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gistered; and if he fails to do so, the copyright in the design shall cease, unless the proprietor shows that he took all proper steps to ensure the marking of the article.⁷

The corresponding sections of the Acts of 1842 and 1843 (5 & 6 Vict. c. 100, s. 4; and 6 & 7 Vict. c. 65, s. 3) provided that no person should be entitled to the benefit of the Acts, unless every article published by him to which a registered design was applied bore the prescribed mark.

1 *Delivery on sale.*—The proprietor of design must mark every article that he delivers on sale; no liability under this section will attach to him, if the person to whom he sells, takes off the mark and sells again: *Sarazin v. Hamel*, (1863) 32 Beav. 145, 32 L. J. Ch. 380, 7 L. T. N. S. 660 (1863).

The proprietor of a design registered in this country must put the prescribed marks on articles sold abroad, even though they are manufactured abroad. This is the effect of a decision under the repealed Acts, but it is submitted that the reasoning on which it is founded is equally applicable to the present Act: *Sarazin v. Hamel*, *ubi supra*; cf. *Potter v. Braco de Prater Printing Co.*, (1891) 8 R. P. C. 218—a decision of the Scotch Court of Appeal on a question of infringement abroad.

Under the repealed Acts it was held (Coleridge, J. dissenting) that every pattern sent out by the manufacturer must be marked: *Heywood v. Potter*, (1853) 1 E. & B. 439, 22 L. J. Q. B. 133, 20 L. T. N. S. 207, in which case, however, the patterns were sold. But since this Act, articles need only be marked before “delivery on sale” and not before publication as under the old Acts. So it is submitted that patterns, provided they are not sold, do not require to be marked, and an unmarked design may be freely shewn, and orders obtained for it, without loss of copyright under this section, as long as no single specimen is sold and delivered.

If goods are delivered on sale and the design is applied to them, they must be marked though unfinished, and though the finishing will destroy the mark: *Wooley v. Broad*, (1892) L. R. 2 Q. B. 317, 61 L. J. Q. B. 808, 9 R. P. C. 429.

2 *Any.*—The words of old statutes were “every article shall bear . . .;” it was decided that these must be interpreted strictly, and that a failure to mark even one article was fatal to the copyright: *Pierce v. Worth*, (1868) 18 L. T. N. S. 710, W. N. 1868, 217; *Hunt v. Stevens*, W. N. 1878, 79. It is submitted that the words of this section will be interpreted equally strictly, and a single instance proved against the proprietor will be

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sufficient to destroy his copyright, unless he is helped by the saving clause. Sect. 51.

3 *Articles to which a registered design applied.*—To print a copy of a design in a book is not to apply the design to an article of manufacture: 5 & 6 Vict. c. 100, s. 4. So that diagrams and copies of designs need not bear their registration marks: *De la Blanchardière v. Elvery*, (1849) 4 Ex. 380, 18 L. J. Ex. 381. The fact that the article is capable of separation into parts does not make it necessary to place the mark on each: *Fielding v. Hawley*, (1883) 48 L. T. N. S. 639.

Under sect. 58 it was held that preparing rollers or dies to print a registered design, was not to apply such design to an article in the class in which it is registered: *Potter v. Braco de Prater Printing Co.*, (1891) 8 R. P. C. 218.

4 *Proprietor.*—If the decision in *Jewitt v. Eckhart*, 8 Ch. D. 404, be correct, namely that every assignee, whether absolute or limited, and every licensee is a proprietor to the extent of his interest (see sect. 61 and *notes*), such limited proprietor may be held to be within the words “the proprietor of the design,” for the singular includes the plural. If this be held so, then the failure of a limited proprietor to mark might cause loss of the entire copyright. Under the corresponding sections of the old Acts, the penalty for the non-performance of the conditions of copyright, fell only on the person who neglected to comply with them: “No person shall have the benefit of this Act, unless every article published by him hath thereon” (5 & 6 Vict. c. 100, s. 4). But if the mark be put on and the purchaser subsequently removes it, the proprietor will not lose copyright: *Heywood v. Potter*, *infra*, *Sarazin v. Hamel*, *supra*. Nor will the proprietor suffer if by process of time or manufacture the mark becomes illegible: *Fielding v. Hawley*, *infra*. But see *Johnson v. Baily*, *infra*.

5 *Each such article.*—These words include every piece of an article bearing a registered design, whether that piece be large or small. (*e.g.* a pattern): *Blank v. Footman*, (1888) 39 Ch. Div. 678; 57 L. J. Ch. 909; 59 L. T. N. S. 567; 36 W. R. 921; 5 R. P. C. 653; *Heywood v. Potter*, (1853) 1 E. & B. 439, 22 L. J. Q. B. 133; 20 L. T. N. S. 207; *Sarazin v. Hamel*, *ubi supra*.

Articles (*i.e.* handkerchiefs, &c.) which though manufactured in the piece (*e.g.* in pieces containing a dozen), properly fall within Class 14, are not sufficiently marked by having the prescribed mark on each piece: *per* Bristowe, V.-C., *Hothersall v. Moore*, (1892) 9 R. P. C. pp. 27, 39. A butter dish consisting of a dish and a cover is one article, and is sufficiently marked by the prescribed mark being stamped on the dish

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alone, although the cover is separate and not in any way attached to the dish, and although the entire design is upon the cover: *Fielding v. Hawley*, (1883) 48 L. T. N. S. 639.

6 *Marked with the prescribed mark.*—Each article must be marked in some convenient manner; it is not necessary to put the mark on the article itself, but tying on a label or printing on the packet in which it is sold is sufficient: *Blank v. Footman, ubi supra*; cf. 5 & 6 Vict. c. 100, s. 4.

The object of this provision as to marking is that the public should be warned against copying designs that are registered: *Sarazin v. Hamel*; *Fielding v. Hawley, ubi supra*.

As to the marks to be put on the different classes of goods, see rule 32, Designs Rules, 1893, *post*, p. 188.

7 *Unless the proprietor shows, &c.*—This is a new provision, introduced by the present Act.

In a case where the plaintiff had ordered his manufacturers to affix the proper mark, but they by some blunder had affixed the mark of another design, the registration of which had expired, but which contained the important letters Rd., it was held that the plaintiff was protected by this provision: *Wittman v. Oppenheim*, (1884) 27 Ch. D. 260; 54 L. J. Ch. 56; 50 L. T. N. S. 713; 32 W. R. 767.

Even under the old Acts a mark which had been accidentally rendered partly illegible in the process of manufacture would probably have been sufficient: *Fielding v. Hawley, ubi supra*. Such a case would undoubtedly be covered by this proviso now, but whether the proprietor would be protected, if he gave orders to his manufacturer to put on the proper mark, and the manufacturer omitted to put on any mark at all, is doubtful: *Wittman v. Oppenheim, ubi supra*.

Wooley v. Broad, (1892) L. R. 2 Q. B. 317, 61 L. J. Q. B. 808, 9 R. P. C. 429, and *Johnson v. Bailey*, (1894) 11 R. P. C. 21, are examples of cases in which the proviso has been decided to be inapplicable.

Inspection of
registered
designs.

52. (1.) During the existence of copyright in a design, the design shall not be open to inspection except by the proprietor, or a person authorized in writing by the proprietor, or a person authorized by the comptroller or by the Court,¹ and furnishing such information as may enable the comptroller to identify the design, nor except in the presence of the comptroller, or of an officer acting under him, nor except on payment of the prescribed

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fee²; and the person making the inspection shall not be entitled to take any copy of the design, or of any part thereof. Sect. 52.

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. Act, 1888,
sect. 6.

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

¹ *By the court.*—This power given to the court, to make an order for inspection of a design of which the copyright is still in existence, is new. The rest of the section is taken from sect. 17 of the Act of 1842 (5 & 6 Vict. c. 100).

² *Prescribed fee.*—See 1st schedule to the Rules, *post*, p. 185.

53. On the request¹ of any person producing a particular design, together with its mark of registration, or producing only its mark of registration, or furnishing such information as may enable the comptroller to identify the design, and on payment of the prescribed fee,² it shall be the duty of the comptroller to inform such person whether the registration still exists in respect of such design, and if so, in respect of what class or classes of goods, and stating also the date of registration, and the name and address of the registered proprietor. Information
as to existence
of copyright.

The comptroller is also authorized by rule 35 to inform any person whether a particular design produced by that person and to be applied to goods in any particular class is or is not identical or an obvious imitation of any registered design applied to such goods of which the copyright is still existing.

¹ See Form N, *post*, p. 252.

² *Prescribed fee.*—See 1st schedule to the Rules, *post*, p. 185.

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Cesser of
copyright in
certain events.

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

Register of Designs.

Register of
designs.

55. (1.) There shall be kept at the Patent Office a book called the Register of Designs,¹ wherein shall be entered the names² and addresses of proprietors³ of registered designs, notifications of assignments⁴ and of transmissions⁵ of registered designs, and such other matters⁶ as may from time to time be prescribed.

(2.)⁷ The register of designs shall be *primâ facie* evidence of any matters by this Act directed or authorized to be entered therein.

1 *Register of designs.*—See sect. 87; and rules 20 to 28, and the register is open to the inspection of the public, subject to regulations (sect. 88, *post*).

The register may be rectified and corrected : sects. 90 and 91.

Falsification of the register is a misdemeanor : sect. 93.

2 *Names.*—The person whose name is on the register as proprietor of a design is the legal owner of that design (sect. 87); no notice of any trust can be entered on the register (sect. 85); but any equities in respect of any design can be enforced in like manner as in respect of any other personal property (sect. 87), and see *Stewart v. Casey*, (1892) 1 Ch. 104; 61 L. J. Ch. 61; 9 R. P. C. 9.

3 *Proprietors.*—A partial assignee or a licensee is a proprietor (sect. 61 and *Jewitt v. Eckhart*, *infra*).

4 *Assignments.*—See sect. 87, *post*, and Act of 1888, sect. 21. No transfer can be registered before the design is registered, nor can any licensee or partial assignee register before the author or sole proprietor of the design. This was a decision, given with some doubt, by Jessel, M. R. upon the words of sects. 3, 5 and 6 of the Act of 1842, which in substance correspond with sects. 50 and 60, 61, and 55 and Form K., rules 1890, respectively : *Jewitt v. Eckhart*, (1878) 8 Ch. D. 404. But

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it is submitted that a person, who has obtained an unregistered design by assignment or otherwise, is not prevented from applying under sect. 47, as a "person claiming to be proprietor," to register the design. Whether an assignment of an unregistered design is publication is another question, see sect. 47, notes. As to when a design is registered, see Rule 20, *post*, p. 179.

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Section 6 of the Act of 1842, which is the corresponding section to this, contained the words "any writing . . . shall operate as an effectual transfer;" there is no similar provision anywhere in this Act or rules. It may be, therefore, that the decision (*Jewitt v. Eckhart*) that an assignment or licence must be in writing, is no longer law. But the point seems a very doubtful one: see *Wooley v. Broad*, (1892) 1 Q. B. 806; 9 R. P. C. 208.

5 *Transmissions*.—A design is transmitted and devolves like any other personal property: see sect. 87.

6 *Such other matters*.—The date of application must be entered on the register (Rule 20). In any case, whether licensees and partial assignees are "proprietors" or not, they can have their names put on the register: rule 21, and may become thereby "registered proprietors."

7 *Subsection (2)*.—Sealed copies are received in evidence without any further proof or production of the registers: sect. 89.

Fees.

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

Fees on registration, &c.

See rule 2, (1893) and the 1st schedule to the Rules, *post*, pp. 175, 187.

Industrial and International Exhibitions.

57. The exhibition at an industrial or international exhibition certified as such by the Board of Trade,¹ or the

Exhibition at industrial or international

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 exhibition not
 to prevent or
 invalidate
 registration.

exhibition elsewhere during the period of the holding of the exhibition, without the privity or consent of the proprietor, of a design, or of any article to which a design is applied, or the publication, during the holding of any such exhibition, of a description of a design, shall not prevent the design from being registered, or invalidate the registration thereof, provided that both the following conditions are complied with ; namely,—

- (a) The exhibitor must, before exhibiting the design or article, or publishing a description of the design, give the comptroller the prescribed notice of his intention to do so²; and
- (b) The application for registration must be made before or within six months from the date of the opening of the exhibition.

Protection of
 patents and
 designs ex-
 hibited at
 international
 exhibitions.

Act, 1886,
 s. 3.

And whereas it is expedient to provide for the extension of this section to industrial and international exhibitions held out of the United Kingdom, be it therefore enacted as follows:

It shall be lawful for Her Majesty, by Order in Council,³ from time to time to declare that sections thirty-nine and fifty-seven of the Patents, Designs, and Trade Marks Act, 1883, or either of those sections, shall apply to any exhibition mentioned in the Order in like manner as if it were an industrial or international exhibition certified by the Board of Trade, and to provide that the exhibitor shall be relieved from the conditions, specified in the said sections, of giving notice to the comptroller of his intention to exhibit, and shall be so relieved either absolutely or upon such terms and conditions as to Her Majesty in Council may seem fit.

1 In order to have an exhibition certified under this section application must be made by the authorities controlling the exhibition or by some person interested, to the Board of Trade, and evidence produced to satisfy the Board that the exhibition is of sufficient importance, and, generally, a proper subject for the certificate. Upon being so satisfied a certificate is issued. The Board of Trade communicates the issue of the certificate to the Patent Office, where a list of such certified exhibitions is kept. The notice of intention to exhibit (Patent Rules, 1890,

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rule 15), and the description of the invention, are left at the Patent Office, and, if satisfactory, the inventor's name will be registered, and he will then be able to apply for a patent within six months of the opening of the exhibition.

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² See rule 36, *infra*, p. 184.

³ See Form of Order granting temporary protection to inventions exhibited at the Paris Exhibition, 1889, *infra*, p. 261.

Legal Proceedings.

58. During the existence of copyright¹ in any design—

Penalty on piracy of registered design.

(a) It shall not be lawful for any person without the license or written consent² of the registered proprietor³ to apply **or cause to be applied**⁴ such design or any fraudulent or obvious imitation⁵ thereof, in the class or classes⁶ of goods in which such design is registered, for purposes of sale to any article of manufacture or to any substance artificial or natural or partly artificial and partly natural; and

Act, 1888, s. 7.

(b) It shall not be lawful for any person to publish⁷ or expose for sale any article of manufacture or any substance to which such design or any fraudulent or obvious imitation thereof shall have been so applied, knowing⁸ that the same has been so applied without the consent of the registered proprietor.

Any person who acts in contravention of this section shall be liable for every offence to forfeit a sum not exceeding fifty pounds to the registered proprietor of the design, who may recover such sum as a simple contract debt by an action in any court of competent jurisdiction: **Provided that the total sum forfeited in respect**

Act, 1888, s. 7.

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1 *The existence of copyright depends—*

- (1) On the alleged design being a design within the meaning of this Act : sect. 60.
- (2) On due registration of the design : sect. 50.
- (3) On the design being, at the date of application for registration, new and original : sect. 47.
- (4) On the design not having been published before registration : sect. 47.
- (5) On the design being properly marked before delivery on sale : sect. 51.
- (6) On the design, if manufactured abroad, being manufactured in this country within six months of registration : sect. 54.

In any action for the infringement of a design, if the defendant can shew that the plaintiff has failed to comply with any one of these conditions, the action will be dismissed.

Subs. (a) and (b).—A distinction is drawn between the manufacturer of articles of registered design for purposes of sale, and all other persons who sell or publish such articles : the former are liable for every infringement, however innocently made, see *ante*, but the latter only if they know that the consent of the proprietor of the design has not been given : see *Smith v. Lewis*, (1881) 5 R. P. C. 611.

2 *License or written consent.*—A license to use a patent may be verbal : *Crossley v. Dixon*, (1863) 10 H. of L. Cas. 293, 32 L. J. Ch. 617, 8 L. T. N. S. 260, 11 W. R. 716, 9 Jur. N. S. 607.

The licensee can be registered as proprietor. He cannot sue for damages under this section unless the license be in writing : *Jewitt v. Eckhart*, L. R. 8 C. D. 404 ; *Wooley v. Broad*, (1892) 9 R. C. P. 208. But the peculiar position of the word “written” makes this somewhat uncertain : see *Griffiths v. Hughes*, (1892) L. R. 3 Ch. 105, 62 L. J. Ch. 135 ; decision on a somewhat similarly worded phrase in the Trustee Act, 1888.

But that if such license is not a valid agreement, then to be of any effect under this section, or the next, such consent must be in writing.

3 *Registered proprietor.*—As to what persons are included under the term proprietor, see sects. 61 and 55 : *Jewitt v. Eckhart*, (1878) 8 Ch. D. 404.

In an action for penalties for infringement of dramatic copyright, it was held that the license of one of two proprietors, not being in

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any sense agent for the other, was not a legal license: *Powell v. Head*, (1879) 12 Ch. D. 686, 48 L. J. Ch. 731, 41 L. T. N. S. 70. Sect. 58.

A proprietor who is not registered can proceed under this sect. or the next: and see *Wooley v. Broad*, (1892) 1 Q. B. 806, 9 R. P. C. 208.

Query if it is possible that a proprietor, *e.g.* an assignee who has not registered his assignment under sect. 55, might be able to obtain relief other than that given by these sections, *e.g.* an injunction: see *Ihlee v. Henshaw*, (1886) 31 Ch. D. 323, 55 L. J. Ch. 273. See *ante*, p. 106.

4 *Apply or cause to be applied.*—The effect of these words is to make liable, not only the actual manufacturer, but also the person who employed him to manufacture the pirated design: *Mallett v. Howitt*, W. N. 1879, 107. In every case in which it can be made out that the actual infringer was the agent for that purpose of another person, that other person is liable: *Sykes v. Howarth*, (1879) 12 Ch. D. 832, 48 L. J. Ch. 769. Whether the decision in *Mallett v. Howitt* gives a wider interpretation than this to the words of the statute, is not clear from the short report, in which it is not stated whether or not the merchant gave the manufacturer, to whom he sent the pattern, any order to manufacture for him.

The unauthorised application of a registered design abroad by a British subject is not unlawful under this Act: *Potter v. Braco de Prater Printing Co.* (1891) 8 R. P. C. 218; though it was under 24 & 25 Vict. c. 73, s. 1.

In a case of a manufacturer it is immaterial how the defendant arrived at the production of the infringing design, whether by independent invention or by copying the registered design: *Saunders v. Weil*, (1892) 9 R. P. C. 467, (1893) L. R. 1 Q. B. 470, 62 L. J. Q. B. 341; *Mallett v. Howitt*, W. N. 1879, 107; *Smout v. Slaymaker*, (1890) 7 R. P. C. 90.

5 *Any such design or any fraudulent or obvious imitation.*—See, generally, sect. 47, notes, “new and original.”

The word “obvious” has been added by this Act.

Imitation is not forbidden by the Act. Fair imitation—that is to say, something to which an original idea has been applied to the design—is not prohibited: *Barran v. Lomas*, (1880) 28 W. R. 973; *Thom v. Syddall*, (1872) 56 L. T. N. S. 15, 20 W. R. 291. See judgment of Cotton, L. J., *Grafton v. Watson*, (1884) 51 L. T. 141; *Saunders v. Weil*, (1892) L. R. (1893) 1 Q. B. 471, 9 R. P. C. 467.

By the words “any such design” the Act prohibits anything which is substantially the same design. Although there are variations there is infringement if the court is of opinion that the design itself has been applied.

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“Fraudulent imitation” is imitation with knowledge; conscious imitation, the man having the design before him, and knowingly and wilfully imitating, and not producing anything sufficiently original to be protected as a fair imitation: *Barrun v. Lomas*, (1880) 28 W. R. 973, per *Jessel*, M. R.

Deliberate imitation, if the result is in fact an imitation, is fraudulent imitation: *Grafton v. Watson* (C. A.) 51 L. T. 141.

Fraudulent imitation means, not an obvious imitation, but an imitation varied for the purpose really of perpetrating what is a legal fraud: *Sherwood v. Decorative Art Tile Co.*, (1887) 4 R. P. C. 207.

Obvious imitation does not mean exact copy: *Holdsworth v. McCrea*, (1867) L. R. 2 H. L. 380, as interpreted in *McCrea v. Holdsworth* (1871) L. R. 6 Ch. App. 418; *Hecla Foundry Co. v. Walker*, (1889) 14 App. Ca. 550, 6 R. P. C. 554. Cf. *Le May v. Welch*, (1884) 28 Ch. D. 24, 54 L. J. Ch. 279, and other cases on the meaning of new and original: see sect. 47, notes.

Obvious imitation does not mean obvious at a glance to the uneducated or unskilled eye, it means obvious to the judge or a jury with the assistance of experts—persons conversant with the particular trade: *Grafton v. Watson*, (1884) 50 L. T. 420, confirmed 51 L. T. 141, following principle laid down in *Mitchell v. Henry*, 15 Ch. D. 181, 43 L. T. N. S. 186.

The eye must be the judge whether the one is an obvious imitation of the other. But there should be also taken in account the state of knowledge at the time of registration, and in what respects the design was new and original, when considering whether any variations from the registered design which appear in the alleged infringement are substantial, or immaterial: *Hecla Foundry Co. v. Walker*, (1889) 14 App. Ca. 550, 6 R. P. C. 544.

The test is not merely to look at the two designs side by side; but consideration should also be given to what would be the effect supposing they were seen at different times, or supposing they were looked at a little distance off: *Grafton v. Watson*, *supra*.

The purpose or utility of the invention must not be considered: see sect. 47, notes.

6 *In the class or classes.*—The application of a registered design to dies or rollers for the purpose of reproducing from them the registered design, is not an application of the design in the class in which it is registered: *Potter v. Braco de Prater Printing Co.*, (1891) 8 R. P. C. 219, 18 Court of Sess. Cas. 511.

If the proprietor of a design registered in one class apply to goods

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in another class, the registration does not protect the application to such goods: *Hothersall v. Moore*, (1892) 9 R. P. C. p. 27.

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For purposes of sale.—It was held by Knight-Bruce, V.-C. in *McRae v. Holdsworth*, (1848) 2 De G. & Sm. 496, that manufacturing a registered design with the intention of selling after the period of protection had expired, was piracy within the meaning of the corresponding words of the Act of 1842, sect. 7. Cf. patent cases: *Crossley v. Beverley*, (1829) 1 R. & M. 166, 1 Web. P. C. 119; *Crossley v. Derby Gas Co.*, 4 L. J. Ch. 25.

7 *Publish.*—The publication of a book of registered designs was said not to be a license to persons to copy the designs for purposes of sale: *De la Branchardière v. Elvery*, (1849) 18 L. J. Ex. 381, 4 Ex. 380.

8 *Knowing that the same has been so applied without the consent.*—Under the Act of 1842, proof of knowledge from some source other than the proprietor, or express written notice from the proprietor, was required.

Under that Act it was held that a notice threatening proceedings, if the defendants should manufacture or sell any article to which the registered design was applied, was not sufficient notice, on the grounds that the terms of the letter were perfectly consistent with the proprietor having given his consent: *Norton v. Nicholls*, (1859) 1 E. & E. 761, 28 L. J. Q. B. 225, 33 L. T. O. S. 131, 7 W. R. 720, 5 Jur. N. S. 1203.

It has been held under this Act that a letter before action, informing a retail dealer that he had registered designs on sale, but did not specify what those designs were, was insufficient to render him liable, when it was proved that he had no other knowledge that the designs on the articles in question had been applied without the consent of the proprietor: *Smith v. Lewis Roberts & Co.*, (1888) 5 R. P. C. 611.

Shall forfeit.—Proceedings under this section are of a penal character, so that interrogatories will not be allowed: *Saunders v. Weil*, (1892) 2 Q. B. 321, 62 L. J. Q. B. 37, 9 R. P. C. 459.

The sum recovered under this section is a penalty. A penalty is a punishment, and punishment is to be awarded in proportion to what the offender has done. The penalty should be heavier or lighter as there may be circumstances of aggravation or mitigation: *Saunders v. Weil* (1892) 9 R. P. C. 467, (1893) 1 Q. B. 471. See also *Sherwood v. Decorative Art Tile Co.*, 4 R. P. C. 207.

For the practice, see *ante*, Chap. IV.; costs, p. 119; other proceedings, p. 157. Sect. 90.

59. Notwithstanding the remedy given by this Act for the recovery of such penalty as aforesaid, the

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

See *ante*, pp. 99, 100.

Definitions.

Definition of
"design,"
"copyright."

60. In and for the purposes of this Act—

"Design" means any design applicable to any article of manufacture, or to any substance artificial or natural, or partly artificial and partly natural, whether the design is applicable for the pattern, or for the shape or configuration, or for the ornament thereof, or for any two or more of such purposes, and by whatever means it is applicable, whether by printing, painting, embroidering, weaving, sewing, modelling, casting, embossing, engraving, staining, or any other means whatever, manual, mechanical, or chemical, separate or combined, not being a design for a sculpture, or other thing within the protection of the Sculpture Copyright Act of the year 1814 (fifty-fourth George the Third, chapter fifty-six).

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

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By this section the limits of the operation of the Act are defined, but no direct definition of the meaning of design is given. The section is taken from that in sect. 3 of the Act of 1842, but is made wider by the omission of the words "for the ornamentation of" before "any article of manufacture," so as to cover designs for purposes of utility formerly dealt with in the Act of 1843.

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An ornamented design under the Act of 1842 has been defined as something in the nature of a drawing, picture, or diagram applicable to the ornamentation of some article of manufacture; and as the representation of something which a draughtsman has for the first time produced: *Harrison v. Taylor*, (1859) 4 H. & N. 815, 29 L. J. Ex. 3, 5 Jur. N. S. 1219.

A design is a thing in which the merit of the invention lies in the drawing or in forms that can be copied: *Holdsworth v. McCrea*, (1867) L. R. 2 H. L. 380—388.

A process of manufacture cannot be a design: *Moody v. Tree*, (1892) 9 R. P. C. 333.

But the fact that an article would be a good subject-matter of a patent does not necessarily mean that it is not a design: *Hecla Foundry Co. v. Walker*, (1889) 14 App. Ca. 550, 6 R. P. C. 554; *Millingen v. Picken*, (1845) 14 L. J. C. P. 254, 1 C. B. at p. 808.

A design applied to an article made in two parts (*e.g.* butter dish and cover) forms one design.

A design may be a complete design though only applied to a part of an article: *Hecla Foundry Co. v. Walker*, *supra*.

This branch of the Act only gives protection to patterns, shape, configuration or ornament: *Hecla Foundry Co. v. Walker*, *supra*.

An effect is not a design, but only the combination which produces the effect: *Grafton v. Watson*, (1884) 50 L. T. N. S. 420.

No mechanical principle or contrivance can be a design, nor is protection given to the object or purpose sought to be attained. If advantages, such as attend a mechanical contrivance, are obtained, it is only because no shape not substantially the same, and which is therefore not an infringement, will achieve the same end: *Hecla Foundry Co. v. Walker*, *supra*; *Walker v. Falkirk Iron Co.*, (1887) 4 R. P. C. 390.

For this subject generally, see *ante*, Chapter II., p. 78.

61. The author of any new and original design shall be considered the "proprietor" thereof, unless he executed the work on behalf of another person¹ for a good or

Definition of
"proprietor."

Sect. 61.

valuable consideration, in which case such person shall be considered the proprietor, and every person acquiring for a good or valuable consideration a new and original design,² or the right to apply the same to any such article or substance as aforesaid, either exclusively of any other person or otherwise,³ and also every person on whom the property in such design or such right to the application thereof shall devolve,⁴ shall be considered the proprietor of the design in the respect in which the same may have been so acquired, and to that extent, but not otherwise.

The wording of this section is taken *verbatim*, with one immaterial omission, from sect. 5 of the Act of 1842.

1 *Unless executed on behalf of another person.*—The master of a workman employed to make a design, or of a workman employed in a business, who makes a design for use in that business, is the proprietor of such a design and can register it.

2 *Acquiring a new and original design.*—The assignee of a design, whether of the whole right or of a part, is a proprietor. The purchaser abroad of an article to which a new and original design had been applied, does not acquire a design within the meaning of the Act by bringing the article purchased to this country: *Lazarus v. Charles*, L. R. (1873) 16 Eq. 117, 42 L. J. Ch. 507. If a design thus imported be registered, it can be expunged under sect. 90 on the ground that the person in whose name it is registered is not the proprietor: *Re Guileman's Design* (1885) 55 L. J. Ch. 309. "For a man to be a proprietor within the Act he must have some right, either general or limited, to apply the design." "Acquiring a new and original design or a right to apply the same, are the same thing for the purpose of the Act:" Per Jessel, M. R., in *Jewitt v. Eckhart*, (1878) 8 Ch. D. at p. 408.

Thus where an American manufacturer sold to the plaintiff the exclusive right to sell in England an article newly designed and then about to be manufactured, and the exclusive right also to obtain such protection for the same as he could do under English law, it being stipulated that the plaintiff should obtain the articles exclusively from the manufacturer, it was held that the plaintiff had not acquired under the contract, the right to apply the design to a manufactured article, so as

(So far as they relate to Designs.)

to entitle him to register in his own name under the Act : *Jewitt v. Eckhart*, (1878) 8 Ch. D. 404. Sect. 61.

Thus also the sole agent of a foreign firm for the sale of articles of a novel design, who was authorised to apply for registration of the design in his own name, but to whom an assignment of the design or the right to apply the design to goods had not been given, was held not to be the proprietor of the design : *Re Guiterman's Design* (1885) 55 L. J. Ch. 309. See also *Wooley v. Broad*, (1892) 1 Q. B. 806, 9 R. P. C. 208.

3 *Either exclusively or otherwise.*—A license may be given to apply the design to certain articles and not to others, and a license may be either exclusive or non-exclusive. Such a licensee is a proprietor to the extent of his interest, and acquires the right to a design as well as an assignee : *Jewitt v. Eckhart*, *supra*, decided on sect. 5 of the Act of 1842.

A licensee may register himself as a proprietor, but not until the author or sole proprietor has done so : *Ibid*, see sect. 55 and notes.

It seems therefore that a licensee who has registered himself as a proprietor has, under the terms of sects. 58 and 59 (which see), a right to sue for infringement of the design.

4 *Devolve.*—A design is personal property (see sect. 87), and devolves like any other personal property : *Jewitt v. Eckhart*, *supra*.

PART IV.

TRADE MARKS.

PART V.

GENERAL.

Patent Office and Proceedings thereat.

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

(So far as they relate to Designs.)

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

(3.) The patent office shall be under the immediate control of an officer called the comptroller-general of patents, designs, and trade marks,³ who shall act under the superintendence and direction⁴ of the Board of Trade.

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

¹ *The Patent Office.*—For a full account of the history and present constitution of the Patent Office, and of the business transacted therein, see Edmunds on Patents, Chap. V., pp. 49 *et seq.*

² *New Patent Office.*—No new Patent Office has been provided. The former “Great Seal Patent Office” is still under the name of the “Patent Office,” the building in which the official patent business is carried on.

³ *The Comptroller-General.*—The comptroller has the general superintendence of the patent office under the Board of Trade.

⁴ *Who shall act under, &c.*—The comptroller is further enabled by sect. 95, *infra*, to apply to either of the law officers for directions in any case of doubt or difficulty.

Officers and
clerks.

83. (1.) The Board of Trade may at any time after the passing of this Act, and from time to time, subject to the approval of the Treasury, appoint the comptroller-general of patents, designs, and trade marks,¹ and so many examiners² and other officers and clerks with such designations and duties as the Board of Trade think fit, and may from time to time remove any of those officers and clerks.

(So far as they relate to Designs.)

(2.) The salaries³ of those officers and clerks shall be appointed by the Board of Trade, with the concurrence of the Treasury, and the same and the other expenses of the execution of this Act shall be paid out of money provided by Parliament.

Sect. 83.

1 *Appointment of Comptroller.*—Sir H. Leader Mack was appointed Comptroller-General on the new Act coming into force.

2 *Examiners.*—See *Statutes on Patents*, Chap. V.

3 As to salaries of such officers and clerks, see Comptroller-General's Reports.

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

Seal of patent office.

85. There shall not be entered in any register kept under this Act,¹ or be receivable by the comptroller, any notice of any trust expressed, implied or constructive.

Trust not to be entered in registers.

1 *Any register kept under this Act.*—As to the register of Designs, see sect. 55, and Chap. V., *ante*, p. 67.

As a matter of fact, many deeds which are now filed in the Patent Office contain declarations of trust in favour of other parties. But in the notification of the deed in the register itself, no notice is taken of the trust. As regards patents, it has been decided that an equitable assignment of a patent, or share in it, may be put upon the register: *Stewart v. Casey*, (1892) 1 Ch. 104, 61 L. J. Ch. 61, 9 R. P. C. 9. And see *Hastlett v. Hutchinson*, (1891) 8 R. P. C. 457.

86. The comptroller may refuse¹ to grant a patent for an invention, or to register a design or trade mark, of which the use would, in his opinion, be contrary to law or morality.

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

1 *Refusal of comptroller.*—As to exercise of discretionary power by comptroller, see sect. 47 (6) and (7), and rules 12 to 19, *post*, p. 178.

The refusal of the comptroller under this section may be appealed against to the Board of Trade: (1883) sect. 47 (6).

Sect. 86.

It is stated that under this section a patent has been refused for an apparatus for a lottery : Griffin, P. C. p. 30.

Entry of assignments and transmissions in registers.

Act 1888,
s. 21.

87. Where a person becomes entitled by assignment,¹ transmission, or other operation of law to a patent, or to the copyright in a registered design, or to a registered trade mark, the comptroller shall on request, and on proof of title to his satisfaction, cause the name of such person to be entered as proprietor of the patent, copyright in the design, or trade mark, in the register of patents, designs, or trade marks, as the case may be. The person for the time being entered in the register² of patents, designs, or trade marks, as proprietor of a patent, copyright in a design, or trade mark as the case may be, shall, subject to **the provisions of this Act and to any rights appearing from such register to be vested in any other person, have power absolutely to assign, grant licences as to, or otherwise deal with, the same and to give effectual receipts for any consideration for such assignment, licence, or dealing. Provided that any equities in respect of such patent, design, or trade mark may be enforced in like manner as in respect of any other personal property.**³

¹ *Assignment, &c.*—As to assignments and licences, see *ante*, p. 68, and *post*, p. 258.

As to the Register of Designs, see sect. 55, and *ante*, p. 67.

See also Designs Rules, 1890, rr. 21, &c., *infra*, p. 179, and Forms K, K1.

The stamp is the same as for an original registration, see Schedule of Fees, *post*, pp. 185, 188.

Assignments should be in writing, see *Jewitt v. Eckhardt*, (1878) 8 Ch. Div. 404, and note to sect. 55, *ante*, p. 142.

² *The Register of Designs.*—See *ante*, pp. 67 *et seq.*, and note to sect. 55.

³ Trusts are not entered on the register, see *ante*, sect. 85, and note thereto.

(So far as they relate to Designs.)

88. Every register kept under this Act shall at all convenient times be open to the inspection of the public, subject to **the provisions of this Act and to** such regulations as may be prescribed;¹ and certified copies,² sealed with the seal of the patent office, of any entry in any such register shall be given to any person requiring the same on payment of the prescribed fee.³

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Inspection of and extracts from registers.

Act 1888, s. 22.

¹ See sect. 55.

² *And certified copies.*—See sect. 96 and rule 34.

³ *Prescribed fee.*—The fee for a copy is 4*d.* per folio, but not less than 1*s.* in all. A certified copy is necessary when it is proposed to put a copy in evidence: Kekewich, J., in *Haslett v. Hutchinson*, (1891) 8 R. P. C. 457.

If the copy is to be certified the fee is 1*s.* for certifying, plus the cost of copying, see *post*, p. 185.

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

Sealed copies to be received in evidence.

The register is *primâ facie* evidence of any matters by this Act directed or authorised to be inserted therein, (1883) sect. 55 (2).

90. (1.) The Court¹ may on the application of any person aggrieved² by the omission without sufficient cause of the name of any person³ or of **any other particulars** from any register kept under this Act, or by any entry made without sufficient cause in any such register, make such order for making, expunging, or varying the entry,⁴ as the Court thinks fit; or the Court may refuse the

Rectification of registers by Court.

Act 1888 s. 23.

Sect. 90.

application; and in either case may make such order with respect to the costs⁵ of the proceedings as the Court thinks fit.

(2.) The Court may in any proceeding under this section decide any question that it may be necessary or expedient to decide for the rectification of a register, and may direct an issue to be tried for the decision of any question of fact, and may award damages⁶ to the party aggrieved.

(3.) Any order of the Court rectifying a register shall direct that due notice of the rectification be given to the comptroller.⁷

This section applies to all the subjects comprised in the present Act, and much information may be obtained from the cases on Patents and Trade Marks.

1 The High Court of Justice in England has jurisdiction (sect. 117, *post*), even though the registered proprietor be domiciled in Scotland or Ireland: *Re King & Co.'s Trade Mark*, (1892) 2 Ch. 462, 62 L. J. Ch. 153, 57 L. T. N. S. 33, 40 W. R. 580, 10 R. P. C. 350. Whether the Scotch or Irish Courts have a concurrent jurisdiction, *query (ibid.)*.

Orders made under this section can be appealed against like any other orders of Court. The order is for the purpose of notice of appeal a final one.

2 For those falling under the class of "persons aggrieved," see *Re Rivière's Trade Mark*, (1884) 26 Ch. Div. 48; 53 L. J. Ch. 455, 578; 50 L. T. N. S. 763; 32 W. R. 370; *Re Apollinaris Co.'s Trade Marks*, (1891) 1 L. R. 2 Ch. 187; 61 L. J. Ch. 625; 65 L. T. N. S. 6; 8 R. P. C. 137; *Re Talbot's Trade Marks*, (1894) 63 L. J. Ch. 264; 11 R. P. C. 77; and *Re Powell's Trade Mark*, (1893) 2 Ch. 388; and (1894) A. C. 8; 62 L. J. Ch. 848; 69 L. T. N. S. 60; 41 W. R. 627; 10 R. P. C. 195; 11 R. P. C. 4. The whole subject is dealt with, *ante*, p. 73.

The following cases under the Patent Law Amendment Act, 1852, s. 38, will illustrate the practice:—

A patentee having assigned his patent to persons who omitted to register the assignment, afterwards *fraudulently* assigned the patent to another person, who registered it on the same day. The first assignees registered their assignment a week afterwards. The Court, on the

(So far as they relate to Designs.)

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motion of the first assignees, ordered the register of the second assignment to be expunged, and with costs: *Re Green's Patent*, (1857) 24 Beav. 145.

A patentee assigned half his patent to A., and afterwards he assigned the whole to B. by deed, reciting that he had already granted a licence to work and use to A. B.'s assignment was first registered. It was held that B. had constructive notice of A.'s rights, and an entry was ordered to be made in the register that the licence referred to in B.'s assignment was the deed of assignment to A. subsequently entered: *Re Morey's Patent*, (1858) 25 Beav. 81; 6 W. R. 612. It was also held, in this case, that the Court could, in a motion under 15 & 16 Vict. c. 83, s. 38, direct any facts relating to the proprietorship to be inserted on the register, but not the legal inference to be drawn from them.

One of two joint patentees, by deed, assigned his interest in the patent to a third person, and released to him all the rights of action, &c., against him, of both the patentees, and the deed was set out completely in the register of proprietors. It was held that the other patentee was entitled under 15 & 16 Vict. c. 83, s. 38, to have the entry struck out: *In re Horsley and Knighton's Patent*, (1869) L. R. 8 Eq. 475; 39 L. J. Ch. 157.

3 This will not enable a person to appeal to the Court from the refusal of the comptroller or of the Board of Trade to register a design tendered: *Re the Trade-Mark "Normal,"* (1886) 35 Ch. Div. 231; 56 L. J. Ch. 519; 56 L. T. N. S. 250; 35 W. R. 464; 4 R. P. C. 123.

4 Apparently this does not empower the Court to substitute the name of true proprietor for the name of the person improperly on the register: *Re Guiterman's Design, infra*; and see *ante*, p. 71.

5 The costs would ordinarily have to be paid by the unsuccessful party (*e.g.*, *Guiterman's Design*, (1886) 55 L. J. Ch. 309), unless that party is the comptroller, but the matter is discretionary.

6 *Ante*, p. 73.

7 The order when received by the comptroller is notified in the register and a copy filed. See Rule 28, *post*. For the practice generally, *ante*, p. 75; Forms, *post*, pp. 257, 258.

91. The comptroller may, on request in writing¹ accompanied by the prescribed fee,²—

Power for
comptroller
to correct
clerical errors.

(a) Correct any clerical error in or in connexion with

*(So far as they relate to Designs.)*Sect. 91

an application for a patent, or for registration of a design or trade mark; or

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

(c) [This sub-sect. relates only to trade marks.]

Act 1888,
s. 24.

(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 connection with which he has desired the trade mark to be registered.**

1 *Request in writing.*—See Form M., *infra*, p. 248.

2 *Prescribed fee.*—Fee No. 11, *post*, p. 185.

92. [This section relates only to trade marks.]

Falsification
of entries in
registers.

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

As to punishment of misdemeanours in Isle of Man, see sect. 112, *post*.

Exercise of
discretionary
power by
comptroller.

94. Where any discretionary power¹ is by this Act given to the comptroller, he shall not exercise that power adversely to the applicant for a patent, or for amendment of a specification, or for registration of a trade mark or design, without (if so required within the prescribed time by the applicant) giving the applicant an opportunity of being heard personally or by his agent.

1 Cp. Rules, 1890, rr. 12 *et seq.*, *infra*, p. 178.

Power of
comptroller
to take direc-

95. The comptroller may, in any case of doubt or difficulty arising in the administration of any of the

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provisions of this Act, apply to either of the law officers for directions in the matter.

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tions of law officers.

By sect. 82, sub-sect. (3), the comptroller acts under the superintendence of the Board of Trade.

Applications to the law officers are not infrequently made under this section, especially in cases of legal questions arising as to the construction of provisions of the Act in the practice of the Patent Office.

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

Certificate of comptroller to be evidence.

See Rules, 1890, r. 34, *infra*, p. 183, and Forms I. and J., *infra*, pp. 246, 247.

97. (1.) Any application, notice, or other document authorized or required to be left, made, or given at the patent office or to the comptroller, or to any other person under this Act, may be sent by a prepaid letter through the post; and if so sent shall be deemed to have been left, made or given respectively at the time when the letter containing the same would be delivered in the ordinary course of post.

Applications and notices by post.

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

See Rule 11, *post*, p. 178.

In *Trotter v. Maclean*, (1879) L. R. 13 Ch. D. 574, 49 L. J. Ch. 256, a witness produced a copy of a letter which he said he had made, and swore that he should in the ordinary course of business have posted the original, and it was held that this was evidence of the posting, and that the original not being produced the copy was good secondary evidence.

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Provision as
to days for
leaving docu-
ments at
office.

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

Declaration
by infant,
lunatic, &c.

99. If any person is, by reason of infancy, lunacy or other inability, incapable of making any declaration or doing anything required or permitted by this Act, or by any rules made under the authority of this Act, then the guardian or committee (if any) of such incapable person, or if there be none, any person appointed by any Court or judge possessing jurisdiction in respect of the property of incapable persons, upon the petition of any person on behalf of such incapable person, or of any other person interested in the making such declaration or doing such thing, may make such declaration or a declaration as nearly corresponding thereto as circumstances permit, and do such thing in the name and on behalf of such incapable person, and all acts done by such substitute shall for the purposes of this Act be as effectual as if done by the person for whom he is substituted.

So long as the necessary documents are prepared in the prescribed manner there is nothing to prevent the grant to an infant, and the age, sanity or coverture, of an applicant is in no way inquired into by the office or referred to in any of the proceedings to obtain registration. In the case of an inventor becoming insane before applying for his patent, it is presumed the application might be made for him under this section.

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Also that other steps might, under this section, be taken for him in the event of insanity after application. Sect. 99.

See Rules, 1890, r. 29, *post*, p. 181, as to the power of the comptroller to dispense with evidence.

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

Transmission of certified printed copies of specifications, &c.

This section re-enacts, with modifications, 16 & 17 Vict. c. 115, s. 5.

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

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

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

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

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

(d) For securing and regulating the publishing and selling of copies, at such prices and in such

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manner as the Board of Trade think fit, of specifications, drawings, amendments and other documents :

- (e) For securing and regulating the making, printing, publishing and selling of indexes to, and abridgments of, specifications and other documents in the patent office ; and providing for the inspection of indexes and abridgments and other documents :
- (f) for regulating (with the approval of the Treasury) the presentation of copies of patent office publications to patentees and to public authorities, bodies and institutions at home and abroad :
- (g) Generally for regulating the business of the patent office, and all things by this Act placed under the direction or control of the comptroller, or of the Board of Trade.

(2.) Any of the forms in the First Schedule to this Act may be altered or amended by rules made by the Board as aforesaid.

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

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

(So far as they relate to Designs.)

advertised twice in the official journal to be issued by the Sect. 101.
comptroller.

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

And see the Rules Publication Act (56 & 57 Vict. c. 66). For a discussion of the question whether the Court has power to declare the rules *ultra vires*, see *Institute of Patent Agents v. Lockwood*, (1894) L. R. App. Ca. 347.

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

102a. (1.) All things required or authorized 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. Proceedings of Board of Trade.
Act 1888,
s. 25.

(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 authorized 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 of the Board, shall be conclusive evidence of the fact so certified.

Sect. 103.

International and Colonial Arrangements.

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

Act 1885,
s. 6.

103. (1.) If Her Majesty is pleased to make any arrangement with the government or governments of any foreign state or states¹ for mutual protection of inventions, designs, and trade marks, or any of them,² then any person³ who has applied for protection for any invention, design, or trade mark in any such state, shall be entitled to a patent for his invention or to registration of his design or trade mark (as the case may be) under this Act, in priority to other applicants; and such patent or registration shall have the same date as the [*date of the protection obtained*] **date of the application**⁴ in such foreign state.

Provided that his application is made, in the case of a patent within seven months,⁵ and in the case of a design or trade mark within four months, from his applying for protection in the foreign state with which the arrangement is in force.

Provided that nothing in this section contained shall entitle the patentee or proprietor of the design or trade mark to recover damages for infringements happening prior to the date of the actual acceptance of his complete specification, or the actual registration of his design or trade mark in this country, as the case may be.

(2.) The publication,⁶ in the United Kingdom, or the Isle of Man, during the respective periods aforesaid, of any description of the invention, or the use therein during such periods of the invention, or the exhibition or use therein during such periods of the design, or the publication therein during such periods of a description or representation of the design, or the use therein during

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such periods of the trade mark, shall not invalidate the patent which may be granted for the invention, or the registration of the design or trade mark. Sect. 103.

(3.) The application for the grant of a patent, or the registration of a design, or the registration of a trade mark under this section, must be made in the same manner as an ordinary application,⁷ under this Act: provided that, in the case of trade marks, any trade mark the registration of which has been duly applied for in the country of origin may be registered under this Act:

(4.) The provisions of this section shall apply only in the case of those foreign states, with respect to which Her Majesty shall from time to time by Order in Council⁸ declare them to be applicable, and so long only in the case of each state as the Order in Council shall continue in force with respect to that state.

1 *Arrangements with foreign States.*—For a complete list of the States with which such arrangements have been made, see *post*, p. 263.

2 *Mutual protection of inventions, designs, and trade marks.*—The International Convention seems to contemplate a wider scope, but its operation in Great Britain appears to be limited to the subjects above mentioned, except in so far as the ordinary legal remedies are equally available to foreigners and British subjects. A special arrangement was made with Greece on 27 July, 1894.

3 *Any person.*—*Seem* a corporation is a “person,” and can claim rights under this section: *Re Carey*, (1889) per Webster, A.-G., 6 R. P. C. at p. 552; and see sect. 117, *infra*.

A patent under the International Convention and sect. 103 can be granted only to the person who has made the foreign application: *S. C. ubi supra*.

“Person” includes citizen and foreigner alike: *Re Shallenberger*, (1889) 6 R. P. C. 550.

4 *Date of the application.*—These words were, at the instigation of Lord Herschell, substituted for the words in italics by sect. 6 of the Act of 1885.

Sect. 103.

5 See the International Convention, Art. 4, *post*, p. 191.

6 See the International Convention, Art. 4, p. 191.

7 See *ante*, p. 51.

8 See complete table of these Orders in Council, *infra*, p. 267.

Provision for
colonies and
India.

104. (1.) Where it is made to appear to Her Majesty that the legislature of any British possession¹ has made satisfactory provision for the protection of inventions, designs, and trade marks, patented or registered in this country, it shall be lawful for Her Majesty from time to time by Order in Council² to apply the provisions of the last preceding section, with such variations or additions, if any, as to Her Majesty in Council may seem fit, to such British possession.

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

1 *British possession*.—See sect. 117, sub-sect. (1).

2 *Order in Council*.—See complete list of such Orders in Council, *infra*, p. 267.

Offences.

Penalty on
falsely repre-
senting
articles to be
patented.

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

(2.) A person shall be deemed, for the purpose of this

(So far as they relate to Designs.)

enactment, to represent that an article is patented or a design or a trade mark is registered, if he sells the article with the word "patent," "patented," "registered," or any word or words expressing or implying that a patent or registration has been obtained for the article stamped, engraved, or impressed on, or otherwise applied to, the article.

Sect. 105.

This section is based upon 5 & 6 Will. IV. c. 83, s. 7.

A person cannot mark an article "registered" until he has obtained his certificate of registration. Cf., a patent case (*Reg. v. Crampton*, (1886) 3 P. O. R. 367).

This section does not apply to a case of false representation of an expired patent as still subsisting: *Cheavin v. Walker*, (1877) L. R. 5 Ch. D. 863, 46 L. J. Ch. 686; *Marshall v. Ross*, (1869) L. R. 8 Eq. 651.

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

Penalty on unauthorized assumption of Royal arms.

Scotland, Ireland, Etc.

107. [Deals with an action for infringement of a patent.]

108. In Scotland any offence¹ under this Act declared to be punishable on summary conviction may be prosecuted in the Sheriff Court.

Summary proceedings in Scotland.

¹ See *ante*, (1883) sect. 105.

Sect. 109.**109 & 110.** [Refer to Patents.]

General
saving for
jurisdiction
of Courts.

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

(2.) If any rectification of a register¹ under this Act is required in pursuance of any proceeding in a Court in Scotland or Ireland, a copy of the order, decree, or other authority for the rectification, shall be served on the comptroller, and he shall rectify the register accordingly.

¹ *Rectification of register.*—See notes to sect. 90, p. 158, and pp. 70 *et seq.*

This section does not confer an exclusive jurisdiction on the Scotch or Irish Courts, though the registered proprietor be resident in Scotland or Ireland : *Re King & Co.’s Trade-Mark*, (1892) 2 Ch. 462 ; 62 L. J. Ch. 153 ; 67 L. T. N. S. 33 ; 40 W. R. 580 ; 10 R. P. C. 350.

Isle of Man.

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

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

(So far as they relate to Designs.)

- (2.) The punishment for a misdemeanor under this Act in the Isle of Man shall be imprisonment for any term not exceeding two years, with or without hard labour, and with or without a fine not exceeding one hundred pounds, at the discretion of the Court; Sect. 112.
- (3.) Any offence under this Act committed in the Isle of Man which would in England be punishable on summary conviction may be prosecuted, and any fine in respect thereof recovered at the instance of any person aggrieved, in the manner in which offences punishable on summary conviction may for the time being be prosecuted.

112a. [This section relates only to Trade Marks.]

Repeal, Transitional Provisions, Savings.

113. The enactments described in the Third Schedule to this Act are hereby repealed. But this repeal of enactments shall not—

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

- (a) Affect the past operation of any of those enactments, or any patent or copyright or right to use a trade mark granted or acquired, or application pending, or appointment made, or compensation granted, or order or direction made or given, or right, privilege, obligation, or liability acquired, accrued, or incurred, or anything duly done or suffered under or by any of those enactments before or at the commencement of this Act; or

- (b) Interfere with the institution or prosecution of

*(So far as they relate to Designs.)***Sect. 113.**

any action or proceeding, civil or criminal, in respect thereof, and any such proceeding may be carried on as if this Act had not been passed; or

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

Construction
of principal
Act.

Act 1888,
s. 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.

See *Wittman v. Oppenheim*, (1884) L. R. 27 C. D. 260; 54 L. J. Ch. 56; 50 L. T. N. S. 713; 32 W. R. 767.

The provisions of sub-section (a) must be read distributively, and if so read they declare that the enactments of the Act of 1883 shall not affect any design registered before the commencement of the Act; and they also declare that those enactments shall not affect any *right or privilege* which had accrued to the grantee before or at the commencement of this Act.

The Acts relating to designs which are repealed are: 5 & 6 Vict. c. 100; 6 & 7 Vict. c. 65; 13 & 14 Vict. c. 104; 21 & 22 Vict. c. 70; 24 & 25 Vict. c. 73; 38 & 39 Vict. c. 93.

Former
registers to
be deemed
continued.

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

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

Saving for
existing rules.

115. All general rules made by the Lord Chancellor or by any other authority under any enactment repealed by this Act, and in force at the commencement of this Act,

(So far as they relate to Designs.)

may at any time after the passing of this Act be repealed, altered or amended by the Board of Trade, as if they had been made by the Board under this Act, but so that no such repeal, alteration or amendment shall take effect before the commencement of this Act; and, subject as aforesaid, such general rules shall, so far as they are consistent with and are not superseded by this Act, continue in force as if they had been made by the Board of Trade under this Act. Sect. 115.

116. [Relates to Patents.]*General Definitions.*

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

“Person”¹ includes a body corporate :

“The Court”² means (subject to the provisions for Scotland, Ireland, and the Isle of Man) Her Majesty’s High Court of Justice in England :

“Law officer” means Her Majesty’s Attorney-General or Solicitor-General for England :

“The Treasury” means the Commissioners of Her Majesty’s Treasury :

“Comptroller” means the Comptroller General of Patents, Designs and Trade Marks :

“Prescribed” means prescribed by any of the Schedules to this Act, or by general rules under or within the meaning of this Act :

“British possession” means any territory or place situate within Her Majesty’s dominions, and not being or forming part of the United Kingdom, or of the Channel Islands, or of the Isle of Man, and all territories

Sect. 117. and places under one legislature, as hereinafter defined, are deemed to be one British possession for the purposes of this Act :

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

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

1 *Person* includes a company registered under the Act of 1862. A body corporate may be registered as proprietors by its corporate name : Designs Rules, 1890, r. 26, *post*, p. 181.

2 It was decided in *Proctor v. Sutton Lodge Chemical Co.*, (1888) 5 P. O. R. 184, that *the Court* does not include the Court of Chancery of the County Palatine of Lancaster.

But now by 53 & 54 Vict. c. 23, the County Palatine Court has, as regards all persons and property within its jurisdiction, the jurisdiction and powers of the Chancery Division of the High Court.

DESIGNS RULES, 1890 (a).



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. Interpretation.

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.

See *post*, pp. 185, 188.

FORMS.

4. *An application for the registration of a design shall* Forms.

(a) Copies of these Rules (together with the Act) may be obtained on payment of 2s. for each copy, at the Patent Office, Sale Branch, 38, Cursitor Street, London, E.C. Copies may be obtained by post, postal orders or post office orders being used. For the Act of 1883 alone 1s. 7½d. should be sent, or by post 1s. 9d. ; for the Act of 1888, 1½d., or by post 2d. ; the Rules alone, 6d., by post 6½d.

be made in the Form E. or Form O. in the Second Schedule hereto. The remaining forms in such Schedule may be used in all cases to which they are applicable.

This rule was repealed, and for it was substituted Design Rules, 1898, Rule 4, see *post*, p. 187.

See *post*, p. 249.

Form O. was added in 1890.

CLASSIFICATION OF GOODS.

Classification
of goods.

5. For the purposes of the registration of designs and of these Rules, goods are classified in the manner appearing in the Third Schedule hereto.

Cf. Act of 1842, sect. 3.

See *post*, p. 186.

APPLICATION FOR REGISTRATION.

Agents.

6. All communications between an applicant for the registration of a design and the Comptroller or the Board of Trade, as the case may be, may be made by or through an agent duly authorised to the satisfaction of the Comptroller.

Address of
Comptroller.

7. An application for the registration of a design shall, with the prescribed fee, be left at the Patent Office (Designs Branch), or be sent prepaid by post, addressed to the Comptroller at the Patent Office (Designs Branch), 25, Southampton Buildings, Chancery Lane, London.

As regards amendment, see Rule 30 ; also Form M., *post*, p. 252.

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.

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.

Sketches and drawings.
Nature of design.

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.

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.

Notice of registration.

11. 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 respectively at the time when the letter containing the same would be delivered in the ordinary course of post.

Applications may be sent by 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 sect. 97, *ante*, p. 161.

EXERCISE OF DISCRETIONARY POWERS.

Hearing by
Comptroller.

12. Before exercising any discretionary power given to the Comptroller by the said Acts adversely to the applicant for registration of a design the Comptroller shall (if so required by the applicant within one month from the date of the Comptroller's objection) give the applicant an opportunity of being heard personally or by his agent by sending the applicant ten days' notice of a time when he may be so heard.

See (1883) sect. 94, *ante*, p. 160.

The words in brackets are not in the Rules of 1883.

Hearing by
Comptroller.

13. Within five days from the date when such notice would be delivered in the ordinary course of post, the applicant shall notify to the Comptroller whether or not he intends to be heard upon the matter.

For enlargement of time, see Rule 31, *infra*.

Notification of
Comptroller's
decision.

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

APPEAL TO THE BOARD OF TRADE.

Notice of ap-
peal to 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.

See Form F.

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.

See sect. 102 (a), *ante*, p. 165.

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.

21. Where a person becomes entitled to the copyright in a registered design, or to any share or interest therein, by assignment, transmission, or other operation of law, or where a person acquires any right to apply the design

Subsequent proprietors.

either exclusively or otherwise, a request for the entry of his name in the register as such proprietor of the design, or as having acquired such right, as the case may be (hereinafter called the claimant), shall be addressed to the Comptroller, and left at the Patent Office (Designs Branch).

Signature to request.

22. Every such request shall, in the case of an individual, be made and signed by the person requiring to be registered as proprietor; and in the case of a firm or partnership, by some one or more members of such firm or partnership, or, in either case, by his or their agent respectively duly authorised to the satisfaction of the Comptroller; and in the case of a body corporate, by their agent authorised in like manner.

See Forms K and K¹.

Particulars in request.

23. Every such request shall state the name, address, and description of the claimant, and the particulars of the assignment, transmission, or other operation of law by virtue of which the request is made, so as to show the manner in which and the person or persons to whom the design has been assigned or transmitted, or the person or persons who has or have acquired such right as aforesaid, as the case may be.

Statutory declaration with request.

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.

Proof of title if required.

25. The claimant shall furnish to the Comptroller

such other proof of title as he may require for his satisfaction.

26. A body corporate may be registered as proprietor by its corporate name. Corporate name.

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. Notice to Comptroller of application to rectify register.

See *Re King & Co.'s Trade-Mark*, (1892) 2 Ch. 468 ; 10 R. P. C. 360. And see *ante*, p. 157.

28. Where an order has been made by the Court, under section 90 of the said Acts, 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. Notice of order of Court.

See sect. 111, *ante*, p. 170.

POWER TO DISPENSE WITH EVIDENCE.

29. Where under these Rules any person is required to do any act or thing, or to sign any document, or make any declaration on behalf of himself or of any body corporate, or any document or evidence is required to be produced to or left with the Comptroller or at the Patent Office, and it is shown to the satisfaction of the Comptroller that from any reasonable cause such person is unable to do such act or thing, or to sign such document, or make such declaration, or that such document or evidence cannot be produced or left as aforesaid, it shall be lawful for the Comptroller, with the sanction of Comptroller's discretion as to evidence.

the Board of Trade, and upon the production of such other evidence and subject to such terms as they may think fit, to dispense with any such act or thing, document, declaration, or evidence.

AMENDMENTS.

Amendments. 30. Any document, drawings, sketches, or tracings for the amending of which no special provision is made by the said Act may be amended, and any irregularity in procedure which, in the opinion of the Comptroller, may be obviated without detriment to the interests of any person may be corrected, if the Comptroller think fit, and upon such terms as he may direct.

ENLARGEMENT OF TIME.

Enlargement of time. 31. The time prescribed by these Rules for doing any act or taking any proceeding thereunder may be enlarged by the Comptroller, if he think fit, and upon such terms as he may direct.

MARKING GOODS.

Registration mark. 32. *Before the delivery on sale of any article to which a registered design has been applied, the proprietor of such design shall, if such article is included in any of the classes one to twelve in the Third Schedule hereto, cause each such article to be marked with the abbreviation "R^D" and the number appearing on the certificate of registration, and shall, if such article is included in the classes thirteen or fourteen in the Third Schedule hereto, cause each such article to be marked with the abbreviation "REG^D."*

See *ante*, p. 82, and notes to sect. 51, *ante*, p. 138.

If an article which should be marked "R^D" is marked "REG^D," the

rule is complied with : *Heinrichs v. Bastendorff*, 10 R. P. C. 160. As to the converse case, query.

The Designs Rules, 1893, rule 5, substitute another rule for this ; see *post*, p. 188.

INSPECTION.

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.

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 of legal proceeding.

Forms I., J., *post*, p. 249.

Act of 1883, sect. 96, *ante*, p. 161.

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.

Such certificate is not evidence : *Smith v. Hope*, 6 P. O. R. 204.

INDUSTRIAL AND INTERNATIONAL EXHIBITIONS.

Notice of
exhibition.

36. Any person desirous of exhibiting a design, or any article to which a design has been applied, at an industrial or international exhibition, or of publishing a description of a design during the period of the holding of the exhibition, shall, after having obtained from the Board of Trade a certificate that the exhibition is an industrial or international one, give to the Comptroller seven days' notice in writing of his intention to exhibit the design or article, or to publish a description of the design, as the case may be.

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

See *ante*, p. 144, Act of 1883, sect. 57, and Act of 1886, sect. 3.
For Forms, see *post*, pp. 251, 260.

REPEAL.

Repeal of pre-
vious Rules.

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.

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

31st March, 1890.

SCHEDULES.

FIRST SCHEDULE.

FEES.

	£	s.	d.
1. On application to register one design to be applied to single articles in each class except classes 13 and 14	0	10	0
2. On application to register one design to be applied to single articles in classes 13 and 14	0	1	0
3. On application to register one design to be applied to a set of articles for each class of registration	1	0	0
4. On notice of appeal to Board of Trade against refusal of Comptroller to register	1	0	0
5. Copy of certificate of registration, each copy	0	1	0
6. On request for certificate of Comptroller for legal proceedings or other special purpose	0	5	0
7. On request to enter name of subsequent proprietor	} same as registration fee.		
8. On notice to Comptroller of intended exhibition of an unregistered design	0	5	0
9. Inspection of design 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.

The lists of fees, Nos. 1—3, printed in italics, are replaced by the Schedule to the Designs Rules, 1893, see *post*, p. 188.

SECOND SCHEDULE.

FORMS.

(See *post*, p. 245.)

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 book-binding, 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. " " handkerchiefs and shawls.

DESIGNS RULES, 1893.

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

1. These Rules may be cited as the Designs Rules, 1893, and shall come into operation from and immediately after the 30th day of November, 1893. Title and commencement.

2. For the fees numbered 1, 2, and 3, specified in the First Schedule to the Designs Rules, 1890, shall be substituted the fees specified in the First Schedule hereto. Fees.

3. For Rule 4 of the Designs Rules, 1890, shall be substituted the following Rule :— Forms.

4. 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.

4. To the forms specified in the Second Schedule to the Designs Rules, 1890, shall be added the forms specified in the Second Schedule hereto.

5. For Rule 32 of the Designs Rules, 1890, shall be substituted the following Rule :— Registration marks.

32. 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. J. MUNDELLA,

President of the Board of Trade.

18th November, 1893.

SCHEDULE I.

FEEs.

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	£	s.	d.
	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

A. J. MUNDELLA,

President of the Board of Trade.

Approved.

For the LORDS COMMISSIONERS OF HER MAJESTY'S TREASURY.

18th November, 1893.

FRANK MOWATT.

SCHEDULE II.

FORMS.

E1.—Application for Registration of a Lace Design in Class 9.

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.

INTERNATIONAL CONVENTION FOR THE PROTECTION OF INDUSTRIAL PROPERTY (a).

Signed at Paris, March 20, 1883.

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

I.

INTERNATIONAL CONVENTION (b).

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:—

Recital of objects of convention.

His Majesty the King of the Belgians: the Baron Beyens, Grand Officer of His Majesty's Royal Order of Leopold, Grand Officer of the Legion of Honour, His Majesty's Envoy Extraordinary and Minister Plenipotentiary at Paris, &c. ;

Plenipotentiaries.

His Majesty the Emperor of Brazil: M. Jules Constant, Count de Villeneuve, member of His Majesty's Council, His Majesty's Envoy Extraordinary and Minister Plenipotentiary at the Court of His Majesty the King of the Belgians, Commander of the Order of Christ, Officer of His Majesty's Order of the Rose, Chevalier of the Legion of Honour, &c. ;

His Majesty the King of Spain: His Excellency the Duke de Fernan-Nuñez, de Montellano et del Arco, Count de Cervellon, Marquis de Almonacir, Grandee of Spain First Class, Chevalier of the Distinguished Order of the Golden Fleece, Grand Cross of the Order of Charles III., Chevalier de Calatrava, Grand Cross of the Legion of Honour, Senator of the Kingdom, His Majesty's Ambassador Extraordinary and Plenipotentiary at Paris, &c. ;

The President of the French Republic: M. Paul Challemel-Lacour, Senator, Minister for Foreign Affairs; M. Hérisson, Deputy, Minister of Commerce; M. Charles Jagerschmidt, Minister Plenipotentiary of the First Class, Officer of the National Order of the Legion of Honour, &c. ;

The President of the Republic of Guatemala: M. Crisanto-Medina, Officer of the Legion of Honour, his Envoy Extraordinary and Minister Plenipotentiary at Paris, &c. ;

His Majesty the King of Italy: M. Constantin Ressman, Commander of His Majesty's Orders of Saints Maurice and Lazarus, and of the Crown of Italy,

(a) "Industrial property" includes patents, industrial designs and models, trade-marks and trade names. See, however, Clause I. of the Protocol.

We are here concerned with the Convention only in so far as it deals with designs, although the text is given in full.

(b) The original Convention was published in French, which, under Art. 6 of the Final Protocol, is the official language of the International Office. The authorised English translation has been given here; but, except in the formal parts, the French version of each article has been printed immediately below the paragraph to which it refers. The terms of the Convention, both in the original and in the English translation, are often vague. In such cases a reference to the original French text is of assistance.

Commander of the Legion of Honour, Councillor of the Italian Embassy at Paris, &c. ;

His Majesty the King of the Netherlands : the Baron de Zuylen de Nyevelt, Commander of His Majesty's Order of the Netherlands Lion, Grand Cross of His Majesty's Grand Ducal Order of the Oaken Crown, and of the Golden Lion of Nassau, Grand Officer of the Legion of Honour, His Majesty's Envoy Extraordinary and Minister Plenipotentiary at Paris, &c. ;

His Majesty the King of Portugal and the Algarves : M. Joo de Silva Mendes Leal, Councillor of State, Peer of the Realm, Minister and Honorary Secretary of State, Grand Cross of the Order of St. James, Chevalier of the Order of the Tower and Sword of Portugal, Grand Officer of the Legion of Honour, His Majesty's Envoy Extraordinary and Minister Plenipotentiary at Paris, &c. ; M. Fernand de Azevedo, Officer of the Legion of Honour, First Secretary of the Portuguese Legation at Paris, &c. ;

The President of the Republic of Salvador : M. Torres-Calcedo, corresponding Member of the French Institute, Grand Officer of the Legion of Honour, his Envoy Extraordinary and Minister Plenipotentiary at Paris, &c. ;

His Majesty the King of Servia : M. Sima M. Marinovitch, Chargé d'Affaires of Servia *ad interim*, Chevalier of the Royal Order of Takovo, &c. ;

And the Federal Council of the Swiss Confederation : M. Charles Edouard Lardy, Envoy Extraordinary and Minister Plenipotentiary at Paris, &c. ; M. J. Weibel, Engineer at Geneva, President of the Swiss Section of the Permanent Commission for the protection of Industrial Property ;

Articles agreed upon.

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

ARTICLE I.

Union for protection of industrial property.

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.

Les Gouvernements de la Belgique, du Brésil, de l'Espagne, de la France, du Guatemala, de l'Italie, des Pays-Bas, du Portugal, du Salvador, de la Serbie et de la Suisse sont constitués à l'état d'Union pour la protection de la Propriété Industrielle.

Date of the Convention.

The necessary ratifications were exchanged by the plenipotentiaries of the High Contracting Parties on June 6, 1884, and as Article XVIII. provides that the convention should come into operation one month after the exchange of ratifications, the date from which it applies to the countries named in Article I. is July 6, 1884.

"Industrial property."

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, &c.), and to mineral products employed in commerce (mineral waters, &c.). (See Final Protocol.)

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.

Legal remedies.

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 Etats Contractants jouiront, dans tous les autres Etats 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 Etat.

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, improvements patents. (See Final Protocol, 2.)

"Patents."

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 these tribunals. (Final Protocol, 3.)

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.

Rights of subjects of States not within Union established in countries within Union.

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

By this Article subjects or citizens of non-contracting States who are domiciled or have establishments in contracting States are placed on a better footing than their compatriots at home. It is possible that difficult questions may arise upon the meaning of the words "domiciled or have industrial or commercial establishments."

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.

Right of priority.

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 Etats Contractants, jouira, pour effectuer de dépôt dans les autres Etats, 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 Etats 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'outremer.

When first this Article came into operation, some doubt existed whether the six months were to be computed from the date of deposit of the application for a patent, or from the date on which the patent was actually sealed in Great Britain, or signed in the other contracting States. The Act of 1885, s. 6, substituted "date of application" for "date of the protection obtained."

Construction of this article.

See Patents Act, 1885, s. 103, sub-s. 1, where seven months is the period within which application must be made.

It appears that one of the contracting States means the first state where application was made, so that six months, or if beyond the sea seven months at most from the time of first making an application in any of the countries which are parties to the convention, is the extent of priority given.

It was also a question whether Great Britain was, as regards France, &c., a country beyond sea. The comptroller-general was instructed that it was not; on the other hand, it is held here that France and other continental countries are, as regards Great Britain, countries beyond the sea.

Is Great Britain beyond sea?

ARTICLE V.

Importation
and forfeiture.

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 Etats 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.

Date of first
conference.

The first conference of delegates of the contracting States was held at Rome in April and May, 1886, the second at Madrid in 1890.

"Exploiter."

On the former of those occasions the following addition to Article V. was recommended:—

Each country shall determine the sense in which the word *exploiter* (work) is to be interpreted by the law of that country.

Compulsory
working.

The compulsory working of inventions is a source of much useless effort, and gives rise to many technical evasions of the laws. Most foreign countries, however, still exact a "working" of the invention at stated intervals within their own territories.

This is practically the principal advantage accruing to Great Britain under the Convention, as formerly the introduction of a patented article into France forfeited the French patent rights.

ARTICLE VI.

Registration
of trade
marks.

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 les autres pays de l'Union.

Sera considéré comme pays d'origine le pays où le déposant a son principal établissement.

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.

ARTICLE VII.

Nature of
goods to be
no obstacle
to registra-
tion of trade
mark.

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.

Protection of
trade names.

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.

ARTICLE IX.

Seizure of
goods bearing
illegal trade
mark or name.

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. Goods falsely bearing name of a locality.

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.

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. Protection at 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.

Temporary protection.—See sect. 39 of Act of 1883, as amended by the Act of 1886, s. 3. The form of an Order in Council granting temporary protection to designs exhibited at the Paris Universal Exhibition of 1889 is given *post*, page 257.

ARTICLE XII.

Each of the High Contracting Parties agree 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. Government Office.

Chacune des Hautes Parties Contractantes s'engage à établir un service spécial de la Propriété Industrielle et un dépôt central, pour la communication au public des brevets d'invention, des dessins ou modèles industriels et des marques de fabrique ou de commerce.

In this country the Patent Office fulfils this obligation.

ARTICLE XIII.

An international office shall be organised 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). International Bureau.

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.

Un office international sera organisé sous le titre de "Bureau International de l'Union pour la Protection de la Propriété Industrielle."

Ce bureau, dont les frais seront supportés par les Administrations de tous les États Contractants, sera placé sous la haute autorité de l'Administration Supérieure de la

INTERNATIONAL CONVENTION FOR THE

Confédération Suisse, et fonctionnera sous sa surveillance. Les attributions en seront déterminées d'un commun accord entre les États de l'Union.

See the Final Protocol, 5 and 6.

An international office, &c.—This office has been established at Berne. A monthly periodical, entitled *La Propriété Industrielle*, is published under its supervision.

ARTICLE XIV.

Conferences.

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.

La présente Convention sera soumise à des révisions périodiques en vue d'y introduire les améliorations de nature à perfectionner le système de l'Union.

A cet effet, des Conférences auront lieu successivement, dans l'un des États Contractants, entre les Délégués des dits États.

La prochaine réunion aura lieu en 1885, à Rome.

The first meeting was held at Rome in April and May, 1886.

ARTICLE XV.

Special arrangements between contracting parties.

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

Il est entendu que les Hautes Parties Contractantes se réservent respectivement le droit de prendre séparément, entre elles, des arrangements particuliers pour la protection de la Propriété Industrielle, en tant que ces arrangements ne contreviendraient point aux dispositions de la présente Convention.

ARTICLE XVI.

Adherence of other States.

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.

Les États qui n'ont point pris part à la présente Convention seront admis à y adhérer sur leur demande.

Cette adhésion sera notifiée par la voie diplomatique au Gouvernement de la Confédération Suisse, et par celui-ci à tous les autres.

Elle importera, de plein droit, accession à toutes les clauses et admission à tous les avantages stipulés par la présente Convention.

A list of the States belonging to this International Union, with the several dates of the Orders in Council relating thereto, and the dates at which the Convention commenced its effective operation, will be found at p. 263.

The original parties to the Convention are all bound from the same date, July 6th, 1884.

It is obvious that, as regards any two countries subsequently joining the Convention, the date of adhesion of the country which last joined the Convention will regulate the date of commencement of the operation of the Convention between the two countries. The provisions of section 103 of Patents Act, 1883, were made applicable to applications under the International Convention, by Order in Council dated 26th June, 1884.

The Order in Council is printed *infra*, at p. 197, and it is to be observed that Her Majesty reserved power to hereafter accede to the Convention on behalf of the Isle of Man and the Channel Islands. The ordinary British patent covers the Isle of Man but not the Channel Islands, so that at present a patent obtained under the provisions of the International Convention and Patents Act, 1883, s. 103, is not co-extensive with the ordinary British patent, as it does not give any rights over the Isle of Man.

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. Convention subordinate to laws of contracting countries.

L'exécution des engagements réciproques contenus dans la présente Convention est subordonnée, en tant que de besoin, à l'accomplissement des formalités et règles établies par les lois constitutionnelles de celles des Hautes Parties Contractantes qui sont tenues d'en provoquer l'application, ce qu'elles s'obligent à faire dans le plus bref délai possible.

It appears that the International Convention is valid in this country only in so far as its provisions are authorised by the Patents Acts, 1883—88, or any other law, whether statute or common law, affecting the subjects dealt with in the Convention.

ARTICLE XVIII.

The present Convention shall come into operation one month after the exchange of ratifications,¹ 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. Commencement of operation of Convention.

La présente Convention sera mise à exécution dans le délai d'un mois à partir de l'échange des ratifications et demeurera en vigueur pendant un temps indéterminé, jusqu'à l'expiration d'une année à partir du jour où la dénonciation en sera faite.

Cette dénonciation sera adressée au Gouvernement chargé de recevoir les adhésions. Elle ne produira son effet qu'à l'égard de l'État qui l'aura faite, la Convention restant exécutoire pour les autres Parties Contractantes.

¹ The ratifications were exchanged on June 6th, 1884, so that the date from which the Convention operates is July 6th, 1884.

Great Britain joined the Convention July 7th, 1884.

ARTICLE XIX.

The present Convention shall be ratified,¹ and the ratifications exchanged in Paris, within one year at the latest. Ratification.

La présente Convention sera ratifiée, et les ratifications en seront échangées à Paris, dans le délai d'un an au plus tard.

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

Done at Paris the 20th March, 1883.

En foi de quoi les Plénipotentiaires respectifs l'ont signée et y ont apposé leurs cachets.

Fait à Paris, le 20 Mars, 1883.

(Signed)	(L.S.)	BEYENS.
	(L.S.)	VILLENEUVE.
	(L.S.)	Duc DE FERNAN-NUNEZ.
	(L.S.)	P. CHALLEMEL-LACOUR.
	(L.S.)	CH. HÉRISSON.
	(L.S.)	CH. JAGERSCHMIDT.
	(L.S.)	CRISANTO-MEDINA.
	(L.S.)	RESSMAN.
	(L.S.)	Baron DE ZUYLEN DE NYEVELT.
	(L.S.)	JOSE DA SILVA MENDES LEAL.
	(L.S.)	F. D'AZEVEDO.
	(L.S.)	J.-M. TORRES-CAICEDO.
	(L.S.)	SIMA M. MARINOVITCH.
	(L.S.)	LARDY.
	(L.S.)	J. WEIBEL.

¹ See note to preceding Article.

II.

FINAL PROTOCOL

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:—

“Industrial property.”

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, &c.), and to mineral products employed in commerce (mineral waters, &c.).

“Patents.”

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, &c.

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.

Expenses of International Office.

6. The common expenses of the International Office, instituted by virtue of Article XIII., are in no case to exceed for a single year a total sum representing an average of 2,000 fr. for each Contracting State.

To determine the part which each State should contribute to this total of expenses the Contracting States, and those which may afterwards join the Union, shall be divided into six classes, each contributing in the proportion of a certain number of units, namely:

1st class	25 units.
2nd class.....	20 „
3rd class.....	15 „
4th class.....	10 „
5th class.....	5 „
6th class.....	3 „

These co-efficients will be multiplied by the number of States in each class, and the sum of the result thus obtained will supply the number of units by which the total expense has to be divided. The quotient will give the amount of the unit of expense.

The Contracting States are classed as follows, with regard to the division of expense:—

1st class	France, Italy.
2nd class	Spain.
3rd class	Belgium, Brazil, Portugal, Switzerland.
4th class	Holland.
5th class	Servia.
6th class	Guatemala, Salvador.

The Swiss Government will superintend the expenses of the International Office, advance the necessary funds, and render an annual account, which will be communicated to all the other Administrations.

The International Office will centralize information of every kind relating to the protection of industrial property, and will bring it together in the form of a general statistical statement which will be distributed to all the Administrations. It will interest itself in all matters of common utility to the Union, and will edit, with the help of the documents supplied to it by the various Administrations, a periodical paper in the French language, dealing with questions regarding the object of the Union.

The numbers of this paper, as well as all the documents published by the International Office, will be circulated among the Administrations of the States of the Union in the proportion of the number of contributing units as mentioned above. Such further copies as may be desired either by the said Administrations, or by societies or private persons, will be paid for separately.

The International Office shall at all times hold itself at the service of members of the Union, in order to supply them with any special information they may need on questions relating to the international system of industrial property.

The Administration of the country in which the next conference is to be held will make preparation for the transactions of that conference, with the assistance of the International Office.

The Director of the International Office will be present at the meetings of the conferences, and will take part in the discussions, but without the privilege of voting.

He will furnish an annual Report upon his administration of the office, which shall be communicated to all the members of the Union.

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.

Final Protocol
to be read
with Conven-
tion.

In witness whereof the undersigned Plenipotentiaries have drawn up the present Protocol.

(Signed)

BEYENS.
VILLENEUVE.
DUC DE FERNAN-NUNEZ.
P. CHALLEMEL-LACOUR.
CH. HÉRISSON.
CH. JAGERSCHMIDT.
CRISANTO-MEDINA.
RESSMAN.
Baron DE ZUYLEN DE NYEVELT.
JOSE DA SILVA MENDES LEAL.
F. D'AZEVEDO.
J.-M. TORRES-CAICEDO.
SIMA M. MARINOVITCH.
LARDY.
J. WEIBEL.

III.

ACCESSION OF HER MAJESTY'S GOVERNMENT TO THE CONVENTION SIGNED AT PARIS, MARCH 20, 1883.

The Undersigned, Ambassador Extraordinary and Plenipotentiary of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland to the French Republic, declares that Her Britannic Majesty, having had the Inter-

Accession of
Her Britannic
Majesty to

the Conven-
tion.

national Convention for the Protection of Industrial Property, concluded at Paris on the 20th March, 1883, and the Protocol relating thereto, signed on the same date, laid before her, and availing herself of the right reserved by Article XVI. of that Convention to States not parties to the original Convention, accedes, on behalf of the United Kingdom of Great Britain and Ireland, to the said International Convention for the Protection of Industrial Property, and to the said Protocol, which are to be considered as inserted word for word in the present Declaration, and formally engages, as far as regards the President of the French Republic and the other High Contracting Parties, to co-operate on her part in the execution of the stipulations contained in the Convention and Protocol aforesaid.

Reservation
of right to
accede on
behalf of the
Channel
Islands and
Isle of Man.

The Undersigned makes this Declaration on the part of Her Britannic Majesty with the express understanding that power is reserved to Her Britannic Majesty to accede to the Convention on behalf of the Isle of Man and the Channel Islands, and any of Her Majesty's possessions, on due notice to that effect being given through Her Majesty's Government.

In witness whereof the Undersigned, duly authorised, has signed the present Declaration of Accession, and has affixed thereto the seal of his arms.

Done at Paris on the 17th day of March, 1884.

(L.S.) (Signed) LYONS.

IV.

DECLARATION OF ACCEPTANCE OF ACCESSION.

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, having acceded to the International Convention relative to the Protection of Industrial Property, concluded at Paris, March 20, 1883, together with a Protocol dated the same day, by the Declaration of Accession delivered by Her Ambassador Extraordinary and Plenipotentiary to the Government of the French Republic; the text of which declaration is word for word as follows:—

(Here is inserted the text of No. III. in English.)

Accession of
Her Britannic
Majesty, with
its reserva-
tions accepted.

The President of the French Republic has authorised the undersigned, President of the Council, Minister for Foreign Affairs, to formally accept the said Accession, together with the reserves which are contained in it concerning the Isle of Man, the Channel Islands, and all other possessions of Her Britannic Majesty, engaging as well in his own name as in that of the other High Contracting Parties to assist in the accomplishment of the obligations stipulated in the Convention and the Protocol thereto annexed, which may concern the United Kingdom of Great Britain and Ireland.

In witness whereof the Undersigned, duly authorised, has drawn up the present Declaration of Acceptance and has affixed thereto his seal.

Done at Paris, the 2nd April, 1884.

(L.S.) (Signed) JULES FERRY.

ORDER IN COUNCIL APPLYING SECTION 103 OF THE ACT OF 1883 TO THE SIGNATORIES TO THE INTERNATIONAL CONVENTION (a).

At the Court at Windsor, the 26th day of June, 1884: Present—The Queen's most Excellent Majesty in Council.

WHEREAS by the provisions of the Patents, Designs and Trade Marks Act, 1883, it is among other things provided :

That if Her Majesty is pleased to make any arrangement with the Government or Governments of any foreign State or States for mutual protection of inventions, designs, and trade-marks, or any of them, then any person who has applied for protection for any invention, design, or trade-mark, in any such State, shall, subject to the conditions further provided and set forth in the said Act, be entitled to a patent for his invention, or to registration of his design or trade-mark (as the case may be) under the said Act in priority to other applicants, and such patent or registration shall have the same date as the date of the protection obtained in such foreign State.

Recital of Act of 1883, s. 103.

And whereas it has pleased Her Majesty to make an arrangement of the nature contemplated by the said Act, by and in virtue of a declaration signed and sealed by Her Majesty's Ambassador at Paris on the 17th March, 1884, duly conveying the accession of Great Britain to the International Convention and Protocol for the protection of Industrial Property, signed by the representatives of certain powers on the 20th day of March, 1883, and duly ratified on the 6th day of June, 1884, power being reserved to Her Majesty to hereafter accede to the provisions of the said Convention and Protocol on behalf of the Isle of Man, the Channel Islands, and any of Her Majesty's possessions, which declaration or accession was duly accepted by the French Government on behalf of the Signatory Powers, by and in virtue of a declaration dated the 2nd of April, 1884.

Recital of accession of Great Britain to International Convention.

Now, therefore, Her Majesty, by and with the advice and consent of her Privy Council, and by virtue of the authority committed to her by the said Act, doth declare, and it is hereby declared, that the provisions of the said Act hereinbefore specified shall apply to the following countries, viz. :—

Section 103 applied.

Belgium.	Salvador.
Brazil.	Servia.
France.	Spain.
Guatemala.	Switzerland.
Italy.	Ecuador, and
Netherlands.	Tunis.
Portugal.	

And it is hereby further ordered and declared that this Order shall take effect from the 7th day of July, 1884.

Order, when order takes effect.

C. L. PEEL.

(a) Published in *London Gazette* of July 1, 1884. For the other Orders in Council which have been made, see Table at p. 263.

PART III.

APPENDIX A.—STATUTES.

[The Statutes in force prior to 1842 are not set out here, as they were entirely replaced by this Act, and there were few decisions before 1842. This Act is now repealed by the Act of 1883.]

5 & 6 VICT. C. 100 [REPEALED].

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

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

Commencement of Act, and repeal of former Acts.

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

Proviso as to existing copyrights.

3. And with regard to any new and original design (except for sculpture and other things within the provisions of the several Acts mentioned in the

Grant of copyright.

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

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

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

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

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

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

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

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

Class 5.—Paper hangings :

Class 6.—Carpets :

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

Class 8.—Shawls not comprised in Class 7 :

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

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

Class 11.—Woven fabrics, composed of linen, cotton, wool, silk or hair, or of any two or more of such materials, if the design be

applied by printing, or by any other process by which colours are or may hereafter be produced upon tissue or textile fabrics, such woven fabrics being or coming within the description technically called furnitures, and the repeat of the design whereof shall be more than twelve inches by eight inches :

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

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

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

Condition of copyright.

Registration.

Marks denoting a registered design.

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

The term " proprietor " explained.

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

Transfer of copyright, and register thereof.

Form of Transfer, and Authority to register.

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

Form of Request to register.

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

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

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

Piracy of designs.

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

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

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

Recovery of penalties for piracy.

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

In England, either by an action of debt or on the case against the party offending, or by summary proceeding before two justices having jurisdiction where the party offending resides ; and if such proprietor proceed by such summary proceeding, any justice of the peace acting for

the county, riding, division, city or borough where the party offending resides, and not being concerned either in the sale or manufacture of the article of manufacture, or in the design to which such summary proceeding relates, may issue a summons requiring such party to appear on a day and at a time and place to be named in such summons, such time not being less than eight days from the date thereof; and every such summons shall be served on the party offending either in person or at his usual place of abode; and either upon the appearance or upon the default to appear of the party offending, any two or more of such justices may proceed to the hearing of the complaint, and upon proof of the offence, either by the confession of the party offending, or upon the oath or affirmation of one or more credible witnesses, which such justices are hereby authorised to administer, may convict the offender in a penalty of not less than five pounds or more than thirty pounds, as aforesaid, for each offence, as to such justices doth seem fit; but the aggregate amount of penalties for offences in respect of any one design committed by any one person, up to the time at which any of the proceedings herein mentioned shall be instituted, shall not exceed the sum of one hundred pounds; and if the amount of such penalty or of such penalties, and the costs attending the conviction, so assessed by such justices, be not forthwith paid, the amount of the penalty or of the penalties, and of the costs, together with the costs of the distress and sale, shall be levied by distress and sale of the goods and chattels of the offender, wherever the same happen to be in England; and the justices before whom the party has been convicted, or, on proof of the conviction, any two justices acting for any county, riding, division, city or borough in England, where goods and chattels of the person offending happen to be, may grant a warrant for such distress and sale; and the overplus, if any, shall be returned to the owner of the goods and chattels, on demand; and every information and conviction which shall be respectively laid or made in such summary proceeding before two justices under this Act may be drawn or made out in the following forms respectively, or to the effect thereof, *mutatis mutandis*, as the case may require:

Form of Information.

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

Form of Conviction.

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

In Scotland, by action before the Court of Session in ordinary form, or by summary action before the sheriff of the county where the offence may be committed or the offender resides, who, upon proof of the offence or offences, either by confession of the party offending or by the oath or affirmation of one or more credible witnesses, shall convict the offender and find him liable in the penalty or penalties aforesaid, as also in expenses; and it shall be lawful for the sheriff, in pronouncing such judgment for the penalty or penalties and costs, to insert in such judgment a warrant, in the event of such penalty or penalties and costs not being paid, to levy and recover the amount of the same by poinding: Provided always, that it shall be lawful to the sheriff, in the event of his dismissing the action and assoilzieing the defender, to find the complainer liable in expenses; and any judgment so to be pronounced by the sheriff in such summary application shall be final and conclusive, and not subject to review by advocacy, suspension, reduction or otherwise:

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

Proviso as to action for damages.

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

Registration may in some cases be cancelled or amended.

10. And be it enacted, that in any suit in equity which may be instituted by the proprietor of any design or the person lawfully entitled thereto, relative to such design, if it shall appear to the satisfaction of the judge having cognizance of such suit that the design has been registered in the name of a person not being the proprietor or lawfully entitled thereto, it shall be competent for such judge, in his discretion, by a decree or order in such suit to direct either that such registration be cancelled (in which case the same shall thenceforth be wholly void), or that the name of the proprietor of such design, or other person lawfully entitled thereto, be substituted in the register for the name of such wrongful proprietor or claimant, in like manner as is hereinbefore directed in case of the transfer of

a design, and to make such order respecting the costs of such cancellation or substitution, and of all proceedings to procure and effect the same, as he shall think fit; and the registrar is hereby authorized and required, upon being served with an official copy of such decree, or order, and upon payment of the proper fee, to comply with the tenor of such decree or order, and either cancel such registration or substitute such new name, as the case may be.

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

Penalty for wrongfully using marks denoting a registered design.

12. And be it enacted, that no action or other proceeding for any offence or injury under this Act shall be brought after the expiration of twelve calendar months from the commission of the offence; and in every such action or other proceeding the party who shall prevail shall recover his full costs of suit or of such other proceeding.

Limitation of actions.

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

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

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

Registrar, &c. of designs to be appointed.

15. And be it enacted, that the said registrar shall not register any design in respect of any application thereof to ornamenting any articles of manufacture or substances, unless he be furnished, in respect of each such application, with two copies, drawings or prints of such design, accompanied with the name of every person who shall claim to be proprietor, or of the style or title of the firm under which such proprietor may be trading, with

Registrar's duties.

his place of abode or place of carrying on his business, or other place of address, and the number of the class in respect of which such registration is made; and the registrar shall register all such copies, drawings, or prints, from time to time successively, as they are received by him for that purpose; and on every such copy, drawing or print he shall affix a number corresponding to such succession; and he shall retain one copy, drawing or print, which he shall file in his office, and the other he shall return to the person by whom the same has been forwarded to him; and, in order to give ready access to the copies of designs so registered, he shall class such copies of designs, and keep a proper index of each class.

Certificate of registration of design.

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

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

Of the commencement of the period of registry; and

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

Of the originality of the design; and

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

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

Inspection of registered designs.

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

term of such copyright, and the date of registration, and also the name and address of the registered proprietor thereof.

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

Application
of fees of
registration.

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

Penalty for
extortion.

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

Interpreta-
tion of Act.

21. And be it enacted, that this Act may be amended or repealed by any Act to be passed in the present session of Parliament.

Act may be
amended, &c.,
this session.

DESIGNS ACT, 1842 (REPEALED).

SCHEDULES referred to by the foregoing Act.

SCHEDULE (A.)

Date of Acts.	Title.
27 Geo. III. c. 33. (1787.)	An Act for the Encouragement of the Arts of designing and printing Linens, Cottons, Calicoes, and Muslins, by vesting the Properties thereof in the Designers, Printers, and Proprietors for a limited Time.
29 Geo. III. c. 19. (1789.)	An Act for continuing an Act for the Encouragement of the Arts of designing and printing Linens, Cottons, Calicoes, and Muslins, by vesting the Properties thereof in the Designers, Printers, and Proprietors for a limited Time.
34 Geo. III. c. 23. (1794.)	An Act for amending and making perpetual an Act for the Encouragement of the Arts of designing and printing Linens, Cottons, Calicoes, and Muslins, by vesting the Properties thereof in the Designers, Printers, and Proprietors for a limited Time.
2 Vict. c. 13. (1839.)	An Act for extending the Copyright of Designs for Calico Printing to Designs for printing other woven Fabrics.

SCHEDULE (B.)

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

SCHEDULE (C.)

Date of Acts.	Title.
38 Geo. III. c. 71. (1798.)	An Act for encouraging the Art of making new Models and Casts of Busts and other Things therein mentioned.
54 Geo. III. c. 58. (1814.)	An Act to amend and render more effectual an Act for encouraging the Art of making new Models and Casts of Busts and other Things therein mentioned, and for giving further Encouragement to such Arts.

DESIGNS ACT, 1843, 6 & 7 Vict. c. 65 (REPEALED).

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

[22nd August, 1843.]

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

5 & 6 Vict.
c. 100.Commence-
ment of Act.

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

Grant of
copyright.

Proviso.

38 Geo. III.
c. 71.54 Geo. III.
c. 56.

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

Conditions of
copyright.

4. And be it enacted, that unless a design applied to any article of manufacture be registered, either as aforesaid or according to the provisions of the said first-mentioned Act, and also after the copyright of such design shall have expired, it shall be unlawful to put on any such article the word "registered," or to advertise the same for sale as a registered article; and if any person shall so unlawfully publish, sell or expose or advertise for sale any such article of manufacture, he shall forfeit for every such offence a sum

Penalty for
wrongfully
using marks
denoting a
registered
design.

not exceeding five pounds nor less than one pound, which may be recovered by any person proceeding for the same by any of the remedies hereby given for the recovery of penalties for pirating any such design.

Floor or oil cloths included in class six.

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

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

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

Appointment of registrar, &c.

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

Registrar's duties.

8. And be it enacted, that the said registrar shall not register any design for the shape or configuration of any article of manufacture as aforesaid, unless he be furnished with two exactly similar drawings or prints of such design, with such description in writing as may be necessary to render the same intelligible according to the judgment of the said registrar, together with the title of the said design, and the name of every person who shall claim to be proprietor, or of the style or title of the firm under which such proprietor may be trading, with his place of abode, or place of carrying on business, or other place of address; and every such drawing or print, together with the title and description of such design, and the name and address of the proprietor aforesaid, shall be on one sheet of paper or parchment, and on the same side thereof; and the size of the said sheet shall not exceed twenty-four inches by fifteen inches; and there shall be left on one of the said sheets a blank space on the same side on which are the said drawings, title, description, name and address, of the size of six inches by four inches, for

Drawings.

the certificate herein mentioned ; and the said drawings or prints shall be made on a proper geometric scale ; and the said description shall set forth such part or parts of the said design (if any) as shall not be new or original ; and the said registrar shall register all such drawings or prints from time to time as they are received by him for that purpose ; and on every such drawing or print he shall affix a number corresponding to the order of succession in the register, and he shall retain one drawing or print, which he shall file at his office, and the other he shall return to the person by whom the same has been forwarded to him ; and, in order to give a ready access to the designs so registered, he shall keep a proper index of the titles thereof.

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

Discretionary power as to registry vested in the registrar.

Proviso.

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

Inspection of index of titles of designs, &c.

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

Interpretation of Act.

12. And be it enacted, that this Act may be amended or repealed by any Act to be passed in the present session of Parliament.

Alteration of Act.

DESIGNS ACT, 1850, 13 & 14 VICT. c. 104 (REPEALED).

An Act to extend and amend the Acts relating to the Copyright of Designs.

[14th August, 1850.]

WHEREAS it is expedient to extend and amend the Acts relating to the Copyright of Designs: 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:

Certain designs may be registered provisionally for one year.

1. That the registrar of designs, upon application by or on behalf of the proprietor of any design not previously published within the United Kingdom of Great Britain and Ireland, or elsewhere, and which may be registered under the Designs Act, 1842, or under the Designs Act, 1843, for the provisional registration of such design under this Act, and upon being furnished with such copy, drawing, print, or description in writing or in print as in the judgment of the said registrar shall be sufficient to identify the particular design in respect of which such registration is desired, and the name of the person claiming to be proprietor, together with his place of abode or business, or other place of address, or the style or title of the firm under which he may be trading, shall register such design in such manner and form as shall from time to time be prescribed or approved by the Board of Trade; and any design so registered shall be deemed "provisionally registered," and the registration thereof shall continue in force for the term of one year from the time of the same being registered as aforesaid; and the said registrar shall certify, under his hand and seal of office, in such form as the said board shall direct or approve, that the design has been provisionally registered, the date of such registration, and the name of the registered proprietor, together with his place of abode or business, or other place of address.

Benefits conferred by provisional registration.

2. That the proprietor of any design which shall have been provisionally registered shall, during the continuance of such registration, have the sole right and property in such design; and the penalties and provisions of the said Designs Act, 1842, for preventing the piracy of designs, shall extend to the acts, matters and things next hereinafter enumerated, as fully as if those penalties and provisions had been re-enacted in this Act, and expressly extended to such acts, matters and things respectively: that is to say,

1. To the application of any provisionally registered design, or any fraudulent imitation thereof, to any article of manufacture, or to any substance.
2. To the publication, sale, or exposure for sale of any article of manufacture or any substance to which any provisionally registered design shall have been applied.

The exhibition of provisionally registered designs in certain places not to defeat copyright, &c.

3. That during the continuance of such provisional registration, neither such registration, nor the exhibition or exposure of any design provisionally registered, or of any article to which any such design may have been or be intended to be applied, in any place, whether public or private, in which articles are not sold, or exposed or exhibited for sale, and to which the public are not admitted gratuitously, or in any place which shall have been previously certified by the Board of Trade to be a place of public exhibition within the meaning of this Act, nor the publication of any account or

description of any provisionally registered design exhibited or exposed, or intended to be exhibited or exposed, in any such place of exhibition or exposure in any catalogue, paper, newspaper, periodical, or otherwise, shall prevent the proprietor thereof from registering any such design under the said Designs Acts at any time during the continuance of the provisional registration, in the same manner and as fully and effectually as if no such registration, exhibition, exposure or publication had been made: provided that every article to which any such design shall be applied, and which shall be exhibited or exposed by or with the licence or consent of the proprietor of such design, shall have thereon or attached thereto the words "provisionally registered," with the date of registration.

4. That if during the continuance of such provisional registration the proprietor of any design provisionally registered shall sell, expose, or offer for sale any article, substance or thing, to which any such design has been applied, such provisional registration shall be deemed to have been null and void immediately before any such sale, offer or exposure shall have been first made; but nothing herein contained shall be construed to hinder or prevent such proprietor from selling or transferring the right and property in any such design.

5. That the Board of Trade may, by order in writing, with respect to any particular class of designs, or any particular design, extend the period for which any design may be provisionally registered under this Act, for such term, not exceeding the additional term of six months, as to the said Board may seem fit; and whenever any such order shall be made, the same shall be registered in the office for the registration of designs, and during the extended term the protection and benefits conferred by this Act, in case of provisional registration, shall continue as fully as if the original term of one year had not expired.

6. That the registrar of designs, upon application by or on behalf of the proprietor of any sculpture, model, copy or cast, within the protection of the Sculpture Copyright Acts, and upon being furnished with such copy, drawing, print or description, in writing or in print, as in the judgment of the said registrar shall be sufficient to identify the particular sculpture, model, copy or cast, in respect of which registration is desired, and the name of the person claiming to be proprietor, together with his place of abode or business, or other place of address, or the name, style or title of the firm under which he may be trading, shall register such sculpture, model, copy or cast, in such manner and form as shall from time to time be prescribed or approved by the Board of Trade, for the whole or any part of the term during which copyright in such sculpture, model, copy or cast, may or shall exist under the Sculpture Copyright Acts; and whenever any such registration shall be made, the said registrar shall certify under his hand and seal of office, in such form as the said Board shall direct or approve, the fact of such registration, and the date of the same, and the name of the registered proprietor, or the style or title of the firm under which such proprietor may be trading, together with his place of abode or business, or other place of address.

7. That if any person shall, during the continuance of the copyright in any sculpture, model, copy or cast, which shall have been so registered as aforesaid, make, import, or cause to be made, imported, exposed for sale, or otherwise disposed of, any pirated copy or pirated cast of any such sculpture, model, copy or cast, in such manner and under such circumstances as would

Sale of articles to which provisionally registered designs, &c., have been applied to defeat copyright, but design itself may be sold.

Extension of period of provisional registration by Board of Trade.

Registration of sculpture, models, &c.

Benefits conferred by registration of sculpture, &c.

entitle the proprietor to a special action on the case under the Sculpture Copyright Acts, the person so offending shall forfeit for every such offence a sum not less than five pounds and not exceeding thirty pounds, to the proprietor of the sculpture, model, copy or cast, whereof the copyright shall have been infringed; and for the recovery of any such penalty, the proprietor of the sculpture, model, copy or cast, which shall have been so pirated, shall have and be entitled to the same remedies as are provided for the recovery of penalties incurred under the Designs Act, 1842: provided always, that the proprietor of any sculpture, model, copy or cast, which shall be registered under this Act, shall not be entitled to the benefit of this Act, unless every copy or cast of such sculpture, model, copy or cast, which shall be published by him after such registration shall be marked with the word "registered," and with the date of registration.

Designs for ornamenting ivory, &c. may be registered under Designs Act, 1842, for three years.

Board of Trade may extend copyright in ornamental designs.

Regulations for the registration of designs may be made by the Board of Trade.

Registrar of designs may dispense with drawings, &c. in certain cases.

Public books and docu-

8. That designs for the ornamenting of ivory, bone, papier maché, and other solid substances not already comprised in the classes numbered 1, 2 or 3, in the Designs Act, 1842, shall be deemed and taken to be comprised within the class numbered 4 in that Act, and such designs shall be so registered accordingly.

9. That the Board of Trade may from time to time order that the copyright of any class of designs, or any particular design registered, or which may be registered under the Designs Act, 1842, may be extended for such term, not exceeding the additional term of three years, as the said Board may think fit, and the said Board shall have power to revoke or alter any such order as may from time to time appear necessary; and whenever any order shall be made by the said Board under this provision, the same shall be registered in the office for the registration of designs; and during the extended term the protection and benefits conferred by the said Designs Acts shall continue as fully as if the original term had not expired.

10. That the Board of Trade may from time to time make, alter and revoke rules and regulations with respect to the mode of registration, and the documents and other matters and particulars to be furnished by persons effecting registration and provisional registration under the said Acts and this Act: provided always, that all such rules and regulations shall be published in the "London Gazette," and shall forthwith, upon the issuing thereof, be laid before Parliament, if Parliament be sitting; and if Parliament be not sitting, then within fourteen days after the commencement of the then next session; and such rules and regulations, or any of them, shall be published or notified by the registrar of designs, in such other manner as the Board of Trade shall think fit to direct.

11. That if, in any case in which the registration of a design is required to be made under either of the said Designs Acts, it shall appear to the registrar that copies, drawings or prints, as required by those Acts, cannot be furnished, or that it is unreasonable or unnecessary to require the same, the said registrar may dispense with such copies, drawings or prints, and may allow in lieu thereof such specification or description in writing or in print as may be sufficient to identify and render intelligible the design in respect of which registration is desired; and whenever registration shall be so made in the absence of such copies, drawings or prints, the registration shall be as valid and effectual, to all intents and purposes, as if such copies, drawings or prints had been furnished.

12. That, in order to prevent the frequent and unnecessary removal of the public books and documents in the office for the registration of designs, no

book or document in the said office shall be removed for the purpose of being produced in any court, or before any justice of the peace, without a special order of a judge of the Court of Chancery, or one of her Majesty's superior courts of law, first had and obtained by the party who shall desire the production of the same.

13. That if application shall be made to a judge of any of her Majesty's courts of law at Westminster, by any person desiring to obtain a copy of any registration, entry, drawing, print or document, of which such person is not entitled as of right to have a copy, for the purpose of being used in evidence in any cause, or otherwise howsoever, and if such judge shall be satisfied that such copy is bona fide intended for such purpose as aforesaid, such judge shall order the registrar of designs to deliver such copy to the party applying, and the registrar of designs shall, upon payment for the same of such fee or fees as may be fixed according to the provisions of the said Designs Acts in this behalf, deliver such copy accordingly.

14. That every copy of any registration, entry, drawing, print or document, delivered by the registrar of designs to any person requiring the same, shall be signed by the said registrar, and sealed with his seal of office; and every document sealed with the said seal, purporting to be a copy of any registration, entry, drawing, print or document, shall be deemed to be a true copy of such registration, entry, drawing, print or document, and shall, without further proof, be received in evidence before all Courts, in like manner, and to the same extent and effect, as the original book, registration, entry, drawing, print or document would or might be received if tendered in evidence, as well for the purpose of proving the contents, purport and effect of such book, registration, entry, drawing, print or document, as also proving the same to be a book, registration, entry, drawing, print or document of or belonging to the said office, and in the custody of the registrar of designs.

15. That the several provisions contained in the said Designs Acts (so far as they are not repugnant to the provisions of this Act), relating to the transfer of designs, to cancelling and amending registration, to the refusal of registration in certain cases, to the mode of recovering penalties, to the awarding and recovery of costs, to actions for damages, to the limitation of actions, to the certificate of registration, to penalties for wrongfully using marks, to the fixing and application of fees for registration and to the penalty for extortion, shall apply to the registration, provisional registration, and transfer of designs, sculptures, models, copies and casts, and to the designs, sculptures, models, copies and casts entitled to protection under this Act, and to matters under this Act, as fully and effectually as if those provisions had been re-enacted in this Act with respect to designs, sculptures, models, copies and casts registered and provisionally registered under this Act; and the forms contained in the Designs Act, 1842, may for the purposes of this Act be varied so as to meet the circumstances of the case.

16. That in the interpretation of this Act the following terms and expressions shall have the meanings hereinafter assigned to them, unless such meanings shall be repugnant to or inconsistent with the context or subject-matter; that is to say,

The expression "Designs Act, 1842," shall mean an Act passed in the sixth year of the reign of her present Majesty, intituled "An Act to consolidate and amend the Laws relating to the Copyright of Designs for ornamenting Articles of Manufacture:"

The expression "Designs Act, 1843," shall mean an Act passed in the

ments in the Designs Office not to be removed without Judge's order.

Judges may order copies of documents to be furnished to be given in evidence.

Copies of documents delivered by the registrar to be sealed, and to be evidence.

Certain provisions of Designs Acts, 1842 and 1843, extended to this Act.

Interpretation of terms.

seventh year of her present Majesty, intituled "An Act to amend the Laws relating to the Copyright of Designs :"

The expression "Sculpture Copyright Acts" shall mean two Acts passed respectively in the thirty-eighth and fifty-fourth years of the reign of King George the Third, and intituled respectively "An Act for encouraging the Art of making new Models and Casts of Busts and other Things herein mentioned," and "An Act to amend and render more effectual an Act for encouraging the Art of making new Models and Casts of Busts and other Things therein mentioned :"

The expression "the Board of Trade" shall mean the Lords of the Committee of Privy Council, for the consideration of all matters of trade and plantations :

The expression "registrar of designs" shall mean the registrar or assistant registrar of designs for articles of manufacture :

The expression "proprietor" shall be construed according to the interpretation of that word in the said Designs Act, 1842 :

And words in the singular number shall include the plural, and words applicable to males shall include females.

Short title.

17. That in citing this Act in other Acts of Parliament, and in any instrument, document or proceeding, it shall be sufficient to use the words and figures following, that is to say, "The Designs Act, 1850."

DESIGNS ACT, 1858, 21 & 22 VICT. c. 70 (REPEALED).

An Act to amend the Act of the Fifth and Sixth Years of Her present Majesty, to consolidate and amend the Laws relating to the Copyright of Designs for ornamenting Articles of Manufacture. [2nd August, 1858.]

5 & 6 Vict.
c. 100.

WHEREAS by an Act passed in the fifth and sixth years of the reign of her present Majesty, intituled "An Act to consolidate and amend the Laws relating to the Copyright of Designs for ornamenting Articles of Manufacture," hereinafter called "The Copyright of Designs Act, 1842," there was granted to the proprietor of any new and original design in respect of the application of any such design to ornamenting any article of manufacture contained in the tenth class therein mentioned, with the exceptions therein mentioned, the sole right to apply the same to any articles of manufacture, or any such substances as therein mentioned, for the term of nine calendar months, to be computed from the time of such design being registered according to the said Act: and whereas it is expedient that the term of copyright, in respect of the application of designs to the ornamenting of articles of manufacture comprised in the said tenth class, should be extended, and that some of the provisions of the said Act should be altered, and that further provision should be made for the prevention of piracy, and for the protection of copyright in designs under the Acts in the schedule hereto annexed, and hereinafter called "The Copyright of Designs Acts:" 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; that is to say,

1. In citing this Act for any purpose whatsoever it shall be sufficient to use the expression "The Copyright of Designs Act, 1858." Short title.
2. The said Copyright of Designs Acts and this Act shall be construed together as one act. Copyright of Designs Acts and this Act to be as one.
3. In respect of the application of any new and original design for ornamenting any article of manufacture contained in the tenth class mentioned in "The Copyright of Designs Act, 1842," the term of copyright shall be three years, to be computed from the time of such design being registered, in pursuance of the provisions of "The Copyright of Designs Acts," and of this Act: provided nevertheless, that the term of such copyright shall expire on the thirty-first of December in the second year after the year in which such design was registered, whatever may be the day of such registration. Extension of term of copyright as to the tenth class mentioned in 5 & 6 Vict. c. 100.
4. Nothing in the fourth section of "The Copyright of Designs Act, 1842," shall extend or be construed to extend to deprive the proprietor of any new and original design applied to ornamenting any article of manufacture contained in the said tenth class of the benefits of "The Copyright of Designs Acts," or of this Act: provided there shall have been printed on such articles at each end of the original piece thereof the name and address of such proprietor, and the word "registered," together with the years for which such design was registered. Copyright not to be prejudiced if articles marked.
5. And be it declared, that the registration of any pattern or portion of an article of manufacture to which a design is applied, instead or in lieu of a copy, drawing, print, specification, or description in writing, shall be as valid and effectual to all intents and purposes as if such copy, drawing, print, specification, or description in writing had been furnished to the registrar under "The Copyright of Designs Acts." Pattern may be registered.
6. The proprietor of such extended copyright shall, on application by or on behalf of any person producing or vending any article of manufacture so marked, give the number and the date of the registration of any article of manufacture so marked; and any proprietor so applied to who shall not give the number and date of such registration shall be subject to a penalty of ten pounds, to be recovered by the applicant, with full costs of suit, in any Court of competent jurisdiction. Proprietor to give the number and date of registration.
7. Any person who shall wilfully apply any mark of registration to any article of manufacture in respect whereof the application of the design thereto shall not have been registered, or after the term of copyright shall have expired, or who shall, during the term of copyright, without the authority of the proprietor of any registered design, wilfully apply the mark printed on the piece of any article of manufacture, or who shall knowingly sell or issue any article of manufacture to which such mark has been wilfully and without due authority applied, shall be subject to a penalty of ten pounds, to be recovered by the proprietor of such design, with full costs of suit, in any court of competent jurisdiction. Penalty on issuing articles not so marked.
8. Notwithstanding anything in "The Copyright of Designs Acts," it shall be lawful for the proprietor of copyright in any design under "The Copyright of Designs Acts," or this Act, to institute proceedings in the County Court of the district within which the piracy is alleged to have been committed, for the recovery of damages which he may have sustained by reason of such piracy: provided always, that in any such proceedings the plaintiff shall deliver with his plaint a statement of particulars as to the date and title or other description of the registration whereof the copyright is Proceedings for prevention of piracy may be instituted in the County Courts.

alleged to be pirated, and as to the alleged piracy; and the defendant, if he intends at the trial to rely as a defence on any objection to such copyright, or to the title of the proprietor therein, shall give notice in the manner provided in the seventy-sixth section of the act of the ninth and tenth Victoria, Chapter ninety-five, of his intention to rely on such special defence, and shall state in such notice the date of publication and other particulars of any designs whereof prior publication is alleged, or of any objection to such copyright, or to the title of the proprietor to such copyright; and it shall be lawful for the judge of the County Court, at the instance of the defendant or plaintiff respectively, to require any statement or notice so delivered by the plaintiff or of the defendant respectively to be amended in such manner as the said judge may think fit.

The proceedings of County Courts Acts applicable to proceedings for piracy of designs.

9. The provisions of an Act of the ninth and tenth Victoria, Chapter ninety-five, and of the twelfth and thirteenth Victoria, Chapter one hundred, as to proceedings in any plaint, and as to appeal, and as to writs of prohibition, shall so far as they are not inconsistent with or repugnant to the provisions of this Act, be applicable to any proceedings for piracy of copyright of designs under the said Copyright of Designs Act or this Act.

SCHEDULE referred to in the foregoing Act.

5 & 6 Vict. c. 100. (10 Aug. 1842.)	An Act to consolidate and amend the Laws relating to the Copyright of Designs for ornamenting Articles of Manufacture.
6 & 7 Vict. c. 65. (22 Aug. 1843.)	An Act to amend the Laws relating to the Copyright of Designs.
13 & 14 Vict. c. 104. (14 Aug. 1850.)	An Act to extend and amend the Acts relating to the Copyright of Designs.
14 Vict. c. 8. (11 April, 1851.)	An Act to extend the Provisions of the Designs Act, 1850, and to give Protection from Piracy to Persons exhibiting new Inventions in the Exhibition of the Works of Industry of all Nations in One thousand eight hundred and fifty-one.

DESIGNS ACT, 1861, 24 & 25 VICT. c. 73 (REPEALED).

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

[6th August, 1861.]

WHEREAS by an Act passed in the session holden in the fifth and sixth years of the reign of her present Majesty, Chapter one hundred, intituled "An Act to consolidate and amend the Laws relating to the Copyright of Designs for ornamenting Articles of Manufacture," it was enacted, that the proprietor of every such design as therein mentioned, not previously published either within the United Kingdom of Great Britain and Ireland or elsewhere, should have the sole right to apply the same to any articles of manufacture, or to any such substances as therein mentioned, provided the same were done within the United Kingdom of Great Britain and Ireland, for the respective terms therein mentioned, and should have such copyright in such designs as therein provided: And whereas divers Acts have since been passed extending or amending the said recited Acts: And whereas it is expedient that the provisions of the said recited Act, and of all Acts extending or amending the same, should apply to designs, and to the application of such designs, within the meaning of the said Acts, whether such application be effected within the United Kingdom or elsewhere: Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

5 & 6 Vict.
c. 100.

1. That the said recited Act, and all Acts extending or amending the same, shall be construed as if the words "provided the same be done within the United Kingdom of Great Britain and Ireland" had not been contained in the said recited Act; and the said recited Act, and all Acts extending or amending the same, shall apply to every such design as therein referred to, whether the application thereof be done within the United Kingdom or elsewhere, and whether the inventor or proprietor of such design be or be not a subject of Her Majesty.

5 & 6 Vict.
c. 100, and
other Acts
relating to
Copyright
of Designs,
extended.

2. That the said several Acts shall not be construed to apply to the subjects of Her Majesty only.

Application
of Acts.

DESIGNS ACT, 1875, 38 & 39 VICT. c. 93 (REPEALED).

An Act to amend the Copyright of Designs Acts.

[13th August, 1875.]

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

1. This Act shall come into operation on the first day of January one thousand eight hundred and seventy-six, which day is in this Act referred to as the commencement of this Act.

Commence-
ment of Act.

Transfer to Commissioners of Patents of powers and duties of Board of Trade under Copyright of Designs Acts.

Power for Commissioners to make general rules.

2. On and after the commencement of this Act all powers, duties, and authorities vested in, imposed on, or to be exercised by the Board of Trade under the Acts mentioned in the schedule to this Act shall be transferred to, vested in, and imposed on the Commissioners of Patents for Inventions, and the said Acts shall be construed as if the said Commissioners of Patents were throughout substituted for the Board of Trade or the Lords of the Committee of the Privy Council for the consideration of all matters of trade and plantations.

3. The said Commissioners of Patents may from time to time make, and when made revoke and alter general rules for regulating registration under the Acts mentioned in the schedule hereto, and this Act, and on and after the commencement of this Act any discretion or power vested in the registrar under the said Acts shall be subject to the control of the Commissioners of Patents and shall be exercised by him in such manner and with such limitations and restrictions (if any) as may be prescribed by the said general rules, and any provisions contained in the said Acts as to the copies, drawings, prints, descriptions, information, matters, and particulars to be furnished to the registrar prior to registration, and as to the mode in which registration is to be conducted by the registrar, and generally as to any act or thing to be done by the registrar, may be modified by such general rules in such manner as the said Commissioners of Patents may think expedient.

General rules made in pursuance of this section shall be laid before Parliament within one month after they are made if Parliament be then sitting, or if not within one month after the commencement of the then next session; and if either House of Parliament resolve within one month after such rules have been laid before such House that any of such rules ought not to continue in force, any rule in respect of which such resolution has been passed shall, after the date of such resolution, cease to be of any force, without prejudice nevertheless to the making of any other rule in its place, or to anything done in pursuance of any such rules before the date of such resolution.

Transfer of duties of registrar to officers of Commissioners of Patents.

4. The office of registrar under the Acts mentioned in the schedule to this Act shall cease to exist as a separate paid office, and the Commissioners of Patents may from time to time make arrangements as to the mode in which and the person or persons by whom the duties of registrar and other duties under the said Acts are to be performed, and may from time to time delegate to any such person or persons all or any of the duties of the registrar, and any person or persons to whom such duties may be delegated shall, in so far as such delegation extends, be deemed to be the registrar within the meaning of the said Acts.

Any arrangement or delegation of duties to the clerk or other officer of the Commissioners of Patents made by the Board of Trade shall be as valid as it would have been if this Act had been passed at the date of such arrangement or delegation, and the same had been made by the Commissioners of Patents.

Short title of acts.

5. Each of the Acts mentioned in the schedule to this Act may be cited as the Copyright of Designs Act of the year in which it was passed, and the said Acts may, together with this Act, be cited as the Copyright of Designs Acts, 1842 to 1875, and this Act may be cited as the Copyright of Designs Act, 1875.

SCHEDULE.

COPYRIGHT OF DESIGNS ACTS.

Session and Chapter.	Title.
5 & 6 Vict. c. 100 .	An Act to consolidate and amend the laws relating to the Copyright of Designs for ornamenting Articles of Manufacture.
6 & 7 Vict. c. 65 . .	An Act to amend the laws relating to the Copyright of Designs.
13 & 14 Vict. c. 104 .	An Act to extend and amend the Acts relating to the Copyright of Designs.
21 & 22 Vict. c. 70 .	An Act to amend the Act of the fifth and sixth years of Her present Majesty to consolidate and amend the laws relating to the Copyright of Designs for ornamenting Articles of Manufacture.
24 & 25 Vict. c. 73 .	An Act to amend the law relating to the Copyright of Designs.

PATENTS, DESIGNS, AND TRADE MARKS ACT, 1883.

46 & 47 VICT. c. 57.

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

[25th August, 1883.]

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

PART I.

PRELIMINARY.

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

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

Part I.—PRELIMINARY.

Part II.—PATENTS.

Part III.—DESIGNS.

Part IV.—TRADE MARKS.

Part V.—GENERAL.

Division of
Act into parts.

Commence-
ment of Act.

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

PART II.

PATENTS.

PART III.

DESIGNS.

Registration of Designs.

Application
for registra-
tion of
designs.

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

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

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

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

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

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

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

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

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

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

Certificate of
registration.

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

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

Copyright in registered Designs.

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

Copyright on registration.

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

51. Before delivery on sale of any articles to which a registered design has been applied, the proprietor of the design shall cause each such article to be marked with the prescribed mark, or with the prescribed word or words or figures, denoting that the design is registered ; and if he fails to do so the copyright in the design shall cease, unless the proprietor shows that he took all proper steps to ensure the marking of the article.

Marking registered designs.

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

Inspection of registered designs.

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

53. On the request of any person producing a particular design, together with its mark of registration, or producing only its mark of registration, or furnishing such information as may enable the comptroller to identify the design, and on payment of the prescribed fee, it shall be the duty of the comptroller to inform such person whether the registration still exists in respect of such design, and if so, in respect of what class or classes of goods, and stating also the date of registration, and the name and address of the registered proprietor.

Information as to existence of copyright.

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

Cesser of copyright in certain events.

Register of Designs.

Register of
designs.

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

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

Fees.

Fees on regis-
tration, &c.

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

Industrial and International Exhibitions.

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

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

- (a.) The exhibitor must, before exhibiting the design or article, or publishing a description of the design, give the comptroller the prescribed notice of his intention to do so; and
- (b.) The application for registration must be made before or within six months from the date of the opening of the exhibition.

Legal Proceedings.

Penalty on
piracy of
registered
design.

58. During the existence of copyright in any design—

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

have been so applied, knowing that the same has been so applied without the consent of the registered proprietor.

Any person who acts in contravention of this section shall be liable for every offence to forfeit a sum not exceeding fifty pounds to the registered proprietor of the design, who may recover such sum as a simple contract debt by action in any Court of competent jurisdiction.

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

Action for damages.

Definitions.

60. In and for the purposes of this Act—

“Design” means any design applicable to any article of manufacture, or to any substance artificial or natural, or partly artificial and partly natural, whether the design is applicable for the pattern, or for the shape or configuration, or for the ornament thereof, or for any two or more of such purposes, and by whatever means it is applicable, whether by printing, painting, embroidering, weaving, sewing, modelling, casting, embossing, engraving, staining, or any other means whatever, manual, mechanical, or chemical, separate or combined, not being a design for a sculpture, or other thing within the protection of the Sculpture Copyright Act of the year 1814 (fifty-fourth George the Third, chapter fifty-six).

Definition of “design,” “copyright.”

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

61. The author of any new and original design shall be considered the proprietor thereof, unless he executed the work on behalf of another person for a good or valuable consideration, in which case such person shall be considered the proprietor, and every person acquiring for a good or valuable consideration a new and original design, or the right to apply the same to any such article or substance as aforesaid, either exclusively of any other person or otherwise, and also every person on whom the property in such design or such right to the application thereof shall devolve, shall be considered the proprietor of the design in the respect in which the same may have been so acquired, and to that extent, but not otherwise.

Definition of proprietor.

PART IV.

TRADE MARKS.

PART V.

GENERAL.

Patent Office and Proceedings thereat.

Patent Office.

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

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

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

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

Officers and clerks.

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

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

Seal of patent office.

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

Trust not to be entered in registers.

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

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

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

Entry of assignments and transmissions in registers.

87. Where a person becomes entitled by assignment, transmission, or other operation of law to a patent, or to the copyright in a registered design, or to a registered trade mark, the comptroller shall on request

and on proof of title to his satisfaction, cause the name of such person to be entered as proprietor of the patent, copyright in the design, or trade mark, in the register of patents, designs, or trade marks, as the case may be. The person for the time being entered in the register of patents, designs, or trade marks, as proprietor of a patent, copyright in a design or trade mark as the case may be, shall, subject to any rights appearing from such register to be vested in any other person, have power absolutely to assign, grant licences as to, or otherwise deal with, the same and to give effectual receipts for any consideration for such assignment, licence, or dealing. Provided that any equities in respect of such patent, design, or trade mark may be enforced in like manner as in respect of any other personal property.

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

Inspection of and extracts from registers.

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

Sealed copies to be received in evidence.

90. (1.) The Court may on the application of any person aggrieved by the omission without sufficient cause of the name of any person from any register kept under this Act, or by any entry made without sufficient cause in any such register, make such order for making, expunging, or varying the entry, as the Court thinks fit; or the Court may refuse the application; and in either case may make such order with respect to the costs of the proceedings as the Court thinks fit.

Rectification of registers by Court.

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

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

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

Power for comptroller to correct clerical errors.

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

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

(c.) Cancel the entry or part of the entry of a trade mark on the register: provided that the applicant accompanies his request

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

Alteration of registered mark.

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

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

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

Falsification of entries in registers.

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

Exercise of discretionary power by comptroller.

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

Power of comptroller to take directions of law officers.

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

Certificate of comptroller to be evidence.

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

Applications and notices by post.

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

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

Provision as to days for leaving documents at office.

98. Whenever the last day fixed by this Act, or by any rule for the time being in force, for leaving any document or paying any fee at the patent office shall fall on Christmas Day, Good Friday, or on a Saturday

or Sunday, or any day observed as a holiday at the Bank of England, or any day observed as a day of public fast or thanksgiving, herein referred to as excluded days, it shall be lawful to leave such document or to pay such fee on the day next following such excluded day, or days if two or more of them occur consecutively.

90. If any person is, by reason of infancy, lunacy or other inability, incapable of making any declaration or doing anything required or permitted by this Act or by any rules made under the authority of this Act, then the guardian or committee (if any) of such incapable person, or if there be none, any person appointed by any Court or judge possessing jurisdiction in respect of the property of incapable persons, upon the petition of any person on behalf of such incapable person, or of any other person interested in the making such declaration or doing such thing, may make such declaration or a declaration as nearly corresponding thereto as circumstances permit, and do such thing in the name and on behalf of such incapable person, and all acts done by such substitute shall for the purposes of this Act be as effectual as if done by the person for whom he is substituted.

Declaration
by infant,
lunatic, &c.

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

Transmission
of certified
printed copies
of specifica-
tions, &c.

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

- (a.) For regulating the practice of registration under this Act :
- (b.) For classifying goods for the purposes of designs and trade marks :
- (c.) For making or requiring duplicates of specifications, amendments, drawings, and other documents :
- (d.) For securing and regulating the publishing and selling of copies, at such prices and in such manner as the Board of Trade think fit, of specifications, drawings, amendments and other documents :
- (e.) For securing and regulating the making, printing, publishing and selling of indexes to, and abridgments of, specifications and other documents in the patent office ; and providing for

Power for
Board of
Trade to make
general rules
for classifying
goods and
regulating
business of
patent office.

the inspection of indexes and abridgments and other documents :

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

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

(2.) Any of the forms in the First Schedule to this Act may be altered or amended by rules made by the Board as aforesaid.

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

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

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

Annual reports of comptroller.

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

International and Colonial Arrangements.

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

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

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

Provided that nothing in this section contained shall entitle the patentee or proprietor of the design or trade mark to recover damages for infringements happening prior to the date of the actual acceptance of his complete specification, or the actual registration of his design or trade mark in this country, as the case may be.

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

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

(4.) The provisions of this section shall apply only in the case of those foreign states with respect to which Her Majesty shall from time to time by Order in Council declare them to be applicable, and so long only in the case of each state as the Order in Council shall continue in force with respect to that state.

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

Provision for colonies and India.

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

Offences.

105. (1.) Any person who represents that any article sold by him is a patented article, when no patent has been granted for the same, or describes any design or trade mark applied to any article sold by him as

Penalty on falsely representing articles to be patented.

registered which is not so, shall be liable for every offence on summary conviction to a fine not exceeding five pounds.

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

Penalty on unauthorised assumption of Royal arms.

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

Scotland; Ireland; &c.

107. [Relates only to patents.]

Summary proceedings in Scotland.

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

109. (1.) [Relates only to patents.]

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

110. [Relates only to patents.]

General saving for jurisdiction of Courts.

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

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

Isle of Man.

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

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

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

- (2.) The punishment for a misdemeanor under this Act in the Isle of Man shall be imprisonment for any term not exceeding two years, with or without hard labour, and with or without a fine not exceeding one hundred pounds, at the discretion of the Court ;
- (3.) Any offence under this Act committed in the Isle of Man which would in England be punishable on summary conviction may be prosecuted, and any fine in respect thereof recovered at the instance of any person aggrieved, in the manner in which offences punishable on summary conviction may for the time being be prosecuted.

Repeal ; Transitional Provisions ; Savings.

113. The enactments described in the Third Schedule to this Act are hereby repealed. But this repeal of enactments shall not—

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

- (a.) Affect the past operation of any of those enactments, or any patent or copyright or right to use a trade mark granted or acquired, or application pending, or appointment made, or compensation granted, or order or direction made or given, or right, privilege, obligation, or liability acquired, accrued, or incurred, or anything duly done or suffered under or by any of those enactments before or at the commencement of this Act ; or
- (b.) Interfere with the institution or prosecution of any action or proceeding, civil or criminal, in respect thereof, and any such proceeding may be carried on as if this Act had not been passed ; or
- (c.) Take away or abridge any protection or benefit in relation to any such action or proceeding.

114. (1.) [Relates only to patents.]

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

Former registers to be deemed continued.

115. All general rules made by the Lord Chancellor or by any other authority under any enactment repealed by this Act, and in force at the commencement of this Act, may at any time after the passing of this Act be repealed altered or amended by the Board of Trade, as if they had been made by the Board under this Act, but so that no such repeal alteration or amendment shall take effect before the commencement of this Act ; and, subject as aforesaid, such general rules shall, so far as

Saving for existing rules.

they are consistent with and are not superseded by this Act, continue in force as if they had been made by the Board of Trade under this Act.

Saving for prerogative.

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

General Definitions.

General definitions.

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

“Person” includes a body corporate :

“The Court” means (subject to the provisions for Scotland, Ireland, and the Isle of Man) Her Majesty’s High Court of Justice in England :

“Law Officer” means Her Majesty’s Attorney-General or Solicitor-General for England :

“The Treasury” means the Commissioners of Her Majesty’s Treasury :

“Comptroller” means the Comptroller General of Patents, Designs, and Trade Marks :

“Prescribed” means prescribed by any of the Schedules to this Act, or by general rules under or within the meaning of this Act :

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

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

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

SCHEDULES.

THE FIRST SCHEDULE.

[Relates only to patents.]

THE THIRD SCHEDULE.

Enactments relating to Designs repealed.

21 & 22 Vict. c. 70. [1858.]	An Act to amend the Act of the fifth and sixth years of Her present Majesty, to consolidate and amend the laws relating to the copyright of designs for ornamenting articles of manufacture.
24 & 25 Vict. c. 73. [1861.]	An Act to amend the law relating to the copyright of designs.
33 & 34 Vict. c. 97. [1870.]	The Stamp Act, 1870. In part ; namely, Section sixty-five, and in the Schedule the words and figures : “Certificate of the registration of a design, £5. And see section 65.”
38 & 39 Vict. c. 93. [1875.]	The Copyright of Designs Act, 1875.

THE PATENTS, DESIGNS, AND TRADE MARKS
(AMENDMENT) ACT, 1885.

48 & 49 VICT. c. 63.

An Act to amend the Patents, Designs, and Trade Marks Act, 1883.

[14th August, 1885.]

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

1. This Act shall be construed as one with the Patents, Designs, and Trade Marks Act, 1883 (in this Act referred to as the principal Act). Construction and short title.

This Act may be cited as the Patents, Designs, and Trade Marks (Amendment) Act, 1885, and this Act and the principal Act may be cited together as the Patents, Designs, and Trade Marks Acts, 1883 and 1885.

6. In sub-section one of section one hundred and three of the principal Act, the words “date of the application” shall be substituted for the words “date of the protection obtained.” Amendment of s. 103 of 46 & 47 Vict. c. 57.

PATENTS ACT, 1886.

49 & 50 VICT. c. 37.

An Act to remove certain doubts respecting the construction of the Patents, Designs, and Trade Marks Act, 1883, so far as respects the drawings by which specifications are required to be accompanied, and as respects exhibitions. [25th June, 1886.]

46 & 47 Vict.
c. 57.

WHEREAS by section five of the Patents, Designs, and Trade Marks Act, 1883, specifications, whether provisional or complete, must be accompanied by drawings if required, and doubts have arisen as to whether it is sufficient that a complete specification refers to the drawings by which the provisional specification was accompanied, and it is expedient to remove such doubts :

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 :

Short title
and con-
struction.

46 & 47 Vict.
c. 57.

48 & 49 Vict.
c. 63.

The same
drawings may
accompany
both speci-
fications.

1. This Act may be cited as the Patents Acts, 1886, and shall be construed as one with the Patents, Designs, and Trade Marks Acts, 1883 and 1885, and, together with those Acts, may be cited as the Patents, Designs, and Trade Marks Acts, 1883 to 1886.

2. The requirement of sub-section four of section five of the Patents, Designs, and Trade Marks Act, 1883, as to drawing shall not be deemed to be insufficiently complied with by reason only that instead of being accompanied by drawings the complete specification refers to the drawings which accompanied the provisional specification. And no patent heretofore sealed shall be invalid by reason only that the complete specification was not accompanied by drawings but referred to those which accompanied the provisional specification.

Protection
of patents
and designs
exhibited at
international
exhibitions.

3. Whereas by section thirty-nine of the Patents, Designs, and Trade Marks Act, 1883, as respects patents, and by section fifty-seven of the same Act as respects designs, provision is made that the exhibition of an invention or design at an industrial or international exhibition, certified as such by the Board of Trade, shall not prejudice the rights of the inventor or proprietor thereof, subject to the conditions therein mentioned, one of which is that the exhibitor must, before exhibiting the invention, design or article, or publishing a description of the design, give the controller the prescribed notice of his intention to do so :

And whereas it is expedient to provide for the extension of the said sections to industrial and international exhibitions held out of the United Kingdom, be it therefore enacted as follows :

It shall be lawful for her Majesty, by Order in Council, from time to time to declare that sections thirty-nine and fifty-seven of the Patents, Designs, and Trade Marks Act, 1883, or either of those sections, shall apply to any exhibition mentioned in the Order in like manner as if it were an industrial or international exhibition certified by the Board of Trade, and to provide that the exhibitor shall be relieved from the conditions, specified in the said sections, of giving notice to the controller of his intention to exhibit, and shall be so relieved either absolutely or upon such terms and conditions as to her Majesty in Council may seem fit.

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.]

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

46 & 47 Vict.
c. 57.

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 :

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.

Register of
patent agents.

(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 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 shall be entitled to be registered as a patent agent in 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.

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

"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.

"(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.

"(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."

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.

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."

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,

Amendments
of 46 & 47
Vict. c. 57.

Sect. 7, as to
applications.

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

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

Sect. 18, as to
amended
specifications.

“ and so long as any action for infringement or proceeding for revocation of a patent is pending.”

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

Sect. 52, as to inspection of designs.

“ 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.”

7. (1.) In section fifty-eight of the principal Act the words “ or cause to be applied ” shall be added after the word “ apply.”

Sect. 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.”

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.”

Sect. 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.”

Sect. 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—

Sect. 64, as to fancy words.

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

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

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

“ (c.) A distinctive device, mark, brand, heading, label, 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.”

Sect. 67, as to colours of trade marks.

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. 68, as to advertisement of applications.

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.”

Sect. 69, as to opposition to registration.

13. (1.) In subsection 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.”

(2.) In the same subsection the word “first” shall be omitted.

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

(4.) For subsections three and four of the same section the following subsections 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 juris-

“ diction 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.

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

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

Sect. 72, as to
restrictions on
registration.

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

Sect. 73, as to
restriction on
registration.

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

Sect. 74, as to
additions to
trade marks.

“ (2.) The applicant for registration of any such addition must, how-
“ ever, 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.”

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

Sect. 75, as to
effect of
registration.

“ 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 appli-
“ cation 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.”

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

Certificate as
to exclusive
use and costs
thereon.

“ 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.”

19. (1.) In subsection 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.

Sect. 79, as to

removal of
trade mark
from the
register.

Sect. 81, as to
Sheffield
marks.

38 & 39 Vict.
c. 91.

(2.) To the same subsection 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.”

20. (1.) For subsection two of section eighty-one of the principal Act the following subsection shall be substituted :

“ (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 esta- “ blished 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 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 subsections 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 subsection seven of the same section the following subsection 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’ Com- “ pany, 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 subsections 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.”

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.” Sect. 87, as to
entry of
assignments,
&c.

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.” Sect. 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.” Sect. 90, as to
rectification
of register.

24. To section ninety-one of the principal Act the following sub-
 section shall be added ; namely, Sect. 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 of the Board,
 “ shall be conclusive evidence of the fact so certified.”

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

“ 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.”

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.

Commencement 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.

APPENDIX B.—FORMS.

I. Those prescribed by the Designs Rules, 1890—1893.

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

Form E.

APPLICATION FOR REGISTRATION OF 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.

Designs.

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

Form E1.

(The form was first provided by the Designs Rules, 1893.)

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,

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.

† 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 ."

Designs.

Seal of
Patent
Office.

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

Form F.

APPEAL TO BOARD OF TRADE ON REFUSAL OF COMPTROLLER
TO REGISTER A DESIGN.

[To be accompanied by an unstamped copy.]

SIR,

I hereby appeal against your decision upon my application to register
— and beg to submit my case* for the decision of the Board of
Trade.

I am, Sir,

Your obedient servant,

To the Comptroller,

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

* The statement of the case to be written upon foolscap paper (on one side only),
with a margin of two inches on the left-hand side thereof.

Designs.

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

Form G.

CERTIFICATE OF REGISTRATION OF DESIGN.

(R^d No. —.)

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

This is to certify that the design of which this is a copy was registered
this — day of — 18—, in pursuance of the Patents, Designs, and
Trade Marks Acts, 1883 to 1888, in respect of the application of such
design to articles in Class —, for which a copyright of five years is
granted.

Designs.

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

Form H.

APPLICATION FOR COPY OF CERTIFICATE OF REGISTRATION
OF DESIGN.

SIR,

I hereby request you to furnish me with a Copy Certificate of Regis-
tration of Design No. — in Class —

(Signed) —

Dated the — day of — 189—.

To the Comptroller,

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

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

Form I.

REQUEST FOR CERTIFICATE FOR USE IN LEGAL PROCEEDINGS.

Seal.

SIR,

I hereby request you to send me for the purpose of use in the suit of * — a certificate that the design of which a copy is herein enclosed was † —

(Signed) —

— day of — 189—.

To the Comptroller,

*Patent Office, Designs Branch, 25, Southampton Buildings,
Chancery Lane, London, W.C.*

* Here state the title of the legal proceeding or the other purpose for which the Certificate is required.

† Here state the entry, matter, or thing which the writer wishes certified.

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

Form J.

CERTIFICATE FOR USE IN LEGAL PROCEEDINGS.

Designs.

In the matter of—

No. —

I, —, Comptroller-General of Patents, Designs, and Trade Marks, hereby certify that—

Witness my hand and seal this — day of — 189—.

— Comptroller.

*Patent Office, Designs Branch, 25, Southampton
Buildings, London, W.C.*

Designs.

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

Form K.

REQUEST TO ENTER NAME OF SUBSEQUENT PROPRIETOR OF DESIGN,
WITH DECLARATION IN SUPPORT THEREOF.

I, * ———, hereby request that you will enter † ——— name ‡ ——— in the Register of Designs as Proprietor ——— of the Design No. ——— in Class ———.

§ ——— entitled as to the said Design ———

|| ———

¶ And I do solemnly and sincerely declare that the above several statements are true, and the particulars above set out comprise every material fact and document affecting the proprietorship of the said Design as above claimed.

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

———— **

Declared at ——— this ——— day of ——— 189—.

Before me,

———— † †

To the Comptroller,

*Patent Office, Designs Branch, 25, Southampton Buildings,
Chancery Lane, London, W.C.*

* Cr We. Here insert name, full address, and description.

† My or Our.

‡ Or Names.

§ I am, or We are.

|| Here state whether design transmitted by death, marriage, bankruptcy, or other operation of law, and if entitled by assignment state the particulars thereof as, *e.g.*, "by deed dated the day of 188 , made between So-and-so of the one part."

¶ 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.

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

Form K1.

(This form was first provided by the Designs Rules, 1893.)

Designs.

REQUEST TO ENTER NAME OF SUBSEQUENT PROPRIETOR OF A
LACE DESIGN OR SET OF LACE DESIGNS.

The Comptroller is requested to enter the name of — *
in respect of the proprietorship of the Registered Lace Design or set of
Lace Designs No. — in Class 9 in place of the name of —, at
present appearing in the Register.

(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.

† To be signed by the Registered Proprietor and by the Assignee.

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

Form L.

NOTICE OF INTENDED EXHIBITION OF AN UNREGISTERED DESIGN.

Designs.

* — hereby give notice of my intention to exhibit a — of —
at the — Exhibition, which † — of — 189—, under the pro-
visions of the Patents, Designs, and Trade Marks Acts of 1883 to 1888.

‡ — herewith enclose a —

(Signed) —

Dated the — day of — 189—.

To the Comptroller,

*Patent Office, Designs Branch, 25, Southampton Buildings,
Chancery Lane, London, W.C.*

* Here state name and address of applicant.

† State "opened" or "is to open."

‡ Insert brief description of Design, with drawing.

Designs.

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

Form M.

REQUEST FOR CORRECTION OF CLERICAL ERROR OR FOR ENTRY OF
NEW ADDRESS.

SIR,

I hereby request that—

(Signed) _____

Dated the _____ day of _____ 189—.

To the Comptroller,

*Patent Office, Designs Branch, 25, Southampton Buildings,
Chancery Lane, London, W.C.*

Designs.

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

Form N.

REQUEST FOR SEARCH UNDER SECTION 53.

SIR,

I hereby request that a search may be made in Class _____

(Signed) _____

Dated the _____ day of _____ 189—.

To the Comptroller,

*Patent Office, Designs Branch, 25, Southampton Buildings,
Chancery Lane, London, W.C.*

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

Form O.

APPLICATION FOR REGISTRATION OF DESIGN TO BE APPLIED TO
A SET (a).

Designs.

You are hereby requested to register the accompanying Design for
* —, being a set of articles 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 set out the trade description of the articles in the set, as "A toilet set."

† 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.

(a) This Form was inserted in 1890.

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

Form O1.

(This form was first provided by the Designs Rules, 1893.)

APPLICATION FOR REGISTRATION OF A LACE DESIGN TO BE
APPLIED TO A SET.

Designs.

You are hereby required to register, without search, the accompany-
ing Design for a Set of Lace Articles 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,

*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.

† 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 autho-
risation dated the day of 189 ."

II. Action for Infringement.

1.—Indorsement on the Writ.

For damages :—

The plaintiff's claim is for damages for the infringement of the plaintiff's registered design.

For penalties :—

The plaintiff claims penalties against the defendant for infringement by the defendant of the plaintiff's registered design.

For injunction :—

An injunction to restrain the defendant, his servants and agents, from infringing the plaintiff's registered design.

For delivery up of infringing designs :—

Delivery up to the plaintiff of all articles in the possession of the defendant made in infringement of the plaintiff's said design.

2.—Statement of Claim.

1. The plaintiff is the owner and registered proprietor of a certain design of the pattern of a — to be used for —. The said design was registered on the — day of — 18— in Class No. —. The number of the said design is No. —.

2. The defendant has since the date of the said registration, viz., on the — 18—, wrongfully applied [or caused to be applied], for the purposes of sale, such design, or a fraudulent or obvious imitation thereof, to goods of the class in which the said design was registered.

3. The defendant has, since the date of registration, viz., on the — 18—, wrongfully exposed for sale and has sold articles of manufacture to which the said design, or a fraudulent or obvious imitation thereof, has been applied, the defendant at the time knowing that the said design had been so applied without the consent of the plaintiff.

4. The defendant has in his possession or power articles of manufacture within the said classes to which the said design, or a fraudulent or obvious imitation thereof, has been applied.

The plaintiff claims :—

(1) £—— damages [or penalties].

(2) an injunction.

(3) delivery up of the articles referred to in paragraph 4.

Place of trial.

(Signed) —

3.—Defence.

1. The plaintiff is not and never has been proprietor of the said design, and was not entitled to register the said design in the class in which he had purported to register the same. Not proprietor.
2. The design registered was not proper subject-matter for registration. Not subject-matter.
3. The design was not duly registered according to the Patent, &c., Acts. Not duly registered.
4. The design was not at the date of registration new and original. Not new and original.
5. The design had been published prior to the date of registration. Prior publication.
6. The plaintiff, if he ever had any copyright in the said design (which is not admitted), has lost the same by reason of the sale of articles to which the said design had been applied without having the said articles marked as prescribed by the Patents, &c., Act, 1883, sect. 51. Goods not properly marked.
7. The defendant has not infringed the plaintiff's copyright in the said design. He did not offer the article for sale as alleged in the statement of claim, nor at all. Denial of infringement and of sale.
8. If the defendant has published or exposed for sale any article to which the plaintiff's registered design has been applied, he did so innocently and without knowledge that the consent of the plaintiff had not been obtained to the said application. Infringement unintentional.

(Signed) —

4.—Reply.

The plaintiff joins issue with the defendant on his defence.

(Signed) —

5.—Particulars.*(a).—Particulars of Infringement.*

The defendant at various times and particularly on or about the 2nd March, 1894, applied the design by the manufacture and sale of lace made according to the said design, and in particular, and by way of illustration, the plaintiff says that on the 1st June, 1894, the defendant sold a lot of the lace to one John Smith of London.

(b).—Particulars of prior Publication.

The defendant had in his possession a sample of a similar design to the floral arch claimed by the plaintiff anterior to the date of registration, such sample being in the defendant's show-room and shown to

his customers in the ordinary way of business. This sample was obtained from a wire-worker named H. W. in April, 1891, who, anterior to 10th July, 1891, disposed of other floral arches such as those of the plaintiff's design to other customers, and in the way of his business. The defendant relies on these facts, and on others not at present known to them which they may elicit in cross-examination, as showing that the plaintiff's design had been published prior to the day on which the said design was registered.

(c).—*Particulars of non-compliance with sect. 51 of the Act of 1883.*

The plaintiff sold certain articles to Messrs. H. & Co., of Birmingham. The said articles were not marked as prescribed by the Act, and certain of the said articles, viz. —, were not marked at all.

6.—Notice of Motion for an Injunction.

Take notice that this Honourable Court will be moved before his lordship Mr. Justice —, on the — day of — 18—, or so soon thereafter as counsel can be heard, by Mr. — of counsel on behalf of the above-named plaintiff, that the defendant, his servants, and agents, may be restrained until the trial of this action, or until further order during the continuance of the plaintiff's copyright in the design registered the — day of —, 18—, and numbered —, from applying the said design to any article, and from making or selling any article to which the design has been applied, and in particular [. . .] and that such further order may be made as to this Honourable Court shall seem meet.

7.—Order on Application for an Injunction.

Upon motion by counsel for the plaintiff, and upon hearing counsel for the defendant. Let the defendant, his servants and agents, be restrained until after the expiration of the plaintiff's copyright in the registered design, No. —, from selling the said design and from applying the same or any colourable imitation thereof to any article of manufacture for the purposes of sale, and from selling or exposing or offering for sale any substance or article of manufacture to which the said design has been applied.

8.—Another Form.

Order that the injunction awarded on the — day of — 18—, against the defendants, restraining them and each of them, their workmen, servants and agents, from selling or disposing of any of the articles of

manufacture to which the plaintiffs' design in the statement of claim mentioned, or a fraudulent imitation thereof, had been applied, and from applying the plaintiffs' said design, or any fraudulent imitation thereof, to any woven fabrics or articles of manufacture, be continued until after the — day of — 18—, then next. And it is ordered, that the defendants shall forthwith deliver up to the plaintiffs, for the purpose of being destroyed, the drawing, point paper, and the several cards used in applying the said design; and also the articles manufactured by the defendants to which the said plaintiffs' design has been applied; the same to be verified by affidavit; and that it should be referred to the Taxing Master to tax the reasonable and proper costs of the plaintiffs as between party and party, and to certify the amount thereof, and that such costs when taxed be paid by the defendants; and on payment thereof, that all further proceedings in this suit be stayed unless the defendants commit any breach of injunction already awarded; and any of the parties are to be at liberty to apply to the Court, as there should be occasion (*McRae v. Holdsworth*, [1848] 2 De G. & Sm. 496).

9.—Notice of Motion to Rectify the Register (a).

In the High Court of Justice,
Chancery Division.

Mr. Justice —

In the Matter of copyright in a design granted to A. B. registered the — day of — 18— No. —

and

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

Take notice that the Court will be moved before his lordship Mr. Justice — on — the — day of — 18— or so soon thereafter as counsel can be heard by Mr. — of counsel on behalf of C. D., of — that the Register of Designs kept pursuant to the above-mentioned Acts, may be rectified by expunging the entry relating to the above-mentioned design made in the Register of Designs on the — day of — 18— by or on behalf of the said A. B., or that such further and other order may be made for the rectification of the said register as to this Court shall seem just, and that the said A. B. do pay to

(a) For amendment of the notice, see *Re King's T. M.*, [1892] 2 Ch. 462, 62 L. J. Ch. 153; 19 R. P. C. 350.

the applicant his costs of this application to be taxed by the taxing master.

Dated the —— day of —— 18—

(Signed) —— of ——
Solicitor for the above-named C. D.

To Mr. A. B., and to Messrs. —— his solicitors [and the Comptroller-General of Patents, Designs, and Trade Marks].

10.—Order Expunging Entry in the Register.

Upon motion, &c., this Court doth order that the entry relating to the above-mentioned registered design made in the Register of Designs of the Patent Office on the —— day of —— by or on behalf of the said A. B. be expunged from such register, and it is ordered that A. B. do pay to the applicant his costs of this application, such costs to be taxed by the taxing master, and it is ordered that an office copy of this order be served upon the Comptroller-General of Patents.

Notice to
comptroller.

III. Assignment of a Design.

THIS INDENTURE, made the —— day of ——, 18—, between A. B. of ——, of the first part, and C. D. of ——, of the other part.

Recital of
registration.

WHEREAS the said A. B. registered a design in Great Britain and Isle of Man, on the —— day of ——, 18—, and numbered ——, for —— [Title].

Consideration.

NOW THIS INDENTURE WITNESSETH, that in consideration of the sum of £—— paid to the said A. B. (the receipt whereof he doth hereby acknowledge), the said A. B., as beneficial owner, doth hereby assign unto the said C. D., his executors, administrators, and assigns, all his interest in the said registered design, and advantages belonging thereto, to hold the same unto the said C. D., his executors, administrators, and assigns absolutely : And the said A. B. doth hereby covenant with the said C. D., his executors, administrators, and assigns, that he, the said A. B., hath not at any time done or knowingly been party or privy to any act, deed, or thing whereby his copyright in the design has been in any way forfeited, or whereby he is prevented from assigning the said letters patent in manner aforesaid, or whereby the same is or may be in anywise encumbered. IN WITNESS whereof the said parties to those

Assignment.

Covenant as
to validity.

presents have hereunto set their hands and seals the day and year first above written.

IV. Licence.

AN INDENTURE made the —, day of —, 1895, between A. B. of, &c., hereinafter called the licensor, of the one part, and C. D. of, &c., hereinafter called the licensee, of the other part. WHEREAS the said licensor is the registered proprietor of a design for —, registered No. —, the — day of —, 1893. AND WHEREAS the licensor has agreed to grant the licensee a licence to use the said design [so far as relates to its application to the manufacture of — for the purposes of sale in the district of —]. NOW THIS INDENTURE WITNESSETH that in pursuance of the said agreement, and in consideration of the royalties hereby agreed to be paid to the licensor by the licensee, and of the covenants on the part of the licensee hereinafter contained, the licensor doth hereby grant unto the licensee full leave to apply the said design to — manufactured for the purpose of sale within the district of —, being a radius of — miles from the shirehall of the town of —, and further the licensor doth hereby grant unto the licensee full leave to sell within the said limits articles to which the said design has been applied during the term of — years [or, during the residue of the unexpired term for which the copyright in the said design has been granted to the licensor] YIELDING AND PAYING unto the licensor on the 1st day of every October and on the 1st day of every April for every — manufactured by the licensee to which the registered design shall have been applied the sum of £—. And the licensee doth hereby covenant with the licensor and his assigns that he the licensee will during the term hereby granted pay to the licensor, his executors, administrators, or assigns, on the 1st day of October and April respectively, the royalties on all articles manufactured and to which the design shall have been applied by the licensee during the preceding six months, AND ALSO that he will during the said term keep all proper books of account, and make such true entries therein of all particulars necessary or convenient for the purposes, showing the amount which may be or become due by way of royalty to the licensor hereunder, and will produce the said books at all reasonable times to the licensor, his executors, administrators, or assigns, or to his agent or agents duly appointed for this purpose in writing, for the purpose that the said licensor, his executors, administrators, assigns, or agents may inspect and take copies and extracts from the said books, and will at his own expense obtain and give all reasonable information as to any item in the said books of account as may reasonably be required. AND ALSO

that he will at the end of each half year on the dates aforesaid deliver or send to the licensor, his executors, administrators, or assigns, a statement in writing of the particulars of the manufacture and sale of articles within the last half year to which the said design has been applied. AND THE LICENSEE FURTHER COVENANTS that he will neither do nor omit to do anything whereby the copyright in the said design may be lost, and for any breach of this covenant the licensee shall pay to the licensor, his executors, administrators, and assigns, the sum of £—— to be paid as liquidated damages.

In witness, &c.

[Amongst other clauses which may be inserted in a licence agreement are the following : (a) licensor to defend the design at the cost of the licensee ; (b) power for either party to determine the licence on giving notice ; (c) licensee not to assign or charge the licence without the licensor's consent ; (d) licensor not to grant licence to any person other than the licensee.]

Forms of licence for designs may be adapted from the forms of licence for patents, which are given in great variety in Morris's Patents Conveyancing.

Exhibitions.

Certificate of Board of Trade that Exhibition is Industrial or International.

PATENTS, DESIGNS, AND TRADE MARKS ACT, 1883.

Upon the application of —— of ——, made to the Board of Trade, on or about the —— day of ——, 18——, the Board of Trade do hereby certify that the —— proposed to be held in the year 18— at ——, in the county of ——, is an Industrial [International] Exhibition.

Signed by order of the Board of Trade this —— day of ——, 18—.

—
Assistant Secretary,
Board of Trade.

Order in Council granting temporary Protection to Inventions exhibited at the Paris Universal Exhibition, 1889 (a).

At the Court of Windsor.

The 17th day of November, 1888.

Present: The Queen's Most Excellent Majesty in Council.

Whereas the Patents, Designs, and Trade Marks Act, 1883, amongst other things, provides, by section 57, that the exhibition of an invention at an industrial or international exhibition, certified as such by the Board of Trade, or the publication of any description of the invention during the period of the holding of the exhibition, or the use of the invention for the purpose of the exhibition in the place where the exhibition is held, or the use of the invention during the period of the holding of the exhibition by any person elsewhere, without the privity or consent of the inventor, shall not prejudice the right of the inventor or his legal personal representative to apply for and obtain provisional protection and a patent in respect of the invention, or the validity of any patent granted on the application, provided that both the following conditions are complied with, namely:—

- (a) The exhibitor must, before exhibiting the invention, give the comptroller the prescribed notice of his intention to do so: and
- (b) The application for a patent must be made before or within six months from the date of the opening of the exhibition.

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

- (a) The exhibitor must, before exhibiting the design or article, or publishing a description of the design, give the comptroller the prescribed notice of his intention to do so; and
- (b) The application for registration must be made before or within six months from the date of the opening of the exhibition.

And whereas her Majesty, by virtue of the authority committed to her by the provisions of the Patents Act, 1886, is empowered by Order

(a) Given as an example.

in Council from time to time to declare that the provisions of the said Act of 1883 above recited shall apply to any exhibition mentioned in the order in like manner as if it were an industrial or international exhibition certified by the Board of Trade, and to provide that the exhibitor shall be relieved from the conditions specified in the said hereinbefore recited sections of the said Act of 1883 :

Now therefore her Majesty, by and with the advice of her Privy Council, and by virtue of the authority committed to her by the said Act of 1886, doth declare and it is hereby declared that the provisions of the foregoing sections of the said Act of 1883 shall apply to the Paris Universal Exhibition to be held at Paris in the year 1889 ; and further, that the exhibitor of an invention, a design, or any article to which a design is applied, shall be relieved from the conditions specified in the said hereinbefore-recited sections of the said Act of 1883 of giving notice as therein required of his intention to exhibit such invention, design, or article to which a design is applied.

C. L. PEEL.

APPENDIX C.

Instructions to Persons who wish to Register Designs.

FRELIMINARY.

1. The Patents, Designs, and Trade Marks Acts, 1883 to 1888, and the Rules thereunder in relation to the Registration of Designs, should be carefully studied.

Copies of the Acts and Designs Rules can be purchased at the Patent Office, Sale Branch, 38, Cursitor Street, London, E.C. Money sent by post should be remitted by Postal or Post Office Order.

Price of the Act of 1883, 1s. 7½d. ; by post, 1s. 9d. Act of 1888, 1½d. ; by post, 2d. Price of the Designs Rules, 1890, 6d. ; by post, 6½d. Price of Lace Designs Rules, 1893, 1d., by post, 1½d.

2. In order to obtain registration application must be made to the Comptroller in pursuance of Rules Nos. 6-12 of the Designs Rules, 1890.

Applications sent by post should be addressed—

THE COMPTROLLER,
Patent Office,
Designs Branch,
25, Southampton Buildings,
Chancery Lane,
London, W.C.

3. A Design to be capable of registration must be *new or original*, and not previously published in the United Kingdom. See Section 47 (I.) of the Act, 1883.

4. For the definition of a Design, see Section 60 of the Act, 1883.

APPLICATIONS.

5. Stamped Forms of Application to register can be obtained at the following places :—

(a.) The Inland Revenue Office, Royal Courts of Justice, London. (Room No. 6.)

(b.) The following Post Offices in London :—

The General Post Office, E.C.

District Post Office, Lombard Street, E.C.

” ” 195, Whitechapel Road, E.

” ” 239, Borough, S.E.

” ” Charing Cross, W.C.

” ” 28, Eversholt Street, Camden Town, N.W.

Post Office, 12, Parliament Street, S.W.

(c.) The chief Post Office of :—

ENGLAND AND WALES.	Dewsbury.	Northampton.	Walsall.
	Doncaster.	Nottingham.	Warrington.
	Dorchester.	Nuneaton.	Wednesbury.
Accrington.	Driffield.	Oldbury.	West Bromwich.
Altrincham.	Droitwich.	Oldham.	Whitby.
Ashton - under - Lyno.	Dudley.	Pattingham.	Widnes.
Barusley.	Durham.	Plymouth.	Wigan.
Barrow-in-Furness.	Exeter.	Pontefract.	Wolverhampton.
Bath.	Gateshead.	Portsmouth.	Wolverton.
Bedford.	Goole.	Preseot.	Woolwich.
Beverley.	Greenwich.	Preston.	York.
Birkenhead.	Guildford.	Reading.	
Birmingham.	Halifax.	Redditch.	SCOTLAND.
Blackburn.	Hartlepool.	Richmond (Yorks.).	Aberdeen.
Bolton.	Huddersfield.	Ripon.	Dunbarton.
Bradford.	Hull.	Rochdale.	Dundee.
Brighton.	Ipswich.	Rotherham.	Edinburgh.
Bristol.	Keighley.	Rugby.	Glasgow.
Bromsgrove.	Kendal.	Salford.	Greenock.
Burnley.	Kidderminster.	St. Helen's.	Inverness.
Burslem.	Knaresbro'.	Scarborough.	Lanark.
Burton-on-Trent.	Knutsford.	Sedgley.	Leith.
Bury.	Lancaster.	Sheffield.	Paisley.
Cambridge.	Leamington.	Southampton.	Perth.
Cardiff.	Leeds.	Stafford.	Renfrew.
Carlisle.	Leicester.	Stalybridge.	
Chatham.	Lichfield.	Stockport.	IRELAND.
Chester.	Lincoln.	Stoke-on-Trent.	Belfast.
Clitheroe.	Liverpool.	Stourbridge.	Cork.
Congleton.	Macclesfield.	Stourport.	Dublin.
Coventry.	Manchester.	Sunderland.	Dundalk.
Crewe.	Middlesbrough.	Swansea.	Galway.
Croydon.	Nantwich.	Tamworth.	Limerick.
Darlaston.	Newcastle.	Truro.	Londonderry.
Derby.	Newport (Mon.).	Tunstall.	Waterford.
	Northallerton.	Wakefield.	Wexford.

NOTE.—Forms are not supplied by the Patent Office, but can be purchased on personal application at the Inland Revenue Office, Royal Courts of Justice (Room No. 6), or at a few days' notice at any Money Order Office in the United Kingdom upon pre-payment of the value of the stamp.

If it should not be convenient to apply in person in either of the ways specified, the stamped forms can be ordered by applicants at home or abroad by post from the Controller of Stamps, Room 7, Inland Revenue Office, Somerset House, London, W.C. In that case a Banker's draft or a Money or Postal Order, payable to the Commissioners of Inland Revenue and crossed Bank of England, for the value of the stamp, and for the cost of postage and registration, to be forwarded with the application.

6. An application consists of the following :—

(1.) The Form of application, Form E. or Form O., properly filled up * and

* Applicants should be specially careful to give correctly their full name and address, with their trade, business, or occupation; also to fill in, after the words

signed by the applicant or his authorised Agent, and three exactly similar drawings, photographs, or specimens of the design. In the case of a lace design, the proper forms are Form E¹. (single design), and Form O¹. (set).

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

THE DRAWINGS OR PHOTOGRAPHS.

7. The drawings, &c., accompanying an application must be sent in triplicate, each representation of each design or set to be upon ordinary foolscap paper, and not on cardboard, (on one side only,) of the size of 13 in. by 8 in.

8. When sketches, drawings, or tracings are furnished, they should be in ink, or if in pencil they must be fixed. Drawings on tracing paper cannot be received, unless mounted on ordinary foolscap paper.

9. Rough sketches cannot be accepted.

10. When the design is to be applied to a set, each of the drawings accompanying the application, or the sketch, if a sketch is sent, should show all the various arrangements in which it is proposed to apply the design to the articles included in the set.

11. When specimens of the design are furnished in lieu of drawings or photographs, they must be of such a nature as can be pasted into books; the dimensions of each specimen must not exceed 12 in. by 21 in., and each must when necessary, be mounted upon ordinary foolscap paper of the size above mentioned. Each representation of a Design in Classes 13 and 14 should show the complete pattern and a portion of the repeat, and ought not to be of less size than 7 in. by 3 in.

12. Only two views of the same design can be accepted, unless in the case of a design for a set. Each view should be designated in writing (*i.e.*, front view, side view). Both views should be on one and the same half sheet of foolscap paper.

13. A request for search under rule 35 of Designs Rules, 1890, must be accompanied by two representations of the design to be searched for.

14. 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, 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, 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.

15. The attention of applicants is called to the fact that by section 58 of the Act, 1883, the protection afforded to a registered design is restricted to the particular class or classes of goods in which the design is registered.

"Statement of Nature of Design," the words "for the Pattern," "for the Shape or Configuration," or "for the Ornament," or for any two or more such purposes, as the case may be, adding, when necessary, a short technical description of the article with the part or parts claimed as new or original specially defined.

APPENDIX C.

By section 47 (sub-section 4) of the Act, 1883, the same design may be registered in more than one class. In such case a separate application, together with three representations, is necessary for each Class.

16. List of Classes, see *ante*, p. 186.

17. The following is a list of the stamped forms to be had at the places mentioned in paragraph 5 :—

DESIGNS.

Letter.	Title of Form.	Fee.
E	Application for Registration of Single Design in any one of the Classes 1 to 12	£ s. d. 0 10 0
E	Application for Registration of Single Design in any one of the Classes 13 or 14 (woven and printed textiles)	0 1 0
E ¹	Application for Registration of Single Lace Design, Class 9.	0 1 0
F	Appeal to Board of Trade on Refusal of Comptroller to Register a Design	1 0 0
H	Application for Copy of Certificate of Registration of Design	0 1 0
I	Request for Certificate for use in Legal Proceedings	0 5 0
K	Request to enter Name of subsequent Proprietor of Design, with Declaration in support thereof	0 10 0
K ¹	Request to enter name of subsequent Proprietor of a Lace Design or set of Lace Designs	0 5 0
L	Notice of intended Exhibition of an Unregistered Design	0 5 0
M	Request for Correction of Clerical Error or Address	0 5 0
N	Request for Search under Section 53 of Act, 1883, or Rule 35 of Designs Rules, 1890	0 5 0
O	Application to Register Design for a "Set" of Articles	1 0 0
O ¹	Application for Registration of Design intended to be applied to a "Set" of Lace Articles	0 2 0

N.B.—Forms E. and O. are kept on sale at the places named in paragraph 5. The other forms must be bespoke of the Postmasters at those places.

Forms E¹ and O¹ are specially kept on Sale at the Chief Office at Nottingham.

The Patent Office, Designs Branch, is open from 10 A.M. to 4 P.M.

H. READER LACK,
Comptroller.

Patent Office, Designs Branch,
London.

APPENDIX D.

*Orders in Council applying the Provisions of the Patents, &c., Act, 1883,
sect. 103, to Foreign States and British Colonies.*

Foreign State or Colony.	Date of Order in Council.	London Gazette.
Belgium	26 June, 1884.	1 July, 1884, p. 2993.
Brazil	26 June, 1884.	1 July, 1884, p. 2993.
Denmark (including the Faroe Islands)	20 Nov., 1894.	27 Nov., 1894.
Dominican Republic	21 Oct., 1890.	28 Oct., 1890, p. 5661.
Ecuador *	16 May, 1893.	19 May, 1893, p. 2899.
France	26 June, 1884.	1 July, 1884, p. 2993.
Greece *	15 Oct., 1894.	
Guatemala	2 Feb., 1895.	8 Feb., 1895.
Italy	26 June, 1884.	1 July, 1884, p. 2993.
Mexico	28 May, 1889.	31 May, 1889, p. 2954.
Netherlands	26 June, 1884.	1 July, 1884, p. 2993.
Netherlands (East Indian Colonies)	17 Nov., 1888.	23 Nov., 1888, p. 6412.
Netherlands (Curaçao & Surinam)	17 May, 1890.	20 May, 1890, p. 2891.
New Zealand	8 Feb., 1890.	11 Feb., 1890, p. 727.
Norway	See below.	See below.
Paraguay	24 Sept., 1886.	28 Sept., 1886, p. 4725.
Portugal	26 June, 1884.	1 July, 1884, p. 2993.
Queensland	17 Sept., 1885.	22 Sept., 1885, p. 4429.
Roumania *	5 Aug., 1892.	12 Aug., 1892, p. 4554.
Servia	26 June, 1884.	1 July, 1884, p. 2993.
Spain	26 June, 1884.	1 July, 1884, p. 2993.
Sweden and Norway	9 July, 1885.	10 July, 1885, p. 3173.
Switzerland	26 June, 1884.	1 July, 1884, p. 2993.
Tasmania	30 April, 1894.	4 May, 1894, p. 2578.
Tunis	26 June, 1884.	1 July, 1884, p. 2993.
United States	12 July, 1887.	15 July, 1887, p. 2837.
Uruguay	24 Sept., 1886.	28 Sept., 1886, p. 4725.

* In case of the above countries the provisions of sect. 103 apply in respect of Designs and Trade Marks only.

APPENDIX E.

*Select Bibliography of the Literature of Copyright in Designs arranged
Chronologically and according to Countries.*

UNITED KINGDOM.

1823. GOSNOLD (Richard). *Practical Treatise on the Law of Patents for Inventions and of Copyright.* London. 8vo. pp. ix., 452.
This work, which is one of the earliest authorities on the subject of Patent Law, contains in pages 302—4 a short account of the protection granted to proprietors of original patterns for printing fabrics. The work was re-edited by Peter Burke in 1851.
1840. THOMSON (James). *Letter to the Vice-President of the Board of Trade on Protection to Original Designs and Patterns.* Clitheroe. 8vo. pp. ii., 29.
Illustrated with 15 copper plates of original patterns.
1840. THOMSON (James). *Letter to the Right Hon. Sir Robert Peel, Bart., on Copyright in Original Designs and Patterns for Printing.* Clitheroe. pp. 54, and App. VI.
1841. TENNENT (J. Emerson), M.P. *Treatise on the Copyright of Designs for Printed Fabrics; with consideration of the necessity of its extension.* London. pp. xv., 283; 6 pattern plates
1842. BRACE (George). *Observations on the Extension of Protection of Copyright of Designs.* London. 12mo. pp. vii., 128.
1845. BILLING (Sidney), and Alexander PRINCE. *The Law and Practice of Patents and Registration of Designs.* London. pp. vi., 227.
Chapter XIV. deals with securing property by registration.
1846. CARPMAEL (William). *Registration of Designs.* Third Edition. London. 8vo. pp. 28.
1846. NORMAN (John Panton). *Law and Practice relating to Useful and Ornamental Designs.* London. 12mo. pp. xii., 185.
1847. SPENCE (William). *Copyright of Designs, as distinguished from Patentable Invention.* London. 8vo. pp. 32.
1848. WEBSTER (Thomas). *On the Subject-matter, Title, and Specification of Letters Patent for Inventions and Copyright of Designs for Articles of Manufacture.* London. 8vo. pp. iv., 100.
The original edition of this work in 1841, which was issued as a Supplement to Webster's "Law and Practice of Letters Patent," contained nothing relating to Designs. A third edition of the above work appeared in 1851.

1849. TURNER (T.). *On Copyright in Design in Art and Manufactures.*
London. 8vo. pp. viii., 114
1853. WEBSTER (Thomas). *On Property in Designs and Inventions in the Arts and Manufactures.* London. 8vo. p. 64.
The work is almost entirely devoted to the subject of patent right.
1854. *First Report of the Science and Art Department.* London. 8vo.
Appendix N to the above Report, pp. 463—642, contains a report of the proceedings of the Designs Office from 1st July, 1839, to 31st December, 1862, including a copy of the register of non-ornamental Designs from September 1, 1843, to December 31, 1853. This list is continued in the Second and Third Reports of the Department from the years 1854 and 1856, Appendix F.
1863. PHILLIPS (C. P.). *Law of Copyright in works of Literature and Art, and in the Application of Designs.* London. 8vo.
Chapter XI. deals with copyright in the application of Designs.
1870. COPINGER (W. A.). *Law of Coypright.*
London. 8vo. pp. xxii., 266, cxlix.
A second edition appeared in 1881, and a third edition in 1893.
1889. GRAHAM (J. C.). *Designs and Trade Marks.*
London. 8vo. pp. xv., 179.
- WINSLOW (P.). *Law of Artistic Copyright.*
London. 8vo. pp. xv., 215.
- LAWSON (W. N.). *Law and Practice of Patents, Designs, and Trade Marks.* London. Second edition.

AUSTRIA.

- Privilegiengesetz, Marken und Muster Gesetz, Hausirpatent, etc.*
Vienna, 1863. 8vo. pp. iv., 112.
A reprint of the Laws and Regulations dealing with Patents, Trade Marks and Designs.
A fifth edition of this handbook appeared in 1873.

BFLGIUM.

- Ministère de l'Agriculture, etc. Dessins et Modèles industriels. Loi du 18 Mars, 1806, et Arrêtés d'Execution.* Brussels, 1886. 8vo. p. 7.

CANADA.

- Circular of the Department of Agriculture containing the "Trade Mark and Design Act," and the "Act respecting the marking of Timber," with rules, etc.* Ottawa, 1890. 8vo. pp. 51.

FRANCE.

- POUILLET. *Traité theorique et pratique des Dessins de Fabrique.*
Paris, 1868. 12mo. pp. 185.
A useful work divided into: (a) Legislation Française; (b) Traités Internationaux; (c) Resumé des Legislations Étrangères; (d) Doctrine et Jurisprudence.
A later edition of this work appeared in 1884.

THIRION (Ch.). *Dessins et Modèles de Fabrique en France et à l'Étranger, Legislations comparées.* Paris, 1877. 8vo. pp. 144.

PARIS EXHIBITION, 1878. *Congrès International de la Propriété industrielle, No. 24 de la Série.* Paris, 1879. 8vo.

This work contains in pp. 65—83 a report by J. Bozériaux on the existing legislation on Designs and Models, with a proposed new law on the subject.

BARCLAY (T.). *Law of France relating to Industrial Property.* London. 8vo. pp. xvi., 244.

The author devotes a chapter to Designs and Models, and non-industrial Drawings, pp. 109—117.

GERMAN EMPIRE.

LANDGRAF (Josef). *Musterrecht und Musterschutz. Eine historisch-dogmatische Studie, nebst einem Gesetz-Entwurf für das Deutsche Reich.* Leipzig, 1875. 8vo. pp. xv., 188.

Contains a useful bibliography upon Foreign Design Law and Jurisprudence.

MORILLOT (André). *De la Protection accordée aux Œuvres d'Art, aux Photographes, aux Dessins et Modèles industriels et aux Brevets d'Invention dans l'Empire d'Allemagne.* Paris, 1878. 8vo. pp. vii., 164.

SOCIÉTÉ INDUSTRIELLE DE MULHOUSE. *Lois Allemandes sur les Brevets d'Invention (7 Avril, 1891), et sur les Modèles de Fabrication (1 Juin, 1891), mises en vigueur le 1 Oct., 1891.*

Mulhouse, 1891. 8vo. pp. 16.

INDIA.

FRENCH (H. H.). *Indian Patentee's Guide.* Calcutta, 1893. 12mo.
Chapter VIII. treats of Designs.

SWITZERLAND.

GANS (H.). *Étude sur la Protection légale des Inventions et des Dessins et Modèles industriels.* Geneva, 1886. 8vo. pp. 150.

This work was written after the rejection of the proposed legislation in July, 1882. The first Swiss Designs Act was not passed until 21 Dec., 1888.

UNITED STATES.

SIMONDS (W. E.). *Law of Design Patents.* New York, 1874. 8vo. pp. viii., 216.

LAW (S. D.). *Digest of American Cases relating to Patents for Inventions and Copyrights, 1789—1862.* New York, 1866. 8vo. pp. 697.

RICE (D. H.), and L. C. RICE, *Digest of the Decisions of Law and Practice in the Patent Office from 1869—1880.* Boston, 1880. 8vo. pp. 475.

BEACH (E. S.). *Digest of the Decisions of Law and Practice in the Patent Office from 1880—1890.* Boston 1890. 8vo. pp. 203.

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