

THE PATENTS, DESIGNS, AND TRADE MARKS
ACT, 1888.

(51 & 52 VICT. c. 50).

*An Act to amend the Patents, Designs, and Trade Marks Act,
1883. [24th December 1888.]*

46 & 47 Vict.
c. 57.

WHEREAS it is expedient to amend the Patents, Designs, and Trade Marks Act, 1883, hereinafter referred to as the principal Act :

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

Register of
patent
agents.

1.—(1). After the first day of July one thousand eight hundred and eighty-nine a person shall not be entitled to describe himself as a patent agent, whether by advertisement, by description on his place of business, by any document issued by him, or otherwise, unless he is registered as a patent agent in pursuance of this Act.

(2). The Board of Trade shall, as soon as may be after the passing of this Act, and may from time to time, make such general rules (*g*) as are in the opinion of the Board required for giving effect to this section, and the provisions of section one hundred and one of the principal Act shall apply to all rules so made as if they were made in pursuance of that section.

(3.) Provided that every person who proves to the satisfaction of the Board of Trade that prior to the passing of this Act he had been *bonâ fide* practising as a patent agent

(*g*) See Register of Patent Agents Rules, 1889—1891, published by Messrs. Eyre and Spottiswoode.

shall be entitled to be registered as a patent agent in Sect. 1 (3) pursuance of this Act.

(4.) If any person knowingly describes himself as a patent agent in contravention of this section he shall be liable on summary conviction to a fine not exceeding twenty pounds.

(5.) In this section "patent agent" means exclusively an agent for obtaining patents in the United Kingdom.

As to discovery in the case of communications between patent agents and their clients, see *Moseley v. Victoria Rubber Co.*, cited *ante*, p. 296.

The mere signing, by a person, of a specification of a patent as "Agent for Applicant," is not a describing himself as a patent agent within this section (i).

The rules of the Board of Trade imposing annual fees on persons registered as a condition of remaining on the register are *intra vires* (k).

2. For section seven of the principal Act the following section shall be substituted, namely:—

Amendments
of 46 & 47
Vict. c. 57.

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

s. 7, as to
applications.

"(2.) Where the comptroller refuses to accept an application or requires an amendment, the applicant may appeal from his decision to the law officer.

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

(i) *Graham v. Fanta*, 9 R. P. C. 164. See also *Graham v. Eli*, 14 Times R. 370.

(k) *Institute of Patent Agents v. Lockwood*, 1894, A. C. 347.

Sect. 2.

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

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

See *ante*, p. 28.

s. 9, as to disclosure of reports of examiners.

3. In sub-section five of section nine of the principal Act the words “other than an appeal to the law officer under this Act,” shall be omitted.

s. 11, as to opposition to grant of patent.

4. In sub-section one of section eleven of the principal Act the words from “or on the ground of an examiner” to “a previous application,” both inclusive, shall be omitted, and there shall be added in lieu thereof the following words, namely, “or on the ground that the complete specification describes or claims an invention other than that described in the provisional specification, and that such other invention forms the subject of an application made by the opponent in the interval between the leaving of the provisional specification and the leaving of the complete specification.”

See *ante*, p. 55.

s. 18, as to amended specifications.

5. For sub-section ten of section eighteen of the principal Act, the following sub-section shall be substituted, namely:—

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

See *ante*, p. 86.

s. 52, as to inspection of designs.

6. After sub-section one of section fifty-two of the principal Act, the following words shall be added; namely,

“Provided that where registration of a design is refused

on the ground of identity with a design already registered, the applicant for registration shall be entitled to inspect the design so registered.” Sect. 6.

7.—(1.) In section fifty-eight of the principal Act the words “or caused to be applied” shall be added after the word “apply.” s. 58, as to piracy of registered designs.

(2.) To the same section the following words shall be added: “Provided that the total sum forfeited in respect of any one design shall not exceed one hundred pounds.”

See *ante*, pp. 365, 370.

8.—(1.) In sub-section two of section sixty-two of the principal Act for the words “the patent office in the prescribed manner” shall be substituted the words “such place and in such manner as may be prescribed.” s. 62, as to application for registration.

(2.) To the same section of the principal Act the following sub-section shall be added:—

“(6.) Where an applicant for the registration of a trade mark otherwise than under an international convention is out of the United Kingdom at the time of making the application he shall give the comptroller an address for service in the United Kingdom, and if he fails to do so the application shall not be proceeded with until the address has been given.”

9. In section sixty-three of the principal Act for the words “the application shall be deemed to be abandoned” shall be substituted the words “the comptroller shall give notice of the non-completion to the agent employed on behalf of the applicant, and, if at the expiration of fourteen days from that notice the registration is not completed, shall give the like notice to the applicant, and if at the expiration of the latter fourteen days, or such further time as the comptroller may in special cases permit, the registration is not completed, the application shall be deemed to be abandoned.” s. 63, as to limit of time for proceeding with application.

10.—(1.) For section sixty-four of the principal Act the following section shall be substituted, namely— s. 64, as to fancy words.

“64.—(1.) For the purposes of this Act, a trade mark must

[Sect. 10. consist of or contain at least one of the following essential particulars :

- (a.) A name of an individual or firm printed, impressed, or woven in some particular and distinctive manner ; or
- (b.) A written signature or copy of a written signature of the individual or firm applying for registration thereof as a trade mark ; or
- (c.) A distinctive device, mark, brand, heading, label, or ticket ; or
- (d.) An invented word or invented words ; or
- (e.) A word or words having no reference to the character or quality of the goods, and not being a geographical name.

“(2.) There may be added to any one or more of the essential particulars mentioned in this section any letters, words, or figures, or combination of letters, words, or figures, or of any of them, but the applicant for registration of any such additional matter must state in his application the essential particulars of the trade mark, and must disclaim in his application any right to the exclusive use of the added matter, and a copy of the statement and disclaimer shall be entered on the register.

“(3.) Provided as follows :

- (i.) A person need not under this section disclaim his own name or the foreign equivalent thereof, or his place of business, but no entry of any such name shall affect the right of any owner of the same name to use that name or the foreign equivalent thereof :
- (ii.) 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.”

See *ante*, p. 402.

11. In section sixty-seven of the principal Act the words “or colours” shall be added after the word “colour” in each place where that word occurs. Sect. 11.
s. 67, as to colours of trade marks.

12. In section sixty-eight of the principal Act after the word comptroller shall be added the words “unless the comptroller refuse to entertain the application.” s. 68, as to advertisement of applications.

13.—(1.) In sub-section one of section sixty-nine of the principal Act for the words “two months” shall be substituted the words “one month or such further time, not exceeding three months, as the comptroller may allow.” s. 69, as to opposition to registration.

(2.) In the same sub-section the word “first” shall be omitted.

(3.) In sub-section two of the same section for the words “two months” shall be substituted the words “one month.”

(4.) For sub-sections three and four of the same section the following sub-sections shall be substituted ; namely,

“ (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, after hearing the applicant and the opponent, if so required, decide whether the trade mark is to be registered, but his decision shall be subject to appeal to the Board of Trade, who shall, if required, hear the applicant and the opponent and the comptroller, and may make an order determining whether, and subject to what conditions (if any), registration is to be permitted.

“ (4.) 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.

“ (5.) If the applicant abandons his application after notice of opposition in pursuance of this section he shall be liable to pay to the opponent such costs in respect of the opposition as the comptroller may determine to be reasonable.

Sect. 13 (4).

“(6.) Where the opponent is out of the United Kingdom he shall give the comptroller an address for service in the United Kingdom.”

See *ante*, p. 412.

s. 72, as to
restrictions on
registration.

14. In sub-section two of section seventy-two of the principal Act, the following words shall be added at the beginning of the sub-section, namely, “except as aforesaid,” and for the words “so nearly resembling” shall be substituted the words “having such resemblance to.”

s. 73, as to
restriction on
registration.

15. In section seventy-three of the principal Act the word “exclusive” shall be omitted.

s. 74, as to
additions to
trade marks.

16. For sub-section two of section seventy-four of the principal Act the following sub-section shall be substituted ; namely,

“(2.) The applicant for registration of any such addition must, however, state in his application the essential particulars of the trade mark, and must disclaim in his application any right to the exclusive use of the added matter, and a copy of the statement and disclaimer shall be entered on the register.

“Provided that a person need not under this section disclaim his own name or the foreign equivalent thereof, or his place of business, but no entry of any such name shall affect the right of any owner of the same name to use that name or the foreign equivalent thereof.”

See *ante*, pp. 397, 436.

s. 75, as to
effect of
registration.

17. For section seventy-five of the principal Act the following section shall be substituted ; namely,

“Application for registration of a trade mark shall be deemed to be equivalent to public use of the trade mark, and the date of the application shall for the purposes of this Act be deemed to be, and as from the first day of January one thousand eight hundred and seventy-six to have been, the date of the registration.”

See *ante*, p. 438.

18. After section seventy-seven of the principal Act the following section shall be added and numbered 77A ; namely, Sect. 18.

“ In an action for infringement of a registered trade mark the court or a judge may certify that the right to the exclusive use of the trade mark came in question, and if the court or a judge so certifies, then in any subsequent action for infringement the plaintiff in that action, on obtaining a final order or judgment in his favour, shall have his full costs, charges, and expenses as between solicitor and client, unless the court or judge trying the subsequent action certifies that he ought not to have the same.” Certificate as to exclusive use and costs thereon.

See notes under s. 31 of the Act of 1883, *ante*, p. 316, and under this section as s. 77A, *ante*, p. 448.

19.—(1.) In sub-section five of section seventy-nine of the principal Act, for the words “the five years” shall be substituted the words “one year.” Amendments of 46 & 47 Vict. c. 57.

(2.) To the same sub-section the following words shall be added ; namely, “ unless it is shown to the satisfaction of the comptroller that the nonpayment of the fee arises from the death or bankruptcy of the registered proprietor, or from his having ceased to carry on business, and that no person claiming under that proprietor or under his bankruptcy is using the trade mark.” s. 79, as to removal of trade mark from the register.

20.—(1.) For sub-section two of section eighty-one of the principal Act the following sub-section shall be substituted : s. 81, as to Sheffield marks.

“ (2.) The Cutlers’ Company shall enter in the Sheffield register, in respect of metal goods as defined in this section, all the trade marks entered before the first day of January one thousand eight hundred and eighty-nine in respect of metal goods either in the register established under the Trade Marks Registration Act, 1875, or in the register of trade marks under this Act, belonging to persons carrying on business in Hallamshire or within six miles thereof. The Cutlers’ Company shall also, on request made in the prescribed manner, enter in the Sheffield register, in respect of metal goods, all the trade marks which shall have been assigned 38 & 39 Vict. c. 91.

Sect. 20. by the Cutlers' Company and actually used before the first day of January one thousand eight hundred and eighty-four, but which have not been entered in either of the said other registers."

(2.) In sub-sections three and eight of the same section, for the words "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 be substituted the words "on metal goods."

(3.) For sub-section seven of the same section the following sub-section shall be substituted :

"(7.) The provisions of this Act and of any general rules made under this Act with respect to the registration of trade marks, and all matters relating thereto, shall, subject to the provisions of this section, apply to the registration of trade marks on metal goods by the Cutlers' Company, and to all matters relating thereto; and this Act and any such general rules shall, so far as applicable, be construed accordingly with the substitution of the Cutlers' Company, the office of the Cutlers' Company, and the Sheffield Register, for the Comptroller, the Patent Office, and the Register of Trade Marks, respectively; and notice of every entry, cancellation, or correction made in the Sheffield Register shall be given to the Comptroller by the Cutlers' Company: Provided that this section shall not 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."

(4.) To the same section the following sub-sections shall be added; namely,—

(14.) For the purposes of this section the expression "metal goods" means all metals, whether wrought, unwrought, or partly wrought, and all goods composed wholly or partly of any metal.

(15.) For the purpose of legal proceedings in relation to trade marks entered in the Sheffield register

a certificate under the hand of the master of the Cutlers' Company shall have the same effect as the certificate of the comptroller. Sect. 20 (4).

See *ante*, p. 455.

21. In section eighty-seven of the principal Act, after the words "subject to," shall be added the words "the provisions of this Act and to." s. 87, as to entry of assignments, etc.

22. In section eighty-eight of the principal Act, after the words "subject to," shall be added the words "the provisions of this Act and to." s. 88, as to inspection.

23. In section ninety of the principal Act, after the words "of the name of any person," shall be added the words "or of any other particulars." s. 90, as to rectification of register.

24. To section ninety-one of the principal Act the following sub-section shall be added ; namely, s. 91, as to correction of errors

"(d.) Permit an applicant for registration of a design or trade mark to amend his application by omitting any particular goods or classes of goods in connexion with which he has desired the design or trade mark to be registered."

25. After section one hundred and two of the principal Act the following section shall be added and numbered 102A ; namely, Proceedings of Board of Trade.

"(1.) All things required or authorised under this Act to be done by, to, or before the Board of Trade, may be done by, to, or before the President or a secretary or an assistant secretary of the Board.

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

"(3.) A certificate, signed by the President of the Board of Trade, that any order made or act done is the order or act

Sect. 25. of the Board, shall be conclusive evidence of the fact so certified.”

See *ante*, p. 491.

Jurisdiction
of Lancashire
Palatine
Court.

26. After section one hundred and twelve of the principal Act the following section shall be added and numbered 112A; namely,

“The Court of Chancery of the County Palatine of Lancaster shall, with respect to any action or other proceeding in relation to trade marks the registration whereof is applied for in the Manchester Office, have the like jurisdiction under this Act as Her Majesty’s High Court of Justice in England, and the expression ‘the Court’ in this Act shall be construed and have effect accordingly.

“Provided that every decision of the Court of Chancery of the County Palatine of Lancaster in pursuance of this section shall be subject to the like appeal as decisions of that court in other cases.”

See *ante*, p. 500.

Construction
of principal
Act.

27. The principal Act shall, as from the commencement of this Act, take effect subject to the additions, omissions, and substitutions required by this Act, but nothing in this Act shall affect the validity of any act done, right acquired, or liability incurred before the commencement of this Act (*l*).

Commence-
ment of Act.

28. This Act shall, except so far as is by this Act otherwise specially provided, commence and come into operation on the first day of January one thousand eight hundred and eighty-nine.

Short title.

29. This Act may be cited as the Patents, Designs, and Trade Marks Act, 1888, and this Act and the Patents, Designs, and Trade Marks Acts, 1883 to 1886, may be cited collectively as the Patents, Designs, and Trade Marks Acts, 1883 to 1888.

(*l*) *Re Burgoyne’s Trade Mark*, 6 R. P. C. 227; 5 Times R. 326; and see *Anderson & Anderson’s Patent*, 7 R. P. C. 323.

PATENTS RULES, 1890.

By virtue of the provisions of the Patents, Designs, and Trade Marks Acts, 1883 to 1888, the Board of Trade do hereby make the following Rules:—

SHORT TITLE.

1. These Rules may be cited as the Patents Rules, 1890. Short title.

COMMENCEMENT.

2. These Rules shall come into operation from and immediately after the 31st day of March, 1890. Commencement.

INTERPRETATION.

3. In the construction of these Rules, any words herein used defined by the said Acts shall have the meanings thereby assigned to them respectively. Interpretation.

FEEES.

4. The fees to be paid under the above-mentioned Acts shall be those specified in the list of fees in the First Schedule to these Rules. Fees.

FORMS.

5. The Forms A, B, and C in the First Schedule to the Act of 1883 shall be altered or amended by the substitution thereof of the Forms A, A1, A2, B, and C in the Second Schedule to these Rules. Forms.
Alterations.

6. (1.) An application for a patent containing the declaration mentioned in sub-section 2 of section 5 of the Act of 1883 and section 2 of the Act of 1885 shall be made either in the Form A or the Form A1, or the Form A2, set forth in the Second Schedule to these Rules as the case may be. Application.

- (2.) The Form B in such Schedule of provisional specification and the Form C of complete specification shall respectively be used. Specification.

- (3.) The remaining forms other than A, A1, A2, B, and C, set forth in the Second Schedule to these Rules, may, as far as they are applicable, be used in any proceedings under these Rules. Other forms.

Rule 7.**GENERAL.**Hours of
business.

7. The Patent Office shall be open to the public every week-day between 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. (a) 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 Comptroller, and, if he so require, resident in the United Kingdom, but the Comptroller shall not be bound to recognise as such agent, or to receive further communications from, any person whose name, by reason of his having been adjudged guilty of disgraceful professional conduct, has been erased from the Register of Patent Agents kept under the provisions of the Patents, Designs, and Trade Marks Act, 1888, relating to the registration of Patent Agents, and not since restored.

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, etc. of
documents.

10. All documents and copies of documents, except Statutory Declarations and Affidavits, 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 and unless otherwise directed 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 Acts 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. Statutory

(a) Substituted for original Rule 8 by Patents Rules, 1898, not printed separately in this book.

Declarations and Affidavits shall be in the form for the time being in use in the High Court of Justice. Rule 11.

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 in writing to the Comptroller whether or not he intends to be heard upon the matter. Notice by applicant.

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. Comptroller may require statement, etc.

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. Decision to be notified to parties.

15. 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 the Board of Trade have issued a certificate that the exhibition is an industrial or international one, give to the Comptroller notice, in writing, of his intention to exhibit, publish, or use the invention, as the case may be. Industrial or International Exhibitions.

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.

16. Any document for the amending of which no special provision is made by the said Acts may be amended, and any irregularity in procedure, which in the opinion of the Comptroller may be obviated without detriment to the interests of any person, may be corrected, if and on such terms as the Comptroller may think fit. Power of amendment, etc.

This rule includes apparently amendment of clerical errors in specification (Second Schedule, Form P). These errors, which before the Act of 1883 could be corrected only on application to the Master of the Rolls (*ante*, p. 73), are not mentioned in s. 91 (*ante*, p. 483); but the rule appears to be within the powers of s. 101 (1) (c), *ante*, p. 489), and by that section has the force of an Act of Parliament.

Under this rule the title of a prior invention might on an opposition be added at the hearing to a notice which gave only number and date, and

Rule 16. therefore did not comply with rule 34 of Patent Rules, 1883 (*m*). The present rule (r. 36) does not require the title to be given.

NOTE. And a notice of opposition was amended by changing the name of the opponent's agent, who had signed the notice but had since died, into that of the real opponent (*n*). See rule 42, *post* and notes.

16A. Any application, notice, or other document authorised or required to be left, made, or given at the Patent Office, or to the Comptroller, or to any other person under 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 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.

See note under s. 97, *ante*, p. 488.

Manner in which, and persons before whom, declaration is to be taken.

17. The statutory declarations required by the said Acts 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 authorised by law in any part of the United Kingdom to administer an oath for the purpose of any legal proceeding;
- (b.) In any other part of Her Majesty's dominions, before any court, judge, justice of the peace, or any officer authorised by law to administer an oath there for the purpose of a legal proceeding; and
- (c.) If made out of 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.

17A. Statutory declarations and affidavits shall be headed in the matter or matters to which they relate. They shall be divided into paragraphs consecutively numbered, and each paragraph shall so far as possible be confined to one subject.

Declarations must be made in the fullest good faith, and therefore where a statement in a declaration of the applicant was not considered quite candid, the law officer, although dismissing the appeal, dismissed it without costs (*o*).

Declarations in oppositions and other proceedings before the comptroller must be strictly confined to relevant matters, and must not be multiplied unnecessarily (*p*).

(*m*) *Airey's Application*, 5 R. P. C. 348, 349.

(*n*) *Lake's Application*, Griffin, L. O. C. 85.

(*o*) *Anderston's Patent*, Griffin, L. O. C. 25.

(*p*) See *Brand's Application*, 12 R. P. C. 102.

APPLICATION WITH PROVISIONAL OR COMPLETE SPECIFICATION.

Rule 18.

18. Applications for patents sent through the post shall, as far as may be practicable, be opened and numbered in the order in which the letters containing the same have been respectively delivered in the ordinary course of post. Order of recording applications.

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.

19. 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. Application for separate patents by way of amendment.

Every such application shall, if the applicant notify his desire to that effect to the Comptroller, bear the date of the first application, and shall, together therewith, be proceeded with in the manner prescribed by the said Acts and by these Rules, as if every such application had been originally made on that date.

See under s. 33, *ante*, p. 335.

20. 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 and must be supported by such further evidence as the comptroller may require. Application by representative of deceased inventor.

21. On the acceptance of 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. Notice and advertisement of acceptance.

22. Upon the publication of such advertisement of acceptance in the case of 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. Inspection on acceptance of complete specification.

APPLICATION ON COMMUNICATION FROM ABROAD.

23. An application for a patent for an invention communicated from abroad shall be made in the form A1 set forth in the Second Schedule to these rules. Communication from abroad.

See, *ante*, p. 4.

Rule 24.**INTERNATIONAL AND COLONIAL ARRANGEMENTS (g).**

24. The term "foreign application" shall mean an application by any person for protection of his invention in a Foreign State or British Possession to which by any Order of Her Majesty in Council for the time being in force the provisions of section 103 of the Patents, Designs, and Trade Marks Act, 1883, have been declared applicable.

25. An application in the United Kingdom for a patent for any invention in respect of which a foreign application has been made shall contain a declaration that such foreign application has been made and shall specify all the Foreign States or British Possessions in which foreign applications have been made and the official date or dates thereof respectively. The application must be made within 7 months from the date of the first foreign application, and must be signed by the person or persons by whom such first foreign application was made. If such person, or any of such persons, be dead, the application must be signed by the legal personal representative of such dead person, as well as by the other applicants, if any.

26. The application in the United Kingdom shall be made in the Form A2 in the Second Schedule to these Rules, and in addition to the specification, provisional or complete, left with such application must be accompanied by

- (1.) A copy or copies of the specification, and drawings or documents corresponding thereto, filed or deposited by the applicant in the Patent Office of the Foreign State or British Possession in respect of the first foreign application duly certified by the official chief or head of the Patent Office of such Foreign State or British Possessions as aforesaid, or otherwise verified to the satisfaction of the Comptroller;
- (2.) A statutory declaration as to the identity of the invention in respect of which the application is made with the invention in respect of which the said first foreign application was made, and if the specification or document corresponding thereto be in a foreign language, a translation thereof shall be annexed to and verified by such statutory declaration.

27. On receipt of such application, together with the prescribed specification and the other document or documents accompanying the same, required by the last preceding rule, and with such other proof (if any) as the Comptroller may

(g) See under s. 103, *ante*, p. 492.

require of or relating to such foreign application or of the official date thereof, the Comptroller shall make an entry of the applications in both countries and of the official dates of such applications respectively.

Rule 27
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28. All further proceedings in connection with such application shall be taken within the times and in the manner prescribed by the Acts or Rules for ordinary applications.

29. The patent shall be entered in the Register of Patents as dated of the date on which the first foreign application was made, and the payment of renewal fees, and the expiration of the patent, shall be reckoned as from the date of the first foreign application.

SIZES AND METHODS OF PREPARING DRAWINGS ACCOMPANYING PROVISIONAL OR COMPLETE SPECIFICATIONS.

30. The provisional or complete specification need not be accompanied by drawings if the specification sufficiently describes the invention without them, but if drawings are furnished, they should accompany the provisional or complete specification to which they refer, except in the case provided for by Rule 33. No drawing or sketch such as requires a special engraving for letter-press should appear in the specification itself.

Drawings for specifications.

31. Drawings (if any) must be delivered at the Patent Office either in a flat state or on rollers so as to be free from folds, breaks, or creases.

They must be made on pure white, hot-pressed, rolled, or calendered drawing paper of smooth surface and good quality, and where possible without colour or Indian-ink washes.

Requirements as to paper, etc.

They must be on sheets of one of the two following sizes (the smaller being preferable), 13 inches at the sides by 8 inches at the top and bottom, or 13 inches at the sides by 16 inches at the top and bottom, including margin, which must be $\frac{1}{2}$ an inch wide. If there are more figures than can be shown on one of the smaller-sized sheets two or more of these sheets should be used in preference to employing the larger size. When an exceptionally large drawing is required, it should be *continued* on subsequent sheets. There is no limit to the number of sheets that may be sent in.

Size of drawings.

To ensure their satisfactory reproduction, the drawings must be executed with *absolutely black Indian ink*; the same strength and colour of fine and shade lines to be maintained throughout. Section lines, and lines for effect, or shading lines, must not be closely drawn. A specimen drawing is inserted in illustration

Quality of ink.

- Rule 31.** of this requirement. Reference figures and letters must be bold, distinct, not less than $\frac{1}{8}$ of an inch in height; and the same letters should be used in different views of the same parts. In cases of complicated drawings, the reference letters must be shown outside the figure, and connected with the part referred to by a fine line.
- Scale of drawings.** The scale adopted should be large enough to show clearly wherein the invention consists, and only so much of the apparatus, machine, etc. need be shown as effects this purpose. When the scale is shown on the drawing it should be denoted, *not* by words, but by a drawn scale, as illustrated in the specimen.
- Drawings to bear name of applicant, etc.** Drawings must bear the name of the applicant (and in the case of drawings left with a complete specification after a provisional specification, the number and year of the application) in the *left-hand top corner*; the number of sheets of drawings sent, and the number of each sheet in the *right hand top corner*; and the signature of the applicant or his agent in the *right-hand bottom corner*.
- No written description of the invention should appear on the drawings.
- Restrictions as to wood engravings.** Wood engravings, or representations of the invention, other than the drawings prepared as above described, will not be received, unless of such a character as to be suitable for reproduction by the process of photo-lithography.
- Copies of drawings.** 32. A *facsimile* of the original drawings but *without* colour or Indian ink washes, and prepared strictly in accordance with the regulations prescribed in Rule 31, must accompany the originals, and be marked "true copy."
- Provisional drawings used for complete specification.** 33. If an applicant desires to adopt the drawings lodged with his provisional specification as the drawings for his complete specification, he should refer to them as those "left with the provisional specification."
- OPPOSITION TO GRANTS OF PATENTS.**
- Notice of opposition.** 34. A notice of opposition to the grant of a patent shall be on Form D, and shall state the ground or grounds on which the person giving such notice (herein-after in Rules 37, 38, 41 and 43 called the opponent) intends to oppose the grant, and must be signed by him. Such notice shall state his address for service in the United Kingdom, and shall be accompanied by an unstamped copy.
- Copy for applicant.** 35. On receipt of such notice the copy thereof shall be transmitted by the Comptroller to the applicant.

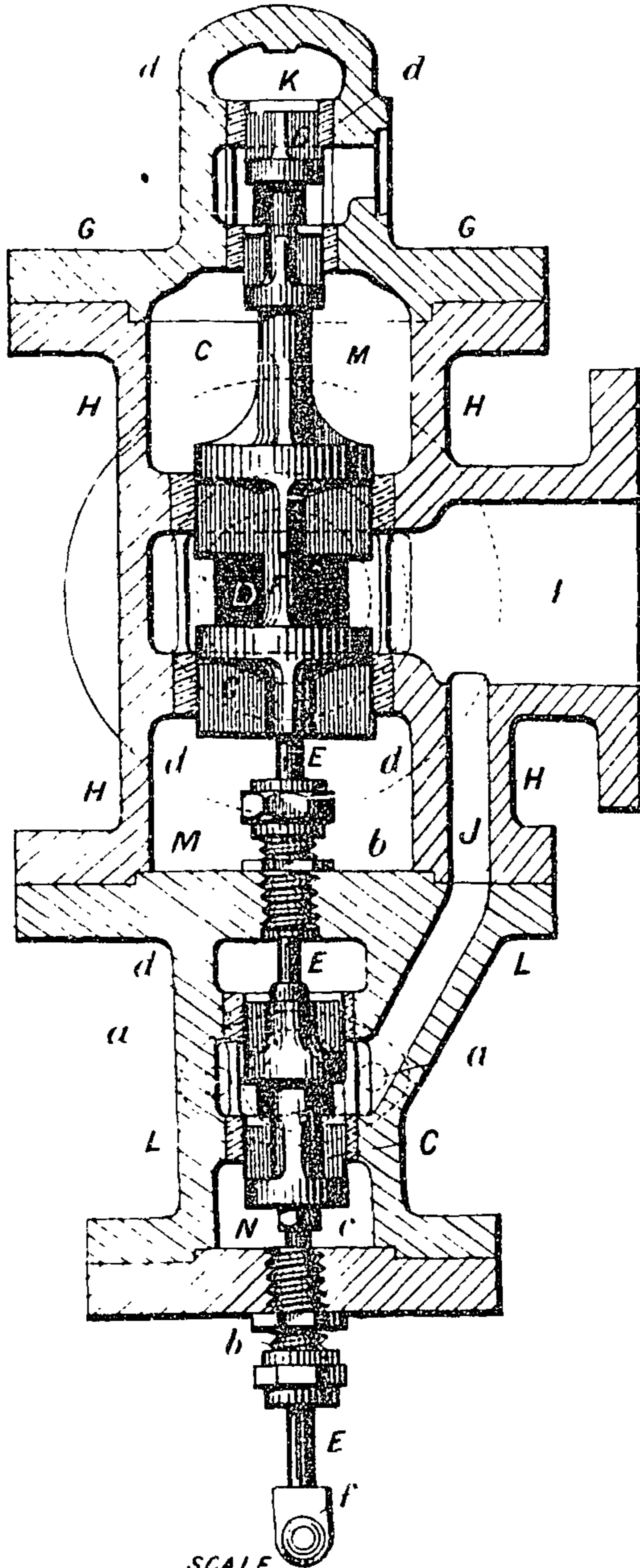
Specimen drawing for Specifications.

Border line $\frac{1}{2}$ an Inch from edge of Paper

A. D. 18
Smith's Specification

(Sheets)
Sheet

FIG 1.



0 SCALE 12 INS

Jas. Smith (Applicant)
 or Jones & Co. Agents for Applicant
 Size of paper for Specification drawing } 13 1/2 inches by 8 inches
 or } 13 " " 16 inches
 Border line $\frac{1}{2}$ an Inch from edge of paper

Border line $\frac{1}{2}$ an Inch from edge of Paper

Border line $\frac{1}{2}$ an Inch from edge of Paper

Rule 35.

Particulars of prior patent.

36. 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 number and date of such prior application shall be specified in the notice.

Opponent's evidence.

37. Within 14 days after the expiration of two months from the date of the advertisement of the acceptance of a complete specification, the opponent may leave at the Patent Office statutory declarations in support of his opposition, and on so leaving shall deliver to the applicant a list thereof.

Applicant's evidence.

38. Within 14 days from the delivery of such list the applicant may leave at the Patent Office statutory declarations in answer, and on so leaving shall deliver to the opponent a list thereof, and within 14 days from such delivery the opponent may leave at the Patent Office his statutory declarations in reply, and on so leaving shall 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.

39. 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 in writing made to him for that purpose.

Closing of evidence.

Where no evidence had been filed on either side, leave was given to the opponent at the hearing to file evidence conditional on its being filed within a given time and the opponent paying a certain sum for costs, and the hearing was adjourned (*r*).

40. Either party making such application shall give notice thereof to the opposite party, who shall be entitled to oppose the application.

41. On completion of the evidence, or at such other time as he may see fit, the Comptroller shall appoint a time for the hearing of the case, and shall give the parties 10 days' notice at the least of such appointment. If the applicant or opponent desires to be heard he must forthwith send the Comptroller an application on Form E. The Comptroller may refuse to hear either party who has not sent such application for hearing. If neither party applies to be heard the Comptroller shall decide the case and notify his decision to the parties.

Notice of hearing.

42. On the hearing of the case no opposition shall be allowed in respect of any ground not stated in the notice of opposition,

Disallowance of opposition in certain cases

(*r*) *Hatfield's Patent*, Griffin P. C. 288.

Rule 42.

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 number and date of such prior application shall have been duly specified in the notice of opposition.

At the hearing of an opposition to grant of patent, or an opposed application for amendment, the applicant begins.

"Number and Date."—Any error in this particular may, it would seem, be corrected by the Comptroller at the hearing, under Rule 16, as an irregularity in procedure, if the correction can, in the opinion of the Comptroller, be made without detriment to the interests of any person; and in *Airey's Application (s)*, the opponent was allowed to amend a notice of opposition, which stated only the number and date, and which was therefore defective under Rule 34 of P. R. 1883, which required the title also, by adding the title of the prior patent.

43. Where the ground of an opposition is that the applicant has obtained the invention from the opponent, or from a person of whom such opponent is the legal representative, unless evidence in support of such allegation be left at the Patent Office within the time prescribed by these Rules, the opposition shall be deemed to be abandoned, and a patent shall be sealed forthwith.

Decision to be notified to parties.

44. The decision of the Comptroller, after hearing any party who applies under Rule 41, shall be notified by him to the parties.

PAYMENT OF ANNUAL FEES FOR CONTINUANCE OF PATENT.

4. (*t*) If a patentee intends at the expiration of the fourth year from the date of his patent to keep the same in force, he shall, before the expiration of the fourth and each succeeding year during the term of the patent, pay the prescribed fee. The patentee may pay the whole or any portion of the aggregate of such prescribed annual fees in advance.

The form J. in the Second Schedule, duly stamped, should be used for the purpose of this payment.

Certificate of payment.

48. 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 issue a certificate that the prescribed payment has been duly made.

ENLARGEMENT OF TIME.

Enlargement of time for payments.

49. An application for an enlargement of the time for making a prescribed payment shall state in detail the circumstances in

(*s*) 5 R. P. C. 350.

(*t*) Substituted by P. R. 1892 (second set), r. 4, for original rules 45, 46, 47

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.

Rule 49.
—

50. An application for enlargement of time for leaving or accepting a complete specification shall state in detail in what circumstances and upon what grounds such extension is applied for, and the Comptroller may require the applicant to substantiate such allegations by such proof as the Comptroller may think necessary.

Extension of time for leaving and accepting complete specification.

51. 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.

In other cases.

AMENDMENT OF SPECIFICATION.

52. A request for leave to amend a specification must be signed by the applicant or patentee (hereinafter in Rules 54, 55 and 57 called the applicant) and accompanied by a duly certified printed copy of the original specification 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.

Request for leave to amend.

Advertisement.

53. 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 must be signed by him. Such notice shall state his address for service in the United Kingdom, and shall be accompanied by an unstamped copy.

Notice of opposition

See Form G.

If the notices are not signed when left at the Patent Office the Comptroller will nevertheless proceed with the hearing if the applicant is not prejudiced by the notice not having been signed as required by this rule (n).

And see Rule 80, *post*.

54. On receipt of such notice the copy thereof shall be transmitted by the Comptroller to the applicant.

Copy for the applicant.

55. Within fourteen days after the expiration of one month from the first advertisement of the application for leave to

Opponent's evidence.

(n) *Codd's Patent*, Griffin P. C. 306.

Rule 55. amend, the opponent may leave at the Patent Office statutory declarations in support of his opposition and on so leaving shall deliver to the applicant a list thereof.

Further proceedings.

56. Upon such declarations being left, and such list being delivered, the provisions of Rules 38, 39, 40, 41, and 44 shall apply to the case, and the further proceedings therein shall be regulated in accordance with such provisions as if they were here repeated.

Requirements thereon.

57. 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, 30, and 31.

Leave by Order of Court.

58. 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.

Advertisement of amendment.

59. 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.

COMPULSORY LICENSES.

[See also scheme of procedure under s. 22, *post*, p. 333, and forms of order of Board of Trade, with license annexed, *post*, pp. 634, 635.]

Petition for compulsory grant of licenses.

60. 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.

To be left with evidence at Patent Office.

61. 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.

Directions as to further proceedings unless petition refused.

62. 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.

Procedure.

63. If and when a *prima 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 support thereof. **Rule 63.**
—
Petitioner's evidence.

64. 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. Patentee's evidence.

65. 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 patentee; such last-mentioned affidavits or declarations shall be confined to matters strictly in reply. Evidence in reply.

66. 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. Further proceedings.

The provisions as to compulsory licences were introduced by the present Act. They do not apply to patents granted before the commencement of the Act of 1883, or on applications then pending. (Sect. 45 (2), *ante*, p. 345.)

Neither the Act nor the Rules contain any provision as to costs, which, if the application be unfounded, may be a serious burden to the patentee.

The Act gives no appeal from the decision of the Board of Trade. But by sect. 22 (*ante*, p. 95) the order of the Board of Trade for a compulsory licence may be enforced by *mandamus*. A writ of *mandamus* is, however, a prerogative writ, and not a writ of right, and it is in this sense in the discretion of the court whether it shall be granted or not. The court may refuse to grant the writ, not only upon the merits, but upon some delay or other matter personal to the party applying for it (*x*), or possibly on matters connected with the conduct of the parties (*y*). The writ may also be refused where it is inequitable to grant it (*z*), and it was refused where performance of an order of the Board of Trade, which the applicant sought to enforce, was shown to be impossible owing to want of funds (*a*). It would seem, therefore, that where a compulsory licence has been ordered, the patentee may, on the application for a *mandamus*, obtain a review of the decision of the Board of Trade. Where, however, the compulsory licence has been refused by the Board of Trade, the applicant has no remedy.

(*x*) *R. v. Churchwardens of All Saints', Wigan*, 1 App. Cas. 611; judgment of Lord CHELMSFORD, p. 621.

(*y*) *Ibid.*, p. 622; judgment of Lord HATHERLEY.

(*z*) *R. v. Garland*, L. R. 5 Q. B. 269.

(*a*) *Re The Bristol and North Somerset Rail. Co.*, 3 Q. B. D. 11.

Rule 67.**REGISTER OF PATENTS.**

Entry of
grant.

67. 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
proprietary-
ship.

68. 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.

See notes under section 23, *ante*, p. 96.

Signature of
request.

69. 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 authorised to the satisfaction of the Comptroller, and in the case of a body corporate by their agent, authorised in like manner.

Particulars
to be stated
in request.

70. 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.

71. 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.

See notes under section 23, *ante*, p. 96.

Copies for
Patent Office.

72. There shall also be left with the request an attested 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 attested copy. **Rule 72.**
—

73. A body corporate may be registered as proprietor by its corporate name. Body
corporate.

74. 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 Act of 1883, 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
orders of the
Privy Council
or of the
Court.

75. Upon the issue of a certificate of payment under Rule 48, 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
payment of
fees on issue
of certificate.

76. 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
failure to
pay fees.

77. An attested 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. Entry of
licenses.

78. 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 the times following:— Hours of
inspection of
register.

(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.

Rule 79.

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 Certified
 copies of
 documents.

79. 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, ETC.

80. 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

81. All general rules heretofore made by the Board of Trade under the Patents Designs and Trade Marks Acts, 1883 to 1888, and in force on the 31st day of March, 1890, shall be and they are hereby repealed as from that date, without prejudice, nevertheless, to anything done under such rules, or to any application then pending.

Dated the 31st day of March, 1890.

M. E. HICKS-BEACH,
President of the Board of Trade.

[NOTE—By the Patent Rules, 1892 (second set) the following list of **Schedule 1.** fees is substituted for the fees specified in the First Schedule to the Patent Rules, 1890.]

SCHEDULE.

· LIST OF FEES PAYABLE ON AND IN CONNECTION 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 (b)			
				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
On application to amend specification:—						
7. 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
On certificate of renewal:—						
14. Before the expiration of the 4th year from the date of the patent and in respect of the 5th year				5	0	0
15. Before the expiration of the 5th year from the date of the patent and in respect of the 6th year				6	0	0
16. Before the expiration of the 6th year from the date of the patent and in respect of the 7th year				7	0	0
17. Before the expiration of the 7th year from the date of the patent and in respect of the 8th year				8	0	0
18. Before the expiration of the 8th year from the date of the patent and in respect of the 9th year				9	0	0
19. Before the expiration of the 9th year from the date of the patent and in respect of the 10th year				10	0	0
20. Before the expiration of the 10th year from the date of the patent and in respect of the 11th year				11	0	0

(b) These payments are in lieu of the fees under the Act of 1853, which, up to the specification, amounted to 25*l.*

Schedule 1.

	£	s.	d.
On certificate of renewal— <i>continued</i> .			
21. Before the expiration of the 11th year from the date of the patent and in respect of the 12th year	12	0	0
22. Before the expiration of the 12th year from the date of the patent and in respect of the 13th year	13	0	0
23. Before the expiration of the 13th year from the date of the patent and in respect of the 14th year (c)	14	0	0
On enlargement of time for payment of renewal fees:—			
24. Not exceeding one month	1	0	0
25. „ two months	3	0	0
26. „ three months	5	0	0
27. For every entry of an assignment, transmission, agreement, license, or extension of patent	0	10	0
28. For duplicate of letters patent each	2	0	0
29. On notice to Comptroller of intended exhibition of a patent under Section 39	0	10	0
30. Search or inspection fee each	0	1	0
31. For office copies every 100 words (but never less than one shilling)	0	0	4
32. For office copies of drawings, cost according to agreement.			
33. For certifying office copies, MSS. or printed ... each	0	1	0
34. (d) On request to Comptroller to correct a clerical error			
up to sealing	0	5	0
after sealing	1	0	0
35. For certificate of Comptroller under section 96	0	5	0
36. For altering address in register	0	5	0
37. For enlargement of time for filing complete specification, not exceeding one month	2	0	0
38. For enlargement of time for acceptance of complete specification:—			
Not exceeding one month	2	0	0
„ two months	4	0	0
„ three months	6	0	0

M. E. HICKS-BEACH,
President of the Board of Trade.

July 4th, 1892

Approved:

SIDNEY HERBERT,

HERBERT EUSTACE MAXWELL,

Lords Commissioners of Her Majesty's Treasury.

(c) These payments will be in time if made before midnight on the anniversary of the day of the date of the patent (*Williams v. Nash*, 28 Bea. 93). See also sect. 98 of the Act of 1883, *ante*, p. 483.

(d) The following fee is added by the Patent Rules, 1892, 1st set.—
On postal request for printed copy of specification, 8d.

THE SECOND SCHEDULE.

FORMS.

- A.—Form of Application for Patent, p. 542.
 A1.— „ „ „ communicated from Abroad, p. 543.
 A2.— „ Application for Patent under International and Colonial Arrangements, p. 544.
 B.— „ Provisional Specification, p. 544.
 C.— „ Complete, p. 545.
 D.— „ Opposition to Grant of Patent.
 E.— „ Application for Hearing by Comptroller.
 F.— „ „ to amend Specification or Drawings.
 G.— „ Opposition to Amendment of Specification or Drawings.
 H.— „ Application for Compulsory Grant of License.
 H1.— „ Petition for Compulsory Grant of Licenses.
 I.— „ Opposition to Compulsory Grant of License.
 J.— „ Application for Certificate of Payment or Renewal.
 K.— „ Application for Enlargement of Time for Payment of Renewal Fee.
 L.— „ Request to enter Name upon the Register of Patents.
 M.— „ Request to enter Notification of License in Register.
 N.— „ Application for Duplicate of Letters Patent.
 O.— „ Notice of Intended Exhibition of Unpatented Invention.
 P.— „ Request for Correction of Clerical Error.
 Q.— „ Certificate of Comptroller.
 R.— „ Notice for Alteration of an Address in Register.
 S.— „ Application for Entry of Order of Privy Council in Register.
 T.— „ Appeal to Law Officer.
 U.— „ Application for Extension of Time for leaving a complete Specification.
 V.— „ Application for Extension of Time for acceptance of complete Specification.

To these is added by Patent Rules, 1892 (first set), Form C. 1 : Application for Copy of a Specification.

The forms from D. onward are not printed in this edition.

Schedule 2.**PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1883 TO 1888.**

(PATENT.)

Form A.

*To be accompanied by two copies of Form B. or of Form C.***Application for Patent.**

* do hereby declare that in possession of an invention the title of which is † 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 to for the said invention.

Dated day of , 18 .

§ ———

* Here insert name and full address and calling of applicant or applicants.

† Here insert title of invention.

‡ In the case of more than one applicant, state whether all, or if not, who is or are the inventor or inventors.

§ To be signed by applicant or applicants. In the case of a firm, each member of the firm must sign.

NOTE.—Where application is made through an agent (Rule 8), the authorization on the back (if used) should be signed by the applicant or applicants.

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

For the convenience of applicants, suggested forms of authorization to an agent and statement of address respectively are printed below.

(1) *Where Application is made through an Agent (Rule 8).*

hereby appoint of to act as agent in respect of the within application for a Patent, and request that all notices, requisitions, and communications relating thereto may be sent to such agent at the above address.

day of , 18 .

* ———.

* To be signed by applicant or applicants.

(2) *Where Application is made without an Agent (Rule 9).*

hereby request that all notices, requisitions, and communications in respect of the within application may be sent to at .

day of , 18 .

† ———.

† To be signed by applicant or applicants.

—————

PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1893 TO 1888.

Schedule 2.

(PATENT.)

Form A1.

*To be accompanied by two copies of Form B. or of Form C.***Application for Patent for Inventions communicated from Abroad.**

I* of in the county of do hereby declare that I am in possession of an invention the title of which is †, which invention has been communicated to me by ‡; that I claim to be the true and first inventor thereof; and that the same is not in use within the United Kingdom of Great Britain and Ireland and the Isle of Man by any other person or persons to the best of my knowledge and belief; and I humbly pray that a Patent may be granted to me for the said invention.

Dated day of , 18 .

§——.

* Here insert name, and full address and calling of applicant.

† Here insert title of invention.

‡ Here insert name, address, and calling of communicant.

§ To be signed by applicant or applicants.

NOTE.—Where application is made through an agent (Rule 8) the authorization on the back (if used) should be signed by the applicant or applicants.

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

For the convenience of applicants, suggested forms of authorization to an agent and statement of address respectively are printed below.

(These forms are not here printed, being the same as those in Form A. above.)

The Patent Office does not receive applications upon this form from persons resident abroad. See Notice, April 21st, 1884. This rule prevents applications for patents for communications from abroad being made by agents resident abroad, such as was allowed in *Re Wirth's Patent*, 12 Ch. D. 303.

In a communication from abroad it is not necessary to distinguish between the parts communicated and the parts invented by the patentee. (*Moser v. Marsden*, 10 R. P. C. 350.)

Schedule 2.

PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1883 TO 1888.

(PATENT.)

Form A2.

Application for Patent under International and Colonial Arrangements.

* do hereby declare that I (or we) have made foreign applications for protection of my (or our) invention of † in the following Foreign States and on the following official dates, viz. : ‡ and in the following British Possessions and on the following official dates, viz. : §

That the said invention was not in use within the United Kingdom of Great Britain and Ireland and the Isle of Man by any other person or persons before the || to the best of knowledge, information and belief, and humbly pray that a patent may be granted to for the said invention in priority to other applicants, and that such patent shall have the date ||

¶———.

* Here insert name and full address and calling of applicant, or of each of the applicants.

† Here insert title of invention.

‡ Here insert the names of each Foreign State followed by the official date of the application in each respectively.

§ Here insert the names of each British Possession followed by the official date of the application in each respectively.

|| Here insert the official date of the earliest foreign application.

¶ Signature of applicant or of each of applicants.

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

To be issued with Form A., A1., or A2.

PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1883 TO 1888.

Form B.

Provisional Specification.

(To be furnished in Duplicate.)

* _____,
† _____, do hereby declare the nature of this invention to be as follows :— ‡

NOTE.—No stamp is required on this document, which must form the commencement of the Provisional Specification; the continuation to be upon white 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 ____."

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

* Here insert title as in declaration.

† Here insert name, and full address and calling of applicant or applicants as in declaration.

‡ Here insert short description of invention.

Where Provisional Specification has been left, quote No. and date.
No. .
Date .

(PATENT.)

Form C.

Complete Specification.

(To be furnished in Duplicate—one unstamped.)

† do hereby declare the nature of this invention and in what manner the same is to be performed, to be particularly described and ascertained in and by the following statement:—

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 .”

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

* Here insert title as in declaration.

† Here insert name, and full address and calling of applicant or applicants as in declaration.

‡ 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 RULES, 1890, AND PATENTS RULES, 1892
(SECOND SET), AND PATENTS RULES, 1898.**

These rules having been embodied in the Patent Rules, 1890 (*ante*, pp. 524, 532, 539, 540), are not here repeated.

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 Acts, he shall within fourteen days from the date of the decision appealed against file in the Patent Office a notice of such his intention.

See Form T. in Second Schedule to P. R. 1890.

Where the Comptroller by his decision on an opposition to the grant of a patent requires an amendment to be made in the specification, and does not in his decision settle the specific words of the amendment, the time for appealing to the law officer dates from the day of forwarding to the opponent a copy of the amendment approved by the Comptroller (*d*). The notice of appeal may be signed by the appellant's agent (*e*).

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.

The effect of Rules 1 and 2 is to limit the hearing before the law officers to points specifically raised by the notice of appeal, and where a notice of appeal is given as to part only of the Comptroller's decision, the person receiving such notice, and desiring to question other parts of the Comptroller's decision, must give a counter-notice (*f*). The rule is the same when the appeal is from the whole decision (*g*).

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.

In opposition cases this Rule applies only where the applicant appeals (*h*). But in *Re Hills Application* (*i*) it was stated that directions would be given

(*d*) *Chandler's Patent*, Griffin, P. C. 270, 273; *Cooper and Ford's Patent*, Griffin, P. C. 275, 276.

(*e*) *Anderson and McKinnell's Patent*, Griffin, L. O. C. 24.

(*f*) *Baird's Patent*, 5 R. P. C. 287.

Re Hall and Hall's Patent 5 R. P. C. 283.

(*h*) *Anderson and McKinnell's Patent*, Griffin, L. O. C. 23, 24.

(*i*) 5 R. P. C. p. 601. See also *Ryland's Patent*, 5 R. P. C. 668.

to the Patent Office or to the official clerk that notice should be sent to the respondent, if he was the applicant before the comptroller.

Rule III

NOTE

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 fourteen days from the date of the decision appealed against, or such further time as the Comptroller may allow, except by special leave upon application to the law officer.

VI. Seven days' notice, at least, of the time and place appointed for the hearing of any appeal, shall be given by the 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.

Under this Rule a further specification cannot be put in before the law officer, on opposition to the grant of a patent. Such further specification is not evidence, but is an additional ground of opposition (*k*).

Where one of the objections in a notice of opposition had imputed fraud, but no evidence in support of this imputation had been filed before the comptroller, the law officer, on the hearing of an appeal from the decision of the comptroller overruling the other objections allowing the patent, confined the opposition to the points argued before the comptroller, and refused to go into the question of fraud, or to allow evidence on that question to be put in (*l*).

Where on an opposition by an Englishman to foreigners' application for a patent, the foreigners stated that they had made an application for a patent for the same invention abroad prior in date to the Englishman's application, and asked to have the English patent ante-dated under s. 103 (*ante*, p. 492), but having filed no evidence before the comptroller as to the

(*k*) *Bailey's Patent*, Griffin, P. C. 269.

(*l*) *Huth's Patent*, Griffin, P. C. 292.

Rule VIII. foreign patent, he had refused to notice it, they were on appeal to the law officer allowed to file evidence on paying all the costs (*m*).

NOTE.

Where there was a serious conflict of scientific chemical evidence, the law officer declined to allow one chemist on each side to give *visá voce* evidence before him, but stated that he would, if necessary, call in an expert, or the appellants might apply for leave to cross-examine witnesses who had made declarations (*n*).

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.

See notes under s. 38 of the Act of 1883, *ante*, p. 338.

XII. If any costs so ordered to be paid be not paid within fourteen days after the amount thereof has been so fixed or ascertained, or such shorter period as shall be directed by the law officer, the party to whom such costs are to be paid may apply to the law officer for an order for payment under the provisions of section 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.

(*m*) *L'Oiseau and Pierrard's Application*, Griffln, L. O. C. 36.

(*n*) *Lake's Patent*, 6 R. P. C. 548.

JUDICIAL COMMITTEE RULES.

AT THE COURT AT WINDSOR CASTLE, the 26th day of November,
1897.

Present,

THE QUEEN'S MOST EXCELLENT MAJESTY.

LORD PRESIDENT.

LORD PRIVY SEAL.

MR. RITCHIE.

WHEREAS by the 25th Section of an Act of Parliament passed in the 46th and 47th years of Her Majesty's reign, intituled "The Patents Designs and Trade Marks Act, 1883," it is amongst other things enacted that a patentee may, after advertising in manner directed by any rules made under the said Section his intention to do so, present a Petition to Her Majesty in Council, praying that his patent may be extended for a further term, but such Petition must be presented at least six months before the time limited for the expiration of the patent; that 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 that it shall be lawful for Her Majesty in Council to make from time to time rules of procedure and practice for regulating the 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:

And Whereas Her Majesty in Council has deemed it expedient to make rules for regulating proceedings in such Petitions.

Her Majesty is therefore pleased by and with the advice of Her Privy Council to approve of the several rules and regulations contained in the Schedule hereunto annexed, and to order as it is hereby ordered that on and after the 1st January 1898 the same be respectively observed.

Whereof all persons whom it may concern are to take notice and govern themselves accordingly.

C. L. PEEL.

Rule I.THE SCHEDULE *above referred to.*

RULES to be observed in PROCEEDINGS before the JUDICIAL COMMITTEE of the PRIVY COUNCIL under the PATENTS DESIGNS and TRADE MARKS ACT 1883, Section 25.

I.

A party intending to apply by Petition under Section 25 of the Act shall give public notice by advertising three times in the *London Gazette* and once at least in each of three London newspapers.

If the applicant's principal place of business is situated in the United Kingdom at a distance of fifteen miles or more from Charing Cross he shall also advertise once at least in some local newspaper published or circulating in the town or district where such place of business is situated. If the applicant has no place of business, then, if he carries on the manufacture of anything made under his specification at a distance of fifteen miles or more from Charing Cross he shall advertise once at least in some local newspaper published or circulating in the town or district where he carries on such manufacture. If he has no place of business and carries on no such manufacture, then, if he resides at a distance of fifty miles or more from Charing Cross, he shall advertise once at least in some newspaper published or circulating in the town or district where he resides.

The applicant shall in his advertisements state the object of his Petition and shall give notice of the day on which he intends to apply for a time to be fixed for hearing the Matter thereof 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*. He shall also give notice that Caveats must be entered at the Council Office on or before such day so named in the said advertisements.

The advertisements are proved before the case is heard (*o*).

"Once at least in some local newspaper," etc.—The old Rules required the petitioner to advertise three times in the local paper.

Under the Act of 1835 it was held that if the patentee resides abroad, and the invention is carried on under licences, the advertisements should be inserted in papers circulating in the places where the manufacture is actually carried on (*p*).

The name of an equitable assignee of a co-petitioner must appear in the advertisements (*q*).

For forms of advertisements, see Appendix, *post*, p. 618.

(*o*) *Perkin's Patent*, 2 Webst. 8.

(*q*) *Noble's Patent*, 7 Moo. P. C.

(*p*) *Derosne's Patent*, 2 Webst. 2. 191.

II.

Rule II.

A Petition under Section 25 of the Act must be presented within one week from the publication of the last of the advertisements required to be published in the *London Gazette*.

The Petition must be accompanied with an affidavit or affidavits of advertisements having been published according to the requirements of the 1st of these Rules. The statements contained in such affidavit or affidavits may be disputed upon the hearing.

The Petitioner shall apply to the Lords of the Committee to fix a time for hearing the Petition, and when such time is fixed the Petitioner shall forthwith give public notice of the same by advertising once at least in the *London Gazette* and in two London newspapers.

"Must be presented within one week," etc.—In case of delay arising from mistake this Rule has not been insisted on (*r*). And a supplementary statement to correct errors in the petition has been allowed to be delivered before the hearing (*s*).

Where a petitioner who was entitled to a moiety of the patent, and who, with the assignees of the other moiety, had presented a petition for prolongation, died before the petition was heard, his widow, being executrix and residuary legatee, was allowed to appear at the hearing without a supplemental petition, but the Judicial Committee directed, in case a prolongation should be granted, that sufficient proof should be afforded to enable the recital of the death and bequest to be inserted in the new letters patent (*t*).

"Shall apply . . . to fix a time for hearing."—Where on an application to fix hearing it appeared that the petition had been presented nearly eighteen months before the expiry of the patent, the application was ordered to stand over, as the profits accruing in the meantime might materially affect the question of extension (*u*). Whether on a renewal of such an application the notices served before the first application will be sufficient, *qu.* (*x*).

Under the repealed Acts it was required that the petition should be prosecuted with effect before the patent expired; otherwise, unless the petition was presented more than six months before the date of expiration (*y*), no extension could be granted; and "prosecuted with effect" meant obtaining the report of the Judicial Committee (*z*). There is no such requirement in the present Act, and it is submitted that if the petition is presented in time extension may be granted, although the hearing does not take place till the patent has expired (*a*).

(*r*) *Hutchinson's Patent*, 14 Moo. 364.

(*s*) *Rees's Patent*, Eng. Rep. Jan. to Mar. 1881, xiv.

(*t*) *Herbert's Patent*, L. R. 1 P. C. 399, 401.

(*u*) *Mackintosh's Patent*, 1 Webst. 739, n.

(*x*) *Ibid.*

(*y*) 5 & 6 Will. 4, c. 83, s. 4; 2 & 3 Vict. c. 67, s. 2. *Bodmer's Patent*, 1 Webst. 740.

(*z*) *Ledsam v. Russell*, 1 H. L. C. 687.

(*a*) Compare *Somerset and Walker's Patent*, 13 Ch. D. 397; *Johnson's Patent*, *Ibid.* 398, n.

Rules
III., IV.

III.

A party presenting a Petition under Section 25 of the Act must lodge at the Council Office eight printed copies of the Specification: but if the Specification has not been printed and if the expense of making eight copies of any Drawing therein contained or referred to would be considerable the lodging of two copies only shall be deemed sufficient.

The Petitioner shall also lodge at the Council Office eight 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. He shall also furnish three copies of the said balance sheet for the use of the Solicitor to the Treasury and shall upon receiving two days' notice give the Solicitor to the Treasury, or any person deputed by him for the purpose reasonable facilities for inspecting and taking extracts from the books of account by reference to which he proposes to verify the said balance sheet at the hearing or from which the materials for making up the said balance sheet have been derived.

All copies mentioned in this Rule must be lodged and furnished not less than fourteen days before the day fixed for the hearing.

"Copies of the specification."—See *In re Bell's Patent* (b).

"He shall also," etc.—This and the following provisions as to inspection, etc., by the Solicitor to the Treasury are new.

"Not less than fourteen days."—The time in the corresponding provision of the old Rules was one week. The reason for the Rule so far as it refers to copies of the balance sheet is that it is necessary that the Attorney-General should have the power of inspecting the accounts and making inquiries; and where the accounts had only been filed on the morning of hearing the Judicial Committee refused to go into the accounts, but allowed the hearing to be postponed (c).

IV.

A party intending to oppose a Petition under Section 25 of the Act must enter a Caveat at the Council Office before the day on which the Petitioner applies for a time to be fixed for hearing the matter thereof and having entered such Caveat shall be entitled to have from the Petitioner four weeks' notice of the time appointed for the hearing.

The Petitioner shall serve copies of his Petition on all parties entering Caveats in accordance with this Rule, and no application to fix a time for hearing shall be made without affidavit of such service.

(b) 2 Webst. 159.

(c) *Johnson's and Atkinson's*

Patents, L. R. 5 P. C. 88; following
Chatwood's Patent, *Ibid.* 88, n

All parties intending to oppose a Petition shall within three weeks after such copies are served on them respectively lodge at the Council Office eight printed copies of the grounds of their objections to the granting of the prayer of the Petition. Rules V., VI.

“Must enter a caveat.”—In the absence of special circumstances, the time for entering a caveat will not be extended (*d*). The caveat must be entered in the name of the actual opposer, not in that of his agent (*e*).

An alien resident abroad who was interested in an English patent by a foreign inventor, and who had had considerable dealings in this country in respect of sales of the patented machine and in granting licences, was held to have sufficient *locus standi* to oppose the extension of an English patent which would interfere with the first-mentioned patent. But it was not decided whether without such an interest he would have been entitled to inform the Crown in any matter touching letters patent (*f*).

“Shall serve copies of his petition on all parties entering caveats,” etc.—The Rule extends to cases of applications to correct an irregularity in the service of the petition. In such a case a person who has entered a caveat must be served with notice of the application (*g*).

“Within three weeks.”—This is an extension of the time for lodging objections. Under the old Rules the time was “within a fortnight” after service of a copy of the petition.

“Grounds of their objections.”—Under this Rule it is sufficient to state the grounds of objections without stating the particulars of those objections (*h*).

For forms of objections, see Appendix, *post*, p. 616.

V.

Parties shall be entitled to have copies of all papers lodged in respect of any Petition under Section 25 of the Act at their own expense.

All such Petitions and all statements of grounds of objection shall be printed in the form prescribed by the Rules which apply to proceedings before the Judicial Committee of the Privy Council. Balance sheets of expenditure and receipts shall be printed in a form convenient for binding along with such Petitions.

VI.

Costs incurred in the matter of any Petition under Section 25 of the Act shall be taxed by the Registrar of the Privy Council, or other officer deputed by the Lords of the Judicial Committee of the Privy Council to tax the costs in the matter of any Petition, and the Registrar or such other officer shall have

<p>(<i>d</i>) <i>Hopkinson's Patent</i>, 13 R. P. C. 114.</p> <p>(<i>e</i>) <i>Lowe's Patent</i>, 8 Moo. 1.</p> <p>(<i>f</i>) <i>Re Schlumberger</i>, 9 Moo. P. C. 1.</p>	<p>(<i>g</i>) <i>Hutchinson's Patent</i>, 14 Moo. P. C. 364.</p> <p>(<i>h</i>) <i>Ball's Patent</i>, 1 App. Cas. 171.</p>
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**Rules
VII., VIII.**

authority to allow or disallow in his discretion all payments made to persons of science or skill examined as Witnesses.

“Payments to persons of science or skill.”—See *ante*, p. 242.

VII.

The Lords of the Committee may excuse Petitioners and Opponents from compliance with any of the requirements of these Rules, and may give such directions in matters of procedure and practice under Section 25 of the Act as they shall consider to be just and expedient.

Under the old practice the Rules might be relaxed in a proper case (*i*).

And in the case of a patent granted under the present Act, when by an oversight the parties had delayed issuing the preliminary advertisements so long that if the Rules were insisted on it would be impossible to comply with the requirement of section 25 (1), that the petition should be presented six months before the expiration of the patent, the Judicial Committee allowed the petition to be received before the insertion of the advertisements, the parties undertaking to insert before a named day the advertisements required, and the order to be served on the Attorney-General and to be subject to any objection he might make (*k*).

VIII.

The Lords of the Committee will hear the Attorney-General or other Counsel on behalf of the Crown on the question of granting the prayer of any Petition under Section 25 of the Act. The Attorney-General is not required to give notice of the grounds of any objection he may think fit to take or of any evidence which he may think fit to place before the Lords of the Committee.

The Attorney-General (see *ante*, pp. 103, 117).

“On the question of granting,” etc.—The corresponding words in the old Rules were “*against granting any application made,*” etc.

“Is not required,” etc.—This is a formal enactment of the old practice under which the Attorney-General was always allowed to adduce evidence impeaching the patent irrespective of any notice of objections (*l*).

(*i*) *Jablochkoff's Patent*, 1891, A. C. 293, 294.

(*k*) *Lindon's Patent*, 14 R. P. C. 643.

(*l*) *Ball's Patent*, 4 App. Cas. 173, 174; *Stewart's Patent*, 3 R. P. C. 7; *Church's Patents*, 3 R. P. C. 101; *Livet's Patent*, 9 R. P. C. 327.

DESIGNS RULES, 1890.

By virtue of the provisions of the Patents, Designs, and Trade Marks Acts, 1883 to 1888, the Board of Trade do hereby make the following Rules :—

PRELIMINARY.

1. These Rules may be cited as the Designs Rules, 1890, and shall come into operation from and immediately after the 31st day of March, 1890.

INTERPRETATION.

2. In the construction of these Rules any words herein used defined by the said Acts shall have the meanings thereby assigned to them respectively. Interpreta-
tion.

FEEES.

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. Fees.

FORMS.

4. (*m*) An application for the registration of a design for articles not being lace shall be made in the form E or form O in the Second Schedule hereto. An application for one design to be applied to lace shall be made in the form E1 in the Second Schedule hereto, and for one design to be applied to a set of lace articles shall be made in the form O1 in the Second Schedule hereto. A request for registration of the name of any subsequent proprietor of a lace design or set of lace designs shall be made in the form K1 in the Second Schedule hereto. The remaining forms in such Schedule may be used in all cases to which they are applicable. Forms.

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. Classification
of goods.

This is a re-enactment, with considerable alterations, of the classes contained in section 3 of the Act of 1842.

(*m*) Substituted for original Rule 4 by Designs Rules, 1893. These latter rules, and also the Designs Rules, 1898, having been embodied in the Designs Rules, 1890, as here printed, see *post*, pp. 556, 558, 560, and 561, are not printed separately in this book.

Rule 6.

APPLICATION FOR REGISTRATION.

Agents.

6. (n) 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 authorised to the satisfaction of the Comptroller, but the Comptroller shall not be bound to recognise as such agent, or to receive further communications from, any person whose name, by reason of his having been adjudged guilty of disgraceful professional conduct, has been erased from the Register of Patent Agents kept under the provisions of the Patents, Designs, and Trade Marks Act, 1888, relating to the registration of Patent Agents, and not since restored.

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.

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.

“Nature of the design.”—See *ante*, p. 355.

“Shape or configuration.”—See *ante*, pp. 373, 374.

(n) Substituted by Designs Rules, 1898, for original Rule 6.

10. 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. **Rule 10.**
—
Notice of registration.

Rule 11 is the same as P. R. 16A.

Applications may be sent by post.

EXERCISE OF DISCRETIONARY POWERS.

Rules 12, 13, 14, are nearly the same as P. R., rr. 11, 12, 14, ante, pp. 524, 525.

APPEAL TO THE BOARD OF TRADE.

15. 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. Notice of appeal to Board of Trade.

16. Such notice shall be accompanied by a statement of the grounds of appeal, and of the applicant's case in support thereof. Statement on appeal.

17. 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. Notice to Secretary of Board of Trade.

18. 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. Directions by Board of Trade.

"For the Board of Trade."—Proceedings under the Acts, by or before the Board of Trade, are now regulated by the Act of 1888, s. 25, *ante*, p. 521.

19. 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. Notice of time of hearing.

REGISTER OF DESIGNS.

20. 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. Registering design.

Rules 21, 22, 23, relating to entry of names of subsequent proprietors are practically the same as P. R., rr. 68, 69, 70, ante, p. 536. Subsequent proprietors.

Rule 24.

24. 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.

Rules 25 and 26 are practically the same as P. R., rr. 71, 73, ante, pp. 536, 537.

27. Four clear days' notice of every application to the Court under section 90 of the Patents, Designs, and Trade Marks Acts, 1883 to 1888, for rectification of the Register of Designs, shall be given to the comptroller.

Rule 28 is practically the same as P. R. 74, ante, p. 537.

POWER TO DISPENSE WITH EVIDENCE.

Rule 29 is same as P. R. 80, ante, p. 538.

AMENDMENTS.

Rule 30 is substantially the same as P. R. 16, ante, p. 525, and is extended to "drawings, sketches, or tracings."

ENLARGEMENT OF TIME.

Rule 31 is substantially the same as P. R. 51, ante, p. 533.

MARKING GOODS.

32. (n) Before 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 Class 13 or Class 14 in the Third Schedule hereto cause each such article to be marked with the abbreviation Regd., and shall, if such article is included in any of the Classes 1 to 12 in the Third Schedule hereto, cause each such article to be marked with the abbreviation Rd., and also, in the case of articles other than lace, with the number appearing on the certificate of registration.

A re-enactment, with modifications simplifying details, of s. 4 of the Act of 1842. See *ante*, p. 359.

Putting "Regd." on an article which ought to be marked "Rd." does not invalidate the registration (o).

(n) Substituted for original Rule 32 by Designs Rules, 1893.

(o) *Heinrichs v. Bastendorff*, 10 R. P. C. 160.

Statutory
declaration
with request.

Proof of
title if
required.
Corporate
name.

Notice to
Comptroller
of application
to rectify
register.

Notice of
order of
Court.

Registration
mark.

INSPECTION.

Rule 33.

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. Office hours.

Inspection is now, by the Act of 1888, s. 6, also allowed where registration is refused on the ground of identity with a design already registered. See *ante*, p. 514.

CERTIFICATE BY COMPTROLLER.

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 authorised 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. Certificate,
legal
proceeding.

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, 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 registered design applied to such goods of which the copyright is still existing. Search.

A letter from the comptroller giving this information is not evidence in an action for infringement (*p*).

INDUSTRIAL AND INTERNATIONAL EXHIBITIONS.

Rule 36 is substantially the same as P. R. 15, ante, p. 525.

REPEAL.

37. All general rules as to the registration of Designs heretofore made by the Board of Trade under the Patents, Designs, and Trade Marks Acts, 1883 to 1888, and in force on the 31st day of March, 1890, shall be, and they are hereby, repealed, as from that date, without prejudice, nevertheless, to any proceeding which may have been taken under such Rules. Repeal of
previous
Rules.

31st March, 1890.

M. E. HICKS-BEACH,
President of the Board of Trade.

SCHEDULES.

FIRST SCHEDULE

FEES.

	£	s.	d.
1. On application to register one design to be applied to single articles in each class not being lace and except articles in classes 13 and 14*	0	10	0
2. On application to register one design to be applied to lace, or 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, not being lace, for each class of registration*	1	0	0
3a. On application to register one design to be applied to a set of lace articles*	0	2	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 in any case in which inspection is permitted by the Patents, Designs, and Trade Marks Acts, 1883 to 1888, and the Designs Rules thereunder, 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 1s.)		
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.

M. E. HICKS-BEACH,
President of the Board of Trade.

Approved,
R. E. WELBY,
For the Lords Commissioners of Her Majesty's Treasury.

31st March, 1890.

* Substituted for original fees, 1, 2, 3, by Designs Rules, 1893.

SECOND SCHEDULE.

Schedule 2.

FORMS.

- E.—Form of Application to Register, p. 561.
 F.— „ Appeal to Board of Trade.
 G.— „ Certificate of Registration.
 H.— „ Application for Copy of Certificate of Registration.
 I.— „ Request for Certificate for use in Legal Proceedings.
 J.— „ Certificate for use in Legal Proceedings.
 K.— „ Request to enter Name of Subsequent Proprietor.
 L.— „ Notice of intending Exhibition of Unregistered Design.
 M.— „ Request for Correction of Clerical Error or for entry of New Address.
 N.— „ Request for Search under Section 53.
 O.— „ Application to Register for a set of Articles.
 E1.— „ Application for Registration of a Lace Design in Class 9, p. 562.
 O1.— „ Application for Registration of a Lace Design to be applied to a Set.
 K1.— „ Request to enter name of subsequent Proprietor of a Lace Design or Set of Lace Designs.

Forms E1, O1, K1, were added by Designs Rules, 1893.

PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1883 TO 1888.

(DESIGNS.)

Form E.

Application for Registration of a Design in Classes _____.

You are hereby requested to register the accompanying design in Class _____, in the name of _____, of _____, who claims to be the proprietor thereof, and to return the same to _____.

Statement of nature of design† _____.

(Signed)‡ _____.

Dated the _____ day of _____, 189 _____.

To the Comptroller, Patent Office, Designs Branch,
 25, Southampton Buildings, Chancery Lane, London, W.C.

* Here insert legibly the name, address, and description of the individual or firm.

† Such as whether it is applicable for the pattern or for the shape.

‡ To be signed by the applicant.

Schedule 2.

PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1883 TO 1888.

(DESIGNS.)

Form E1.

Application for Registration of a Lace Design in Class 9.

You are hereby requested to register, without search, the accompanying Design in Class 9 in the name of* who claims to be the proprietor thereof, and to return the same to .

The nature of the design is the pattern.

(Signed)† .

Dated the day of 189 .

*To the Comptroller, the Patent Office (Designs Branch),
25, Southampton Buildings, London, W.C.*

* Here insert legibly the name, address, and description of the individual or firm.

† To be signed by the applicant or his agent duly authorised. When signed by an agent there should be added to the signature "Agent duly authorised by authorisation dated the day of 189 ."

THIRD SCHEDULE.

CLASSIFICATION OF ARTICLES OF MANUFACTURE AND SUBSTANCES.

Classes.

1. Articles composed wholly or chiefly of metal, not included in Class 2.
2. Jewellery.
3. Articles composed wholly or chiefly of wood, bone, ivory, papier maché, or other solid substances not included in other classes.
4. Articles composed wholly or chiefly of glass, earthenware, or porcelain, bricks, tiles, or cement.
5. Articles composed wholly or chiefly of paper (except hangings).
6. Articles composed wholly or chiefly 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.

M. E. HICKS-BEACH,
President of the Board of Trade.

31st March, 1890.

Goods divided in pattern by cross lines, showing they would be sold not by measurement but by number, such as clusters woven in sets of 12, ought to be registered in class 14. (*Hothersall v. Moore*, 9 R. P. C. 27, 38.)

TRADE MARKS RULES, 1890.

By virtue of the provisions of the Patents, Designs, and Trade Marks Acts, 1883 to 1888, the Board of Trade do hereby make the following Rules :—

PRELIMINARY.

1. These Rules may be cited as the Trade Marks Rules, 1890, and shall come into operation from and immediately after the 31st day of December, 1889.

INTERPRETATION.

2. In the construction of these Rules any words herein used defined by the said Acts shall have the meanings thereby assigned to them respectively. Interpreta-
tion.

FEEs.

3. The fees to be paid in pursuance of the said Acts, so far as they relate to trade marks, shall be the fees specified in the First Schedule hereto. Fees.

FORMS.

4. The Form F in the First Schedule to the Patents, Designs, and Trade Marks Act, 1883, shall be altered or amended by the substitution therefor of the Form F' in the Second Schedule to these Rules. 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. Classifica-
tion of
goods.

Rule 6.

If any doubt arises as to what class any particular description of goods belongs to, the doubt shall be determined by the Comptroller.

"Classified."—Applications for the registration of the same mark in different classes are to be treated as separate and distinct applications. See T. M. R. 1897, r. 13, *post*, p. 585.

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.

Address of
application.

8. Where a trade mark for registration of which application is made is in classes 23, 24 or 25 of the Third Schedule to these Rules, the applicant shall address and send his application to the Manchester Trade Marks Branch, 48, Royal Exchange, Manchester. Other applications (except applications which under Section 81 of the said Acts should be made to the Cutlers' Company) shall be addressed and sent to the Patent Office, Trade Marks Branch, 25, Southampton Buildings, Chancery Lane, London, W.C.

Agency.

9. An application for registration and all other communications between the applicant and the Comptroller may be made by or through an agent duly authorised to the satisfaction of the Comptroller.

Acknowledg-
ment of
application.

10. On receipt of the application the Comptroller shall furnish the applicant with an acknowledgment thereof.

Contents of
form of
application.

11. 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, etc., of
documents.

12. 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 Acts 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.

Rules 13, 14 and 15 relating to "Representations of Trade Marks," "Representations of a series of Trade Marks," and "Translation of Foreign Characters," are repealed and re-enacted with additions and modifications by T. M. R., 1897, post, p. 584.

Rules 13-15.

16. Any application, statement, notice, or other document authorised or required to be left, made, or given at the Patent Office, or to the Comptroller, or to any other person under 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.

Mode of sending notices, etc.

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.

Rules 17 and 18 are practically the same as P. R., rr. 11, 12, ante, pp. 524, 525.

19. The decision of the Comptroller in the exercise of any such discretionary power as aforesaid shall be notified to the applicant.

Notification of decision.

APPEAL TO THE BOARD OF TRADE.

20. When any person intends to appeal to the Board of Trade from a decision of the Comptroller in any case in which an appeal is given by the said Acts, 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.

Notice of appeal.

21. Such notice shall be accompanied by a statement in writing of the grounds of appeal, and of the appellant's case in support thereof.

Grounds of appeal to be stated.

22. A copy of the notice of intention to appeal, accompanied by a statement of the case, shall also be forthwith sent to the Secretary of the Board of Trade, No. 7, Whitehall Gardens, London; and where there has been an opposition before the Comptroller to the opponent or applicant as the case may be.

Transmission of notice.

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.

Directions by Board.

24. Where the Board of Trade intend to hear the appeal seven days' notice, or such shorter notice as the Board of

Hearing of appeal.

Rule 24. Trade may in any particular case direct, of the time and place appointed for the hearing, shall be given to the Comptroller and to the appellant, and where there has been an opposition before the Comptroller to the opponent or applicant as the case may be.

No appeal unless notice duly given.

25. No appeal shall be entertained of which notice has not been given within one month from the date of the decision appealed against, or such further time as the Comptroller may allow, except by special leave of the Board of Trade.

Evidence on appeal.

26. Subject to the directions and leave of the Board of Trade, the evidence to be used on an appeal to the Board of Trade in the matter of an opposition shall be the same as that used at the hearing before the Comptroller.

ADVERTISEMENT OF APPLICATION.

Advertisement of application.

27. Every application shall be advertised by the Comptroller in the official paper, during such times, and in such manner as the comptroller may direct, unless he refuse to entertain the application.

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 advertisement to the place or places where a specimen or representation of the trade mark is deposited for exhibition.

Definition of official paper.

28. 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.

29. 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.

30. 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 Acts, 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.

Rule 30.
—

OPPOSITION TO REGISTRATION.

31.—(1.) A notice of opposition to the registration of a trade mark shall state the ground or grounds on which the opponent intends to oppose the registration, and be signed by him or by his solicitor, and shall also contain an address for service in the United Kingdom, and shall be in the Form J in the Second Schedule to these Rules, with such variations as circumstances may require.

Notice of
opposition.

(2.) Where the ground, or one of the grounds, of opposition is that the applicant is applying for the registration of a trade mark identical with one already on the register with respect to the same goods or description of goods, or having such resemblance to a trade mark already on the register with respect to such goods or description of goods as to be calculated to deceive, the notice shall state the date of registration, and the number on the register of such trade mark already on the register.

Opposition
of the ground
of trade mark
already on
the register.

(3.) Within two months after the expiration of one month or such further time not exceeding three months as the Comptroller may allow from the date of the advertisement of the application, the opponent shall leave at the Patent Office, Trade Marks Branch, such evidence by way of statutory declaration as he may desire to adduce in support of his opposition and deliver to the applicant copies thereof.

Opponent's
evidence.

(4.) (a) Within one month from the delivery of the opponent's copies of his statutory declarations the applicant shall leave at the Patent Office, Trade Marks Branch, his evidence by way of statutory declaration in answer, and deliver to the opponent copies thereof, and within seven days from such delivery the opponent shall leave at the Patent Office, Trade Marks Branch, his evidence by way of statutory declaration in reply, and deliver to the applicant copies thereof. Such last-mentioned evidence shall be confined to matters strictly in reply.

Applicant's
evidence.

Evidence in
reply.

(5.) 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 given on an application made to him.

Closing of
evidence.

(a) The counter-statement required by the Acts must also be delivered by the applicant within one month from the date of the receipt of the opponent's notice of opposition.

Rule 31.

Applications for leave to adduce further evidence.

Appointment of time for hearing.

Disallowance of opposition in certain cases.

Decision to be notified to parties.

Time of registration of trade marks.

Where applicant dies before registration, the trade mark may be registered for successor to goodwill of business.

Entries to be made in register.

(6.) Either party making such application shall give notice thereof to the opposite party, who shall be entitled to oppose the application.

(7.) On the completion of the evidence the Comptroller shall, upon application by either party, upon Form E in the Second Schedule to these Rules, and upon payment of the prescribed fee, appoint a time for the hearing of the case, and shall give the parties at least seven days' notice of such appointment.

(8.) 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 of opposition is that registration is being applied for in respect of a trade mark identical with one already on the register with respect to the same goods or description of goods, or having such resemblance to a trade mark already on the register with respect to such goods or description of goods as to be calculated to deceive, the opposition shall not be allowed upon such ground, unless the date of registration and the number on the register of the said trade mark already on the register have been duly specified in the notice of opposition.

(9.) The decision of the Comptroller in the case shall be notified to the parties.

REGISTER OF TRADE MARKS.

32. As soon as may be after the expiration of one month from the date of the advertisement of the application, the Comptroller shall, subject to opposition to the application and the determination thereof, 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.

33. 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.

34. 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, and such other particulars as he may think necessary. **Rule 34.**

35. 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. **Notice of registration.**

Rules 36, 37, registration of subsequent proprietors, are substantially the same as P. R., rr. 68, 69, ante, p. 536. **Request by subsequent proprietor. Signature of request.**

38. 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. **Contents of request.**

39. 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. **Declaration to accompany request.**

40. 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. **Further proof of title if required.**

41. A body corporate may be registered as proprietor by its corporate name. **Body corporate.**

42. 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. **Definition of applicant.**

43. Whether all 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 Acts, 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. **Comptroller may require statement from rival claimants.**

44. 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 **Submission to court of conflicting claims.**

Rule 44. — 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.

45. Where the special case is to be submitted 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.

Order of
Court.

46. 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 Acts;
- (b) disallowing an opposition to registration under section 69;
- or,
- (c) under the provisions of sections 72, 90, or 92 of the said Acts,

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, Trade Marks Branch, 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.

47. Where a trade mark has been removed from the register for non-payment of the prescribed fee or otherwise, under the provisions of section 79 of the said Acts, the Comptroller shall cause to be entered in the register a record of such removal and the cause thereof.

Alteration of
address in
register.

48. 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.

Notice to
Comptroller
of applica-
tions to
rectify
register.

49. Four clear days' notice of every application to the Court under section 90 of the said Acts, for rectification of the register, shall be given to the Comptroller.

Publication of
rectification
or variation
of register.

50. 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.

51. 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 Acts, 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.

Rule 51.

Notice to Comptroller of order of Court for alteration of trade mark under s. 92 of Acts.

The marginal note does not agree with the Rule.

INSPECTION OF REGISTER.

Rule 52 is the same as P. R. 78, ante, p. 537, except that r. 52 provides for the payment of a fee on inspection. See First Schedule, post, p. 573.

POWER TO DISPENSE WITH EVIDENCE.

Rule 53 is the same as P. R. 80, ante, p. 538.

AMENDMENTS.

Rule 54 is the same as P. R. 16, ante, p. 525, and is extended to any "drawing or other representation of a trade mark."

ENLARGEMENT OF TIME.

Rule 55 is the same as P. R. 51, ante, p. 533.

CUTLERS' COMPANY.

56. All applications to the Cutlers' Company for registration of a trade mark, under section 81 of the said Acts, shall be in duplicate, accompanied by the prescribed fees and representations.

Sheffield applications in duplicate.

57. 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.

Notice to Comptroller.

58.--(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.

Time within which Comptroller may object to application made at Sheffield.

Rule 58.

Advertisement of application made at Sheffield.

Manner of notifying to Cutlers' Company application received by Comptroller.

Similarity of proceedings at London and 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.

(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 Acts 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.

59. 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.

Rule 60 is substantially the same as D. R. 34, ante, p. 559.

DECLARATIONS.

Rule 61 is the same as P. R. 17, ante, p. 526.

Notice of seal of officer taking declaration to prove itself.

62. Any document purporting to have affixed, impressed, or subscribed thereto or thereon the seal or signature of any person hereby authorised 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.

REPEAL.

Previous rules repealed.

63. All general rules as to the registration of trade marks heretofore made by the Board of Trade under the Patents, Designs, and Trade Marks Acts, 1883 to 1888, and in force on the 31st day of December, 1889, shall be, and they are hereby repealed, as from that date, without prejudice, nevertheless, to anything done under such Rules, or to any application pending at the said date.

M. E. HICKS-BEACH,
President of the Board of Trade.

SCHEDULES.

FIRST SCHEDULE.

FEEs.

	£	s.	d.
1. On application to register a trade mark for one or more articles included in one class	0	5	0
2. For registration of a trade mark for one or more articles included in one class	1	0	0
3. For registering a series of trade marks, for every additional representation after the first in each class	0	5	0
4. On appeal from Comptroller to Board of Trade—by appellant	1	0	0
5. On notice of opposition for each application opposed—by opponent	1	0	0
6. On hearing by Comptroller—by applicant and by opponent respectively	1	0	0
7. On application to register a subsequent proprietor in cases of assignment or transmission, the first mark	1	0	0
8. For every additional mark assigned or transmitted at the same time... ..	0	2	0
9. For continuance of mark at expiration of 14 years	1	0	0
10. Additional fee where fee is paid within three months after expiration of 14 years	0	10	0
11. Additional fee for restoration of trade mark where removed for non-payment of fee	1	0	0
12. For altering address on the register, for every mark	0	5	0
13. For every entry in the register of a rectification thereof or an alteration therein, not otherwise charged	0	10	0
14. 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
15. On request to Comptroller to correct a clerical error, or permit amendment of application under section 91... ..	0	5	0
16. For certificate of refusal to register a trade mark under section 77... ..	1	0	0
17. 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
18. For certificate of registration to be used in legal proceedings	1	0	0
19. For certificate of registration to be used for the purpose of obtaining registration in foreign countries	0	5	0
20. For certificate of Comptroller under section 96, other than certificate of registration to be used in legal proceedings, or for the purpose of obtaining registration in a foreign country	0	5	0
21. For copy of notification of registration	0	2	0
22. Settling a special case by Comptroller	2	0	0
23. For inspecting register, for every quarter of an hour	0	1	0
24. For making a search amongst the classified representations of trade marks, for every quarter of an hour	0	1	0
25. For office copy of documents, for every 100 words (but never less than one shilling)	0	0	4
26. For certifying office copies, MS. or printed	0	1	0

		£	s.	d.
Schedule 1.	27. In cases where the wood-block or electrotype of the trade mark exceeds 2 inches in breadth or depth, or in breadth and depth—For every inch or part of an inch over 2 inches in breadth	...	...	0 2 0
	For every inch or part of an inch over 2 inches in depth	...	...	0 2 0
	28. Manchester Trade Marks Office	...	...	Same as above
	29. Sheffield Marks	...	...	Same as above
	30. On appeal from Cutlers' Company, Sheffield, to Comptroller	1	0	0

M. E. HICKS-BEACH,
President of the Board of Trade.

Approved,
FRANK MOWATT,
Assistant Secretary
for the Lords Commissioners of Her Majesty's Treasury.

SECOND SCHEDULE.

FORMS.

- E.—Form of Application for Hearing by Comptroller.
- F.— „ Application for Registration. See *post*, p. 575.
- G.— „ Additional Representation of Trade Mark.
- H.— „ Appeal to Board of Trade.
- L.— „ Transmission of Registration Fee.
- J.— „ Notice of Opposition.
- K.— „ Request to Enter name of Subsequent Proprietor of Trade Mark. See *post*, p. 576.
- L.— „ Request for Certificate of Refusal.
- M.— „ Notice of Application for Alteration of Address.
- N.— „ Notice of Order of Court for Rectification of Register.
- O.— „ Application to Cancel Entry on Register.
- P.— „ Declaration in support of Application to Cancel Entry.
- Q.— „ Request to Comptroller for Correction of Clerical Error, or for Permission to Amend Application under section 91.
- R.— „ Request for Certificate of Registration for use in obtaining Registration Abroad.
- S.— „ Request for Certificate of Registration for use in Legal Proceedings.
- T.— „ Application for Settlement of a Special Case.
- Tl.— „ Request for General Certificate of Comptroller.
- U.— „ General Certificate of Comptroller.
- V.— „ Request for Copy of Notification of Registration.
- W.— „ Appeal from Cutlers' Company.
- X.— „ Application for Continuance on Register.
- Y.— „ Transmission of Additional Fee.
- Z.— „ Application for Restoration to Register.
- „ Application for Registration of old Corporate Trade Mark.

(TRADE MARKS.)

PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1883 TO 1888.

Form F.

Application for Registration of Trade Mark.

One representation to be fixed within this square, and two others to be sent on separate half 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 * _____ in the name of † _____ who claims to be the proprietor thereof ‡ _____

The essential particulars of the trade mark are the following § _____ and disclaim any right to the exclusive use of the added matter.

(Signed) _____ ||

Dated the _____ day of _____, 18 ____.

To the Comptroller, Patent Office, Trade Marks Branch,
25, Southampton Buildings, London.

[Or where the application is for a mark in classes 23, 24, or 25,]

To the Comptroller, Manchester Trade Marks Branch,
48, Royal Exchange, Manchester.

NOTE.—If the trade mark has been in use in respect of the goods since before August 13th, 1875, state length of such user (b).

* Only goods contained in one and the same class should be set out here. A separate application form is required for each separate class.

† Here insert legibly the full name, address and description of the individual firm or company. Add trading style (if any).

‡ Alter to “claim to be the proprietors thereof” in the case of a firm or company.

§ See sub-sections (2) and (3) of section 64 of the Acts.

|| To be signed by the applicant or by an agent duly authorised.

(b) The Comptroller may require proof of the time of user of the old mark. See ante, p. 386, and form of declaration, Appendix, post, p. 606.

Schedule 2.

(TRADE MARKS.)

PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1883 TO 1888.

Form K.

Request to Enter Name of subsequent Proprietor of Trade Mark upon the Register, with Declaration in support thereof.

I * hereby request that you will enter † name ‡ in the Register of Trade Marks as proprietor of the Trade Mark No. in Class

§ 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.

|| 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.

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

Declared at , this day of , 18 .

Before me,

** _____

†† _____

To the Comptroller, Patent Office, Trade Marks Branch,
25, Southampton Buildings, London.

* Or we. Here insert name, full address, and description.

† My or our.

‡ Or names.

§ I am or We are.

|| 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 18 , made between so-and-so of the one part."

¶ This paragraph is not required when the declaration is made out of the United Kingdom.

** To be signed here by the person making the declaration.

†† Signature and title of the authority before whom the declaration is made.

THIRD SCHEDULE.

Schedule 3.

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 Comptroller 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.

Schedule 3.

CLASS 5.

Unwrought and partly wrought metals used in manufacture.

Illustrations.

Such as—

Iron and steel, pig or cast.

Iron, rough.

„ bar and rail, including rails for railways.

„ bolt and rod.

„ sheet, and boiler and armour plates.

„ hoop.

Lead, pig.

„ rolled.

„ 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.

Friccion gloves.

Lancets.

Fleams.

Emmas

	<i>Illustrations.</i>	
<p>CLASS 12. Cutlery and edge tools.</p>	<p>Such as— Knives. Forks. Scissors. Shears. Files. Saws.</p>	
<p>CLASS 13. Metal goods not included in other classes.</p>	<p>Such as— Anvils. Keys. Basins (metal). Needles. Hoes. Shovels. Corkscrews.</p>	
<p>CLASS 14. Goods of precious metals (including aluminium, nickel, Britannia metal, etc.) and jewellery, and imitations of such goods and jewellery.</p>	<p>Such as— Plate. Clock cases and pencil cases of such metals. Sheffield and other plated goods. Gilt and ormolu work.</p>	
<p>CLASS 15. Glass.</p>	<p>Such as— Window and plate glass. Painted glass. Glass mosaic. Glass beads.</p>	
<p>CLASS 16. Porcelain and earthenware.</p>	<p>Such as— China. Stoneware. Terra Cotta. Statuary porcelain. Tiles. Bricks.</p>	
<p>CLASS 17. Manufactures from mineral and other substances for building or decoration.</p>	<p>Such as— Cement. Plaster. Imitation marble. Asphalt.</p>	
<p>CLASS 18. Engineering, architectural, and building contrivances.</p>	<p>Such as— Diving apparatus. Warming apparatus. Ventilating apparatus. Filtering apparatus. Lighting contrivances. Drainage contrivances. Electric and pneumatic bells.</p>	

Schedule 3.

	CLASS 19.	<i>Illustrations.</i>
Schedule 3. —	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 (o). Carriages.	Such as— Railway carriages. Waggons. Railway trucks. Bicycles. Bath chairs.
	CLASS 23. (a) Cotton yarn and sewing cotton not on spools or reels. (b) Sewing cotton on spools or reels.	
	CLASS 24. Cotton piece goods of all kinds.	Such as— Cotton shirtings. Long cloth.
	CLASS 25 (p). Cotton goods not included in Classes 23, 24, or 28.	Such as— Cotton laces. Cotton braids. Cotton tapes.

(o) In certain classes four representations of each mark must be supplied by the applicant, three only being required in other cases (R. 13, *post*, p. 584).

(p) The late Manchester Committee of Experts, which was formed under the Act of 1875 to divide old cotton

marks into two classes, viz., such as were, and such as were not, in the opinion of the committee, trade marks within the Act, was not a judicial tribunal, and its decisions are not conclusive upon the court (*Orr-Ewing v. Registrar of Trade Marks*, 4 App. Cas. 479).

CLASS 26.	<i>Illustrations.</i>	Schedule 3
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.	

Schedule 3.

CLASS 39.

Illustrations.

Paper (except paperhangings), stationery, and bookbinding.

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 aerated 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.

Illustrations.

Such as—
Washing powders.
Benzine collars.

CLASS 48.

Perfumery (including toilet articles, preparations for the teeth and hair, and perfumed soap).

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—

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, rickcloths, 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.

(Signed) M. E. HICKS-BEACH,
President of the Board of Trade.

TRADE MARKS RULES, 1897.

By virtue of the provisions of the Patents, Designs, and Trade Marks Acts, 1883 to 1888, the Board of Trade do hereby make the following Rules:—

(1.) These Rules may be cited as the Trade Marks Rules, 1897, and shall come into operation from and immediately after the date hereof.

(2.) Rules 13, 14 and 15 of the Trade Marks Rules, 1890, are hereby repealed and instead thereof there shall be substituted the following:—

13. Every application for registration of a Trade Mark shall contain a representation of the mark affixed to it in the square which the Form F contains for that purpose.

Where the representation exceeds such square in size the representation shall be mounted upon linen, tracing cloth or other material that the comptroller may consider suitable. Part of the mounting shall be affixed in the space aforesaid and the rest may be folded over.

With every application for registration sent to the Manchester Trade Marks Branch, there shall be supplied four additional representations of each mark on the Form G, exactly corresponding with that on the application Form F, and noted with all such particulars as may from time to time be required by the Comptroller or by the Keeper of Cotton Marks at Manchester. Such particulars shall, if required, be signed by the applicant or his agent.

In the case of marks applied for in any of the Classes 5, 6, 7, 11, 12, 13, 14, 22, 26, 27, 28, 29, 30, 31, 32, 33, 34 and 35, there shall be sent with the application four additional representations of each mark on the Form G, exactly corresponding with that affixed to the application in Form F, and noted with all such particulars as may from time to time

be required by the Comptroller. Such particulars shall, if required, be signed by the applicant or his agent.

Rule 13.
—

In the case of marks applied for in any other Class there shall be sent with the application three additional representations of each mark on the Form G, exactly corresponding to that affixed to the application Form F, and noted with all such particulars as may from time to time be required by the Comptroller. Such particulars shall, if required, be signed by the applicant or his agent.

All representations of marks must be of a durable nature, but the applicant may in case of need supply in place of representations on the Form G, half sheets of strong foolscap of the size aforesaid with the representations affixed thereon and noted as aforesaid.

Applications for the registration of the same mark in different classes shall be treated as separate and distinct applications.

The Comptroller, if dissatisfied with any representation of a mark, may at any time require another representation satisfactory to him to be substituted before proceeding with the application.

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 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.

"Particulars."—The requirement as to particulars is new.

14. When application is made for the registration of a series of Trade Marks under Section 66 of the Patents, Designs, and Trade Marks Act, 1883, a representation of each Trade Mark of the series shall be affixed, as aforesaid, to the application upon Form F, and to each of the accompanying Forms G.
15. When a Trade Mark contains a word or words in other than Roman characters, there shall be endorsed on the application in Form F, and on each of the

Rule 15.

accompanying representations in Form G, a sufficient transliteration and translation to the satisfaction of the Comptroller of each of such words, and every such endorsement shall be signed by the applicant or his agent.

Where a Trade Mark contains a word or words in a language other than English, the Comptroller may ask for an exact translation thereof, and if he so requires such translation shall be endorsed and signed as aforesaid.

Dated this thirty-first day of December, 1897.

CHAS. T. RITCHIE,

President of the Board of Trade.

INTERNATIONAL CONVENTION FOR THE PROTECTION OF INDUSTRIAL PROPERTY.

Signed at Paris, March 20, 1883.

[Ratifications exchanged at Paris, June 6, 1884.]

I.

INTERNATIONAL CONVENTION (q).

(Translation.)

His Majesty the King of the Belgians, His Majesty the Emperor of Brazil, His Majesty the King of Spain, the President of the French Republic, the President of the Republic of Guatemala, His Majesty the King of Italy, His Majesty the King of the Netherlands, His Majesty the King of Portugal and the Algarves, the President of the Republic of Salvador, His Majesty the King of Servia, and the Federal Council of the Swiss Confederation,

Being equally animated with the desire to secure, by mutual agreement, complete and effectual protection for the industry and commerce of their respective subjects and citizens, and to provide a guarantee for the rights of inventors, and for the loyalty of commercial transactions, have resolved to conclude a Convention to that effect, and have named as their Plenipotentiaries, that is to say:— [Here follow the names]

Who, having communicated to each other their respective full powers, found in good and due form, have agreed upon the following Articles:—

ARTICLE I.

The governments of Belgium, Brazil, Spain, France, Guatemala, Italy, Holland, Portugal, Salvador, Servia, and Switzerland constitute themselves into a Union for the Protection of Industrial Property.

To this Convention Her Majesty's Government acceded on March 17, 1884.

The following governments are now parties to the Convention:—

Belgium.	East Indian Colonies	Netherlands.	Servia.
Brazil.	of the Netherlands.	New Zealand.	Spain.
Curaçoa and	France.	Norway.	Sweden.
Surinam.	Great Britain.	Portugal.	Switzerland.
Denmark.	Italy.	Queensland.	Tunis.
		Santo Domingo.	United States.

(q) The original French of the most important Articles of the Convention and Final Protocol is given under each Article.

Article I.

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

Ecuador (Designs and Trade Marks only). Greece (Designs and Trade Marks only). Mexico. Paraguay. Roumania (Designs and Trade Marks only). Tasmania. Uruguay. Western Australia (r).

And by various Orders in Council, the Act of 1883 has been declared applicable in the case of the above countries. See s. 103 (4), *ante*, p. 493.

“Industrial Property.”—By clause 1 of the final protocol (*post*, p. 595), the words “industrial property” in this article are to be understood in their broadest sense; they are not to apply simply to industrial products properly so called, but also to agricultural products (wines, corn, fruits, cattle, etc.), and to mineral products employed in commerce (mineral waters, etc.).

“1. Les mots ‘Propriété Industrielle’ doivent être entendus dans leur acception la plus large, en ce sens qu’ils s’appliquent non seulement aux produits de l’industrie proprement dite, mais également aux produits de l’agriculture (vins, grains, fruits, bestiaux, etc.), et aux produits minéraux livrés au commerce (eaux minérales, etc.).”

See *post*, Art. VII.

ARTICLE II.

The subjects or citizens of each of the contracting States shall, in all the other States of the Union, as regards patents, industrial designs or models, trade marks and trade names, enjoy the advantages that their respective laws now grant, or shall hereafter grant, to their own subjects or citizens.

Consequently, they shall have the same protection as the latter, and the same legal remedy against any infringement of their rights, provided they observe the formalities and conditions imposed on subjects or citizens by the internal legislation of each State.

“Les sujets ou citoyens de chacun des États Contractants jouiront, dans tous les autres États de l’Union, en ce qui concerne les brevets d’invention, les dessins ou modèles industriels, les marques de fabrique ou de commerce et le nom commercial, des avantages que les lois respectives accordent actuellement ou accorderont par la suite aux nationaux.”

“En conséquence, ils auront la même protection que ceux-ci et le même recours légal contre toute atteinte portée à leurs droits, sous réserve de l’accomplissement des formalités et des conditions imposées aux nationaux par la législation intérieure de chaque État.”

“Patents.”—By clause 2 of the final protocol (*post*, p. 595), the word “patents” includes the various kinds of industrial patents, recognized by

(r) See Circular of Information issued by the Patent Office, 1897, p. 8.

the legislation of each of the contracting States, such as importation patents, improvement patents, etc. **Article II.**

“2. Sous le nom de ‘Brevets d’Invention’ sont comprises les diverses espèces de brevets industriels admises par les législations des États Contractants, telles que brevets d’importation, brevets de perfectionnement, etc.”

“Provided they observe the formalities,” etc.—By clause 3 of the final protocol the last paragraph of this article “does not affect the legislation of each of the contracting States as regards the procedure to be followed before the tribunals, and the competence of those tribunals.”

“3. Il est entendu que la disposition finale de l’Article II de la Convention ne porte aucune atteinte à la législation de chacun des États Contractants, en ce qui concerne la procédure suivie devant les Tribunaux et la compétence de ces Tribunaux.”

ARTICLE III.

Subjects or citizens of States not forming part of the Union, who are domiciled or have industrial or commercial establishments in the territory of any of the States of the Union, shall be assimilated to the subjects or citizens of the contracting States.

“Sont assimilés aux sujets ou citoyens des États Contractants les sujets ou citoyens des États ne faisant pas partie de l’Union qui sont domiciliés ou ont des établissements industriels ou commerciaux sur le territoire de l’un des États de l’Union.”

ARTICLE IV.

Any person who has duly applied for a patent, industrial design or model, or trade mark in one of the contracting States, shall enjoy, as regards registration in the other States, and reserving the rights of third parties, a right of priority during the periods hereinafter stated.

Consequently, subsequent registration in any of the other States of the Union before expiry of these periods shall not be invalidated through any acts accomplished in the interval, either, for instance, by another registration, by publication of the invention, or by the working of it by a third party, by the sale of copies of the design or model, or by use of the trade mark.

The above-mentioned terms of priority shall be six months for patents, and three months for industrial designs and models and trade marks. A month longer is allowed for countries beyond sea.

“Celui qui aura régulièrement fait le dépôt d’une demande de brevet d’invention, d’un dessin ou modèle industriel, d’une marque de fabrique ou de commerce, dans l’un des États Contractants,

Article IV.

jouira, pour effectuer le dépôt dans les autres États, et sous réserve des droits des tiers, d'un droit de priorité pendant les délais déterminés ci-après.

“ En conséquence, le dépôt ultérieurement opéré dans l'un des autres États de l'Union avant l'expiration de ces délais ne pourra être invalidé par des faits accomplis dans l'intervalle, soit, notamment, par un autre dépôt, par la publication de l'invention ou son exploitation par un tiers, par la mise en vente d'exemplaires du dessin ou du modèle, par l'emploi de la marque.

“ Les délais de priorité mentionnés ci-dessus seront de six mois pour les brevets d'invention, et de trois mois pour les dessins ou modèles industriels, ainsi que pour les marques de fabrique ou de commerce. Ils seront augmentés d'un mois pour les pays d'outre-mer.”

Applications in the United Kingdom under this article for patents are to be made in accordance with the provisions of the Patents Rules, 1890 (*s*), rr. 25—27, and by r. 29 of these Rules the patent is to be entered in the Register of Patents as dated of the date on which the first foreign application was made.

ARTICLE V.

The introduction by the patentee into the country where the patent has been granted of objects manufactured in any of the States of the Union shall not entail forfeiture.

Nevertheless, the patentee shall remain bound to work his patent in conformity with the laws of the country into which he introduces the patented objects.

“ L'introduction par le breveté, dans le pays où le brevet a été délivré, d'objets fabriqués dans l'un ou l'autre des États de l'Union, n'entraînera pas la déchéance.

“ Toutefois le breveté restera soumis à l'obligation d'exploiter son brevet conformément aux lois du pays où il introduit les objets brevetés.”

ARTICLE VI.

Every trade mark duly registered in the country of origin shall be admitted for registration, and protected in the form originally registered in all the other countries of the Union.

That country shall be deemed the country of origin where the applicant has his chief seat of business.

If this chief seat of business is not situated in one of the countries of the Union, the country to which the applicant belongs shall be deemed the country of origin.

Registration may be refused if the object for which it is solicited is considered contrary to morality or public order.

“ Toute marque de fabrique ou de commerce régulièrement déposée dans le pays d'origine sera admise au dépôt et protégée telle quelle dans tous les autres pays de l'Union.

(*) *Ante*, p. 528.

“Sera considéré comme pays d’origine le pays où le déposant son principal établissement. Article VI.

“Si ce principal établissement n’est point situé dans un des pays de l’Union, sera considéré comme pays d’origine celui auquel appartient le déposant.

“Le dépôt pourra être refusé, si l’objet pour lequel il est demandé est considéré comme contraire à la morale ou à l’ordre public.”

This article is modified by clause 4 of the final protocol (*post*, p. 595), which is as follows:—

“Paragraph 1 of Article VI. is to be understood as meaning that no trade mark shall be excluded from protection in any State of the Union, from the fact alone that it does not satisfy, in regard to the signs composing it, the conditions of the legislation of that State; provided that on this point it comply with the legislation of the country of origin, and that it had been properly registered in said country of origin. With this exception, which relates only to the form of the mark, and under reserve of the provisions of the other Articles of the Convention, the internal legislation of each State remains in force.

“To avoid misconstruction, it is agreed that the use of public armorial bearings and decorations may be considered as being contrary to public order in the sense of the last paragraph of Article VI.”

“4. Le paragraphe 1^{er} de l’Article VI. doit être entendu en ce sens qu’aucune marque de fabrique ou de commerce ne pourra être exclue de la protection dans l’un des États de l’Union par le fait seul qu’elle ne satisferait pas, au point de vue des signes qui la composent, aux conditions de la législation de cet État, pourvu qu’elle satisfasse, sur ce point, à la législation du pays d’origine et qu’elle ait été, dans ce dernier pays, l’objet d’un dépôt régulier. Sauf cette exception, qui ne concerne que la forme de la marque, et sous réserve des dispositions des autres Articles de la Convention, la législation intérieure de chacun des États recevra son application.

“Pour éviter toute fausse interprétation, il est entendu que l’usage des armoiries publiques et des décorations peut être considéré comme contraire à l’ordre public, dans le sens du paragraphe final de l’Article VI.”

Notwithstanding this article, the provisions of sect. 103 of the Act of 1883 (*t*), must be complied with; and where a foreigner, subject of a State which had acceded to the Convention, did not apply for registration in England of his trade mark within four months of his applying to register in the foreign State, it was held under that section that registration must be refused (*u*).

(*t*) *Ante*, p. 492.

(*u*) *Re The Californian Fig Syrup Co.*, 6 R. P. C. 126. See also *Carter*

Medicine Co.’s Trade Mark, [1892]

3 Ch. 472.

Article VII.**ARTICLE VII.**

The nature of the goods on which the trade mark is to be used can, in no case, be an obstacle to the registration of the trade mark.

“La nature du produit sur lequel la marque de fabrique ou de commerce doit être apposée ne peut, dans aucun cas, faire obstacle au dépôt de la marque.”

ARTICLE VIII.

A trade name shall be protected in all the countries of the Union, without necessity of registration, whether it form part or not of a trade mark.

“Le nom commercial sera protégé dans tous les pays de l'Union sans obligation de dépôt, qu'il fasse ou non partie d'une marque de fabrique ou de commerce.”

See *ante*, p. 398 and notes under s. 77 of the Act of 1883, *ante*, p. 441.

ARTICLE IX.

All goods illegally bearing a trade mark or trade name may be seized on importation into those States of the Union where this mark or name has a right to legal protection.

The seizure shall be effected at the request of either the proper Public Department or of the interested party, pursuant to the internal legislation of each country.

“Tout produit portant illicitement une marque de fabrique ou de commerce, ou un nom commercial, pourra être saisi à l'importation dans ceux des États de l'Union dans lesquels cette marque ou ce nom commercial ont droit à la protection légale.

“La saisie aura lieu à la requête soit du Ministère Public, soit de la partie intéressée, conformément à la législation intérieure de chaque État.”

ARTICLE X.

The provisions of the preceding Article shall apply to all goods falsely bearing the name of any locality as indication of the place of origin, when such indication is associated with a trade name of a fictitious character or assumed with a fraudulent intention.

Any manufacturer of, or trader in, such goods, established in the locality falsely designated as the place of origin, shall be deemed an interested party.

“Les dispositions de l'Article précédent seront applicables à tout produit portant faussement, comme indication de provenance, le nom d'une localité déterminée, lorsque cette indication sera jointe à un nom commercial fictif ou emprunté dans une intention frauduleuse.

“Est réputé partie intéressée tout fabricant ou commerçant engagé dans la fabrication ou le commerce de ce produit, et établi dans la localité faussement indiquée comme provenance.”

ARTICLE XI.

Article XI.

The High Contracting Parties agree to grant temporary protection to patentable inventions, to industrial designs or models, and trade marks, for articles exhibited at official or officially recognized International Exhibitions.

“Les Hautes Parties Contractantes s’engagent à accorder une protection temporaire aux inventions brevetables, aux dessins ou modèles industriels, ainsi qu’aux marques de fabrique ou de commerce, pour les produits qui figureront aux Expositions Internationales officielles ou officiellement reconnues.”

See *ante*, pp. 341 and 363.

ARTICLE XII.

Each of the High Contracting Parties agrees to establish a special Government Department for industrial property, and a central office for communication to the public of patents, industrial designs or models, and trade marks.

ARTICLE XIII.

An international office shall be organized under the name of “Bureau International de l’Union pour la Protection de la Propriété Industrielle” (International Office of the Union for the Protection of Industrial Property).

This office, the expense of which shall be defrayed by the governments of all the contracting States, shall be placed under the high authority of the Central Administration of the Swiss Confederation, and shall work under its supervision. Its functions shall be determined by agreement between the States of the Union.

By the final protocol (*post.* p. 595), a periodical paper in the French language “dealing with questions regarding the objects of the Union” is to be published. This paper is “La Propriété Industrielle,” published at the Bureau International de la Propriété Industrielle, Berne, Switzerland.

ARTICLE XIV.

The present Convention shall be submitted to periodical revisions, with a view to introducing improvements calculated to perfect the system of the Union.

To this end Conferences shall be successively held in one of the contracting States by delegates of the said States. The next meeting shall take place in 1885 at Rome.

ARTICLE XV.

It is agreed that the High Contracting Parties respectively reserve to themselves the right to make separately, as between themselves, special arrangements for the protection of Industrial

Article XV. Property, in so far as such arrangements do not contravene the provisions of the present Convention.

ARTICLE XVI.

States which have not taken part in the present Convention shall be permitted to adhere to it at their request.

Such adhesion shall be notified officially through the diplomatic channel to the government of the Swiss Confederation, and by the latter to all the others. It shall imply complete accession to all the clauses, and admission to all the advantages stipulated by the present Convention.

ARTICLE XVII.

The execution of the reciprocal engagements contained in the present Convention is subordinated, in so far as necessary, to the observance of the formalities and rules established by the constitutional laws of those of the High Contracting Parties who are bound to procure the application of the same, which they engage to do with as little delay as possible.

ARTICLE XVIII.

The present Convention shall come into operation one month after the exchange of ratifications, and shall remain in force for an unlimited time, till the expiry of one year from the date of its denunciation. This denunciation shall be addressed to the government commissioned to receive adhesions. It shall only affect the denouncing State, the Convention remaining in operation as regards the other Contracting Parties.

ARTICLE XIX.

The present Convention shall be ratified, and the ratifications exchanged in Paris, within one year at the latest.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto their seals.

Done at Paris the 20th March, 1883.

[Here follow the signatures of the Plenipotentiaries.]

II

Final Protocol. (Translation.)

On proceeding to the signature of the Convention concluded this day between the Governments of Belgium, Brazil, Spain, France, Guatemala, Italy, the Netherlands, Portugal, Salvador,

Servia, and Switzerland, for the protection of Industrial Property, the undersigned Plenipotentiaries have agreed as follows :—

1. The words "Industrial Property" are to be understood in their broadest sense; they are not to apply simply to industrial products, properly so called, but also to agricultural products (wines, corn, fruits, cattle, etc.), and to mineral products employed in commerce (mineral waters, etc.).

2. Under the word "patents" are comprised the various kinds of industrial patents recognised by the legislation of each of the Contracting States, such as importation patents, improvement patents, etc.

3. The last paragraph of Article II. does not affect the legislation of each of the Contracting States as regards the procedure to be followed before the Tribunals, and the competence of those Tribunals.

4. Paragraph 1 of Article VI. is to be understood as meaning that no trade mark shall be excluded from protection in any State of the Union, from the fact alone that it does not satisfy, in regard to the signs composing it, the conditions of the legislation of that State; provided that on this point it comply with the legislation of the country of origin, and that it had been properly registered in said country of origin. With this exception, which relates only to the form of the mark, and under reserve of the provisions of the other Articles of the Convention, the internal legislation of each State remains in force.

To avoid misconstruction, it is agreed that the use of public armorial bearings and decorations may be considered as being contrary to public order in the sense of the last paragraph of Article VI.

5. The organization of the special Department for Industrial Property mentioned in Article XII., shall comprise, so far as possible, the publication in each State of a periodical official paper.

6. [*Here follow provisions as to the expenses of the International Office instituted under Article XIII. (ante, p. 593), and other provisions for the working of the Convention.*]

The official language of the International Office will be French.

7. The present Final Protocol, which shall be ratified together with the Convention concluded this day shall be considered as forming an integral part of, and shall have the same force, validity, and duration as the said Convention.

In witness whereof the undersigned Plenipotentiaries have draw up the present protocol.

[*Here follow the signatures.*]

A P P E N D I X.

(See TABLE OF CONTENTS.)

ORDERS.

CONSOLIDATION OF SEVERAL ACTIONS BY SAME PLAINTIFF ON SAME PATENT AGAINST DIFFERENT CLASSES OF INFRINGERS. ORDER FOR INJUNCTION MEANWHILE. *Bovill v. Ainscough* (and other actions). Wood, V.-C. A. 1867, fo. 224i.

Upon motion this day made unto this Court by counsel for the defendants in all the above-mentioned causes, and upon hearing counsel for the plaintiff: This Court doth order that the several defendants in all the above-mentioned causes do, on or before the day of , deliver to the solicitors for the plaintiff a written statement of the names of such of the said defendants, and of their respective mills, and the number of pairs of stones at the said mills respectively, in respect of which the defendants mentioned in such statement admit that the mode of working, as regards the alleged infringement of the plaintiff's patent of 1849 in the bills mentioned, is the same as that adopted by A. C. , the defendant in the cause of *Bovill v. C.* , and that the defendants in such respective causes do enter into such admissions accordingly. And it is ordered that such of the defendants as shall not admit that their mode of working is the same as that adopted by the said A. C. , do severally, within the time aforesaid, make an affidavit or affidavits disclosing their mode of working in all particulars respecting which they severally have, or but for this order might have, been interrogated by the plaintiff as to the infringement of his patent; and that the plaintiff be at liberty at all seasonable times, upon giving reasonable notice, to inspect the machinery and mode of working of the several above-mentioned defendants' machinery. And it is ordered that the plaintiff do, within three weeks from the day on which the last of such admissions or of such affidavits respectively shall have been made, select one cause, representing each

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different class of infringement, in which he will proceed to decree, and give notice in writing thereof to the defendants' solicitors; and if the plaintiff shall select more than one cause in which he will proceed to decree, he is to give notice in writing to the defendants' solicitors in which of the said causes he will try the validity of the said patent; and the defendants by their counsel submitting to be bound in all respects by the ultimate decision of this Court in such selected cause or causes, subject only to appeal in such selected cause or causes, both as regards the validity of the plaintiff's patent and as regards the infringement thereof, so far as the infringement established in such selected cause or causes coincides with the admissions and affidavits to be entered into and made as hereinbefore directed, and the plaintiff by his counsel undertaking to abide by any order this Court may make as to damages in case the Court shall hereafter be of opinion that the defendants or any of them shall have sustained any by reason of this order which the plaintiff ought to pay, and also undertaking to accept short notice of motion to discharge this order, this Court doth order that the several above-named defendants, their respective servants, agents, and workmen, be restrained until the hearing of the said cause or causes so to be selected from in any manner exercising or putting in practice, or continuing to use, exercise, or put in practice, at their respective mills in the several above-mentioned bills respectively described or elsewhere, the inventions and improvements for which the letters patent of 1849 and 1863 in the said bills respectively mentioned were granted, or any material part thereof, or any means, apparatus, or arrangement merely colourably differing therefrom. And it is ordered that all further proceedings in these causes, except for the purpose of carrying out this order, and except in regard to such selected cause or causes as aforesaid, be stayed until the hearing of such selected cause or causes, or until further order, with liberty to the plaintiff and any of the defendants to apply before the hearing of such selected cause or causes, and generally as they may be advised. And any of the defendants, in any suits commenced by the plaintiff against the members of the Manchester Association of Millers in the said bills mentioned in respect of infringement of the said patent, are to be at liberty to apply to be made parties to this order.

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CONSOLIDATION OF SEVERAL ACTIONS ON SAME PATENT AGAINST DIFFERENT PERSONS INFRINGING IN SAME MANNER—OWNER OF PATENT BEING PLAINTIFF IN ALL THE ACTIONS, AND JOINED IN SOME OF THE ACTIONS WITH A DIFFERENT CO-PLAINTIFF. PROVISION IN CASE DEFENDANT IN ONE ACTION SUBMITS BEFORE TRIAL. *Plimpton v. Spiller*. 1876, P. 69. Jessel, M.R., at Chambers. B. 1876, fo. 1495 (five actions).

Between J. L. P. (*w*), Plaintiff,
 A. F. S. and T. C., Defendants.
 And between the L. and S. Skating Rink } Plaintiffs,
 Co., and J. L. P. }
 and
 E. B. C., Defendant,
 and three other actions.

Upon the application of the defendants in the above-mentioned actions other than the said action of *P. v. The H. R. B., etc. Co.*, and upon the application of the defendants in the last-mentioned action, and upon hearing the solicitors for the respective applicants and for the plaintiffs in the said several actions, and the respective applicants by their solicitors admitting that they have, for their own profit and without the licence of any of the above-named plaintiffs, made or sold, or let for hire, or used skates being the same as the skates the manufacture, sale, or user of which is complained of in the first above-mentioned action: It is ordered that all proceedings in the four lastly above-mentioned actions be stayed, except for the purpose of enforcing the injunctions which have been already granted in the same actions, and of enforcing this order until judgment be obtained in the first above-mentioned action, the defendants in the several other actions hereby undertaking to be bound and concluded by the judgment after trial (subject to appeal) of the first above-mentioned action, both as regards the validity of the letters patent of A B mentioned in the several statements of claim delivered in the four firstly above-mentioned actions, and as regards the infringement thereof, so far as such infringement may consist in making, selling, using, or letting for hire the skates complained of in the first above-mentioned action, and in case the defendants in the first above-mentioned action shall submit to judgment in favour of the plaintiff without proceeding to trial, the defendant or defendants in the other actions shall be at liberty to set up the same defence as (but except by leave of a judge no other defence than) that set up by the defendants in the said first-

(*w*) J. L. P. was the patentee.

mentioned action, and shall deliver the statement of such defence within seven days after notice by the plaintiff or plaintiffs requiring him or them to deliver such statement of defence, and the defendants to the remaining actions are to be in like manner bound and concluded by the judgment (subject to appeal) which may be obtained in the action in which proceedings may be resumed, and so from time to time. And it is ordered that the costs of this order be costs in the first above-mentioned action.

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CONSOLIDATION OF SEVERAL ACTIONS BY SAME PLAINTIFFS ON SAME PATENT AGAINST DIFFERENT PERSONS INFRINGING IN SAME MANNER. PROVISION IN CASE DEFENDANT IN ONE ACTION SUBMITS BEFORE TRIAL. *Johnsson v. Palgrave*. 1880, J., 1079, 1166, 1167. Jessel, M.R., at Chambers. A. 1880, fo. 2619 (three actions).

Upon the application of the defendants in all the above-mentioned actions, and upon hearing counsel for the applicants and for the plaintiffs in the said actions, and the applicants by their counsel admitting that they have, for their own profit and without the licence of any of the above-named plaintiffs, made or used machines similar to that inspected by the plaintiffs on board the ship M., and complained of in the statement of claim in the first-mentioned action: It is ordered that all proceedings in the second and third mentioned actions be stayed, except for the purpose of enforcing this order, until judgment be obtained in the first-mentioned action, the defendants in the said second and third-mentioned actions by their counsel undertaking to be bound and concluded by the judgment after trial (subject to appeal) of the said first-mentioned action, both as regards the validity of the letters patent of A. B. and C. D., mentioned in the statement of claim in the first-mentioned action, and in the several writs of summons in the second and third-mentioned actions, and as regards the infringement thereof, so far as such infringement may consist in making or using the said machines complained of in the said statement of claim, and in case the defendants in the said first-mentioned action shall submit to judgment in favour of the plaintiffs without proceeding to trial, the defendants in the other actions are not to be at liberty to set up any defence thereto respectively without the leave of the Judge, and the costs of this application are to be costs in the said first-mentioned action.

Orders. ORDER REFERRING QUESTIONS AND ISSUES OF FACT TO OFFICIAL REFEREE UNDER JUDICATURE ACT, 1873, SECTION 57. *Saxby v. Gloucester Wagon Co.* December 15, 1879.

HIGH COURT OF JUSTICE, EXCHEQUER DIVISION.
(Middlesex to wit.)

At a sitting held at Westminster on Wednesday, the day of November, before the Honourable Sir Henry Hawkins:

It is ordered that this being an action requiring a prolonged scientific investigation, which cannot, in the opinion of the Judge, conveniently be made before a jury or conducted by the Court through its other ordinary officers, that the questions and issues of fact and of account (if any) arising herein be tried before one of the official referees, who shall inquire and report upon such questions and issues. It is further ordered that if the parties agree upon a special referee, instead of an official referee, such special referee be substituted for an official referee.

ORDER FOR FURTHER PARTICULARS OF OBJECTIONS. *The London and Leicester Hosiery Co. Limited v. Higham.* Queen's Bench Division. 1882, L. No. 2680. July 3, 1883, T. 83/7.

Upon reading the order of the Honourable Mr. Baron Huddleston, dated June 25th, 1883, and upon hearing counsel, etc., on defendant's notice of motion, dated, etc., that the order of the Honourable Mr. Baron Huddleston, made herein on June 25th, 1883, whereby it is ordered that the defendant do, within seven days, deliver further and better particulars of objections in this action, by stating what portions of the specifications in the particulars already delivered referred to are alleged to anticipate the plaintiffs' inventions, with a reference to pages and lines of such specifications, and also what portions of the plaintiffs' inventions are alleged to have been published or used prior to the dates of the several letters patent therefor with reference to the claiming clauses of the specifications of such letters patent, and that the plaintiffs should have fourteen days' time to reply after delivery of such particulars, may be rescinded, and that the plaintiffs may be ordered to pay to the defendant his costs of and incident to the said order, and also his costs of and incident to this application: It is ordered that the defendant's application herein be dismissed, with costs, to be taxed by one of the masters, and paid by the said defendant to the said plaintiffs or their solicitor (x).

(x) See also a like form of order under the present practice: *Harris v. Rothwell*, Griffin P. C. 110.

ORDER FOR INSPECTION OF MACHINERY AND APPLIANCES ALLEGED TO BE TRADE SECRETS. *Hill v. Tombs*. 1880, H. 105. Jessel, M.R. November 26, 1880.

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Upon motion, etc. : This Court doth order that the plaintiff and two of his scientific witnesses be at liberty, upon giving three days' notice, to inspect (but only one inspection of *each machine*) all the machinery and appliances, except as to those parts of such machinery and those appliances alleged by the defendants to be trade secrets, used by the defendants in the manufacturing pleats, frills, ruchings, and fancy trimmings, and to see the products manufactured by the machinery and appliances, and to take specimens of the manufactured products generally produced, and as to those parts of such machinery and those appliances alleged to be trade secrets, it is ordered that the same be inspected by A. B., of, etc., and the said A. B. is, within seven days from the completion of such inspection, to report to the Court, firstly, whether, in his opinion, such machinery or appliances, or any of them, are trade secrets; secondly, whether, in his opinion, they or any of them infringe (y) the plaintiff's patents : and it is ordered that the defendants do pay to the plaintiff his costs of this application, such costs to be taxed by the taxing master, and that the plaintiff's costs of the former inspection be plaintiff's costs as against the defendants in any event.

ORDER FOR INSPECTION OF DEFENDANT'S PROCESS ALLEGED TO BE TRADE SECRET. *The Plating Co. v. Farquharson*. 1879, P. 264. Jessel, M.R. B. 1880, fo. 460.

Upon motion, etc. : This Court doth order that A. B. be appointed analyst for the purposes hereinafter mentioned, and be allowed access to the works of the defendants, situate at, etc., at all reasonable times upon giving the defendants two days' previous notice, to see the defendants' method of making their solutions and materials used, and also to see the defendants' method of using their solutions in the process of nickel plating, as ordinarily used by them, and also to be allowed to take samples of the solutions, and thereupon to report to the Court upon the facts, and his opinions founded upon them, but the said A. B. is not to disclose his report on the facts or opinion obtained or arrived at by him without the leave of this Court or the Judge : and the costs of the plaintiff's application by motion on the of , and of this motion, are to be costs in the action.

(y) These words have not been inserted in later orders. See the following order in *The Plating Co. v. Farquharson*.

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JUDGMENT FOR INJUNCTION TO RESTRAIN INFRINGEMENT OF PATENT, AND FOR REFERENCE TO ASSESS AND DIRECTION TO PAY DAMAGES. *Otto v. Linford.* 1880, O. 207. Court of Appeal, January 27, 1882. 46 L. T. (N.S.) 35.

(After reversing Judgment of the Court below, which dismissed the action with costs)

It is ordered and adjudged that the defendant C. L., his servants, agents, and workmen, be restrained during the continuance of the letters patent granted to A. B., dated, etc., in the statement of claim mentioned, from using or exercising, or causing or permitting to be used or exercised, the invention described in the specification and drawings of the said A. B., and from selling or making any profitable use, or permitting the sale or profitable use, of any gas motor engines not made by the plaintiff or his licensees, and arranged or constructed in manner described in the said specification and drawings, or differing therefrom only colourably and by the substitution of mere mechanical equivalents. And it is ordered that it be referred to X. Y., as special referee, to inquire and report what sum of money is fit to be awarded to the plaintiff in respect of any damage sustained by the plaintiff from the sale or use by the defendant of the said invention, or any apparatus in imitation of or being only a colourable deviation from the said invention; and it is ordered that the defendant C. L. do, within seven days after the adoption by the Judge of said special referee's report, pay to the plaintiff the sum so awarded. And (after directing defendant to pay costs of action and of appeal, and to refund costs paid by the plaintiff under the judgment of the Court below) the plaintiff is to be at liberty to apply to the Vice-Chancellor for a certificate that the validity of his patent came in question in this action, and that the plaintiff proved the breaches alleged in the particulars of breaches in this action. Liberty to either party to apply.

APPORTIONMENT OF COSTS. *Simmonds v. Hitchman.* 1879, S. 453. Bacon, V.-C. February 4, 1881.

This action coming on for trial, etc., in the presence of counsel, etc., and upon hearing, etc.: This Court doth order and adjudge that this action and the counterclaim of the defendants respectively do stand dismissed out of this Court.

And it is ordered that it be referred to the taxing master to tax the costs of the plaintiff of this action, so far as they have been occasioned by the issues raised by the defendants impeaching the validity of the plaintiff's patent, and the costs of the plaintiff occasioned by the counterclaim of the defendants,

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and also the costs of the defendants of this action, so far as they have been occasioned by the issue raised by the plaintiff as to the infringement of the said patent by the defendants. And the taxing master is to set off such costs of the plaintiff and of the defendants when so taxed, and certify to whom after such set-off, the balance is due.

And it is ordered that the party from whom such balance shall be certified to be due do pay the amount thereof to the other party.

ORDER OF THE MASTER OF THE ROLLS TO AMEND A CLERICAL ERROR IN A SPECIFICATION. *Johnson's Patent*, 5 Ch. D. 503.

Upon the petition of the above-named, on the day of preferred unto the Right Honourable the Master of the Rolls, having the consent of Her Majesty's Attorney-General written on the said petition, and upon hearing counsel for the petitioner, and upon reading the said petition, the letters patent referred to in the title of this petition, a Queen's printers' copy of the specification filed in the Great Seal Patent Office pursuant to the said patent, an affidavit of the petitioners and the exhibits and therein referred to, an affidavit of and the exhibit therein referred to, his Lordship doth order that the proper officer of the Great Seal Patent Office do amend the said specification by inserting in the said specification, after the words occurring in line , page , of the Queen's printers' copy of the said specification, the words .

And notice of this Order is to be given to the Commissioners of Patents, in order that the said specification may be reprinted.

ORDER OF BOARD OF TRADE ON REFERENCE TO THE COURT, UNDER SECTION 62 (5), OF APPEAL FROM COMPTROLLER'S REFUSAL, UNDER SECTION 72 (2), TO REGISTER MARK BY REASON OF EXISTENCE OF IDENTICAL MARKS ON THE REGISTER. *H. J. Neill's Trade Mark* (No. 1), September, 1893.

For the purposes of the within reference the Board have, pursuant to rule 23 of the Trade Marks Rules, 1890, directed the appellants to make application by motion, summons, or otherwise, as they may be advised, to the Chancery Division of the High Court of Justice to hear and determine the said appeal, and that notice of such application be served upon the Comptroller-General of Patents, Designs, and Trade Marks, and upon of in the county of (trading as) and , and that upon the hearing and determination

Orders. of the said appeal, the appellants, the comptroller, and
 _____, be respectively at liberty to adduce such evidence as
 they respectively may be advised.

CONSENT ORDER FOR THE COMPTROLLER TO PROCEED WITH REGIS-
 TRATION OF OLD MARK WITH NOTE DISCLAIMING EXCLUSIVE
 USE OF PARTICULAR DEVICES IN USE BY OTHER PERSONS.
Re application of H. J. Neill, Limited. (No. 2.) North, J.
 March 9th, 1894. A, 427.

Upon motion this day made unto this Court by counsel for
 the above-named applicants, H. J. N. Limited, and upon
 hearing counsel for the respondents, the Comptroller-General
 of Patents, Designs, and Trade Marks, and for J. T., and upon
 reading an affidavit of _____ filed the _____ day of _____ 18
 (*inter alia*) of service of notice of the said motion personally
 on the respondents T. A. S. and J. D., and upon J. P. B.,
 in Inverness, Scotland, by sending him copy of the notice of
 motion in a registered letter, an affidavit of _____ filed the
 _____ day of _____ 18 of service of notice of the said
 motion on the respondent A. C. P., and the exhibit therein
 referred to, the following evidence filed on behalf of the
 applicants, viz., affidavits of, etc., and the following evidence
 filed on behalf of the respondent J. T., viz., an affidavit, etc.

And the applicants, H. J. N., Limited, by their counsel,
 undertaking to apply to the comptroller to amend their appli-
 cation so as to claim registration of mark No. _____ as an old
 mark, and to submit to the registration thereof with a note to
 the effect that they make no claim to the exclusive use of the
 device of the crest consisting of _____ or of the harp because
 these are in use by other persons, and undertaking not to
 make any application to rectify the register in respect of the
 respondent J. T.'s mark No. _____ or to oppose the registration of
 the said J. T.'s old marks containing the crest, if application
 be made to register the same as old marks with a similar
 note to that above mentioned so far as the device of a crest is
 concerned, And the respondent, J. T., by his counsel, under-
 taking not to oppose the applicant's mark as an old mark, with
 a similar note to that above mentioned: This Court doth by
 consent order that the Comptroller-General of Patents, Designs,
 and Trade Marks, do forthwith proceed with the registration
 of the trade mark mentioned in the above-mentioned applica-
 tion, No. _____ notwithstanding the existing registration of the
 trade marks numbered respectively _____ and _____ (*four
 trade marks*).

Orders.
—

And it is ordered that the applicants, H. J. N., Limited, do pay to the said comptroller his costs of this application, and to the respondent, J. T., his costs of appearing in Court this day, including the evidence filed in respect of the said application, such costs to be taxed by the taxing master.

The following is an extract from the "INSTRUCTIONS TO PERSONS WHO WISH TO REGISTER TRADE MARKS," issued by the Patent Office, May, 1897:—

RESTRICTIONS ON REGISTRATION (2).

28. 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.

29. The words "Registered," "Registered Design," "Copyright," "Entered at Stationer's Hall," "To counterfeit this is Forgery," will not be registered under the Acts, and should not, therefore, appear upon the Representations of Trade Marks forming part of an application.

30. The following will not be registered as Trade Marks, or as prominent parts of Trade Marks, unless the Marks have been used since before August 13th, 1875:—

The Royal Arms, or arms so nearly resembling them as to be calculated to deceive.

Representations of Her Majesty the Queen, or of any member of the Royal Family.

Representations of the Royal Crown (a).

The National Arms or Flags of Great Britain.

31. 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*.

(z) Whether these instructions are or are not absolutely binding, the court will be very slow to depart from the practice established by them. *König and Ebhardt's Trade Mark*. 13 R. P. C. 449.

(a) The crown which appears upon the Royal Arms. The instructions do not extend to crowns and coronets of all shapes and forms. *König and Ebhardt's Trade Mark, ubi supra*.

F O R M S.

Declaration by Applicant for Registration of an old mark as to time and mode of user.

PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1883—1888.

In the matter of A. B. & Co.'s application for registration of a Trade Mark, No. in Class 43 in respect of whisky.

I, A. B., of the firm of A. B. & Co., do hereby solemnly and sincerely declare as follows :

The mark on the exhibit marked "A," shown to me at the time of making this declaration and exactly as shown upon the application forms, has been used within the United Kingdom of Great Britain and Ireland by my firm and their predecessors in business absolutely by itself as a Trade Mark in respect of whisky continuously since about 23 years before August 13th, 1875, and I declare that save the said mark there did not appear upon the bottles containing the whisky any device, words, figures, letters or any other particulars whatsoever.

And I make this solemn declaration, etc., etc.

Form of Counter-Statement.

(From the "Instructions" issued by the Patent office.)

PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1883—1888.

Trade Marks.

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.*

Reasons for Proposed Amendments of Specification.

(See Act of 1883, section 18 (1), *ante*, p. 67.)

That there are doubts whether the Letters Patents are not at present invalid in consequence of a prior publication of that portion of the specification which is covered by the first claiming clauses which I therefore desire to disclaim.

That the portion of the specification beginning line p. and ending line , p. is unnecessary and I desire to excise the same from the specification.

That the claim might be held to be too general and to claim more than is described in the specification, and I am therefore desirous of limiting it so as to make it claim only what is described in the specification.

That it might be supposed that the specification and claim are not sufficiently precise and may be extended to claim beyond what I desire, I desire to make the specification more clear and precise.

To define more clearly the scope of the invention and to remove ambiguity in the specification (b).

That there are doubts whether the claim of the specification can be supported, and I am therefore desirous of disclaiming it.

That there are clerical errors in the specification which I am desirous of correcting.

That the other alterations are rendered necessary or convenient by the proposed amendments.

That the title should be amended in accordance with the proposed amendments in the specification.

Objections to Amendment of Specification.

(See P. R., r. 53.)

That the proposed amendment will make the specification as amended claim an invention substantially larger than [and substantially different from] the invention claimed by the specification as it now stands. (See *ante*, p. 80.)

That the proposed amended claim is an extension of the original claim, in that it embraces the subject of the whole specification which the original claim did not.

That the object of the proposed amendment is to make a subordinate and accessory claim into the main subject of the patent, and thereby to alter the nature of the grant and extend its operation.

That the proposed amended claim is indefinite and unintelligible, and that it would prevent the public from ascertaining exactly what the alleged novelty of invention is. (See *ante*, p. 73.)

That the specification as proposed to be amended would not disclose any fit subject matter for letters patent.

That if the specification be amended as proposed the letters patent will be invalid on account of want of novelty of the invention and otherwise.

That the alleged invention as described and claimed in the specification as proposed to be amended is not the same as the invention described in the provisional specification (c).

That in the specification as proposed to be amended, the claims would not be for any invention the nature of, and the mode of carrying which into effect, are sufficiently ascertained and described in the specification.

That the parties applying for leave to amend are not the persons entitled so to do.

That the proposed amendment is not a correction or explanation within the meaning of section 18 of the Patents, Designs, and Trade Marks Act, 1883. (See *ante*, pp. 71, 72.)

That the opponents are makers of and that it would be unjust to allow the amendment proposed so as to affect their rights and interests, and if leave to amend be given at all, it should be upon such terms as will sufficiently protect the rights and interests of the opponents (d).

(b) See *Johnson's Patent*, 13 R. P. C. 659, 662, *ante*, p. 71. *Patent*, 6 R. P. C. 215; 7 R. P. C. 367; and *ante*, p. 83.

(c) See *Gaulard and Gibbs' Patent*, 13 R. P. C. 76. See *ante*, p. 79.

Forms.**Particulars of Breaches in Patent Action.**

In the High Court of Justice.
(Chancery Division.)

Mr. Justice

[or Queen's Bench Division.]

Between A. B. Plaintiff;
and
C. D. Defendant.

Particulars of Breaches

Delivered with the Statement of Claim the day of by
Messrs. of solicitors for the Plaintiff.

The following are particulars of the breaches complained of by the Plaintiff in this action that is to say:

That the Defendant has at divers times previously to the commencement of this action [and subsequently thereto] infringed the letters patent granted to the Plaintiff as in the Statement of Claim mentioned and dated the day of and numbered by using or applying in or to certain mechanism being the same as the mechanism described in the Queen's printers' copy of the specification filed under the said letters patent and claimed by the and claims thereof and by manufacturing or selling for his own profit having therein the mechanism aforesaid.

The Plaintiff complains of certain sold by the Defendant to one E. F. of on the day of .

The precise numbers dates and amounts of the Defendant's infringements are not at present known to the Plaintiff but the Plaintiff will claim to recover from the Defendant full compensation in respect of all such infringements.

For form of particulars of breaches in a chemical case see *Casella v. Levinstein*, 8 R. P. C. 473, ante, p. 163.

Particulars of Objections in Patent Action.

In the High Court of Justice.
(Chancery Division.)

Mr. Justice

[or Queen's Bench Division.]

Between A. B. Plaintiff;
and
C. D. Defendant.

Particulars of Objections

Delivered with the Defence, the day of by Messrs.
of solicitors for the Defendant.

The Defendant relies in support of his defence to this action on the following objections to the validity of the said letters patent:—

1. That the Plaintiff was not the true and first inventor of the alleged invention comprised in the said letters patent (e).

(e) This objection ought not to be taken unless the defendant is prepared to prove that whether the invention be a proper subject-matter of a patent

or not the plaintiff did not discover it. *Thomson v. Macdonald*, 8 R. P. C. 5; *Morgan v. Windover* (2) 7 R. P. C. 446, 449.

2. That the said alleged invention is the mere application to of **Forms.**
 means previously well-known for and is not the proper subject-
 matter of letters patent; or

That having regard to the knowledge [of] existing at the date of **No subject-**
 the said Letters Patent, the alleged invention was not proper subject-
 matter of letters patent.

3. That the said alleged invention is not useful. **No utility,**

4 (*f*). That the alleged invention described and claimed in the complete **Disconformity**
 specification alleged to have been filed in respect of the said letters patent **of provisional**
 is not the same as the alleged invention described in the provisional specifica- **and complete**
 tion left on the application for the said letters patent, and differs therefrom **specifications.**
 in the following particulars, that is to say:—

(*State points of difference.*)

5. That the said complete specification does not sufficiently describe and **Specification**
 ascertain the nature of the said alleged invention, and in what manner the **insufficient.**
 same is to be performed, inasmuch as—

(*State reasons.*)

6. That the last-mentioned complete specification is ambiguous and
 misleading inasmuch as—

(*State reasons.*)

(*Add other objections to the specification.*)

[The old form of objection to the specification was as follows (*g*):

That the specification alleged to have been filed by the plaintiff under
 the said letters patent does not sufficiently describe and ascertain the
 alleged invention, and in what manner the same is to be performed, and
 does not sufficiently distinguish which of the matters and things therein
 described the last-named plaintiff claims to have invented, and which of
 the same he does not claim to have invented and admits to be old. And
 that in other respects the said specification is insufficient, ambiguous, and
 framed so as to mislead.]

(*State here other objections.*)

7. (*Where the specification has been amended, and the provisions of the Act* **Amended**
of 1883, s. 18 (8), have not been complied with.) That the specification as **specification**
 amended, claims an invention substantially larger than, or [and] substan- **bad within**
 tially different from, the alleged invention claimed by the specification **sect. 18 (8).**
 as it stood before amendment (*h*).

8. That the said alleged invention was not new at the date of the said **Invention not**
 letters patent, having been previously published in the specifications **new.**
 hereinafter mentioned (or in the manner hereinafter appearing).

9. That the said alleged invention was previously to the date of the said **Prior specifica-**
 letters patent published within this realm in the following specifications **tions and books.**
 respectively filed in the Patent Office as hereinafter mentioned, and in the
 following printed books (reference in the case of the same specifications

(*f*) This and the two following
 objections are framed so as to comply
 with the rules laid down in *Anglo-*
American Brush, etc. Corporation v.
Crompton, 34 Ch. D. 152; and
Crompton v. Anglo-American Brush,
etc. Corporation, 35 Ch. D. 283,
ante, p. 175.

(*g*) This form is printed here as
 showing the several objections which
 may be raised on the specifica-
 tion.

(*h*) See, however, *Moser v. Marsden*,
 13 R. P. C. 24, 31, 32, 33; cited *ante*,
 p. 85.

Forms.

being made to the 'Queen's printers' copies thereof, and to the drawings therein referred to), that is to say:

The specification of G. H. filed under letters patent dated , No. , page , lines , and Page , lines , are relied on as anticipating the claiming clause of the plaintiff's specification (i); or

The parts of figure which show and the parts of the complete specification which describe the construction and arrangement of the said parts of figure are relied on; or

The shown in figure and the parts of the specification which describe the construction and operation thereof are relied on.

The specification of I. K., No. of A.D. 18 .

The whole specification is relied on as anticipating the and claiming clauses of the plaintiff's specification; or

The parts of the specification relied on are those parts which refer to the A. shown in figures 1, 2, etc., of the drawings.

(Add other specifications.)

(Title of book) , page , lines , relied on as anticipating the claiming clause of the plaintiff's specification.

(Add other books.)

[When there are several specifications and books, it is often convenient to arrange them in a schedule thus:—

Name.	Date and Number.	Pages and Lines relied on.	Claiming Clause alleged to be anticipated (j).

Prior publication by drawings publicly made and explained.

10. That the said alleged invention and the several parts thereof were, prior to the date of the said alleged letters patent, further published within this realm as follows: A. B., of , in the county of , the defendant's Superintendent, did, in the offices of the Railway Company at , in the year , publicly in the presence of C. D. of in the county of , E. F. of , in the county of , and G. H, of , in the county of , and of other clerks of the said company, disclose and publish the said alleged invention by causing under his direction drawings of the same to be made by the said C. D., and traced by the said E. F., and by exhibiting and explaining verbally the said drawings to the said G. H. and the other clerks before mentioned.

(Add other alleged instances of prior publication.)

Prior user.

11. That the said alleged invention was previously to the date of the said letters patent published within this realm by the manufacture and

(i) In this form the objection complies with the order in *The London and Leicester Hosiery Co. v. Higham* (*ante*, pp. 600, and 172). Where several specifications are relied on they must be stated in such

a manner as not to be oppressive, and publications showing mere general knowledge need not, and should not, be included. See *Holliday v. Heppinstall*, 41 Ch. D. 109, *ante*, p. 174.

(j) See preceding note.

sale [or use or public exhibition] by the persons or firms following, at their places of business hereinafter mentioned, in the years hereinafter set forth, of made according to the alleged invention, [or of machinery or apparatus for making , being the same or substantially the same as the machinery or apparatus described and claimed in the plaintiff's specification (k)], that is to say:

By I. K. of , at , in the county of , in the year .

(Add other prior users) (l).

[For Forms of Statement of Claim and Statement of Defence in patent actions, see Supreme Court Rules, 1883, Appendix C., section VI., Form No. 6, and Appendix D. section VI.]

Petition for Revocation of Patent where the authority of the Attorney-General is required.—See *ante*, pp. 122, 127.

In the High Court of Justice,
(Chancery Division).

Mr. Justice .

In the Matter of the Patents, Designs and Trade Marks Acts,
1883—1888,

and

In the Matter of Letters Patent, No. , of the year ,
granted to A. B. of , for an invention of dated the
day of .

To Her Majesty's High Court of Justice.

The humble petition of ,
SHEWETH as follows:

(State grant of patent and the circumstances justifying the presentation of the petition.)

The said letters patent are invalid on the grounds stated in the particulars of objections delivered herewith.

Your petitioner has been authorized by the Attorney-General to present this petition—

Your petitioner therefore humbly prays that the said letters patent, No. , of the year , may be revoked. And that the said A. B. may be ordered to pay the costs of this petition.

And your petitioner will ever pray, etc.

Particulars of objections are delivered herewith.

It is intended to serve this petition on A. B.

Proceedings to obtain the fiat of the Attorney-General.—In applications to the Attorney-General for the grant of his fiat to petitions for the revocation of letters patent under section 26 of the Act of 1883 (*ante*, p. 122), the petitioner is required to present a memorial to the Attorney-General, setting out therein the material facts relied on. The memorial

(k) The machinery should be identified. See *Boyd v. Farrar*, 5 R. P. C. 33, 35; *Law v. Ashworth*, 7 R. P. C. 86.

(l) If the patentees under the prior specifications are relied on as prior users in respect of their use of their own inventions, they should be mentioned here.

Forms,
—

should be signed by the petitioner, or in the case of a corporation sealed with the corporate seal.

The memorial should be accompanied by—

- (a.) A statutory declaration verifying the allegations in the memorial, and containing a statement that no legal proceedings are pending in the United Kingdom whereby the questions proposed to be raised by the petition and particulars of objection, upon which the revocation of the letters patent is sought, can be raised.
- (b.) Two copies of the proposed petition.
- (c.) Two copies of the particulars of objections.
- (d.) Certificate of counsel that the proposed petition is proper for the allowance of Her Majesty's Attorney-General.
- (e.) Certificate of the solicitor that the proposed petitioner is a proper person (or body) to present a petition to the court for the purpose of revoking the letters patent in question, and that the petitioner is competent to answer the costs of all proceedings in connection with the petition.
- (f.) Prints of specifications and copies of documents referred to in the memorial, petition, and particulars of objections.

The above documents must be lodged at the Law Officers Department, No. 549, Royal Courts of Justice. Certain fees are payable in connection with the application.

The fact that proceedings are pending in which the issues of fact or law raised by the petition for revocation can be determined is not an absolute bar to the granting of the fiat, but it is only under very special circumstances that the Attorney-General will grant his fiat for the presentation of a petition for revocation where proceedings in which the validity of the letters patent is in question are pending (*m*).

—

**Clauses in Petition for Revocation where the authority of the
Attorney-General is not required.**

See section 26 (4) (c), (d), (e), *ante*, pp. 122, 129, 130.

1. Your petitioners' are and their said firm are the successors in business of your petitioner C. D., who carried on for many years prior to the date of the above-mentioned letters patent the trade or business now carried on by your petitioners' said firm. Your petitioner, C. D., prior to the date of the said letters patent, manufactured and sold and other vessels intended to be subjected to heat.

2. In such and vessels your petitioner, C. D., for the purpose of increasing, etc., etc., adopted and used within this realm, and before the date of the said letters patent, certain well-known expedients, that is to say, etc., etc.

3. The above-mentioned letters patent were granted to the above-named A. B. for an alleged invention for, etc., etc.

4. The alleged invention, as claimed in the complete specification filed by the said A. B. in respect of his application for the said letters patent, was, etc., etc.

5. The alleged invention is precisely the same contrivance for increasing, etc., etc., as was adopted by your petitioner C. D. as hereinbefore mentioned.

6. Under the circumstances aforesaid, your petitioner C. D. (under or through whom your petitioners claim their interest in the trade

(*m*) See Griffin P. C. 320 and *ante*, pp. 128, 129.

or business now carried on by them as aforesaid) publicly manufactured, used, and sold within this realm before the date of the said letters patent, the contrivance or method claimed by the said A. B. as his invention. For the reason last aforesaid the said letters patent are invalid for want of novelty in the alleged invention comprised therein (n).

7. The said letters patent are also invalid on the further grounds stated in the particulars of objections delivered herewith.

Forms.
—

Particulars of Objections on Petition for Revocation.

In the High Court of Justice,
(Chancery Division).
Mr. Justice

(Title of petition).

Particulars of Objections.

At the hearing of the petition presented in the above matters by the petitioners will rely on the following objections.

(See *ante*, p. 608).

Petition for Extension of Term of Patent.

In the Privy Council.

Presented the day of .
To the Queen's Most Excellent Majesty in Council.

In the Matter of Letters Patent granted to A. B., of, etc.,
for the invention of (*title of invention*), dated the
day of , .

No. .

The humble petition of X. Y., of, etc.,
and of the above-named A. B.

SHEWETH,

That your petitioner, the above-named A. B., previously to the grant of the letters patent hereinafter mentioned, invented after considerable personal application and cost certain improvements in, etc. (*title of invention*) (hereinafter called "the said invention"), which invention was, and is, of great utility, and greatly beneficial to the public.

That your Majesty was graciously pleased, by royal letters patent, under the Seal of the Patent Office, bearing date the day of , to grant unto your petitioner, A. B., his executors, administrators, and assigns, the sole privilege and authority to use the said invention within the United Kingdom of Great Britain and Ireland, and the Isle of Man, for the term of 14 years from the date of the said letters patent.

That your petitioner, A. B., in compliance with the provisions of the Patents, Designs, and Trade Marks Act, 1883, duly left at the Patent Office a specification particularly describing and ascertaining the nature of his said invention, and in what manner it was to be performed.

That your petitioner, A. B., also obtained letters patent or brevets

(n) See s. 26 (4) (e), *ante*, p. 130.

Forms.

d'invention for his said invention in France, dated the day
of , .

(Add other foreign patents with dates and numbers, and state whether they are in force or expired. Sometimes it is convenient to state these in a tabulated form as below)—

Country.	Number.	Date.	Name of Patentee.	Remarks.

That the said invention relates to improvements in the means of consuming smoke, and of effecting combustion in steam boilers, as also improvements in the means of supplying furnaces with fuel.

That your petitioner, A. B., is a civil engineer, and he has for more than 30 years past devoted his attention to smoke-consuming apparatus, and has given much time and labour, and expended very considerable sums of money in conducting experiments relating to the subject-matter of the said invention, and either alone or with his then partner, one , he obtained letters patent for apparatus relating thereto, all of which last-mentioned letters patent have expired or become void.

(Add statements showing by specifications and otherwise the state of knowledge existing at the date of the patent) (o).

(Add statements showing nature and advantages of the invention.)

(Add statements showing interest of co-petitioner.)

That your petitioner, A. B., has expended large sums of money and devoted great pains and labour in endeavouring to introduce the said invention to the public, and to bring the same into use.

(State what was done by petitioner.)

(If the petitioners are a company, state whether any, and if any, what dealings have taken place in the shares (p).)

That although under the circumstances aforesaid considerable numbers of fire doors made according to the said invention comprised in the said letters patent of the day of , were sold, yet the necessary expenses of introducing the said invention as aforesaid were so great, that it was only during the last year and nine months, or thereabouts, that is to say the years and , that any profit was made from the said invention. In all other years since the date of the said letters patent, the working of the said letters patent and the manufacture and sale of fire doors made according to the said invention resulted in losses which far more than counterbalanced the profit of the years and aforesaid, and, on the whole, your petitioner, A. B., instead of obtaining any profit from the said invention, has sustained a very considerable loss.

That only one licence has ever been granted for the use of the said invention

(o) See *Live's Patent*, 9 R. P. C. 327, 331, 332. It is incumbent on the petitioner that the whole history, everything bearing on the matter, should be stated on the face of the

petition. See *Standfield's Patent*, 15 R. P. C. 17.

(p) See observations of Lord WATSON, *Barff's and Bower's Patent*, 12 R. P. C. 383, 385.

in the United Kingdom, that to say, a licence to one C. D., of Manchester and Oldham, which was granted by your petitioner, A. B., in or about the month of , 18 .

(State whether any profit arose from licence.)
(Add circumstances, if any, showing difficulty of introducing invention to the public.)

That of late years the utility of the said invention has been generally acknowledged.

(Add other circumstances, if any, to show the invention is coming into use.)

That under the circumstances aforesaid, your petitioner, A. B., has, notwithstanding his considerable outlay upon the said invention, been unable to obtain any profit thereupon, nor has he obtained any remuneration for his expense and labour in perfecting the same; but on the contrary, he has sustained considerable loss in relation to the said invention, and it is only now, when the letters patent are about to expire, that the use of the said invention is becoming fully established and extending.

That your petitioners have no doubt that if the term of the said letters patent should be extended, the said letters patent will now become productive, and your petitioner, A. B., will be able to obtain a fair reimbursement and remuneration commensurate with the great public value and importance of the said invention.

That your petitioners humbly submit that under the circumstances of the case an exclusive right of using and vending the said invention for the further period of seven years will not sufficiently reimburse and remunerate your petitioner, A. B.

That your petitioners have given public notice by advertisements caused to be inserted the requisite number of times in the "London Gazette," and in metropolitan and country newspapers, pursuant to the rules in that case made and provided, that it is their intention to present a petition to your Majesty in Council that their said letters patent may be extended for a further term.

Your petitioners therefore humbly pray that your Majesty will be graciously pleased to take the case of your petitioners into your Royal consideration, and to refer the same to the Judicial Committee of your Majesty's Most Honourable Privy Council, and that your petitioners may be heard before such Committee by their counsel and witnesses, and that your petitioners' letters patent may be extended for the further and additional term of fourteen years, or for such other term as to your Majesty shall seem fit.

And your petitioners will ever pray, etc.

Paragraph in Petition for Extension presented by the Patentee and a Company formed for working the Patent.

That except as last aforesaid your petitioner E. D.'s said invention has, ever since the said patent was taken out, been worked by your petitioners, the company, and your petitioner E. D. owns more than half the shares in your petitioners the company, and has devoted to the working of the invention and introducing the same to the public a very considerable amount of his time. Since the year 18 he has been chairman of your petitioners the company. He has been referred to, ever since the invention was patented, by the manager of your petitioners the company on all questions of any importance in connection with his said invention. Your

Forms:
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Forms.

petitioner E. D. has received no compensation whatever for the time devoted by him to the said invention, no fees whatever having been paid to him as director of the said company or otherwise. Your petitioners the company and their directors and managers have done all in their power to push the said invention, and the sale of made according to your petitioner E. D.'s said invention has constituted nearly two-thirds of their whole business. The greater part of the capital of your petitioners the company has been employed for the purpose of developing the last-mentioned invention.

Caveat against Extension of Term of Patent.

In the Privy Council.

In the Matter of the Petition of
Caveat against the extension of the term of the letters patent granted to and dated No. without notice to A. B. of in the city of London.

Dated this day of .

Solicitors for the above-named A. B.

Objections to Extension of Term of Patent.

In the Privy Council.

In the Matter of Letters Patent granted to A. B., of, etc., ,
for the invention of, etc., dated No. ,
and

In the Matter of the Petition of the company and A. B.
(*the patentee*), for an extension of the term of the said letters
patent.

Objections.

The grounds of the objections of of to the granting of the prayer of the said petition are as follows:—

That the part of the alleged invention claimed in the second claiming clause of the said letters patent (hereinafter referred to as the said alleged invention) was not new within this realm at the date of the above-mentioned letters patent, in proof whereof leave is craved to refer to the following documents published in England prior to the date of the said letters patent that is to say:—

Specification to X. Y.'s patent No. of A. D. .

Add other specifications and documents.

That having regard to the general public knowledge existing at the date of the said letters patent (whether derived from the said specifications or otherwise) the said alleged invention is not of sufficient public utility or merit to entitle the petitioners to any prolongation of the term or privileges granted by the said letters patent (*q*).

That the petitioner A. B. (*the patentee*) has now no interest in the said letters patent and has been adequately remunerated and rewarded for his alleged outlay, expense, and labour, respecting the said invention and letters patent (*r*).

(*q*) See *ante*, p. 103.

(*r*) See *Bower - Barff Patent*,
[1895] A. C. 675, and *ante*, p. 113.

That the petitioners the company are merely assignees of the said letters patent and have been adequately remunerated and rewarded for all their alleged outlay, expense, and labour, respecting the said invention and letters patent.

That if the petitioners or their predecessors in title have failed to obtain a sufficient remuneration or reward, their failure has been caused by the mode in which their business has been carried on, and the negligence and default of the petitioners and their respective predecessors in title (*s*).

That until the year no endeavours were made by any of the owners for the time being of the said letters patent to introduce the said alleged invention to the public, or to find persons willing to take licences to use the said alleged invention.

That the licensees under the licences granted as in the petition mentioned have made considerable profits by reason of the said licences (*t*).

That the monies received in the United Kingdom of Great Britain and Ireland in respect of the said letters patent by the petitioners or their predecessors in title and their licensees, have been full and adequate remuneration for the said alleged invention (*u*).

That the petition does not give the dates or state sufficiently the particulars of the foreign patents and colonial patent mentioned in the petition, and that the petition does not state whether all or any of the said foreign patents and colonial patent are in force (*x*).

That these opponents are informed that certain of the said foreign patents or brevets d'invention have expired, and these opponents submit that any prolongation of the said letters patent would be improper on the ground of public policy (*y*).

That it does not appear on the petition whether the petitioners the company are the owners of or in any way interested in the said foreign patents or colonial patent (*z*).

That it does not appear on the petition whether the petitioner A. B. (*the patentee*), or the petitioners the company, or their predecessors in title have derived any profits from the said foreign patents and colonial patent, and that in fact the said A. B. and the petitioners the company or their predecessors in title have been adequately remunerated by the amounts received in respect of the sale of, or the licences under, the said foreign patents or brevets d'invention.

That taking into account the monies received by the said A. B. (*the patentee*) or the petitioners the company, or their predecessors in title in respect of the use of the alleged invention in foreign countries and in the colony of Canada, the monies received in respect of the letters patent have been a full and adequate remuneration for the said alleged invention (*a*).

That the various companies mentioned in the petition, who from time to time purchased the said letters patent, purchased the same as a mere trading speculation, and not under circumstances in which any profit or benefit could accrue to the said A. B. (*the patentee*) (*b*).

That the petition does not state whether there have been any dealings in the shares of the petitioners the company (*c*).

That the said alleged invention as described in the said specification would not work satisfactorily and could not be carried into effect so as to be a commercial success, and is of no practical utility (*d*).

(*s*) See *ante*, p. 111.

(*t*) See *ante*, p. 107.

(*u*) See *ante*, pp. 106, 115.

(*x*) See *ante*, pp. 100, 107.

(*y*) See *ante*, p. 112.

(*z*) See *ante*, p. 100.

(*a*) See *ante*, p. 107.

(*b*) See *ante*, p. 114.

(*c*) See *ante*, p. 114.

(*d*) See *ante*, p. 104.

Forms.

That the allegations contained in the said petition are in many respects untrue in substance and in fact.

Dated this day of 18

Solicitors for the above-named Objectors.

Advertisement of Intention to present Petition for Extension of Term of Patent.

In the Matter of Letters Patent granted to E. D. of in the county of for an "invention of " bearing date the day of 188 No. .

Notice is hereby given that it is the intention of the said E. D. and of the P. E. S. I. Co., Ltd., who are [the equitable owners] of the said letters patent (*e*), to present a petition to Her Majesty in Council praying that the said letters patent may be extended for a further term (*f*); and notice is hereby further given that on the day of next or on such subsequent day as the Judicial Committee of Her Majesty's Privy Council shall appoint for that purpose, application will be made to the said Committee that a time may be fixed for hearing the matter of the said petition; and any person desirous of being heard in opposition to the said petition must enter a caveat to that effect in the Privy Council on or before the said day of next.

Dated this day of 189

(Signed)

X. and Y.,

(Address)

Solicitors for the petitioner.

Advertisement of Time of Hearing.

In the Matter of Letters Patent granted to J. G. H. of in the county of gentleman, for the invention of , dated the day of 188 No. .

Notice is hereby given that upon a motion this day made by counsel before the Judicial Committee of Her Majesty's Honourable Privy Council praying that a day might be appointed for hearing the matter of the petition of of in the county of , who are [the assignees and proprietors] of the said letters patent, for the extension of the term of the letters patent granted to the said J. G. H. on the day of 188 for No. , it was ordered by their lordships that the matter of the said petition be heard before this Committee on Tuesday the day of 189 at half-past ten o'clock A.M.

(Signed)

X. and Y.,

(Address)

Solicitors for the above-named petitioners.

Forms of Accounts on Applications for Extension of Term of Patent.

[The following forms are forms of accounts which have been actually used in the Privy Council, and on which the Judicial Committee have recommended extension of the terms of the patents.]

(*e*) The title of the petitioners should appear in the advertisement. See also form of Advertisement of Time of Hearing.

(*f*) The petition must be presented within one week, and the day of

application to fix hearing must be not less than four weeks, from date of publication of last advertisement in the "London Gazette." See Judicial Committee Rules, rr. II. and I., *ante*, pp. 551, 550.

FORM No. 1.

ACCOUNTS when the Patent was worked through Manufacturers to whom Patentee had granted sole right of manufacture, the Patentee himself forwarding the Invention and selling the Patented Articles.

IN THE PRIVY COUNCIL.

A. B.'s PATENT, No. , A.D. , IMPROVMENTS IN .

PETITION FOR PROLONGATION.

ACCOUNT OF EXPENDITURE AND RECEIPTS.

Account of the Expenditure and Receipts of the Petitioner (the Patentee).

FIRST YEAR.

EXPENDITURE.		£ s. d.	RECEIPTS.
18 . Mar. 2nd to Dec. 31st.	At and prior to this date Petitioner had expended various sums for models and other expenses of which he kept no account and is unable to specify them, but subsequently paid following:— Journey to London W. X. & Co. for models Sundry expenses—trials Total expenditure 18	<div style="text-align: right; margin-bottom: 10px;">£</div> <hr style="width: 100%;"/>	Nil.

APPENDIX.

FORM No. 1—continued.

		YEAR.						
EXPENDITURE.		£	s.	d.	RECEIPTS.	£	s.	d.
18	To travelling expenses as per book				18 .	By amount paid by Messrs.		
Jan. 1st	„ patent duty (three years) and				Jan. 1st	Petitioner		
to	expenses				to	to enable him to devote		
Dec. 31st.	„ advertising and printing				Dec. 31st.	his time specially to forwarding the		
	„ cost of models					invention, and to be accepted in lieu of		
	„ expenses at trials, etc.					royalty during 18		
	„ legal expenses							
	„ commission paid agents							
	„ [patented articles] not paid for							
	GENERAL EXPENSES.					(g) 10 [Patented articles] sold during 18		
	To rent of offices and wharf					Total weight of same cwts. qrs. lbs.		
	„ rates and taxes					Total value of [patented articles] received		
	„ salaries					by Petitioner, and by him paid to the		
	„ travelling and general trade					manufacturers Messrs.	£	
	expenses							
	„ bank interest and commission							
		£						
	Half to Patent Account*							
	Total expenditure for 18	£				Total receipts for 18	£	

* Memo.—The Petitioner also carried on at the same offices, and with the assistance of the same staff, his business of a civil and consulting engineer, in which was included several agencies for manufacturing engineers and tool makers. At this date the patent business took up at least one-half of the time of Petitioner's assistants.

		YEAR.			
EXPENDITURE.		£	s. d.	RECEIPTS.	£
		s.	d.	18	s. d.
18 .	To balance—Exhibition expenses			Jan. 1st	By royalty received during 18 as per
Jan. 1st	„ advertising and printing			to	book
to	„ expenses at trials, etc.			Dec. 31st.	
Dec. 31st.	„ commission paid agents				
		<hr/>			
GENERAL EXPENSES.					
	To rent of offices and wharf			(g) 10 [<i>patented articles</i>] sold during 18	
	„ salaries			Total weight of same, cwts. qrs. lbs.	
	„ travelling and general trade			Total value of [<i>patented articles</i>] sold	
	expenses			by Petitioner, and by him paid to	
	„ bank interest and commission			Messrs., less above royalty	
				£	£
		<hr/>			
	One-third to Patent Account*				
		<hr/>			
	Total expenditure for 18		£	Total receipts for 18	£
		<hr/>			<hr/>

* *Memo.*—At this date the Petitioner's general business had increased, and the profits derived from it seemed to demand that a larger share of the expenses should be charged to that business, and therefore from this date Petitioner has only charged to this business one-third of the general expenses.

(g) See note (i), *post*, p. 623.

[*Similar Accounts for each year of the Patent.*]

FORM No. 1—continued.

IN THE PRIVY COUNCIL.

A. B.'S PATENT, [date], No. , IMPROVEMENTS IN .

Summary of Petitioner's Accounts.

Loss.		PROFIT.
£ s. d.		£ s. d. £ s. d.
First year—		
Receipts -		Nil.
Expenditure -		
Second year—		_____
Receipts -		
Expenditure -		
Third year—		_____
Receipts -		
Expenditure -		
Fourth year—		_____
Receipts -		
Expenditure -		
Fifth year—		_____
Receipts -		
Expenditure -		
Sixth year—		_____
Receipts -		
Expenditure -		
Seventh year—		_____
Receipts -		
Expenditure -		
Eighth year—		_____
Receipts -		
Expenditure -		
Ninth year—		_____
Receipts -		
Expenditure -		
Tenth year—		_____
Receipts -		
Expenditure -		
Eleventh year—		_____
Receipts -		
Expenditure -		
Twelfth year—		_____
Receipts -		
Expenditure -		
Thirteenth year—		_____
Receipts -		
Expenditure -		
Fourteenth year—		_____
Receipts -		
Expenditure -		
_____		_____
£		_____
	Deduct loss -	_____
	Total profit -	£ _____

FORM No. 1—continued.

IN THE PRIVY COUNCIL.

A. B.'s PATENT [*date*], No. , IMPROVEMENTS IN

PETITION FOR PROLONGATION.

MANUFACTURER'S ACCOUNTS (*h*).

Profit and Loss Account from 18 , to 18 .

Dr.	£	s.	d.	Cr.	£	s.	d.
[<i>Patented articles</i>] manufactured and sold from				Sale of [<i>patented articles</i>] as per contract:			
to , 18 :				(i) 10 [<i>patented articles</i>]			
(i) 10 [<i>patented articles</i>]		cwts.	qrs.	cwts.		qrs.	lbs.
Patented for sole right of manufacture .		.	.			.	.
Royalties . . . . .		.	.			.	.
Railway and other carriages :							
£1 per ton on quantity invoiced, viz.,		tons	cwts.				
qrs. lbs. . . . .		.	.			.	.
Discounts and commissions . . . . .		.	.			.	.
	<hr/>				<hr/>		
	£				£		
	<hr/>				<hr/>		

APPENDIX.

(*h*) See *note*, pp. 108, 109.
 (i) The number of the patented articles must be inserted on both sides of the account, in order that the Judicial Committee may be able to see whether there has been any extravagance in the manufacture, or any unfair demand of profit on the sales, and the fullest detail should be given, the various charges being taken out as far as possible as separate items. See Form No. 2, *post*, p. 625. See, as to stating expenses in a lump sum, *Thomas and Gilchrist's Patent*, 9 R. P. C. 367.

[*Similar accounts for each year of the Patent.*]

FORM No. 2.

AN ACCOUNTS when Patentee himself Manufactured and Sold the patented Article.

[Heading as in Form No. 1, p. 619.]

YEAR.

EXPENDITURE.		RECEIPTS.		
	£ s. d.	£ s. d.	£ s. d.	
18	By purchases of raw material for (k) (patented articles) as per vouchers		18	To sale of (k) (patented articles) as per press copy book
	„ trade expenses as per cash book, being one year's travelling.		Less discount	
	Expenses of several travellers.		To royalties—	
	Patent expenses (stamp)		England	
	Stationery		Austria (l)	
	Bricklayers' work		To balance, being loss	
	Law expenses incurred in recovering several debts.			
	Charges for patterns, oil, and other trade expenses			
	„ commission as per cash book			
	„ advertising			
	„ wages of workmen			
	„ rent, taxes, and lighting			
		£		£

(k) Insert number. See *note*, p. 623, note (i).

(l) See *note*, p. 107, as to the necessity of including accounts relating to foreign patents.

[Similar Accounts for each year of the Patent.]

[Summary to be added as in Form No. 1, p. 624.]

APPENDIX.

FORM No. 3.

ACCOUNTS in Petition by a Company, Assignees of the Patent, when there have been various dealings with the Patent.

IN THE PRIVY COUNCIL

A. B.'s PATENTS, [date], Nos. _____ AND _____, IMPROVEMENTS IN

PETITION FOR PROLONGATION

ACCOUNT OF EXPENDITURE AND RECEIPTS.

FIRST PART.—*Account of Expenditure and Receipts of A. B., the Patentee.*

FIRST YEAR.

EXPENDITURE.		RECEIPTS.	
		Nil.	
18		£ s. d.	£ s. d.
To	C. D. & Co. — Fitting up office, at		
..	E. F. & Co. — Gas fittings, ditto		
..	office furniture		
..	trade expenses		
..	salaries draughtsman and housekeeper		
..	[] — stationery		
..	advertising		
..	offices : To for rent		
..	.. for gas		
..	cost of Letters Patent and Specification, No. _____		
..	A.D. _____		
..	G. H. & Co., Consulting Engineers — for opinions		
..	patentee — allowance for his time		
Total expenditure for 18		£	

APPENDIX.

* **NOTE** — The patentee from the date of the patents to the present time has devoted his whole time and given his constant and undivided attention to the introduction of his invention to the public, and working the same, and has had no other employment. The sum charged is measured by the amounts actually paid to him for his time and attention in subsequent years of the patents (m).

(m) See ante, p. 108.

		PART OF THE		YEAR.	RECEIPTS		
EXPENDITURE		£	s.	d.	£	s.	d.
18	to						
To	[] three quarters' rent						
"	[] for gas						
"	patentee's allowance for his time (see note, p. 1 of accounts)						
"	cash for patentee's share of partnership with X., hereafter mentioned				By cash from X		
Total expenditure to 18		£			£		

NOTE.—At this period the patentee entered into partnership with X. for the purpose of working the patents, and received from him the above sum of £ , out of which he paid to the partnership account the above sum of £ .

SECOND PART.—Account of Expenditure and Receipts of the Patentee and X.

FURTHER PART OF THE _____ YEAR.

		EXPENDITURE.		RECEIPTS.			
		£	s.	d.	£	s.	d.
18	from						
To	[] Gas fittings at						
"	carpets, matting, and more furniture for do.						
"	trade expenses						
"	salaries Patentee						
"	ditto Draughtsman and housekeeper						
"	[]—Stationery						
"	[]—Models						
"	[]—Quarter's rent, in lieu of notice						
"	G. H. Consulting engineer, for opinions						
"	law charges Mr. , Mr. X.'s solicitor						
"	ditto Mr. , patentee's solicitor						
"	ditto as to negotiations for capitalist						
Total expenditure from 18		£			£		

APPENDIX.

FORM No. 3—continued.

YEAR

18	EXPENDITURE.	£ s. d.	£ s. d.	18	RECEIPTS	£ s. d.
To salary - Patentee				By royalties (a) received from M. & Co		
.. travelling expenses—Patentee at				.. ditto ditto N. & Co		
.. ditto ditto at				.. ditto ditto O. & Co		
.. ditto ditto at						
.. trade expenses						
.. Income Tax						
.. K. & L. re M.'s infringement						
.. ditto ditto						
.. charges re removing machines from M.'s infringement						
.. law charges re [names] infringements, M.'s licence, N.'s licence, and						
Total expenditure for 18		£		Total receipts for 18		£

PART OF THE YEAR TO

(About this time the Petitioning Company was formed.)

18	EXPENDITURE.	£ s. d.	£ s. d.	18	RECEIPTS.	£ s. d.
To cash to [] Deposit of £ to X.				Royalties received from O. & Co.		
.. ditto X. Balance						
.. K & L - Patent agents' charges re Patentee & X.						
.. P. & Q - Law charges ditto						
.. R. & S. - Ditto ditto						
.. Law charges re Assignment of Patents to the Company, re X. and M.'s infringement						
.. Patentee - Salary for first five weeks of the year						
.. ditto Allowance for his time (See Note, p. 1 of accounts)						
Total expenditure to 18		£		Total receipts to 18		£

After

By cash paid to patentee by the Y. Z. Company, Ltd.

Ditto paid to X. by the above named company

Note - The patentee also received £ in shares of the Company, upon which no dividend has ever been declared.

(a) The licensees' accounts should be furnished. (See note, p. 107.)

THIRD PART.--Account of Expenditure and Receipts of Y. Z. Company, Limited

		PART OF		AND PART OF		YEARS.			
EXPENDITURE.		£ s. d.		£ s. d.		RECEIPTS		£ s. d.	
18	to 18					18	to 18		
To []	Fitting up offices at					By royalties received from O. & C.			
..	office furniture					.. ditto ditto P. & C.			
..	expenses at Exhibition								
..	ditto stand at cattle show								
..	rent of stand at engineering exhibition								
..	general trade expenses								
.. []	Seal of company, books, etc.								
..	advertising								
..	travelling and hotel expenses -- (two of the directors) to [places named]								
..	ditto, ditto Patentee to [places named]								
..	carriage of models, etc.								
..	salaries Patentee								
..	ditto Draughtsman and housekeeper								
.. []	Models								
.. []	Rent of								
..	ditto ditto								
..	law charges - Formation of the company, assignment of patents, etc.								
Total expenditure to				£		Total receipts to		£	

[Similar Accounts to the above for each year of the Patent.]

APPENDIX.

FORM No. 3—continued.

FURTHER PART OF YEAR TO PRESENT TIME.

LIST OF ORDERS for which Payment has not yet been received, but for which the Royalties mentioned below will be due.

Makers.	Royalties Payable.		
	£.	s.	d.
(Names)			
.			
.			
.			
.			
.			
.			

IN THE PRIVY COUNCIL.

A. B.'S PATENTS [date], Nos. AND , IMPROVEMENTS IN

SUMMARY OF ACCOUNTS.

FIRST PART.—From 18 to 18 , while the Patents were in Possession of the Patentee.

EXPENDITURE.		RECEIPTS.	
	£ s. d.		£ s. d.
A. First year, 18		First year, 18	
Second year, 18		Second year, 18	
Part of third year to September, 18		Part of third year to September, 18	
	£		£

SECOND PART.—From , 18 , to , 18 , during Patentee's Partnership with A.

EXPENDITURE.		RECEIPTS.	
	£ s. d.		£ s. d.
B Further part of third year, from October, 18		Further part of third year, from October, 18	
Fourth year, 18		Fourth year, 18	
Fifth year, 18		Fifth year, 18	
" 18		" 18	
Sixth year, 18		Sixth year, 18	
Seventh year, 18		Seventh year, 18	
Eighth year, 18		Eighth year, 18	
Ninth year, 18		Ninth year, 18	
Tenth year, 18		Tenth year, 18	
Part of eleventh year, to August, 18		Part of eleventh year, to August, 18	
	£ <u> </u>		£ <u> </u>

THIRD PART.—From , 18 , to , 18 , while the Patents were in the Possession of the Petitioning Company.

EXPENDITURE.		RECEIPTS.	
	£ s. d.		£ s. d.
C. Part of eleventh year and part of twelfth year, September, 18 , to September, 18		Part of eleventh year and part of twelfth year, September, 18 , to September, 18	
Part of twelfth year and part of thirteenth year, October, 18 , to September, 18		Part of twelfth year and part of thirteenth year, October, 18 , to September, 18	
Part of thirteenth year and part of fourteenth year, October, 18 , to September, 18		Part of thirteenth year and part of fourteenth year, October, 18 , to September, 18	
Further part of fourteenth year, October, 18 , to Christmas, 18		Further part of fourteenth year, October, 18 , to Christmas, 18	
	£ <u> </u>		£ <u> </u>

APPENDIX.

TOTAL EXPENDITURE AND RECEIPTS FROM PATENTS.

EXPENDITURE.		RECEIPTS.	
£ s. d.		£ s. d.	
Summary A.		Summary A.	
Summary B.		Summary B.	
Summary C.		Summary C.	
		Payment to patentee (see ante, p. 628)	
		Payment to X. (see ante, p. 628)	
		Further royalties which will become payable (see ante, p. 630)	
	<u>£</u>		<u>£</u>

APPENDIX.

COMPULSORY LICENSES.

Appendix.

 LICENSES.

Scheme of Procedure under Section 22, and the Patents Rules 60—66,
1890 (*m*).—(*Ante*, pp. 95, 534, 535.)

1. The Board of Trade on receiving petition and evidence (if any) will refer them to a legal expert in Patent Law.

2. Counsel will thereupon report to the Board of Trade whether in his opinion the Order should at once be refused.

3. If the Order is not at once refused, the Board of Trade will, upon counsel's report, require the petitioners to appear before him to receive his directions as to further proceedings.

4. After the attendance of the petitioner before counsel he will further report to the Board of Trade whether in his opinion a *prima facie* case has been made out.

5. If a *prima facie* case for relief has been made out to the satisfaction of the Board of Trade the Board will call upon the petitioners to deliver to the patentee, on or before a day to be named by them, copy of the petition and evidence in support.

6. When the evidence is complete under Rules 63—65, a copy of the petition and evidence will be submitted to counsel to advise as to further directions, or the hearing of the petition under the provisions of Rule 66.

7. Counsel will thereupon advise the Board of Trade whether any further directions are necessary, or whether the petition may be at once heard, fixing a time convenient to him, and the Board of Trade will direct the parties accordingly.

8. The hearing to take place at the Board of Trade or elsewhere as may be arranged.

The parties should be required to inform the Board beforehand whether they intend to appear in person, or, if not, what counsel or patent agent will represent them.

9. A shorthand note of the proceedings at the hearing to be taken.

10. All evidence prior to the hearing to be by affidavit.

(*m*) This scheme of procedure is understood not to be final, but it has been adopted by the Board of Trade in some recent cases.

Appendix.

LICENCES.

Order of the Board of Trade under s. 22 for Compulsory License with License annexed.*Patents, Designs and Trade Marks Act, 1883.*

In the Matter of the Letters Patent, Nos. of
 and of
 and

In the Matter of the Petition of and to the
 Board of Trade (hereinafter called the Petitioners) for an Order
 for Compulsory Licences under the said Patents.

WHEREAS by s. 22 of the Patents, Designs, and Trade Marks Act, 1883,
it is enacted :—(recites the section).

And whereas on the day of 18 a patent numbered
was granted to of for an invention communicated to him by
 (hereinafter called the Patentees) relating to .

And Whereas on the day of 18 , the said patent was duly
assigned by the said to the patentees, which said assignment was on
the day of 18 , duly registered at the Patent Office.

And Whereas on the day of 18 , another patent numbered
 was also granted to the said for an invention in like manner
communicated to him by the patentees relating to .

And Whereas on the day of 18 , the said patent was duly
assigned by the said to the patentees, which said assignment was on
the day of 18 , duly registered at the Patent Office.

And Whereas the petitioners presented a petition to the Board of Trade
under the said section for an order that the patentees under the said
letters patent No. of and No. of , should grant to
the petitioners a license under or in respect of the inventions described
and claimed in and by the specifications of the said respective letters
patent.

And Whereas on consideration of the said petition and of the matters
therein mentioned it has been proved to the Board of Trade that the said
petitioners are persons interested in the matter of the said petition, and
that by reason of the default of the patentees to grant licenses on
reasonable terms the said patents are not being worked in the United
Kingdom, and that by reason of the default aforesaid the said petitioners
are being prevented from working and using to the best advantage certain
inventions of which they are possessed.

Now, Therefore, the Board of Trade, in exercise of the power conferred
upon them by s. 22 of the Patents, Designs, and Trade Marks Act, 1883,
and of all other powers enabling them in this behalf do hereby order as
follows :—

1. That a license to take effect from the date of this order and in the
form set forth in the schedule hereto be forthwith granted by the
patentees to the petitioners to make use, exercise, and vend within the
United Kingdom the inventions described and claimed in and by the
specifications of the said letters patent No. of and No. of
 for the unexpired residues of the respective terms of the said letters

patent at a royalty of for each of made by the licensees under the said letters patent or either of them, but so that in each year a minimum royalty of £ per annum shall be paid by the licensees, and the patentees shall forthwith deposit such license duly executed by them with the Board of Trade.

The said petitioners before the day of 18 , shall execute and deposit with the Board of Trade a counterpart license in the form aforesaid, and in default of their doing so this Order shall be of no effect.

Dated this day of , 18 .

Appendix.

—
LICENSES.

—
Copy of Schedule referred to.

This Indenture, made the day of 18 , between of (hereinafter called the patentees) of the one part and of (hereinafter called the licensees) of the other part. Whereas by an Order of the Board of Trade dated the day of 18 , and made under s. 22 of the Patents, Designs, and Trade Marks Act, 1883, it was ordered that a license to take effect from the date of the said order should be granted by the patentees to the licensees to make, use, exercise, and vend the inventions described in the letters patent hereinafter mentioned (to the benefit of which the patentees are entitled) in the form set out in the Schedule to the said Order being the form of these presents.

Now this Indenture Witnesseth that in pursuance of the said Order the patentees do hereby grant to the licensees license within the United Kingdom to make, use, exercise, and vend the inventions described and claimed in and by the specifications of the letters patent No. of and No. of , mentioned in the said Order. To hold, exercise, and enjoy the said license for and during all the residues now to come and unexpired of the respective terms of the said letters patent and during any further term for which the said letters patent or either of them may be extended. And the licensees hereby covenant with the patentees that the licensees will during the continuance of this license pay to the patentees half-yearly on every day of and day of royalties at the rate of for each of made by the licensees under the said letters patent or either of them in the half years then ending respectively.

Provided always that if the royalties payable in any year ending on the day of shall not have amounted to the sum of £ the licensees shall on such day of pay to the patentees such further sum as with the said royalties shall amount to the said sum of £ hereinafter called the yearly rent. The licensees do hereby also covenant with the patentees that the licensees will during the continuance of the license keep proper accounts in separate books containing full particulars of all made by them under this license, and of all other things which may be material for the purpose of showing the amounts payable to the patentees by way of royalty, and will at any time produce the same for the inspection of the patentees or any person appointed by them, who shall be at liberty to make copies from or extracts from any of the accounts or matters therein contained, and that the licensees will, within ten days after each of the half-yearly days aforesaid, deliver to the patentees an account in writing, showing all the particulars and matters aforesaid with respect to the made during the preceding half-year.

Appendix.
—
LICENSES.

And it is hereby agreed and declared that the patentees shall be at liberty at any time during the continuance of this license to enter upon any factory or place of business of the licensees in which the manufacture of the said shall be carried on at any reasonable hour with a view of obtaining all such information as may be material for the purpose of ascertaining the amount of royalty payable to them under this license.

And it is hereby also agreed and declared that if any payment of royalties or yearly rent under this license shall be in arrear for one month after the same shall have become due (whether payment thereof shall have been demanded by the patentees or not), or if the licensees shall make default in the performance of any obligation on their part herein contained and shall not have made good the same within fourteen days after the patentees shall have by notice in writing required them to do so, then the patentees may with the consent of the Board of Trade, by notice in writing to the licensees, revoke this license as from the date of such notice without prejudice to the right of the patentees to recover any moneys then due hereunder.

And it is hereby agreed and declared that if the said letters patent or either of them shall become void, or shall be declared by a Court of Law to be void, the licensees may with the consent of the Board of Trade by notice in writing to the patentees revoke this license.

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NOTE.—The figures with the prefix (S.) refer to the sections of the Act of 1883. The abbreviations P.R., L.O.R., J.C.R., D.R., T.M.R., refer to the Patents Rules, Law Officers' Rules, Judicial Committee Rules, Designs Rules, and Trade Marks Rules respectively, and the numbers appended to these abbreviations refer to the numbers of the Rules. The other figures refer to the pages of this book.

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