may be.

Statutory declaration with request.

25. Every such request shall be accompanied by a statutory declaration to be thereunder written verifying the several statements therein, and declaring that the particulars above described comprise every material fact and document affecting the proprietorship of the design or the right to apply the same, as the case may be, as claimed by such request.

Proof of title if required.

26. The claimant shall furnish to the comptroller such other proof of title as he may require for his satisfaction.

Corporate name.

27. A body corporate may be registered as proprietor by its corporate name.

Notice of order of Court.

28. Where an order has been made by the Court, under section 90 of the said Act, the person in whose favour such order has been made shall forthwith leave at the Patent Office an office copy of such order. The register shall thereupon be rectified, or the purport of such order shall otherwise be duly entered in the register, as the case may be.

Power to dispense with Evidence.

Comptroller's discretion as to evidence.

29. Where under these Rules any person is required to do any act or thing, or to sign any document, or make any declaration on behalf of himself or of any body corporate, or any document or evidence is required to be produced to or left with the comptroller or at the Patent Office, and it is shown to the satisfaction of the comptroller that from any reasonable cause such person is unable to do such act or thing, or to sign such document, or make such declaration,

or that such document or evidence cannot be produced or left as aforesaid, it shall be lawful for the comptroller, with the sanction of the Board of Trade, and upon the production of such other evidence and subject to such terms as they may think fit, to dispense with any such act or thing, document, declaration, or evidence.

Amendments.

Amendments.

30. Any document, drawings, sketches, or tracings for the amending of which no special provision is made by the said Act may be amended, and any irregularity in procedure which, in the opinion of the comptroller, may be obviated without detriment to the interests of any person may be corrected if the comptroller think fit, and upon such terms as he may direct.

Enlargement of Time.

Enlargement of time.

31. The time prescribed by these Rules for doing any act or taking any proceeding thereunder may be enlarged by the comptroller, if he think fit, and upon such terms as he may direct.

Marking Goods.

Registration mark.

32. Before the delivery on sale of any article to which a registered design has been applied, the proprietor of such design shall, if such article is included in any of the classes one to twelve in the Third Schedule hereto, cause each such article to be marked with the abbreviation "R^{D}" and the number appearing on the certificate of registration, and shall, if such article is included in the classes thirteen or fourteen in the Third Schedule hereto, cause each such article to be marked with the abbreviation "REG^{D}".

Inspection.

Office hours.

33. On such days and during such hours as the comptroller shall from time to time determine and notify by a placard posted at the Patent Office any person paying the prescribed fee may, on production of the number of any design of which the copyright has ceased, inspect such design, and any person paying the prescribed fee may take a copy or copies of such design.

Certificate by Comptroller.

Certificate in legal proceeding.

34. Where a certificate is required for the purpose of any legal proceeding or other special purpose as to any entry, matter, or thing which the comptroller is authorized by the said Act or these Rules to make or do, the comptroller may,

on a request in writing and on payment of the prescribed fee, give such certificate, which shall also specify on the face of it the purpose for which it has been requested as aforesaid.

Searches on production of Sketch of Design.

35. The comptroller may, on receipt of the prescribed fee, make searches among the designs registered at the Patent Office after the commencement of the Act, and inform any person requesting him so to do whether a particular design produced by such person, and to be applied to goods in any particular class, is or is not identical with or an obvious imitation of any design applied to such goods and registered since the commencement of the Act. Search.

Industrial and International Exhibitions.

36. Any person desirous of exhibiting a design, or any article to which a design has been applied, at an industrial or international exhibition, or of publishing a description of a design during the period of the holding of the exhibition, shall, after having obtained from the Board of Trade a certificate that the exhibition is an industrial or international one, give to the comptroller seven days' notice in writing of his intention to exhibit the design or article, or to publish a description of the design, as the case may be. Notice of exhibition.

For the purpose of identifying the design in the event of an application to register the same being subsequently made, the applicant shall furnish to the comptroller a brief description of the nature of the design, accompanied by a sketch or drawing thereof, and such other information as the comptroller may in each case require.

Repeal.

37. All general rules and regulations made by any authority under the Acts relating to the Copyright of Designs, and in force on the 31st December, 1883, shall be, and they are hereby repealed as from that date without prejudice nevertheless to any application then pending. Repeal of previous Rules.

J. CHAMBERLAIN,
President of the Board of Trade.

21st December, 1883.

PATENT OFFICE, DESIGNS BRANCH.

INSTRUCTIONS TO PERSONS WHO WISH TO REGISTER DESIGNS UNDER THE PATENTS, DESIGNS, AND TRADE MARKS ACT, 1883.

(*Issued by the Comptroller in January*, 1884.)

PRELIMINARY.

1. The Patents, Designs, and Trade Marks Act, 1883, and the Rules published in pursuance of that Act for the Registration of Designs, should be carefully studied.

Copies of the Rules, together with the Act, may be obtained on payment of 2*s*. for each copy at the Patent Office, Sale Branch, 38, Cursitor Street, London, E.C.

Copies will also be sent by post, on a prepaid application to that address, accompanied by a Post Office Order for the amount payable to H. Reader Lack, at the Chancery Lane Post Office, London, W.C.

2. In order to obtain registration application must be made to the comptroller in pursuance of Rules Nos. 6—12.

APPLICATIONS.

3. Stamped forms of application to register have been issued, and can be obtained at the principal agencies in the United Kingdom, hereinafter mentioned (see list of post offices at which forms may be obtained, *post*, p. 215).

Applications sent by post should be addressed—

The Comptroller,
Patent Office,
Designs Branch,
25, Southampton Buildings,
London, W.C.

4. An application consists of the following:—

(1.) The form of application, Form E (*post*, p. 230), properly filled up, and such evidence as will enable the comptroller to identify the design.

(*a*) If it is desired to secure a date of registration at once, one sketch of the design may be sent with the appli-

cation form. In this case the design, if accepted, will be registered as of the date on which it was received; but no certificate will be issued until three exact drawings or specimens have been sent in *substitution for the sketch*. Or,

(*b*) The application may be complete in the first instance if applicant sends three exactly similar drawings, photographs, or specimens.

The Drawings or Photographs.

5. The drawings, &c. accompanying an application must be sent in triplicate, each representation of each design upon strong foolscap paper (on one side only) of the size of 13 in. by 8 in.

6. When sketches, drawings, or tracings are furnished, they must be fixed. Drawings on tracing paper cannot be received. If tracings are supplied they must be done on tracing cloth or mounted on thick paper.

7. *Rough sketches cannot be accepted.*

8. When the design is to be applied to a set, each of the drawings accompanying the application, or the sketch, if a sketch is sent, should show the various arrangements in which it is proposed to apply the design to the articles included in the set.

9. When specimens of the design are furnished in lieu of drawings, &c., they must be of such a nature as can be pasted into books, and the dimensions of each such specimen must not exceed 12 in. by 21 in.

10. The representations of a design should not be accompanied by any lengthened explanatory statement.

11. Only two views of the same design can be accepted, unless in the case of a design for a set.

12. All goods to which registered designs are applied—Classes 1 to 12—should during the period of copyright bear the abbreviation "R^{d}." and the number given on registration.

All goods to which registered designs are applied—Classes 13 and 14—should during the period of copyright bear the abbreviation "Reg^{d}."

13. The following is a list of the stamped forms to be had at the places mentioned in paragraph 3 :—

Designs.

Letter.	Title of Form.	Fee. £	s.	d.
E	Application for Registration of Design in Classes 1 to 12	0	10	0
E	,, ,, ,, ,, 13 and 14 (woven and printed textiles)	0	1	0
F	Appeal to Board of Trade on Refusal of Comptroller to Register a Design	1	0	0
H	Application for Copy of Certificate of Registration of Design	0	1	0
I	Request for Certificate for use in Legal Proceedings.	0	5	0
K	Request to enter Name of subsequent Proprietor of Design, with Declaration in support thereof :— In Classes 1 to 12	0	10	0
K	,, 13 and 14 (woven and printed textiles)	0	1	0
L	Notice of intended Exhibition of an Unregistered Design	0	5	0
M	Request for Correction of Clerical Error or Address..	0	5	0
N	Request for Search under Section 53	0	5	0
O	Application to Register Design for "Set" of Articles	1	0	0

N.B.—Forms E. classes 1 to 12, E. classes 13 and 14, and O. are kept on sale at the places named in paragraph 3. The other forms must be bespoken of the Postmasters at those places.

The Patent Office, Designs Branch, is open from 10 a.m. to 4 p.m.

H. Reader Lack,
Comptroller.

Patent Office, Designs Branch,
London,
1st January, 1884.

TRADE MARKS RULES.

By virtue of the provisions of the Patents, Designs, and Trade Marks Act, 1883, the Board of Trade do hereby make the following Rules:—

Preliminary.

1. These Rules may be cited as the Trade Marks Rules, 1883, and shall come into operation from and immediately after the 31st day of December, 1883.

Interpretation.

2. In the construction of these Rules any words herein used defined by the said Act shall have the meanings thereby assigned to them respectively. Interpretation.

Fees.

3. The fees to be paid in pursuance of the said Act, so far as it relates to trade marks, shall be the fees specified in the First Schedule hereto (*post*, p. 206). Fees.

Forms.

4. The Form F in the First Schedule to the said Act shall be altered or amended by the substitution therefor of the Form F in the Second Schedule to these Rules (*post*, p. 235). Forms.

5.—(1) An application for registration of a trade mark shall be made in the Form F in the Second Schedule to these Rules; (2) The remaining forms in such Schedule may be used in all cases to which they are applicable.

Classification of Goods.

6. For the purposes of trade marks registration and of these Rules goods are classified in the manner appearing in the Third Schedule hereto (*post*, p. 209). Classification of goods.

If any doubt arises as to what class any particular description of goods belongs to, the doubt shall be determined by the comptroller.

Application for Registration.

Application by firm.

7. An application for registration of a trade mark, if made by any firm or partnership, may be signed by some one or more members of such firm or partnership, as the case may be.

If the application be made by a body corporate it may be signed by the Secretary or other principal officer of such body corporate.

Agency.

8. An application for registration and all other communications between the applicant and the comptroller may be made by or through an agent duly authorized to the satisfaction of the comptroller.

Acknowledgment of application.

9. On receipt of the application the comptroller shall furnish the applicant with an acknowledgment thereof.

Contents of form of application.

10. Where application is made to register a trade mark which was used by the applicant or his predecessors in business before the 13th of August, 1875, the application shall contain a statement of the time during which, and of the person by whom, it has been so used in respect of the goods mentioned in the application.

Size, &c. of documents.

11. Subject to any other directions that may be given by the comptroller, all applications, notices, counter-statements, representations of marks, papers having representations affixed, or other documents required by the said Act or by these Rules to be left with or sent to the comptroller or to the Cutlers' Company, shall be upon foolscap paper of a size of 13 inches by 8 inches, and shall have on the left-hand part thereof a margin of not less than one inch and a half.

Qualification of metal goods.

12. In the case of an application for the registration of a trade mark used on any metal goods, other than cutlery, edge tools, and raw steel, the applicant shall state in the specification of goods in the form of application of what metal or metals the goods in respect to which he applies are made.

Representations of trade mark.

13. Subject to any other directions that may be given by the comptroller, three representations of each trade mark, except in the case of marks applied for in classes 23 to 35 inclusive, must be supplied upon paper of the size aforesaid, and must be of a durable nature. One of such representations must be made upon or affixed to the form of application, the others upon separate half-sheets. In the case of trade marks exceeding the limits of the foolscap paper of the size aforesaid, such marks may be pasted and folded upon the sheets of foolscap.

In the case of marks applied for in classes 23 to 35 inclusive, the applicant shall supply four representations of each mark for each class. (See Table of Classes, *post*, p. 209.)

Where a drawing or other representation or specimen cannot be given in manner aforesaid, a specimen or copy of the trade mark may be sent either of full size or on a reduced scale, and in such form as the comptroller may think most convenient.

The comptroller may, if dissatisfied with the representation of a trade mark, require a fresh representation, either before he proceeds with the application or before he registers the trade mark.

The comptroller may also, in exceptional cases, deposit in the Patent Office a specimen or copy of any trade mark which cannot conveniently be shown by a representation, and may refer thereto in the register in such manner as he may think fit.

Representations of a series of trade marks.

14. When an application relates to a series of trade marks differing from one another in respect of the particulars mentioned in section 66 of the said Act, a representation of each trade mark of the series shall be made or affixed upon the form of application and also upon each of the separate half-sheets of paper aforesaid.

Translation of foreign characters.

15. Wherever a mark consists of or includes words printed in other than Roman character, there shall be given at the foot or on the back of each representation a translation of such words, signed by the applicant or his agent.

Mode of sending notices, &c.

16. Any application, statement, notice, or other document authorized or required to be left, made, or given at the Patent Office, or to the comptroller, or to any other person under these Rules, may be sent by a prepaid letter through the post, and if so sent shall be deemed to have been left, made, or given respectively at the time when the letter containing the same would be delivered in the ordinary course of post.

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

Exercise of Discretionary Powers.

Hearing by comptroller.

17. Before exercising any discretionary power given to the comptroller by the said Act adversely to the applicant for registration of a trade mark, the comptroller shall give him ten days' notice of the time when he may be heard personally or by his agent before the comptroller.

Notice of wish to be heard before comptroller.

18. Within five days from the date when such notice would be delivered in the ordinary course of post, the applicant shall notify to the comptroller whether or not he intends to be heard upon the matter.

Notification of decision.

19. The decision of the comptroller in the exercise of any such discretionary power as aforesaid shall be notified to the applicant.

Appeal to the Board of Trade.

Appeal to Board of Trade.

20. Where the comptroller refuses to register a trade mark, and the applicant intends to appeal to the Board of Trade from such refusal, he shall within one month from the date of the decision appealed against, leave at the Patent Office, Trade Marks Branch, a notice of such his intention.

Statement of grounds of appeal.

21. Such notice shall be accompanied by a statement of the grounds of appeal, and of the applicant's case in support thereof.

Copy of notice to Board of Trade.

22. The applicant shall forthwith on leaving such notice send a copy thereof to the Secretary of the Board of Trade, No. 7, Whitehall Gardens, London.

Directions by Board.

23. The Board of Trade may thereupon give such directions (if any) as they may think fit with respect to evidence, or otherwise, for the purpose of the hearing of the appeal by the Board of Trade, or for the purpose of their referring the appeal to the Court to hear and determine the same.

Notice of time of hearing.

24. Where the Board of Trade intend to hear the appeal, seven days' notice, or such shorter notice as the Board of Trade may in any particular case direct, of the time and place appointed for the hearing, shall be given to the comptroller and the applicant.

Advertisement of Application.

Advertisement of application.

25. Every application shall be advertised by the comptroller in the official paper, during such times, and in such manner as the comptroller may direct.

If no representation of the trade mark be inserted in the official paper in connection with the advertisement of an application, the comptroller shall refer in such advertisement to the place or places where a specimen or representation of the trade mark is deposited for exhibition.

Definition of official paper.

26. The official paper for the purposes of these Rules shall be some paper published under the direction of the Board of Trade, or such other paper as such Board may from time to time direct.

Means of advertising trade mark to be supplied to official paper.

27. For the purposes of such advertisement the applicant may be required to furnish a wood block or electrotype (or more than one, if necessary) of the trade mark, of such dimensions as may from time to time be directed by the comptroller, or with such other information or means of advertising the trade mark as may be required by the comptroller; and the comptroller, if dissatisfied with the block or electrotype furnished by the applicant or his agent, may require a fresh

block or electrotype before proceeding with the advertisement.

Advertisement of series.

28. When an application relates to a series of trade marks differing from one another in respect of the particulars mentioned in section 66 of the said Act, the applicant may be required to furnish a wood block or electrotype (or more than one, if necessary) of any or of each of the trade marks constituting the series; and the comptroller may, if he thinks fit, insert with the advertisement of the application a statement of the manner in respect of which the several trade marks differ from one another.

Opposition to Registration.

Manner of bringing case before Court.

29.—(1.) Where a case stands for the determination of the Court, under the provisions of section 69 of the said Act, the comptroller shall require the applicant within one month, or such further time as the comptroller may allow, to issue a summons in the chambers of a judge of her Majesty's High Court of Justice for an order that notwithstanding the opposition of which notice has been given the registration of the trade mark be proceeded with by the comptroller, or to take such other proceedings as may be proper and necessary for the determination of the case by the Court.

(2.) The applicant shall thereupon issue such summons, or take such other proceedings as aforesaid, within the period of one month above named, or such further time as the comptroller may allow, and shall also within the like period give notice thereof to the comptroller.

(3.) If the applicant shall fail to issue such summons, or to take such other proceedings, of which failure the non-receipt by the comptroller of the said notice shall be sufficient proof, the applicant shall be deemed to have abandoned his application.

Mode of giving notice that the matter has been brought before the Court.

(4.) Such notice to the comptroller shall be given by delivering at or sending to the Patent Office a copy of the summons or other initiatory proceeding bearing an endorsement of service signed by the applicant or his solicitor, or an endorsement of acceptance of service signed by the opponent or his solicitor.

Register of Trade Marks.

Time of registration of trade marks.

30. As soon as may be after the expiration of two months from the date of the first advertisement of the application, the comptroller shall, subject to any such summons or other proceeding as aforesaid and the determination of the Court thereon, if he is satisfied that the applicant is entitled to

registration, and on payment of the prescribed fee, enter the name, address, and description of the applicant in the register of trade marks as the registered proprietor of the trade mark in respect of the particular goods or classes of goods described in his application.

Where applicant dies before registration, the trade mark may be registered for successor to goodwill of business.

31. In case of the death of any applicant for a trade mark after the date of his application, and before the trade mark applied for has been entered on the register, the comptroller, after the expiration of the prescribed period of advertisement, may, on being satisfied of the applicant's death, enter on the register, in place of the name of such deceased applicant, the name, address, and description of the person owning the goodwill of the business, if such ownership be proved to the satisfaction of the comptroller.

Entries to be made in register.

32. Upon registering any trade mark the comptroller shall enter in the register the date on which the application for registration was received by the comptroller (which day shall be deemed to be the date of the registration) and such other particulars as he may think necessary.

Notice of registration.

33. The comptroller shall send notice to the applicant of the registration of his trade mark, together with a reference to the advertisement of such trade mark in the official paper.

Request by subsequent proprietor.

34. Where a person becomes entitled to a registered trade mark by assignment, transmission, or other operation of law, a request for the entry of his name in the register as proprietor of the trade mark shall be addressed to the comptroller, and left at the Patent Office.

Signature of request.

35. Such request shall in the case of an individual be made and signed by the person requiring to be registered as proprietor, and in the case of a firm or partnership by some one or more members of such firm or partnership, or in either case by his or their agent respectively duly authorized to the satisfaction of the comptroller, and in the case of a body corporate by their agent, authorized in like manner.

Contents of request.

36. Every such request shall state the name, address, and description of the person claiming to be entitled to the trade mark (hereinafter called the claimant), and the particulars of the assignment, transmission, or other operation of law, by virtue of which he requires to be entered in the register as proprietor, so as to show the manner in which, and the person or persons to whom, the trade mark has been assigned or transmitted, and so as to show further that it has been so assigned or transmitted in connection with the goodwill of the business concerned in the particular goods or classes of goods for which the trade mark has been registered.

Declaration to accompany request.

37. Every such request shall be accompanied by a statutory declaration to be thereunder written, verifying the several statements therein, and declaring that the particulars above described comprise every material fact and document affecting the proprietorship of the trade mark as claimed by such request.

Further proof of title if required.

38. The claimant shall furnish to the comptroller such other proof of title and of the existence and ownership of such goodwill as aforesaid as he may require for his satisfaction.

Body corporate.

39. A body corporate may be registered as proprietor by its corporate name.

Definition of applicant.

40. The term "applicant" in Rules 17, 18, and 19 shall include each of several persons claiming to be registered as proprietor of the same trade mark.

Comptroller may require statement from rival claimants.

41. Whether all of such persons so claiming require to be heard before the comptroller or not, he may, before exercising the discretion vested in him by section 71 of the said Act, require such persons, or any or either of them, to submit a statement in writing within a time to be notified by him, or to attend before him and make oral explanations with respect to such matters as the comptroller may require.

Submission to Court of conflicting claims.

42. Where each of several persons claims to be registered as proprietor of the same trade mark, and the comptroller refuses to register any of them until their rights have been determined according to law, the manner in which the rights of such claimants may be submitted to the Court by the comptroller or if the comptroller so require, by the claimants, shall, unless the Court otherwise order, be by a special case; and such special case shall be filed and proceeded with in like manner as any other special case submitted to the Court, or in such other manner as the Court may direct.

Settlement of special case.

43. Where the special case is to be submitted to the parties it may be agreed to by them, or if they differ, may be settled by the comptroller on payment of the prescribed fees.

44. Where an order has been made by the Court in either of the following cases, viz.:—

(*a*) allowing an appeal under section 62 of the said Act;

(*b*) disallowing an opposition to registration under section 69; or,

(*c*) under the provisions of sections 72, 90, or 92 of the said Act,

the person in whose favour such order has been made, or such one of them, if more than one, as the comptroller may direct, shall forthwith leave at the Patent Office an office copy of such order. The register shall thereupon be rectified or

altered, or the purport of such order shall otherwise be duly entered in the register, as the case may be.

Removal of mark from register.

45. Where a trade mark has been removed from the register for nonpayment of the prescribed fee or otherwise, under the provisions of section 79 of the said Act, the comptroller shall cause to be entered in the register a record of such removal and the cause thereof.

Alteration of address in register.

46. If the registered proprietor of a trade mark send to the comptroller, together with the prescribed fee, notice of an alteration in his address, the comptroller shall alter the register accordingly.

Publication of rectification or variation of register.

47. Whenever an order is made by the Court for making, expunging, or varying an entry from or in the register, the comptroller shall, if he thinks that such rectification or variation should be made public, and at the expense of the person applying for the same, publish, by advertisement or otherwise, and in such manner as he thinks just, the circumstances attending the rectification or variation in the register.

Notice to comptroller of order of Court for alteration of trade mark under sect. 92 of Act.

48. Whenever the registered proprietor of any trade mark intends to apply for the leave of the Court to add to or to alter such trade mark, under section 92 of the said Act, the notice to be given to the comptroller shall be given fourteen days at least before such application. If leave be granted on such application the applicant shall forthwith supply to the comptroller such a number of representations of the trade mark as altered as he may deem sufficient.

Inspection of Register.

Hours of inspection.

49. The Register of Trade Marks shall be open to the inspection of the public, on payment of the prescribed fee, on every weekday between the hours of ten and four, except on the days and at the times following:—

(*a*) Christmas Day, Good Friday, the day observed as her Majesty's birthday, days observed as days of public fast or thanksgiving, and days observed as holidays at the Bank of England; or

(*b*) Days which may from time to time be notified by a placard posted in a conspicuous place at the Patent Office;

(*c*) Times when the register is required for any purpose of official use.

Power to dispense with Evidence.

Dispensing with evidence.

50. Where under these Rules any person is required to do any act or thing, or to sign any document, or to make any declaration on behalf of himself or of any body corporate, or

any document or evidence is required to be produced to or left with the comptroller, or at the Patent Office, and it is shown to the satisfaction of the comptroller that from any reasonable cause such person is unable to do such act or thing, or to sign such document, or make such declaration, or that such document or evidence cannot be produced or left as aforesaid, it shall be lawful for the comptroller, with the sanction of the Board of Trade, and upon the production of such other evidence, and subject to such terms as they may think fit, to dispense with any such act or thing, document, declaration, or evidence.

Amendments.

Amendment of documents.

51. Any document or drawing or other representation of a trade mark for the amending of which no special provision is made by the said Act may be amended, and any irregularity in procedure which in the opinion of the comptroller may be obviated without detriment to the interests of any person may be corrected, if the comptroller think fit, and on such terms as he may direct.

Enlargement of Time.

Comptroller may enlarge time.

52. The time prescribed by these Rules for doing any act, or taking any proceeding thereunder, may be enlarged by the comptroller, if he think fit, and upon such notice to other parties, and proceedings thereon, and upon such terms, as he may direct.

Cutlers' Company.

Sheffield applications in duplicate.

53. All applications to the Cutlers' Company for registration of a trade mark, under section 81 of the said Act, shall be in duplicate, accompanied by the prescribed fees and representations.

Notice to comptroller.

54. The Cutlers' Company shall within seven days of the receipt by them of an application to register a trade mark, send the comptroller one copy of such application, by way of notice thereof, together with two representations of the mark for each class for which the applicant seeks registration.

Time within which comptroller may object to application made at Sheffield.

55.—(1.) The time within which the comptroller shall give notice to the Cutlers' Company of any objection he may have to the acceptance of an application for registration made to the said company shall be one month from the date of the receipt by the comptroller of the notice from the said company of the making of the application.

Advertisement of application made at Sheffield.

(2.) If no such objection is made by the comptroller, the Cutlers' Company shall require the applicant to send the comptroller a wood block or electrotype as the comptroller

may direct, and the comptroller shall, if satisfied with such wood block or electrotype, advertise the application in the same manner as an application made to him at the Patent Office.

Manner of notifying to Cutlers' Company application received by comptroller.

(3.) The manner in which the comptroller shall notify to the Cutlers' Company an application and proceedings thereon made as mentioned in sub-section (8) of section 81 of the said Act shall be by sending to the Cutlers' Company a copy of the official paper containing the application of which notice is required to be given, with a note distinguishing such application.

Similarity of proceedings at London and at Sheffield.

56. The provisions of these Rules as to forms, representations, the proceedings on opposition to registration, registration, and all subsequent proceedings shall, as far as the circumstances allow, apply to all applications to register made to the Cutlers' Company, and to all proceedings consequent thereon.

Certificates.

Certificate by comptroller.

57. The comptroller, when required for the purpose of any legal proceedings or other special purpose, to give a certificate as to any entry, matter, or thing which he is authorized by the said Act or any of these Rules to make or do, may, on receipt of a request in writing, and on payment of the prescribed fee, give such certificate, and shall specify on the face of it the legal proceeding or other purpose for which such certificate is granted.

Declarations.

Manner in which, and persons before whom, declaration is to be taken.

58. The statutory declarations required by the said Act and these Rules, or used in any proceedings thereunder, shall be made and subscribed as follows:—

(*a*) In the United Kingdom, before any justice of the peace, or any commissioner or other officer authorized by law in any part of the United Kingdom to administer an oath for the purpose of any legal proceeding;

(*b*) In any other part of her Majesty's dominions, before any Court, judge, justice of the peace, or any officer authorized by law to administer an oath there for the purpose of a legal proceeding; and

(*c*) If made out of her Majesty's dominions, before a British minister, or person exercising the functions of a British minister, or a consul, vice-consul, or other person exercising the functions of a British consul, or a notary public, or before a judge or magistrate.

59. Any document purporting to have affixed, impressed, or subscribed thereto or thereon the seal or signature of any person hereby authorized to take such declaration in testimony of such declaration having been made and subscribed before him, may be admitted by the comptroller without proof of the genuineness of any such seal or signature, or of the official character of such person or his authority to take such declaration. Notice of seal of officer taking declaration to prove itself.

REPEAL.

60. All general rules as to the registration of trade marks heretofore made by the Lord Chancellor under the Trade Marks Registration Act, 1875, and in force on the 31st day of December, 1883, shall be, and they are hereby repealed, as from that date, without prejudice, nevertheless, to any proceedings which may have been taken under such Rules. Previous rules repealed.

J. CHAMBERLAIN,
President of the Board of Trade.

21st December, 1883.

PATENT OFFICE, TRADE MARKS BRANCH.

INSTRUCTIONS TO PERSONS WHO WISH TO REGISTER TRADE MARKS.

(Issued by the Comptroller in January, 1884.)

PRELIMINARY.

1. All communications relating to Trade Marks, not being Sheffield marks, should be addressed to the comptroller, Patent Office, Trade Marks Branch. All applications should be in the English language.

They may be made by post, or left at the Patent Office, Trade Marks Branch, 25, Southampton Buildings, Chancery Lane, London, W.C.

2. The fees in relation to Trade Marks Registration cannot be received at the Patent Office. They should be paid in exchange for the stamped forms required, which may be obtained at the following places (see list of Post Offices at which forms may be obtained, *post*, p. 215).

3. The following is a list of the stamped forms under the Patents, Designs and Trade Marks Act, 1883, which relate to trade marks, and which may be obtained at the places mentioned above:—

TRADE MARKS.

Letter.	Title of Form.	Fee. £	s.	d.
F	Application for Registration of Trade Mark	0	5	0
G	Additional Representation Form	No stamp.		
H	Appeal to Board of Trade on Refusal of Comptroller to Register a Trade Mark	1	0	0
I	Registration Fee	1	0	0
J	Notice of Opposition to Application for Registration	1	0	0
K	Request to enter Name of subsequent Proprietor, with Declaration in support thereof.....	1	0	0
L	Request for Certificate of Refusal to Register a Trade Mark	1	0	0
M	Notice of Application for Alteration of Address	0	5	0
N	Notice of Application for Alteration or Rectification of Register	0	10	0
O	Application to Cancel Entry of Mark on Register ..	0	5	0

Letter.	Title of Form.	Fee. £	s.	d.
Q	Request for Correction of Clerical Error.....	0	5	0
R	Request for Certificate of Registration for use Abroad	0	5	0
S	Request for Certificate of Registration for use in Legal Proceedings	0	10	0
T	Application for Settlement of a Special Case.....	2	0	0
T 1	Request for General Certificate of Comptroller.....	0	5	0
V	Request for Copy of *Official Notification*	0	2	0
W	Appeal from Cutlers' Company at Sheffield to Comptroller.....	1	0	0

Of the above forms those bearing the letters "F," "G," and "I" are kept in stock at the various offices named in paragraph 2. Any of the others when required must be bespoken.

Sale of Official Publications.

4. The Patents, Designs, and Trade Marks Act, 1883, and the Rules thereunder in relation to the registration of trade marks should be carefully studied. Copies of the Act and the Trade Marks Rules can be had on payment of 2*s.* 2*d.* for each copy, at 38, Cursitor Street, Chancery Lane, London, E.C.

Post Office Orders, sent in payment for the Act and Rules, should be for the sum of 2*s.* 2*d.*, made payable to H. Reader Lack, at the Chancery Lane Post Office.

5. The Act and the Trade Marks Rules may also be obtained for the above sum from any of the following publishers:—

Knight & Co., 90, Fleet Street;
Stevens & Sons, 119, Chancery Lane;
E. Stanford, 55, Charing Cross;
Shaw & Sons, Fetter Lane;
Butterworths, 7, Fleet Street;
G. Downing, 8, Quality Court, Chancery Lane;
Trübner & Co., 57 and 59, Ludgate Hill;
Waterlow & Sons, Limited, 25, 26, and 27, Great Winchester Street; 95 and 96, London Wall; Finsbury Stationery Works; and 49, Parliament Street;
J. M. Johnson & Sons, Limited, 1, Castle Street, Holborn;
Waterlow Bros. & Layton, 23, 24, and 25, Birchin Lane; and 28, 29, and 30, Lime Street;
Palmer & Howe, 73, 75, and 77, Princess Street, Manchester;
A. Thom & Co., 87 and 88, Abbey Street, Dublin;
A. & C. Black, Edinburgh.

Copies will also be sent by post by any of the above publishers on a prepaid application, containing the name and address of the sender, and accompanied by a Post Office Order for the amount due in respect of the copies required, together with 1½*d.* postage for each copy of the Act and Rules.

6. Copies of the *Trade Marks Journal* may be obtained from any of the publishers named in para. 5. Price 1*s.* a number.

Definition of a Trade Mark.

7. The definition of a trade mark (not used prior to the 13th August, 1875) is given in the 64th section of the Patents, Designs, and Trade Marks Act, 1883, as follows:—

"For the purposes of this Act, a trade mark must consist of or contain at least one of the following essential particulars:

"A name of an individual or firm printed, impressed or woven in some particular and distinctive manner; or

"A written signature or copy of a written signature of the individual or firm applying for registration thereof as a trade mark; or

"A distinctive device, mark, brand, heading, label, ticket, or fancy word or words not in common use."

All new marks, therefore, which it is desired to register *must include one or more of the above essential particulars.*

The 64th section goes on—"There may be added to any one or more of these particulars any letters, words or figures, or combination of letters, words or figures, or any of them."

In addition to the above—

"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."

A person wishing to adopt a trade mark should, before engraving a block and circulating impressions of the mark among his customers, make a search or a formal application at the Trade Marks Branch of the Patent Office with the view of ascertaining whether his proposed mark is already registered, or whether, from its being calculated to deceive by a resemblance to other marks already on record, it would be refused registration under the 72nd section of the Patents, Designs, and Trade Marks Act, 1883.

The fee for making a search amongst the classified representations of trade marks is 1*s.* for every quarter of an hour. The fee for a formal application is 5*s.*

The comptroller does not undertake to make searches amongst the trade marks recorded at his office, except in connexion with formal applications for registration.

Applications for Registration.

8. Applications sent by post should be addressed to—

The Comptroller,
Patent Office,
Trade Marks Branch,
25, Southampton Buildings,
London, W.C.

Agents and other persons who may be interested in more than one application are particularly requested to make communications relating to different applications in *separate* letters.

9. An application for the registration of a trade mark consists of :—

(*a*) An application form (Form "*F.*" in the Second Schedule to the Trade Marks Rules, 1883), giving certain particulars (specified in the form), and bearing an impressed stamp of 5*s.*

(The applicant should before filling up the form carefully read the marginal notes.)

(*b*) Certain additional representations of the trade mark, mounted on forms (Form "*G.*").

10. A *separate* application form is required for *each* class.

11. If the mark be the property of a firm, it should be signed by a member of the firm, who should add after his signature "A member of the firm;" if of a company, by the secretary or other principal officer, who should add after his signature and designation, "for the company."

12. Applications may be made by agents in the names of and on behalf of the owners of trade marks. The agent must be duly authorized by the owner or owners; the necessary authority should be signed by the owner or owners.

Applications made by agents should have after the name of the agent the description "Agent."

13. A representation of the trade mark should be placed in the centre of the application form.

14. When an application is made for a trade mark used on any metal goods other than cutlery, edge tools, and raw steel, it should be stated in the application form of what metal or

metals the goods are made. See sect. 81 of the Act as to Sheffield marks.

15. When the mark consists of or includes words printed in other than Roman characters, there should be given at the back of or at the foot of the application form and of each of the additional representations a translation of such words, signed by the applicant or his agent.

In the case of marks claimed in Classes 23, 24, or 25, the applicant should state by what name the particular mark claimed would be referred to in the invoices of his house.

Additional Representations of Mark.

16. Each of the additional representations should be placed in the centre of a separate form (Form "*G.*").

In the case of a trade mark which is not claimed in Classes 23 to 35, *two* additional representations are required for *each* class claimed.

In the case of a trade mark claimed in any one or more of the Classes 23 to 35, *three* additional representations should be sent for *each* of such classes.

The representations of the mark on the Form "*G.*" must agree *in every respect* with each other, and with that on the Form "*F.*"

17. Representations of a mark of a large size may be folded. In that case they must, however, be backed with linen and firmly affixed to the forms. Representations must in no case be executed *in pencil*. They should be not only of a durable nature, but of such a kind as will admit of their being preserved and bound together in volumes as records of the property of the owners.

SERIES OF TRADE MARKS.

18. By section 66 of the Patents, Designs, and Trade Marks Act, 1883, the comptroller is empowered to register under one registration a series of trade marks which, whilst they resemble each other in the material particulars, differ from each other in respect of the statements of the goods for which they are used, of the statements of numbers, of the statements of price, of the statements of quality, or of the statements of names of places. When an application is made for such a series, a representation of each of the marks included in the series must be affixed to the Form "*F.*," and also to each of the Forms "*G.*"

Common or Open Marks.

19. In the case of a trade mark used before the 13th August, 1875, common or open marks of any kind may be registered in connection with it, but in the case of a trade mark not so used, common or open marks consisting of *a word or combination of words only* can be registered as part of the mark.

In each case, the applicant for entry of such common particular or particulars must disclaim the right to the exclusive use of the same in a note at the back of or at the foot of the application form and of each of the additional representations, such note to be signed by the applicant or his agent.

See section 74 of the Act, sub-section 3, for definition of common marks.

Classification of Goods.

20. A guide to the classification of goods under the Trade Marks Rules, 1883, can be obtained on application at the Patent Office, Trade Marks Branch, and should be asked for if the applicant feels any difficulty in determining to which of the classes set out in the Third Schedule to the Rules the goods for which he uses his mark belong.

Advertisement in the Trade Marks Journal.

21. A trade mark cannot in any case be entered upon the Register until two months after its advertisement in the official paper.

22. A wood-block or electrotype must be furnished for each mark in each class claimed (except in the case of classes 23, 24, and 25, for which no blocks or electrotypes are required), but no block or electrotype should be forwarded until a formal demand for it is sent by the comptroller.

23. In the case of a series of trade marks differing only in respect of the particulars mentioned in section 66 of the Patents, Designs, and Trade Marks Act, 1883, a wood-block or electrotype must be furnished for each mark in the series for each class claimed.

24. The wood-blocks or electrotypes furnished must correspond *exactly* with the representations, must afford *perfectly distinct* impressions of the marks, and must be upon a scale sufficiently large to reproduce the marks faithfully. Worn or mutilated blocks or electrotypes cannot be accepted.

25. The largest space available for the insertion of any single block or electrotype is eight and a-half inches broad by ten inches deep.

When a block or electrotype *exceeds two inches in depth*, a charge for additional space is made, at the rate of two shillings for every inch or part of an inch beyond the two inches.

26. The number given by the comptroller should *not* be cut on the face of the block or electrotype, but should be *marked upon the side* in such a manner as to secure its identification.

27. All blocks or electrotypes should be sent to the Patent Office, Trade Marks Branch, together with the papers marked "Form 2," and with the representation of the mark sent for the guidance of the applicant in preparing the blocks or electrotypes.

28. The blocks or electrotypes supplied for the advertisement of trade marks cannot in any case be returned to applicants.

Restrictions on Registration.

29. Ornamental or coloured groundwork, such as tartans or checks, cannot be claimed as part of a mark unless such groundwork be included within the mark by some border or lines.

30. The Royal Arms, or arms so nearly resembling them as to be calculated to deceive, and the words "registered," "registered design," "copyright," "entered at Stationers' Hall," "to counterfeit this is forgery," "patent," "patented," will not be registered under the Patents, Designs, and Trade Marks Act, 1883, and should not, therefore appear upon the representations of trade marks forming part of an application.

31. The following will not be registered as trade marks, or as prominent parts of trade marks, unless the marks have been used before 13th August, 1875:—

Representations of her Majesty the Queen, or of any member of the Royal family.
Representations of the Royal Crown.
National arms or flags.
Prize or exhibition medals.

32. When there appears on the face of a trade mark an indication of the goods to which the mark is applied, the claim for its registration must be in respect of those goods only.

Forms of Counter-statement and Bond.

33. For these forms, see *post*, pp. 237, 244.

34. Before he is required to bring an opposition matter before the Court under Rule 29, the Applicant is afforded an opportunity of objecting, if he think fit, to the solvency of the security for the costs which may be awarded in respect of the opposition.

Fees.

35. See the First Schedule to the Trade Mark Rules, 1883, and the List of Forms, para. 3, of these Instructions.

36. *An application for the registration of a trade mark will not be entered by the comptroller unless it be accompanied by the proper fees in impressed stamps.*

Cutlers' Company.

37. By section 81, sub-section (3) of the Patents, Designs, and Trade Marks Act, 1883, application for the registration of trade marks 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 by a person carrying on business in Hallamshire, or within six miles thereof, be made to the Cutlers' Company.

See Rules 53 to 56 and para. 14 of these Instructions.

Applications made to the Cutlers' Company in pursuance of section 81 of the Patents, Designs, and Trade Marks Act, 1883, should be made on Form F, the address in the left-hand corner to be, "To the Cutlers' Company, Sheffield," instead of "To the Comptroller," and should be left at, or sent by post to, the Cutlers' Hall, Sheffield.

Each application should be accompanied by an unstamped copy on foolscap paper. See Rule 53.

Applications sent by post should be addressed—

Chas. Macro Wilson, Esq.,
The Law Clerk,
The Cutlers' Hall,
Sheffield.

Manchester Office.

38. For the convenience of merchants and manufacturers engaged in the cotton trade, and for the purpose of facilitating the recording of trade marks used in respect of cotton goods, an office will be opened at 48, Royal Exchange, Manchester, where searches can be made on payment of 1*s.* for each quarter of an hour for all marks in classes of textiles from Class 23 to Class 35.

Certificates.

39. The comptroller's certificate in relation to a trade mark is of four kinds, viz.:—

(i.) For use in legal proceedings.

(ii.) For use in applying for registration in foreign countries.
(iii.) Of any application made and of proceedings thereon.
(iv.) A certificate of refusal of a mark in use before 13th August, 1875, and not registerable.

40. A person desirous of obtaining any of the above certificates should forward Form R, Form S, Form T 1, or Form L (see para. 3), as the case may be, to the comptroller, giving the comptroller's official number of the mark, and stating whether the certificate is required for use in legal proceedings, or for use in applying for the registration of the mark in a foreign country, or for what other purpose.

The form should be accompanied by two unmounted copies of each mark for which a certificate is required.

41. In every case where a certificate is required in respect of a cotton mark, or in respect of any trade mark of which the representations or specimens forming part of the application for registration are *coloured*, two unmounted copies of the mark must be supplied, agreeing *in every respect* with the representations forming part of the application for registration. Special attention should be paid to this requirement, as the certificate cannot in any such case be prepared until these unmounted copies are received by the comptroller.

Registration of Subsequent Proprietors of Registered Trade Marks.

42. The request and declaration to be made by a subsequent proprietor on application for the registration in his name of a registered trade mark must be made on Form K (see para. 3).

H. READER LACK,
Comptroller.

Patent Office, Trade Marks Branch,
London,
January, 1884.

PATENTS FEES.

(First Schedule to Patents Rules.)

LIST OF FEES PAYABLE ON AND IN CONNEXION WITH LETTERS PATENT.

Up to Sealing.

	£	s.	d.	£	s.	d.
1. On application for provisional protection . .	1	0	0			
2. On filing complete specification	3	0	0			
				4	0	0
or						
3. On filing complete specification with first application .				4	0	0
4. On appeal from comptroller to law officer. By appellant .				3	0	0
5. On notice of opposition to grant of patent. By opponent.				0	10	0
6. On hearing by comptroller. By applicant and by opponent respectively				1	0	0
7. On application to amend specification :—						
Up to sealing. By applicant				1	10	0
8. After sealing. By patentee				3	0	0
9. On notice of opposition to amendment. By opponent .				0	10	0
10. On hearing by comptroller. By applicant and by opponent respectively				1	0	0
11. On application to amend specification during action or proceeding. By patentee				3	0	0
12. On application to the Board of Trade for a compulsory license. By person applying.				5	0	0
13. On opposition to grant of compulsory license. By patentee				5	0	0
14. On certificate of renewal :—						
Before end of 4 years from date of patent . . .				50	0	0
15. Before end of 7 years, or in the case of patents granted under the Patents, Designs, and Trade Marks Act, 1883, before the end of 8 years from date of patent				100	0	0
or in lieu of the fees of 50*l.* and 100*l.*, the following annual fees :—						
16. Before the expiration of the 4th year from the date of the patent				10	0	0
17. ,, ,, 5th ,, ,, .				10	0	0
18. ,, ,, 6th ,, ,, .				10	0	0
19. ,, ,, 7th ,, ,, .				10	0	0
20. ,, ,, 8th ,, ,, .				15	0	0
21. ,, ,, 9th ,, ,, .				15	0	0

		£	s.	d.
22.	Before the expiration of 10th year from the date of the patent	20	0	0
23.	,, ,, 11th ,, ,,	20	0	0
24.	,, ,, 12th ,, ,,	20	0	0
25.	,, ,, 13th ,, ,,	20	0	0
	On enlargement of time for payment of renewal fees:—			
26.	Not exceeding 1 month	3	0	0
27.	,, 2 months	7	0	0
28.	,, 3 months	10	0	0
29.	For every entry of an assignment, transmission, agreement, license or extension of patent	0	10	0
30.	For duplicate of letters patent . . . . . each	2	0	0
31.	On notice to comptroller of intended exhibition of a patent under section 39	0	10	0
32.	Search or inspection fee . . . . . each	0	1	0
33.	For office copies . . . . . every 100 words (but never less than one shilling)	0	0	4
34.	,, of drawings, cost according to agreement.			
35.	For certifying office copies, MSS. or printed . . each	0	1	0
36.	On request to comptroller to correct a clerical error . .	0	5	0
37.	For certificate of comptroller under section 96 . . .	0	5	0
38.	For altering address in register	0	5	0

(Signed) J. CHAMBERLAIN,
President of the Board of Trade.

21st December, 1883.

Approved:

(Signed) CHARLES C. COTES,
HERBERT J. GLADSTONE,
Lords Commissioners of
Her Majesty's Treasury.

4th December, 1883.

DESIGNS FEES.

(First Schedule to Designs Rules.)

FEES.

	£	s.	d.
1. On application to register one design to be applied to single articles in each class except classes 13 and 14 - -	0	10	0
2. On application to register one design to be applied to single articles in classes 13 and 14 - - - -	0	1	0
3. On application to register one design to be applied to a set of articles for each class of registration - - -	1	0	0
4. On notice of appeal to Board of Trade against refusal of comptroller to register - - - - -	1	0	0
5. Copy of certificate of registration, each copy - -	0	1	0
6. On request for certificate of comptroller for legal proceedings or other special purpose - - - - -	0	5	0
7. On request to enter name of subsequent proprietor	same as registration fee.		
8. On notice to comptroller of intended exhibition of an unregistered design - - - - -	0	5	0
9. Inspection of design of which the copyright has expired, for each quarter of an hour - - - - -	0	1	0
10. Copy of one such design - - - -	cost according to agreement.		
11. On request to correct clerical error - - -	0	5	0
12. On request for search under section 53 - -	0	5	0
13. On request to enter new address - - -	0	5	0
14. For office copy, every 100 words - - -	0	0	4
	(but never less than 1*s.*)		
15. For certifying office copies, MSS. or printed -	0	1	0

NOTE.—The term "set" to include any number of articles ordinarily on sale together irrespective of the varieties of size and arrangement in which the particular design may be shown on each separate article.

J. CHAMBERLAIN,
President of the Board of Trade.

Approved,
CHARLES C. COTES,
HERBERT J. GLADSTONE,
Lords Commissioners of Her Majesty's Treasury.

4th December, 1883.

TRADE MARKS FEES.

(First Schedule to Trade Marks Rules.)

FEES.

	£	s.	d.
1. On application to register a trade mark for one or more articles included in one class	0	5	0
2. On appeal to Board of Trade on refusal of comptroller to register	1	0	0
3. For registration of a trade mark for one or more articles included in one class	1	0	0
4. For registering a series of trade marks, for every additional representation after the first in each class	0	5	0
5. For entering notice of opposition, for each trade mark, whether in one or more classes	1	0	0
6. On application to register a subsequent proprietor in cases of assignment or transmission, the first mark	1	0	0
7. For every additional mark assigned or transmitted at the same time	0	2	0
8. For certificate of refusal to register a trade mark under section 77	1	0	0
9. For certificate of refusal at the same time for more than one trade mark, for each additional trade mark after the first	0	10	0
10. For continuance of mark at expiration of fourteen years	1	0	0
11. Additional fee where fee is paid within three months after expiration of fourteen years	0	10	0
12. Additional fee for restoration of trade mark where removed for nonpayment of fee	1	0	0
13. For altering address on the register, for every mark	0	5	0
14. For every entry in the register of a rectification thereof or an alteration therein, not otherwise charged	0	10	0
15. For cancelling the entry or part of the entry of a trade mark upon the register, on the application of the owner of such trade mark	0	5	0
16. On request to comptroller to correct a clerical error	0	5	0
17. For certificate of registration to be used in legal proceedings	0	10	0
18. For certificate of registration to be used for the purpose of obtaining registration in foreign countries	0	5	0
19. For copy of notification of registration	0	2	0
20. Settling a special case by comptroller	2	0	0
21. For inspecting register, for every quarter of an hour	0	1	0
22. For making a search amongst the classified representations of trade marks, for every quarter of an hour	0	1	0

	£	s.	d.
23. For office copy of documents, for every 100 words (but never less than one shilling).	0	0	4
24. For certifying office copies, MS. or printed	0	1	0
25. For certificate of comptroller under section 96	0	5	0
26. In cases where a trade mark requires a greater space than two inches of the depth of the page of the *Trade Marks Journal*, for each additional inch or part of an inch	0	2	0
27. Manchester Trade Marks Office	Same as above		
28. Sheffield Marks	Same as above		
29. On appeal from Cutlers' Company, Sheffield, to comptroller	1	0	0

J. CHAMBERLAIN,
President of the Board of Trade.

Approved,
CHARLES C. COTES,
HERBERT J. GLADSTONE,
Lords Commissioners of
Her Majesty's Treasury.

4th December, 1883.

CLASSIFICATION OF GOODS FOR REGISTRATION OF DESIGNS.

(Third Schedule to Designs Rules.)

CLASSIFICATION OF ARTICLES OF MANUFACTURE AND SUBSTANCES.

Classes.

1. Articles composed wholly or partly of metal, not included in Class 2.
2. Jewellery.
3. Articles composed wholly or partly of wood, bone, ivory, papier mâché, or other solid substances not included in other classes.
4. Articles composed wholly or partly of glass, earthenware or porcelain, bricks, tiles, or cement.
5. Articles composed wholly or partly of paper (except hangings).
6. Articles composed wholly or partly of leather, including bookbinding, of all materials.
7. Paper hangings.
8. Carpets and rugs in all materials, floorcloths, and oilcloths.
9. Lace, hosiery.
10. Millinery and wearing apparel, including boots and shoes.
11. Ornamental needlework on muslin or other textile fabrics.
12. Goods not included in other classes.
13. Printed or woven designs on textile piece goods.
14. Printed or woven designs on handkerchiefs and shawls.

CLASSIFICATION OF GOODS FOR REGISTRATION OF TRADE MARKS.

(Third Schedule to Trade Marks Rules.)

GENERAL NOTE.

Any wares made of mixed materials (for example, of both cotton and silk) shall be included in such one of the classes appropriated to those materials as the registrar may desire.

CLASSIFICATION OF GOODS.

	Illustrations.
	Note.—Goods are mentioned in this column by way of illustration, and not as an exhaustive list of the contents of a class.
CLASS 1.	
Chemical substances used in manufactures, photography, or philosophical research, and anti-corrosives.	Such as—Acids, including vegetable acids; alkalies; artists' colours; pigments; mineral dyes.
CLASS 2.	
Chemical substances used for agricultural, horticultural, veterinary, and sanitary purposes.	Such as—Artificial manure; cattle medicines; deodorisers; vermin destroyers.
CLASS 3.	
Chemical substances prepared for use in medicine and pharmacy.	Such as—Cod liver oil; medicated articles; patent medicines; plasters; rhubarb.
CLASS 4.	
Raw or partly prepared vegetable, animal, and mineral substances used in *manufactures*, not included in other classes.	Such as—Resins; oils used in manufactures and not included in other classes; dyes, other than mineral; tanning substances; fibrous substances (*e.g.*, cotton, hemp, flax, jute); wool; silk; bristles; hair; feathers; cork; seeds; coal; coke; bone; sponge.

	Illustrations.
CLASS 5.	
Unwrought and partly wrought metals used in manufacture.	Such as—Iron and steel, pig or cast; iron, rough; iron, bar and rail, including rails for railways; iron, bolt and rod; iron, sheet, and boiler and armour plates; iron, hoop; lead, pig; lead, rolled; lead, sheet; wire; copper; zinc; gold, in ingots.
CLASS 6.	
Machinery of all kinds, and parts of machinery, except agricultural and horticultural machines included in Class 7.	Such as—Steam engines; boilers; pneumatic machines; hydraulic machines; locomotives; sewing machines; weighing machines; machine tools; mining machinery; fire engines.
CLASS 7.	
Agricultural and horticultural machinery, and parts of such machinery.	Such as—Ploughs; drilling machines; reaping machines; thrashing machines; churns; cyder presses; chaff cutters.
CLASS 8.	
Philosophical instruments, scientific instruments, and apparatus for useful purposes. Instruments and apparatus for teaching.	Such as—Mathematical instruments; gauges; logs; spectacles; educational appliances.
CLASS 9.	
Musical instruments.	
CLASS 10.	
Horological instruments.	
CLASS 11.	
Instruments, apparatus, and contrivances, not medicated, for surgical or curative purposes, or in relation to the health of men or animals.	Such as—Bandages; friction gloves; lancets; fleams; enemas.
CLASS 12.	
Cutlery and edge tools.	Such as—Knives; forks; scissors; shears; files; saws.
CLASS 13.	
Metal goods not included in other classes.	Such as—Anvils; keys; basins (metal); needles; hoes; shovels; corkscrews.
CLASS 14.	
Goods of precious metals (including aluminium, nickel, Britannia metal, &c.) and jewellery, and imitations of such goods and jewellery.	Such as—Plate; clock cases and pencil cases of such metals; Sheffield and other plated goods; gilt and ormolu work.

		Illustrations.
CLASS 15.		
Glass.		Such as—Window and plate glass; painted glass; glass mosaic; glass beads.
CLASS 16.		
Porcelain and earthenware.		Such as—China; stoneware; terra cotta; statuary porcelain; tiles; bricks.
CLASS 17.		
Manufactures from mineral and other substances for building or decoration.		Such as—Cement; plaster; imitation marble; asphalt.
CLASS 18.		
Engineering, architectural, and building contrivances.		Such as—Diving apparatus; warming apparatus; ventilating apparatus; filtering apparatus; lighting contrivances: drainage contrivances; electric and pneumatic bells.
CLASS 19.		
Arms, ammunition, and stores not included in Class 20.		Such as—Cannon; small-arms; fowling-pieces; swords; shot and other projectiles; camp equipage; equipments.
CLASS 20.		
Explosive substances.		Such as—Gunpowder; gun-cotton; dynamite; fog-signals; percussion caps; fireworks; cartridges.
CLASS 21.		
Naval architectural contrivances and naval equipments not included in Classes 19 and 20.		Such as—Boats; anchors; chain cables; rigging.
CLASS 22.		
Carriages.		Such as—Railway carriages; waggons; railway trucks; bicycles; bath chairs.
CLASS 23.		
Cotton yarn and thread.		Such as—Sewing cotton on spools or reels; sewing cotton not on spools or reels; dyed cotton yarns.
CLASS 24.		
Cotton piece goods of all kinds.		Such as—Cotton shirtings; long cloth.
CLASS 25.		
Cotton goods not included in Classes 23, 24, or 38.		Such as—Cotton lace; cotton braids; cotton tapes.

	Illustrations.
CLASS 26. Linen and hemp yarn and thread.	
CLASS 27. Linen and hemp piece goods.	
CLASS 28. Linen and hemp goods not included in Classes 26, 27, and 50.	
CLASS 29. Jute yarns and tissues, and other articles made of jute not included in Class 50.	
CLASS 30. Silk, spun, thrown, or sewing.	
CLASS 31. Silk piece goods.	
CLASS 32. Other silk goods not included in Classes 30 and 31.	
CLASS 33. Yarns of wool, worsted, or hair.	
CLASS 34. Cloths and stuffs of wool, worsted, or hair.	
CLASS 35. Woollen and worsted and hair goods not included in Classes 33 and 34.	
CLASS 36. Carpets, floor-cloth, and oil-cloth.	Such as—Drugget; mats and matting; rugs.
CLASS 37. Leather, skins unwrought and wrought, and articles made of leather not included in other classes.	Such as—Saddlery; harness; whips; portmanteaus; furs.
CLASS 38. Articles of clothing.	Such as—Hats of all kinds; caps and bonnets; hosiery; gloves; boots and shoes; other ready-made clothing.

	Illustrations.
CLASS 39.	
Paper (except paper-hangings), stationery, and book-binding.	Such as—Envelopes; sealing-wax; pens (except gold pens); ink; playing cards; blotting cases; copying presses.
CLASS 40.	
Goods manufactured from india-rubber and gutta-percha not included in other classes.	
CLASS 41.	
Furniture and upholstery.	Such as—Paper hangings; papier-mâché; mirrors; mattresses.
CLASS 42.	
Substances used as food, or as ingredients in food.	Such as—Cereals; pulses; olive oil; hops; malt; dried fruits; tea; sago; salt; sugar; preserved meats; confectionery; oil cakes; pickles; vinegar; beer clarifiers.
CLASS 43.	
Fermented liquors and spirits.	Such as—Beer; cyder; wine; whisky; liqueurs.
CLASS 44.	
Mineral and aërated waters, natural and artificial, including ginger-beer.	
CLASS 45.	
Tobacco, whether manufactured or unmanufactured.	
CLASS 46.	
Seeds for agricultural and horticultural purposes.	
CLASS 47.	
Candles, common soap, detergents; illuminating, heating, or lubricating oils; matches; and starch, blue, and other preparations for laundry purposes.	Such as—Washing powders; benzino collas.
CLASS 48.	
Perfumery (including toilet articles, preparations for the teeth and hair, and perfumed soap).	

	Illustrations.
CLASS 49.	
Games of all kinds and sporting articles not included in other classes.	Such as—Billiard tables; roller skates; fishing nets and lines; toys.
CLASS 50.	
Miscellaneous, including—	Such as—Coopers' wares.
(1) Goods manufactured from ivory, bone, or wood, not included in other classes.	
(2) Goods manufactured from straw or grass, not included in other classes.	
(3) Goods manufactured from animal and vegetable substances, not included in other classes.	
(4) Tobacco pipes.	
(5) Umbrellas, walking sticks, brushes and combs.	
(6) Furniture cream, plate powder.	
(7) Tarpaulins, tents, rick-cloths, rope, twine.	
(8) Buttons of all kinds, other than of precious metal or imitations thereof.	
(9) Packing and hose of all kinds.	
(10) Goods not included in the foregoing classes.	

FORMS

RELATING TO

PATENTS, DESIGNS AND TRADE MARKS.

LIST OF PLACES

At which Stamped Forms under the Patents, Designs and Trade Marks Act, 1883, *may be obtained.*

The Inland Revenue Office, Royal Courts of Justice.

The following Post Offices in London :—

London General Post Office, E.C.
District Post Office, 226, Commercial Road, E.
,, 9, Blackman Street, Borough, S.E.
,, Charing Cross, W.C.
,, 28, Eversholt Street, Camden Town, N.W.
Post Office, 12, Parliament Street, S.W.

The chief Post Offices of the following towns :—

ENGLAND AND WALES.

Accrington
Altrincham
Ashton-under-Lyne
Barnsley
Barrow-in-Furness
Bedford
Beverley
Birkenhead
Birmingham
Blackburn
Bolton
Bradford
Brighton
Bristol
Bromsgrove
Burnley
Burslem
Burton-on-Trent
Bury
Cambridge
Carlisle
Chatham
Chester
Clitheroe
Congleton
Coventry
Crowe
Darlaston
Derby
Dewsbury
Doncaster
Dorchester
Driffield
Droitwich
Dudley
Durham
Exeter
Gateshead
Goole
Greenwich
Guildford
Halifax
Hartlepool
Huddersfield
Hull
Ipswich
Keighley
Kendal
Kidderminster
Knaresbro'
Knutsford
Lancaster
Leamington
Leeds
Leicester
Lichfield
Lincoln
Liverpool
Macclesfield
Manchester
Middlesborough
Nantwich
Newcastle
Newport (Mon.)
Northallerton
Northampton
Nottingham
Nuneaton
Oldbury
Oldham
Patrington
Plymouth
Pontefract
Portsmouth
Prescot
Preston
Reading
Redditch
Richmond (Yorks.)
Ripon
Rochdale
Rotherham
Rugby
Salford
St. Helen's
Scarborough
Sedgley
Sheffield
Southampton
Stafford

ENGLAND AND WALES—*continued.*

Stalybridge
Stockport
Stoke-on-Trent
Stourbridge
Stourport
Sunderland
Swansea
Tamworth
Truro
Tunstall
Wakefield
Walsall
Warrington
Wednesbury
West Bromwich
Whitby
Widnes
Wigan
Wolverhampton
Wolverton
Woolwich
York

SCOTLAND.

Aberdeen
Dumbarton
Dundee
Edinburgh
Glasgow
Greenock
Inverness
Lanark
Paisley
Perth
Renfrew

IRELAND.

Belfast
Cork
Dublin
Dundalk
Galway
Wexford

PATENTS FORMS.

(Second Schedule to Patents Rules.)

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Patents, Designs, and Trade Marks Act, 1883.

[*Patent Stamp.*] FORM A.

Application for Patent.

(*a*) ——, do solemnly and sincerely declare that —— in possession of an invention for (*b*) —— that —— the true and first inventor thereof; and that the same is not in use by any other person or persons to the best of —— knowledge and belief; and —— humbly pray that a patent may be granted —— for the said invention.

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

(*c*) ——.

Declared at (*d*) ——, in the ——, this —— day of ——, 18—.

Before me (*e*) ——.

[Declared at (*d*) ——, in the ——, this —— day of ——, 18—.

Before me (*e*) ——.

—— (*f*).]

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 authorized in that behalf.

(*a*) Here insert name, full address, and calling of applicant or applicants.
(*b*) Here insert title of invention.
(*c*) Signature of applicant or applicants.
(*d*) If declared by more than one applicant, and at different times or places, insert after "Declared" the words "by the above-named."
(*e*) Signature and title of the person before whom the declaration is made.
(*f*) If not required as in note (*d*), strike out part within brackets.

Patents, Designs, and Trade Marks Act, 1883.

[*Patent Stamp.*] FORM A1.

Application for Patent for Inventions Communicated from Abroad.

I (*a*) ——, of ——, in the county of ——, do solemnly and sincerely declare that I am in possession of an invention for (*b*) ——, which invention has been communicated to me from abroad by (*c*) ——, that I claim to be the true and first inventor thereof; and that the same is not in use within this realm 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.

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

(*d*) ——.

Declared at ——, in the county of ——, this —— day of ——, 18—.

Before me, (*e*) ——.

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 authorized in that behalf.

(*a*) Here insert name, full address, and calling of applicant.
(*b*) Here insert title of invention.
(*c*) Here insert name, address, and calling of communicant.
(*d*) Signature of applicant.
(*e*) Signature and title of the officer before whom the declaration is made.

To be issued with Form A or A1.

Patents, Designs, and Trade Marks Act, 1883.

FORM B.

Provisional Specification.

(To be furnished in Duplicate.)

(*a*) ——. (*b*) ——, do hereby declare the nature of said invention for —— to be as follows (*c*): ——.

NOTE.—No stamp is required on this document, which must form the commencement of the Provisional Specification; the continuation to be upon wide-ruled foolscap paper (but on one side only), with a margin of two inches on left hand of paper. The Provisional Specification and the "Duplicate" thereof must be signed by the applicant or his agent on the last sheet, the date being first inserted as follows:—

"Dated this —— day of ——, 18—."

(*a*) Here insert title, as in declaration.
(*b*) Here insert name, full address, and calling of applicant or applicants, as in declaration.
(*c*) Here insert short description of invention.

Patents, Designs, and Trade Marks Act, 1883.

[*Patent Stamp.*] FORM C.

Complete Specification.

(To be furnished in Duplicate—one unstamped.)

(*a*) ———. (*b*) ———, do hereby declare the nature of ——— invention for ——— and in what manner the same is to be performed, to be particularly described and ascertained in and by the following statement: (*c*) ———

NOTE.—This document must form the commencement of the complete Specification; the continuation to be upon wide-ruled foolscap paper (but on one side only) with a margin of two inches on left hand of paper. The complete Specification and the "Duplicate" thereof must be signed by the applicant or his agent on the last sheet, the date being first inserted as follows:—

"Dated this ——— day of ———, 18—."

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

(*b*) Here insert name, full address, and calling of applicant or applicants, as in declaration.

(*c*) Here insert full description of invention, *which must end with a distinct statement of claim or claims, in the following form:*

"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—

"(1)
"(2)
"(3) ."

Here state distinctly the features of novelty claimed.

Patents, Designs, and Trade Marks Act, 1883.

[*Patent Stamp.*] FORM D.

Form of Opposition to grant of Patent.

[*To be accompanied by an unstamped copy.*]

*I ——— hereby give notice of my intention to oppose the grant of letters patent upon application No. ——— of ———, applied for by ——— upon the ground† ———.

(Signed)‡ ———.

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

* Here state name and full address.

† Here state upon which of the grounds of opposition permitted by section 11 of the Act the grant is opposed.

‡ Here insert signature of opponent or agent.

Patents, Designs, and Trade Marks Act, 1883.

[*Patent Stamp.*] FORM E.

Form of Application for Hearing by the Comptroller.

In Cases of Refusal to Accept, Opposition, or Applications for Amendments, &c.

SIR,

——— of (*a*) ——— hereby apply to be heard in reference to ——— and request that I may receive due notice of the day fixed for the hearing.

———

Sir,
Your obedient Servant,

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

(*a*) Here insert full address.

———

Patents, Designs, and Trade Marks Act, 1883.

[*Patent Stamp.*] FORM F.

Form of Application for Amendment of Specification or Drawings.

* ——— seek leave to amend the specification of Letters Patent No.—— of 188—, as shown in red ink in the copy of the original specification hereunto annexed ———.

My reasons for making this amendment are as follows † ———.

(Signed) ———.

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

* Here state name and full address of applicant or patentee.
† Here state reasons for seeking amendment; and where the applicant is not the patentee, state what interest he possesses in the letters patent.

———

Patents, Designs, and Trade Marks Act, 1883.

[*Patent Stamp.*] FORM G.

Form of Opposition to Amendment of Specification or Drawings.

[*To be accompanied by an unstamped copy.*]

* ——— hereby give notice of objection to the proposed amendment of the specification or drawings of Letters Patent No.—— of 188— for the following reason: † ———.

(Signed) ———.

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

* Here state name and full address of opponent.
† Here state reason of opposition.

Patents, Designs, and Trade Marks Act, 1883.

[*Patent Stamp.*] FORM H.

Form of Application for Compulsory Grant of License.

[*To be accompanied by an unstamped copy.*]

*——— hereby request you to bring to the notice of the Board of Trade the accompanying petition for the grant of a license to me by †———.

(Signed) ———.

NOTE.—The petition must clearly set forth the facts of the case and be accompanied by an examined copy thereof. *See* Form below.

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

* Here state name and full address of applicant.
† Here state name and address of patentee, and number and date of his patent.

Patents, Designs, and Trade Marks Act, 1883.

FORM H1.

Form of Petition for Compulsory Grant of Licenses.

To the LORDS of the COMMITTEE of PRIVY COUNCIL for TRADE.

THE PETITION of (*a*) ——— of ——— in the county of ———, being a person interested in the matter of this petition as hereinafter described:—

SHEWETH as follows:—

1. A patent dated ——— No. ——— was duly granted to ——— for an invention of (*b*) ———.

2. The nature of my interest in the matter of this petition is as follows:—(*c*)

3. (*d*)

Having regard to the circumstances above stated, the petitioner alleges that by reason of the aforesaid default of the patentee to grant licenses on reasonable terms (*e*)

Your petitioner therefore prays that an order may be made by the Board of Trade (*f*)
or that the petitioner may have such other relief in the premises as the Board of Trade may deem just.

(*a*) Here insert name, full address, and description.
(*b*) Here insert title of invention.
(*c*) Here state fully the nature of petitioner's interest.
(*d*) Here state in detail the circumstances of the case under section 22 of the said Act, and show that it arises by reason of the default of the patentee to grant licenses on reasonable terms. The statement of the case should also show as far as possible that the terms of the proposed order are just and reasonable. The paragraphs should be numbered consecutively.
(*e*) Here state the ground or grounds on which relief is claimed in the language of section 22, sub-sections (*a*), (*b*), or (*c*), as the case may be.
(*f*) Here state the purport and effect of the proposed order and the terms as to the amount of royalties, security for payment, or otherwise, upon which the petitioner claims to be entitled to the relief in question.

Patents, Designs, and Trade Marks Act, 1883.

[*Patent Stamp.*] FORM I.

Form of Opposition to Compulsory Grant of License.

* ——— hereby give notice of objection to the application of ——— for the compulsory grant of a license under Patent No. ——— of 188 .

(Signed) ———.

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

* Here state name and full address.

Patents, Designs, and Trade Marks Act, 1883.

FORM J.

Application for Certificate of Payment or Renewal.

———

——— hereby transmit the fee prescribed for the continuation in force of ——— Patent No. ———, of 18 , for a further period of ———.

Name* ———.
Address ———.

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

* Here insert name and full address of patentee or his agent.

Certificate of Payment or Renewal.

[*Patent Stamp.*]

Letters Patent No ——— of 188 .

——— 18 .

This is to certify that ——— did this ——— day of ——— 18 , make the prescribed payment of £——— in respect of a period of ——— from ———, and that by virtue of such payment the rights of ——— remain in force.*

(Seal.)

Patent Office, London.

* See section 17 of the Patents, Designs, and Trade Marks Act, 1883.

Patents, Designs, and Trade Marks Act, 1883.

[*Patent Stamp.*] FORM K.

Form of Application for Enlargement of Time for Payment of Renewal Fee.

SIR,

I HEREBY apply for an enlargement of time for ——— month— in which to make the ——— payment of £——— upon my Patent, No. ——— of 188—.

I am,
Sir,
Your obedient Servant,

(*a*) ———.

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

(*a*) Here insert full address to which receipt is to be sent.

Patents, Designs, and Trade Marks Act, 1883.

[*Patent Stamp.*] FORM L.

Form of Request to enter Name upon the Register of Patents, and of Declarations in support thereof.

I (*a*), ——— hereby request that you will enter (*b*) ——— name (*c*) in the Register of Patents:—

(*d*) ——— claim to be entitled (*e*) ——— of the Patent No. ——— of 188—, granted to (*f*) ——— for (*g*) ——— by virtue of (*h*) ———.

And in proof whereof I transmit the accompanying (*i*) ——— with an examined copy thereof (*j*).

I am,
Sir,
Your obedient Servant,

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

(*a*) *Or* We. Here insert name, full address, and description.
(*b*) My *or* our.
(*c*) *Or* names.
(*d*) I *or* We.
(*e*) Here insert the nature of the claim.
(*f*) Here give name and address, &c. of patentee or patentees.
(*g*) Here insert title of the invention.
(*h*) Here specify the particulars of such document, giving its date, and the parties to the same, and showing how the claim here made is substantiated.
(*i*) Here insert the nature of the document.
(*j*) Where any document which is a matter of record is required to be left, a certified or official copy in lieu of an examined copy must be left.

Patents, Designs, and Trade Marks Act, 1883.

[*Patent Stamp.*] FORM M.

Form of Request to enter Notification of License in the Register of Patents.

SIR,

I HEREBY transmit an examined copy of a license granted to me by ———, under Patent No. ——— of 188—, as well as the original license for verification, and I have to request that a notification thereof may be entered in the Register.

I am,
Sir,
Your obedient Servant,

(*a*) ———.

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

(*a*) Here insert full address.

Patents, Designs, and Trade Marks Act, 1883.

[*Patent Stamp.*] FORM N.

Application for Duplicate of Patent.

Date.

SIR,

I REGRET to have to inform you that the Letters Patent, dated * ———, No. ———, granted to ———, for an invention of † ———, have been ‡ ———.

I beg therefore to apply for the issue of a duplicate of such Letters Patent.§

[Signature of Applicant.]

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

* Here insert date, No., name, and full address of patentee.
† Here insert *title of invention.*
‡ Here insert the word "destroyed" or "lost," as the case may be.
§ Here state interest possessed by applicant in the letters patent.

Patents, Designs, and Trade Marks Act, 1883.

[*Patent Stamp.*] FORM O.

Notice of Intended Exhibition of an Unpatented Invention.

* ——— hereby give notice of my intention to exhibit a ——— of ——— at the ——— Exhibition, which † ——— of ——— 18—, under the provisions of the Patents, Designs, and Trade Marks Act of 1883.

‡ ——— herewith enclose ———.

(Signed) ———.

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

* Here state name and full address of applicant.
† State "opened" or "is to open."
‡ Insert brief description of invention, with drawings, if necessary.

Patents, Designs, and Trade Marks Act, 1883.

[*Patent Stamp.*] FORM P.

Form of Request for Correction of Clerical Error.

SIR,

I HEREBY request that the following clerical error (*a*) may be corrected in (*b*).

Signature ———.
Full Address ———.

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

(*a*) *Or* errors.
(*b*) Here state whether in application, specification, or register.

Patents, Designs, and Trade Marks Act, 1883.

[*Patent Stamp.*] FORM Q.

Certificate of Comptroller-General.

Patent Office,
London,
——— 188—.

I, ———, Comptroller-General of Patents, Designs, and Trade Marks, hereby certify

Patents, Designs, and Trade Marks Act, 1883.

[*Patent Stamp.*] FORM R.

Form of Notice for Alteration of an Address in Register.

SIR,

(*a*) —— —— hereby request that —— address now upon the Register may be altered as follows:—

(*b*) ——————————.

——,
Sir,
Your obedient Servant,

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

(*a*) Here state name or names and full address of applicant or applicants.
(*b*) Here insert full address.

Patents, Designs, and Trade Marks Act, 1883.

[*Patent Stamp.*] FORM S.

Form of Application for Entry of Order of Privy Council in Register.

(*a*) —— hereby transmit an office copy of an Order in Council with reference to (*b*).

——,
Sir,
Your obedient Servant,

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

(*a*) Here state name and full address of applicant.
(*b*) Here state the purport of the order.

Patents, Designs, and Trade Marks Act, 1883.

[*Patent Stamp.*] FORM T.

Form of Appeal to Law Officer.

I, (*a*) ——— of (*a*) ——— hereby give notice of my intention to appeal to the Law Officer from (*b*) ——— of the Comptroller of the ——— day of ——— 188—, whereby he (*c*) ——— No. (*d*) ——— of the year 188— (*d*).

Signature ———.
Date ———.

N.B.—This notice has to be sent to the Comptroller-General at the Patent Office, London, W.C., and a copy of same to the Law Officer's Clerk, at Room 549, Royal Courts of Justice, London.

(*a*) Here insert name and full address of appellant.
(*b*) Here insert "the decision" or "that part of the decision," as the case may be.
(*c*) Here insert "refused [*or* allowed] application for patent," or "refused [*or* allowed] application for leave to amend patent," or otherwise, as the case may be.
(*d*) Insert number and year.

DESIGNS FORMS.

(Second Schedule to Designs Rules.)

FORMS.

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Patents, Designs, and Trade Marks Act, 1883.

[*Designs Stamp.*] FORM E.

Application for Registration of Design in Classes———.

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 (*b*).

(*c*).
(Signed) ———.

Dated the ——— day of ———, 188—.

To the Comptroller,
Patent Office, Designs Branch,
25, Southampton Buildings,
Chancery Lane, London, W.C.

(*a*) Here insert legibly the name, address, and description of the individual or firm.
(*b*) Such as whether it is applicable for the pattern or for the shape.
(*c*) To be signed by the applicant.

Patents, Designs, and Trade Marks Act, 1883.

[*Designs Stamp.*] FORM F.

Appeal to Board of Trade on Refusal of Comptroller to register a Design.

[*To be accompanied by an unstamped copy.*]

SIR,—I hereby appeal against your decision upon my application to register ———, and beg to submit my case (*a*) for the decision of the the Board of Trade.

I am, Sir, your obedient Servant,

The Comptroller,
Patent Office, Designs Branch,
25, Southampton Buildings,
Chancery Lane, London, W.C.

(*a*) The statement of the case to be written upon foolscap paper (on one side only), with a margin of two inches on the left-hand side thereof.

Patents, Designs, and Trade Marks Act, 1883.

[*Seal of Patent Office.*] FORM G.

Certificate of Registration of Design.

(R^D No. ——.)

Patent Office, Designs Branch,
25, Southampton Buildings,
Chancery Lane, London, W.C.

THIS is to certify that the design of which this is a copy was registered this ——— day of ——— 188—, in pursuance of the Patents, Designs, and Trade Marks Act, 1883, in respect of the application of such design to articles in Class ———, for which a copyright of five years is granted.

Patents, Designs, and Trade Marks Act, 1883.

[*Designs Stamp.*] FORM H.

Application for Copy of Certificate of Registration of Design.

SIR,—I hereby request you to furnish me with a Copy Certificate of Registration of Design No. ——— in Class ———.

(Signed) ———.

Dated the ——— day of ——— 188—.

To the Comptroller,
Patent Office, Designs Branch,
25, Southampton Buildings,
Chancery Lane, London, W.C.

Patents, Designs, and Trade Marks Act, 1883.

[*Designs Stamp.*] FORM I.

Request for Certificate for use in Legal Proceedings.

SIR,—I hereby request you to send me for the purposes of use in the suit of (*a*) ——— a certificate that the design, of which a copy is herein enclosed, was (*b*) ———.

(Signed) ———.
——— day of ——— 188—.

To the Comptroller,
Patent Office, Designs Branch,
25, Southampton Buildings,
Chancery Lane, London, W.C.

(*a*) Here state the title of the legal proceeding or the other purpose for which the certificate is required.
(*b*) Here state the entry, matter, or thing which the writer wishes certified.

Patents, Designs, and Trade Marks Act, 1883.

FORM J.

Certificate for use in Legal Proceedings.

In the matter of ———.

No. ———.

I, ———, Comptroller-General of Patents, Designs, and Trade Marks, hereby certify that ———.

Witness my hand and seal this ——— day of ——— 188—.

———,
Comptroller.

(*Seal.*)

Patent Office, Designs Branch,
25, Southampton Buildings, London.

Patents, Designs, and Trade Marks Act, 1883.

[*Designs Stamp.*] FORM K.

Request to enter Name of Subsequent Proprietor of Design, with Declaration in support thereof.

I, [*a*] ——— hereby request that you will enter [*b*] ——— name [*c*] ——— in the Register of Designs as proprietor ——— of the Design No. ——— in Class ———.

[*d*] ——— entitled as to the said Design ——— [*e*] ———.

[*f*] And I do solemnly and sincerely declare that the above several statements are true, and the particulars above set out comprise every material fact and document affecting the proprietorship of the said design as above claimed.

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

[*g*] ———.

Declared at ——— this ——— day of ——— 188—.

Before me, ——— [*h*].

To the Comptroller,
Patent Office, Designs Branch,
25, Southampton Buildings,
Chancery Lane, London, W.C.

[*a*] *Or* We. Here insert name, full address, and description.
[*b*] My *or* our.
[*c*] *Or* names.
[*d*] I am, *or* We are.
[*e*] Here state whether design transmitted by death, marriage, bankruptcy, or other operation of law, and if entitled by assignment state the particulars thereof, as, *e. g.*, "by deed dated the ——— day of ———, 188—, made between so-and-so of the one part."
[*f*] This paragraph is not required when the declaration is made out of the United Kingdom.
[*g*] To be signed here by the person making the declaration.
[*h*] Signature and title of the authority before whom the declaration is made.

Patents, Designs, and Trade Marks Act, 1883.

[*Designs Stamp.*] FORM L.

Notice of Intended Exhibition of an Unregistered Design.

(*a*) ——— hereby give notice of my intention to exhibit a ——— of ——— at the ——— Exhibition, which (*b*) ——— of ——— 188—, under the provisions of the Patents, Designs, and Trade Marks Act of 1883 (*c*) ——— herewith enclose a ———.

(Signed) ———.

Dated the ——— day of ——— 188—.

To the Comptroller,
Patent Office, Designs Branch,
25, Southampton Buildings,
Chancery Lane, London, W.C.

(*a*) Here state name and address of applicant.
(*b*) State "opened" or "is to open."
(*c*) Insert brief description of design, with drawing.

Patents, Designs, and Trade Marks Act, 1883.

[*Designs Stamp.*] FORM M.

Request for Correction of Clerical Error or for Entry of New Address.

SIR,—I hereby request that

(Signed) ———.

Dated the ——— day of ——— 188—.

To the Comptroller,
Patent Office, Designs Branch,
25, Southampton Buildings,
Chancery Lane, London, W.C.

TRADE MARKS FORMS.

(Second Schedule to Trade Marks Rules.)

FORMS.

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Patents, Designs, and Trade Marks Act, 1883.

[*Trade Marks Stamp.*] FORM F.

Application for Registration of Trade Mark.

One representation to be fixed within this square, and two others to be sent on separate sheets of foolscap.

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 ——, in respect of (*a*) —— in the name of (*b*) —— who claims to be the proprietor thereof (*c*).

To the Comptroller,
Patent Office, Trade Marks Branch,
25, Southampton Buildings, London.

(Signed) ——(*d*).

Dated this —— day of ——, 1883.

NOTE.—If the Trade Mark has been in use in respect of the goods since before August 13, 1875, state length of such user.

(*a*) Only goods contained *in one and the same class* should be set out here. A separate application form is required *for each separate class*.

(*b*) Here insert legibly the full name, address, and business of the individual, firm, or company. In the case of an individual, add trading style (if any).

(*c*) Alter to "claim to be the proprietors thereof" in the case of a firm or company.

(*d*) To be signed by the applicant; or, in the case of a firm, by a partner, adding, "A member of the firm," or, in the case of a company, by the secretary or other principal officer, adding, "For the Company." Or, *in any case*, an agent may sign, adding "Agent."

Patents, Designs, and Trade Marks Act, 1883.

FORM G.

Additional Representation of Trade Mark, to accompany Application for Registration.

One representation of the Trade Mark to be affixed within this square. It must correspond *exactly*, in all respects, with the representation affixed to the Application Form. Any representation of a larger size than foolscap may be folded, but must then be mounted upon linen and affixed hereto.

Two of these additional representations of the Trade Mark must accompany *each* form of application.

In the case of a Trade Mark claimed in one of the Classes 23 to 35, three of these additional representations of the mark must accompany the form of application.

Patents, Designs, and Trade Marks Act, 1883.

[*Trade Marks Stamp.*] FORM H.

Form of Appeal to Board of Trade on Refusal of Comptroller to register a Trade Mark.

SIR,

I HEREBY give notice of my intention to appeal against your decision upon my application to register a Trade Mark No. ——— in Class ——— for ———, and I beg to submit my case* for the decision of the Board of Trade.

I am, Sir,

Your obedient Servant,

To the Comptroller,
Patent Office, Trade Marks Branch,
25, *Southampton Buildings,*
London.

* The statement of the case to be written upon foolscap paper (on one side only), with a margin of two inches on the left-hand side thereof.

Patents, Designs, and Trade Marks Act, 1883.

[*Trade Marks Stamp.*] FORM I.

Fee for Registration of a Trade Mark.

SIR,

In reply to your request I hereby transmit the prescribed fee for the registration of the Trade Mark No. ——, in Class ——.

I am,
Sir,
Your obedient Servant,

To the Comptroller,
Patent Office, Trade Marks Branch,
25, Southampton Buildings,
London.

Patents, Designs, and Trade Marks Act, 1883.

[*Trade Marks Stamp.*] FORM J.

Notice of Opposition to Application for Registration.

[To be accompanied by an unstamped duplicate.]

In the matter of an Application,
No. ——, by ——, of ——.

SIR,

Notice is hereby given that I ——, of ——, oppose the Registration of the Trade Mark advertised under the above number for Class —— in the "Trade Marks Journal" of the —— day of —— 188—, No. ——, page ——.

The grounds of opposition are as follows:—

* ——.

To the Comptroller,
Patent Office, Trade Marks Branch,
25, Southampton Buildings,
London.

* To be dated and signed at the end by the opponent or his solicitor.

[*The following Form of Counter-statement is given by the Trade Marks Instructions, No.* 33, ante, *p.* 200.]

Patents, Designs, and Trade Marks Act, 1883.

Form of Counter-statement in reply to Notice of Opposition.

In the Matter of an Application No. ——,
and of the Opposition thereto No. ——.

In reply to the Notice of Opposition in this matter by —— of ——,

I give notice by way of Counter-statement that I rely for my Application on the following grounds:—

(To be dated and signed by the Applicant or his Solicitor.)

To the Comptroller,
Patent Office, Trade Marks Branch,
25, *Southampton Buildings,*
London.

Patents, Designs, and Trade Marks Act, 1883.

[*Trade Marks Stamp.*] FORM K.

Request to enter Name of subsequent Proprietor of Trade Mark upon the Register, with Declaration in support thereof.

I, (*a*) —— hereby request that you will enter (*b*) —— name (*c*) in the Register of Trade Marks as proprietor —— of the Trade Mark No. —— in Class ——.

(*d*) —— entitled to the said trade mark and to the goodwill of the business concerned in the goods with respect to which the said trade mark is registered.

(*e*) ——.

And I do solemnly and sincerely declare that the above several statements are true, and the particulars above set out comprise every material fact and document affecting the proprietorship of the said trade mark as above claimed.

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

(*g*) ——.

Declared at —— this —— day of —— 188—.
Before me ——,
(*h*) ——.

To the Comptroller,
Patent Office, Trade Marks Branch,
25, *Southampton Buildings, London.*

(*a*) *Or* We. Here insert name, full address, and description.
(*b*) My *or* our.
(*c*) *Or* names.
(*d*) I am, *or* We are.
(*e*) Here state whether trade mark transmitted by death, marriage, bankruptcy, or other operation of law, and if entitled by assignment state the particulars thereof, as, *e.g.* "by deed dated the —— day of —— 188—, made between so-and-so of the one part."
(*f*) This paragraph is not required when the declaration is made out of the United Kingdom.
(*g*) To be signed here by the person making the declaration.
(*h*) Signature and title of the authority before whom the declaration is made.

Patents, Designs, and Trade Marks Act, 1883.

[*Trade Marks Stamp.*] FORM L.

Request for Certificate of Refusal to register a Trade Mark in use before 13th August, 1875.

In the matter of an Application for registration of an old Trade Mark, No. ——— in Class ———.

SIR,—I, ———, of ———, the applicant in the above matter, hereby request you to furnish me with your certificate of refusal to register the said trade mark.

* ———.

Dated this ——— day of ——— 188—.

To the Comptroller,
Patent Office, Trade Marks Branch,
25, Southampton Buildings, London.

* Signature of applicant.

Patents, Designs, and Trade Marks Act, 1883.

[*Trade Marks Stamp.*] FORM M.

Notice of Application for Alteration of Address on Register of Trade Marks.

In the matter of the Trade Mark, No. ———, registered in Class ———.

SIR,—Notice is hereby given that I ——— of ——— the registered proprietor of the trade mark numbered as above, desire that my address on the Registor of Trade Marks be altered to ———.

Dated this——— day of ——— 188—.

* ———.

To the Comptroller,
Patent Office, Trade Marks Branch,
25, Southampton Buildings, London.

* Signature of proprietor.

Patents, Designs, and Trade Marks Act, 1883.

[*Trade Marks Stamp.*] FORM N.

Notice of Application for Alteration or Rectification of Register of Trade Marks.

In the matter of the Trade Mark, No. ———, registered in Class ——— in the name of ———.

SIR,—Notice is hereby given, that by an order of the Court, made on the ——— day of ——— 188—, it was directed that the entry on the

Register of Trade Marks, in respect of the Trade Mark numbered as above, should be rectified in the manner therein specified.

An office copy of the order of the Court is enclosed herewith.

Dated this ——— day of ——— 188—.

* ———.

To the Comptroller,
Patent Office, Trade Marks Branch,
25, Southampton Buildings, London.

* To be signed by the person interested or his agent.

Patents, Designs, and Trade Marks Act, 1883.

[*Trade Marks Stamp.*] FORM O.

Form of Application by Proprietor of Registered Trade Mark to Cancel Entry on Register.

Trade Mark, No. ——— Class ——— advertised in "Trade Marks Journal," No. ———, page ———.

Name of registered proprietor or firm ———. Place of business ———.

I, the undersigned ———, of ——— [*or* I, the undersigned ———, a member of the firm of ———, of ———, on behalf of my said firm] ———, apply that the entry upon the Register of the Trade Marks in Class ——— of the Trade Mark No. ——— may be cancelled.

The ——— day of ——— 188—.

(Signed) ———.

This is the statement marked "O" referred to in the declaration of ———, made before me the ——— of ———, 188—.

Patents, Designs, and Trade Marks Act, 1883.

FORM P.

Form of Declaration in Support of Application for Cancellation of Trade Mark by Owner.

I, ——— of ——— [*or* I, ———, a member of the firm of ———, of ———], do hereby solemnly and sincerely declare, to the best of my knowledge and belief, as follows:—

(1) The application signed by me, and dated the ——— day of ———, 188—, and marked with the letter "O," and shown to me at the time of making this declaration, is true.

(2) I am the person whose name appears on the Register of Trade Marks as the proprietor of the trade mark referred to in the said application marked with the letter "O."

[*or* My said firm is the firm whose name appears on the Register of Trade Marks as the proprietor of the trade mark referred to in the said application marked with the letter "O."

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

(Signed) ——

Declared at —— this ——
day of ——, 188—.
Before me, ——.

If the declaration be made before a commissioner to administer oaths it will require to be stamped with a 2*s.* 6*d.* impressed inland revenue stamp.

Patents, Designs, and Trade Marks Act, 1883.

[*Trade Marks Stamp.*] FORM Q.

Form of Request for Correction of Clerical Error in regard to a Trade Mark.

SIR,

I hereby request that

To the Comptroller,
Patent Office, Trade Marks Branch,
25, Southampton Buildings,
London.

Patents, Designs, and Trade Marks Act, 1883.

[*Trade Marks Stamp.*] FORM R.

Request for Certificate of Registration of Trade Mark for use in obtaining Registration Abroad.

In the matter of the Trade Mark, No. ——, registered in Class ——, in the name of ——.

SIR,

I ——, of ——, the registered proprietor of the above Trade Mark hereby request you to furnish me with your certificate of registration for use in obtaining registration of the same in * ——.

Dated this —— day of ——, 188—.

† ——

To the Comptroller,
Patent Office, Trade Marks Branch,
25, Southampton Buildings,
London.

* Here state name of country in which registration is to be sought.
† Signature.

Patents, Designs, and Trade Marks Act, 1883.

[*Trade Marks Stamp.*] FORM S.

Request for Certificate of Registration of Trade Mark for use in Legal Proceedings.

In the matter of the Trade Mark, No. ——, registered in Class ——, in the name of ——.

SIR,

I, ——, of ——, the registered proprietor of the above Trade Mark hereby request you to furnish me with your certificate of registration for use in the following legal proceedings* ——.

Dated this —— day of ——, 188—.

†——

To the Comptroller,
Patent Office, Trade Marks Branch,
25, *Southampton Buildings,*
London.

* Here state exact title of legal proceedings.
† Signature.

Patents, Designs, and Trade Marks Act, 1883.

[*Trade Marks Stamp.*] FORM T.

Application for Settlement of a Special Case on Application to register a Trade Mark.

In the matter of the Application of —— and of the Application of ——.

SIR,

Notice is hereby given that I, ——, of ——, and I, ——, are unable to agree upon the facts on which the opinion of the Court is to be taken, and that we request you to fix a day on which we may attend before you and obtain your finding on the matters of fact to be submitted to the Court as settled.

Dated this —— day of ——, 188—.

*——
*——

To the Comptroller,
Patent Office, Trade Marks Branch,
25, *Southampton Buildings,*
London.

* To be signed by both parties.

Patents, Designs, and Trade Marks Act, 1883.

[*Trade Marks Stamp.*] FORM U.

General Certificate of Comptroller-General as to Application for or Registration of a Trade Mark.

Patent Office, Trade Marks Branch,
London,
——— 188—.

I, ———, Comptroller-General of Patents, Designs, and Trade Marks, hereby certify

———

Patents, Designs, and Trade Marks Act, 1883.

[*Trade Marks Stamp.*] FORM V.

Request for Copy of Official Notification of Registration of Trade Mark.

In the matter of the Trade Mark, No. ———, registered in Class ———.

SIR,—I, ———, of ———, the registered proprietor of the trade mark above named hereby request that you will furnish me with a copy of the official notification of the registration of the same.

* ———

Dated this ——— day of ——— 188—.

To the Comptroller,
Patent Office, Trade Marks Branch,
25, Southampton Buildings, London.

* Signature.

———

Patents, Designs, and Trade Marks Act, 1883.

[*Trade Marks Stamp.*] FORM W.

Form of Appeal from Cutlers' Company at Sheffield to Comptroller.

[To be accompanied by an unstamped duplicate.]

SIR,—I hereby give notice of appeal against the decision of the Cutlers' Company, of Sheffield, in regard to my application for registration of a Trade Mark, No. ——— in Class ——— for ———, and I beg to submit my case* for your decision accordingly.

† ———

Dated this ——— day of ——— 188—.

To the Comptroller,
Patent Office, Trade Marks Branch,
25, Southampton Buildings, London.

* The statement of the case to be written upon foolscap paper (on one side only), with a margin of two inches on the left-hand side thereof.

† Signature.

[*The following Form of Bond which the Comptroller is able to accept from persons opposing Applications, and who have been required to give security for costs, is given by the Trade Marks Instructions, No.* 33, ante, *p.* 200.]

Form of Bond.

Patents, Designs, and Trade Marks Act, 1883.
Trade Marks.
In the Matter of an Application No.
and of the Opposition thereto No.

Know all men by these presents that we of and of are jointly and severally held and firmly bound to Henry Reader Lack the Comptroller-General of Patents Designs and Trade Marks in the penal sum of pounds of good and lawful money of Great Britain to be paid to the said Henry Reader Lack or to other the Comptroller-General of Patents Designs and Trade Marks for the time being for which payment to be well and faithfully made we bind ourselves and each of us our and each of our heirs executors and administrators firmly by these presents sealed with our Seals.

Dated this day of 18 .

Whereas pursuant to the provisions of the Patents Designs and Trade Marks Act 1883 and of the Trade Marks Rules 1883 an application (No.) has been made by of to the Comptroller-General of Patents Designs and Trade Marks for the registration of a certain Trade Mark And whereas the above-bounden have delivered a notice of opposition to such registration and the said have sent to the said Comptroller-General a counter-statement of the grounds on which they rely for their application And whereas the said Comptroller-General pursuant to the terms of the said Act hath required the said to enter into the above-written obligation (subject to the condition hereinafter contained) as security for such costs as may be awarded in respect of such opposition

Now the condition of the above-written obligation is such that if the said or either of them their or either of their heirs executors or administrators do and shall well and truly pay or cause to be paid to all such costs as the High Court of Justice shall think fit to award to the said in respect of the said opposition then the above-written obligation is to be void or else to remain in full force and virtue.

Signed sealed and delivered by the above-bounden and in the presence of .

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