

CHAPTER XVI.

THREATS.

To bring actions.

Patentee may threaten to bring actions.

Purchaser of infringement is liable.

Purchaser would probably prefer not to infringe.

Warning to purchasers may stop infringement.

Patentee not obliged to sue for an infringement.

A PATENTEE not only has the right of bringing actions and recovering damages against those who infringe his patent, but he may, by threats, endeavour to prevent others from infringing. It is open to him to say, "I have a patent for this invention, and I give warning that I may bring an action against any one whom I find infringing my patent".

Now, the purchaser of an infringing article, if he uses that article, is liable for infringement of the patent; and, in most cases, the advantage he would obtain by purchasing an infringing article instead of one made by, or under licence from, the patentee, would be very small compared with the loss he would inevitably suffer were he made the defendant in an action for infringement. It is, therefore, very probable that if an intending purchaser be aware that an article is the subject of a patent, he will take care not to run the risk of infringing, and will consequently purchase the licenced rather than the infringing article. It seems, then, that threats against the purchasers of infringing articles are very likely to be of use to the patentee, and, if he has any reason to suspect that his patent is being infringed, he should take every opportunity of warning the public of the possible consequences of infringement.

A patentee is not obliged to bring an action against every person he may find infringing his patent, even though he may have threatened in a general way to bring

actions. The expense of even a successful patent action is usually considerable, and a patentee could hardly be expected to take proceedings against any infringer unless he could feel certain of actually obtaining any damages and costs that might be awarded to him if successful. Even if he fully believes that his patent is valid, a patentee may well find that by means of threats he can keep the amount of infringement within such narrow limits that his loss of profits by them is not so great as to justify him in incurring the cost of an action.

Threats might avoid necessity for action.

In any case the patentee will probably consider prevention better than cure, and deem an advertisement containing a threat at least not inferior to one of a more peaceful nature; and, as there is always great risk in a patent action, if a patentee can prevent infringement by means of threats, it will, in almost all cases, be to his advantage to do so.

Prevention better than cure.

An action is always risky.

If the threats are intended only to prevent possible infringements of a valid patent, they cannot injure anybody, since the most they can do is to prevent wrongful competition with the patentee's monopoly.

Injury by threats to others.

It may happen, however, that there are infringements going on, and the effect of the patentee's threats may be very serious for those who have actually commenced competing with him; for threats, if effectively used, may entirely ruin the trade of such rivals.

Threats may do serious injury.

If the patent be valid, the ruin of their trade will not be any injustice to the rivals of the patentee, since their competition is an illegal one; but if the patent be invalid, there is no reason why its possessor should be placed in a more favourable position than his rivals.

but no damage. if patent be good.

Now, we have seen that the grant of a patent is of itself no guarantee whatever of the novelty of the invention, and thus it may happen that the possessor of a patent can ruin his rivals in trade by threatening to bring actions which could not be carried to a successful termination, because the patent itself was invalid; and yet,

Patent no guarantee of novelty.

Threats
might
prevent
validity being
contested.

as the patentee might prefer to threaten only, and not to run the risk of an action, the validity of the patent might never come in dispute unless some one took proceedings to get the patent revoked.

Patent
might be
ambiguous.

Again, the wording of the patent may be such that without judicial interpretation there is a doubt as to whether what is being done in competition with the patentee is really an infringement at all, and this cannot be well determined in proceedings for revocation of the patent.

In order to prevent a patentee continuing to threaten indefinitely without putting his patent into court, the Act of 1883 provided that--

Limitation of
threats.
Act, 1883,
sect. 32.

"Where any person claiming to be the patentee of an invention, by circulars, advertisements, or otherwise threatens any other person with any legal proceedings or liability in respect of any alleged manufacture, use, sale or purchase of the invention, any person or persons aggrieved thereby may bring an action against him, and may obtain an injunction against the continuance of such threats, and may recover such damages (if any) as may have been sustained thereby if the alleged manufacture, use, sale or purchase to which the threats related was not in fact an infringement of any legal rights of the person making such threats. Provided that this section shall not apply if the person making such threats with due diligence commences and prosecutes an action for infringement of his patent."

Person
threatening
must bring
action.

What
constitutes
a threat.

The first question which arises on this section is what is meant by "threatening any other person". How far can it be taken to apply to a general threat to bring actions against infringers?

General
warnings may
be threats.

In 1887 it was laid down by the Court of Appeal that "Everybody has still a right to issue a general warning to pirates not to pirate, and to infringers not to infringe, and to warn the public that the patent to which the patentee is entitled, and under which he claims, is one which he intends to enforce; but it does not follow that because a threat is so worded as in mere language apparently and grammatically to apply only to the future, that therefore it may not be in any particular case in substance and in fact applicable to what has been done.

It might be really directed against the sale and manufacture of some machines which the patentee considered infringements, and would none the less be a threat because it was worded in a general way as a warning to all persons not to infringe.”¹

In 1891 it was suggested that this section of the act, being limited to threats, did not subject a patentee to an action for publishing a general statement that he claimed to be the owner of a valid patent, which covered all articles of a particular description.² But, in the succeeding year, the Court of Appeal again affirmed the doctrine that a general warning may be a threat; and that the threat may, in fact, be directed against a particular infringement, and render the patentee liable to an action.³

And in the year following, in the Court of Appeal, the following was held to be the effect of the section:—

“The object of the section was to give an action for damages where there was not one before, and to enable an action to be brought against a man who uses threats, unless he will or does follow up his threats by commencing an action himself.

“You are not to threaten, even in a general kind of way, which might not be regarded as a threat to any particular person; you are not to do it even by a circular or advertisement; but, if you do threaten, no action is to lie against you if you will prosecute the person who is aimed at by your threats.

Not even general threats are allowed unless the threatener is qualified under the Act.

“The Legislature desires that threats of patent actions shall not hang over a man’s head, that the sword of Damocles, in such a case, should either not be suspended, or should fall at once; and it is with that view that the section seems to be framed.

“You shall not threaten legal proceedings unless the

¹ *Challender v. Royle*, 1887, C.A. 4 R.P.C. 375, 36 Ch. D. 425.

² *Ungar v. Sugg*, 1891, 8 R.P.C. 385; C.A. 9 R.P.C. 114.

³ *Johnson v. Edge*, 1892, C.A. 9 R.P.C. 142.

manufacture to which the threat applies infringes the legal right of the threatener, or unless the threatener is about to forthwith bring an action to show the validity of his threats. If he cannot bring himself within these two saving clauses at the end of the section, then the section absolutely forbids a man threatening legal proceedings with regard to a patent at all."¹

Conditions under which threats may be issued.

It thus appears that there are only two conditions under which a person can use even the most general kind of threat without being liable for any damage which his threats may cause. It will be well to examine these two conditions carefully, and to see exactly what each amounts to.

Must prove infringement of legal right,

The first is that he shall be able to show that the manufacture, to which the threat applies, infringes a legal right belonging to him. In order to do this he must have a legal, as distinguished from an equitable, title to the patent,² and must also be able to show that his patent is a valid one, for if not he has no legal rights; you cannot infringe a bad patent.³ He must also prove that his threats were directed only against manufactures which came within the scope of his patent.

or must commence an action.

The other alternative is for him to commence an action for infringement, and to prosecute it with due diligence. The action must be brought by the person who threatens,⁴ and must be a *bonâ fide* action for infringement, and not a collusive action;⁵ it need not be brought against the person who is the plaintiff in the action for threats, but it will require a great deal to prove that an action brought against the plaintiff in an action for threats is not *bonâ fide*.⁶

Action may be against any infringer.

An advantage to sue plaintiff for threats.

¹ Skinner v. Perry, 1893, C.A. 10 R.P.C. 1.

² Kensington Electric, etc., v. Lane Fox Electrical, 1891, 8 R.P.C. 277; [1891] 2 Ch. 573.

³ Blakey v. Latham, 1889, C.A. 6 R.P.C. 190.

⁴ Kensington Electric, etc., v. Lane Fox Electrical, 1891, 8 R.P.C. 277.

⁵ Challender v. Royle, 1887, C.A. 36 Ch. D. 425, 4 R.P.C. 363.

⁶ Colley v. Hart, 1890, 7 R.P.C. 101.

The action need not be such as to test the validity of the patent; an action for royalties against a licensee who cannot dispute the validity of the patent is sufficient to bring the patentee within the proviso.¹

Action need not test validity.

If the action for infringement be commenced before the commencement of the action for threats, the latter action will be vexatious;² but the bringing of an action for infringement does not form a defence to an action for threats when what is done by the plaintiff in the action for threats is not similar to that for which the action for infringement is brought.³

Action for threats after an infringement action is vexatious. Both actions must be on same kind of infringement.

The action, then, must be for an infringement of the same class as that which is threatened; and it must also be commenced and prosecuted with due diligence.

The question as to what constitutes due diligence in commencing an action for infringement depends entirely on the circumstances of the case, and no rule can be laid down.⁴

What is due diligence?

When a patentee has had an action for threats commenced against him, he is justified in waiting a reasonable time to have a statement of claim delivered, and see whether he can combine the action for infringement with the action for threats by a counter-claim.⁵ In one case, when the threats had been continued for over a year, and then the patentee, on being sued to restrain the threats, waited to counter-claim for infringement, and the counter-claim was unsuccessful, it was held that he had not brought an action with due diligence.⁶ But in a more recent case, in which the threats had been continued over a long period, no action being taken, and the person aggrieved brought an action to restrain the threats, the

Action may be by counter-claim.

An unsuccessful counter-claim may not be a good defence.

¹ Day v. Foster, 1890, 7 R.P.C. 54.

² Barrett v. Day, 1890, 7 R.P.C. 54.

³ Combined Weighing Machine Co. v. Automatic Weighing Machine Co., 1889, 6 R.P.C. 502.

⁴ Colley v. Hart, 1890, 7 R.P.C. 101.

⁵ *Ibid.*

⁶ Herrburger v. Squire, 1888, 5 R.P.C. 581.

Patentee not certain of infringement.

defendants, on a motion for interim injunction to restrain the threats, stated that they could not be sure as to whether the plaintiff did actually infringe, and got an order for inspection of the plaintiff's works. After this they commenced an action for infringement, and the application for an injunction to restrain the threats was refused.¹

Action need not be successful.

Provided that it is commenced and prosecuted with due diligence, the action for infringement need not be successful in order to protect the patentee from liability for the damage caused by his threats. He may, as long

Patentee may threaten while action pending.

as he is duly prosecuting his action for infringement, continue to threaten, and it is not contempt of court to go so far as to say that users of infringing articles are liable to damages and injunction in respect of such user.²

Action may be discontinued.

If, at any time during the prosecution of his action, the patentee finds that it is hopeless to continue the action, he may discontinue it without losing his defence to any action for threats already issued. The action for infringement in order to be a good defence need not be successful, and whether it be dismissed at the trial or discontinued when its further prosecution is hopeless makes no difference.³ It is right to discontinue and not to go on with a hopeless action, and discontinuance is no evidence of *mala fides* in having commenced the action.⁴

Due diligence a question of fact.

If an action for infringement be commenced *bonâ fide*, but be not prosecuted with due diligence, it is no defence to an action for threats. These matters are questions of fact for the jury. If two actions have been commenced against the plaintiff, and not duly prosecuted, independent damages may be given in respect of each.⁵

¹ Edlin v. Pneumatic Tyre, etc., 1893, 10 R.P.C. 311.

² Fenner v. Wilson, 1893, C.A. 10 R.P.C. 283.

³ Colley v. Hart, 1890, 7 R.P.C. 111.

⁴ English and American v. Gare Machine, 1894, 11 R.P.C. 627.

⁵ Bishop v. Inman and others, 1900, 17 R.P.C. 749.

As the law stands at present it seems as if the owner of even a hopelessly bad patent may safely use threats, provided he brings an action for infringement against some one within a reasonable time; and if, before a reasonable time has expired, any one commences an action to restrain his threats, he may wait until the time comes for delivering a defence, and then raise the question of infringement by way of counter-claim.

Summary of
law of
threats.

Action for Threats.

In an action for threats, the plaintiff is entitled to particulars of the patents under which the threats are issued.¹

Particulars
of patents.

The defendant is entitled to particulars of the threats complained of before putting in a defence, but not to the names of customers whom the plaintiff has, in consequence of the threats, promised to indemnify.²

Particulars
of threats.

Where the plaintiff alleges threats by the defendant's agents, particulars of the agents as well as of the threats must be given.³

Particulars
of agents.

The plaintiff in his statement of claim usually alleges that the patent is bad for the reasons given in the particulars of objections, and claims a declaration that the patent is invalid.⁴

Plaintiff for
threats may
allege
invalidity;

The particulars of objections are similar to those required in other patent actions, and should be delivered with the pleading which denies the validity.

Where, however, the statement of claim does not allege invalidity, and the defence alleges validity, the

but if not,
invalidity
may be raised
by reply.

¹ Union Electrical Power Co. v. Electrical Power Storage, 1888, C.A. 5 R.P.C. 329, 38 Ch. D. 325.

² Law v. Ashworth, 1890, 7 R.P.C. 86 (Lancaster Court Case).

³ Dowson Taylor & Co. Ltd. v. The Drosophore Co. Ltd., 1894, 11 R.P.C. 536 (Lancaster Court Case).

⁴ Challender v. Royle, 1887, C.A. 4 R.P.C. 363; Union Electrical Power Co. v. Electrical Power Storage, 1888, C.A. 5 R.P.C. 329, 38 Ch. D. 325.

invalidity may be set up in the reply, but in that case leave for a special rejoinder will be given.¹

Claims in
action for
threats.

The plaintiff claims damages for past injuries, and an injunction to restrain threats. If he commences his action without great delay he will, as a rule, apply for an interim injunction; but where an action for infringement is being prosecuted with due diligence no interim injunction will be granted.²

Interim
injunction.

Where an action for infringement is pending, an interlocutory injunction will not be granted in a threats action for restraining threats, commenced subsequently to the infringement action, on the ground that the latter is not *bonâ fide*.³

An interlocutory injunction will not be granted where there is a dispute as to the *mala fides* of threats, and also a denial of having threatened at all, no patents being alleged.⁴

Patentee
abroad.

An injunction will be granted *ex parte* against foreign patentees to restrain threats by their solicitors in England, the latter being made parties to the proceedings.⁵

Staying of
threats
action.

If an action for infringement be commenced by the defendant in a threats action against the plaintiff, the latter action will be stayed, and the costs made costs in the infringement action;⁶ but this rule does not apply unless the infringement action involves all the patents upon which the threats are based.⁷

Damages
for threats.

The damage must be really due to the threats, and not to general rumours in the trade, and the natural dis-

¹ Dowson Taylor & Co., Ltd., v. The Drosophore Co., Ltd., 1895, C.A. 12 R.P.C. 95.

² Kurtz v. Spence, 1887, C.A. 4 R.P.C. 427.

³ Berliner v. Edison-Bell Consolidated Phonograph, 1899, 16 R.P.C. 336.

⁴ Barber v. Nathan & Somers, 1902, 19 R.P.C. 331.

⁵ Overton v. Burn, Lowe & Sons, 1896, 13 R.P.C. 455.

⁶ Household v. Fairburn, 1884, 1 R.P.C. 109.

⁷ Dowson Taylor v. The Drosophore Co., 1895, C.A. 12 R.P.C. 95.

inclination of people to run any risk of an action. The question of the amount of damages should be dealt with at the trial, and not referred.¹

Where a contract is stopped by reason of threats, the loss of profits is a proper measure of damages.²

Although the question of the validity of a patent can be tried in an action for threats, it is doubtful whether a valid certificate of validity can be given.³

When the validity of the patent is in issue the defendant commences, and the procedure is similar to that in an action for infringement.

Where there is a counter-claim for infringement in an action to restrain threats, which is down for trial with a jury, the question of infringement will not be withdrawn from the jury.⁴

An injunction restraining the defendants, their servants and agents, "from threatening the plaintiffs, or any of the plaintiff's customers, with any legal proceedings or liability in respect of the manufacture, sale or purchase of a machine," does not prevent them circulating threats made by the manufacturer of the machine, even though the defendants are his regular agents for its sale.⁵ Circulating threats by other people.

An undertaking in a threats action not to threaten any person by letters, circulars, advertisements or otherwise, with legal proceedings on liability in respect of the manufacture, sale, use or purchase of an invention, and not to allege that such manufacture, use, sale or purchase is an infringement of letters patent belonging to the person giving such undertaking, has been held to be no bar to an action for infringement by such person against the person to whom the undertaking was given, or to his Undertaking not to threaten.
Notice of pending action not a threat.

¹ *Ungar v. Sugg*, 1891, 8 R.P.C. 385; C.A. 9 R.P.C. 114.

² *Skinner v. Perry*, 1894, 11 R.P.C. 406.

³ *Crampton v. Patent Investments Co., Ltd.*, 1888, 5 R.P.C. 404.

⁴ *Appleby v. Albert Eadie Chain*, 1899, 16 R.P.C. 318.

⁵ *Ellams v. Martyn & Co.* [1899], C.A. 16 R.P.C. 28.

informing a customer that such action had been commenced.¹

Statute of Monopolies, Section 4.

A threat under a patent, the specification of which requires amendment in order to validate the patent, does not render the patentee liable for treble damages under Statute of Monopolies, section 4, since the section does not apply to letters patent for alleged new inventions.²

¹ *Bevan v. Welshbach Incandescent*, 1903, 20 R.P.C. 69.

² *Peck v. Hindes*, 1898, 15 R.P.C. 113.

CHAPTER XVII.

PARTICULARS OF OBJECTIONS.

WHENEVER the validity of a patent is challenged in any proceeding at law, whether in an action for infringement or for threats, or in a petition for revocation, the party who challenges validity must deliver to the party upon whom the task of defending the patent will fall particulars of his objections to the validity of the patent which is challenged. Particulars of objections required whenever validity is challenged.

At the trial the challenger is confined to the particulars he has delivered, so that it is most important for them to embrace every objection that can be fairly taken to the patent; at the same time, various judges have commented severely on the very loose way in which particulars are often framed, and on the inclusion in them of objections for sustaining which no evidence is given, and which are really wholly inapplicable.

The particulars should, where necessary, specify the claims against which they are directed, and should in every case be made as precise as possible. Claims must be specified.

In making out particulars of objections, quality is of far greater importance than quantity. A single good objection is sufficient to invalidate a patent; and, although it is, of course, better to find more than one point against which an attack may be directed, it should always be remembered that one strong objection is better than a dozen weak ones, and that if an objection cannot be sustained its inclusion is a sign of weakness. Feeble objections should be avoided.

It is not, as a rule, advisable to raise objections on

trivial matters in the specification, as a number of trivial objections may incline the Court to favour the patent. In one case, where the only real issue was that of validity, which was decided in favour of the patent, Lord Esher, M.R., in dismissing an appeal, used the following words :—

“The defendants have used the exact thing that has been patented; they have used it to a considerable extent, but they say, ‘Your patent is a bad one, you cannot sue upon it’; and they have taken, by way of objection, every one of the ordinary objections which are taken under such circumstances—that is to say, they spell every paragraph and every line in the patent, and try to persuade the Court that some one line or some one sentence in it is so bad that it makes the whole of the patent bad, and prevents the inventor from having the benefit of his invention, however useful or however great it may be. I do not hesitate to say myself that when that is the sort of defence in such a case, the Court ought to look carefully to see whether any one of these objections can be sustained. The Court certainly, under those circumstances, ought not to favour the objection. Those who take such objections as that must prove them strictly.”¹

Some of the following objections will usually be found applicable when the validity of the patent is open to attack.

True and first inventor.
Cf. p. 33.

(a) “That the plaintiff (*or the person to whom the patent was granted where there has been an assignment*) was not the true and first inventor of the alleged invention in respect of which the said letters patent were granted.”

This objection is often used very loosely, but it is really applicable only when it is intended to show that the plaintiff obtained the invention from some other person. It is not a correct way of alleging want of novelty.²

The burden of proving that the patentee was not the first and true inventor lies on the defendant.³

Invention not proper subject-matter.

(b) “That the alleged invention is not proper subject-matter for letters patent.”

¹ Edison-Bell Phonograph Corporation Ltd. v. Smith & Young, 1894, C.A. 11 R.P.C. 395.

² Thomson v. Macdonald & Co., 1891, 8 R.P.C. 9.

³ Ward Bros. v. J. Hill & Son, 1901, 18 R.P.C. 481; cf. Young v. White, 1853, 23 L.J. Ch. 190.

This is applicable only when the alleged invention is *primâ facie* not proper subject-matter; e.g., if it is for *Cf. p. 14.* a principle, or for an illegal or immoral purpose, the ground on which subject-matter is impeached ought to be stated.

(c) "That the alleged invention is not useful."

Invention
not useful.

This is frequently introduced, though but rarely is it of any avail to the defendant. If, however, it can be *Cf. p. 29.* sustained, it is a good objection.

It sometimes happens that the patentee himself has never used the invention as described, though doing something of a similar kind, and in such case this is strong evidence of inutility, since what must be useful is what is described and claimed in the specification and not what the inventor is actually doing.

(d) "The complete specification does not sufficiently describe and ascertain the nature of the alleged invention comprised therein, and in what manner the same is to be performed. In that, etc. *Cf. p. 65.* (adding wherein the insufficiency lies)." Specification
insufficient.

This particular must contain particulars of the parts of the invention which are alleged to be insufficiently described if the defendant is able to point them out.¹

(e) "The specification is ambiguous in that . . ."

Specification
ambiguous.

Instructions issued by the patentee for working the invention are material on a question of sufficiency.² *Cf. p. 68.*

This particular should point out in what way the specification is ambiguous.³

(f) "That the alleged invention described in the complete specification is different from that described in the provisional specification and title (or one of them) in that . . ."

Discon-
formity.
Cf. p. 64.

This particular must state in what way the inventions described in the specifications differ from one another.⁴

¹ *Crompton v. Anglo-American Brush Corporation*, 1887, C.A. 4 R.P.C. 197; 35 Ch. D. 283.

² *Pooley v. Pointon*, 1885, 2 R.P.C. 167, 172.

³ *Heathfield v. Greenway*, 1894, 11 R.P.C. 17.

⁴ *Anglo-American Brush Corporation v. Crompton*, 1887, C.A. 4 R.P.C. 27.

The proof of disconformity lies on the defendant.¹

The question of disconformity is one of law, and unless new facts bearing upon the question of construction can be brought before the Court, the Court is bound by a former decision thereon.²

Enlargement
by amend-
ment.
Cf. p. 110.

(g) "That the amendment of the complete specification enlarged the scope of the alleged invention, and was obtained by fraud in that . . ."

Particulars of the enlargement and of the fraud must be given. This objection will very rarely be available. It is not easy to see what fraud, other than the bribery of some official at the Patent Office, would be sufficient.

Concealment
by patentee.
Cf. p. 66.

(h) "That the complete specification did not describe the most beneficial method of carrying out his alleged invention with which the plaintiff was then acquainted."

This should be used only when the defendant is able to point out something which he can show was within the knowledge of the plaintiff at the date of filing the complete specification, and which was omitted therefrom; the particular should mention what is complained of.

False
suggestion.
See p. 9.

(i) "That the letters patent were granted on a false suggestion that . . ."

Particulars of the false suggestion should be given, such as of any words in the complete specification which might tend to mislead. This objection in its most general form, and the similar one "that the Crown was deceived," are often used in a very loose manner.

Crown
deceived.

A false suggestion as to the utility of parts of a process described in a specification, may invalidate the patent.³

This objection might possibly be available in the case of a patent obtained by a foreign manufacturer to prevent manufacture in this country. (See p. 96.)

¹ Ward Bros. v. J. Hill & Son, 1901, 18 R.P.C. 481.

² Pneumatic Tyre Co. v. Leicester Pneumatic Tyre Co., 1899, C.A. 16 R.P.C. 50.

³ *In re* Owen's patent, 1899 (No. 12, 368 of 1896), 17 R.P.C. 68, following Morgan v. Seaward, 2 M. & W., 561.

- (j) "That the subject matter of claim of the plaintiff's patent was the Prior grant, subject of a prior grant of monopoly by letters patent, No. , dated ."

Particulars of objection on the ground of prior grant must specify the claims alleged to be covered by the prior grant.¹

An invalid grant cannot be set up as a prior grant for defeating a patent subsequently applied for.²

- (k) "That the alleged invention was anticipated in the following prior publications."

If the prior publications be specifications of English patents, the publication need not be proved; but, in any other case, the time and place of publication must be given in the particulars.

The parts relied on as anticipations should be specified, not necessarily pages and lines, though this is generally advisable, but where the anticipation is to be found, and what it is;³ but if defendants allege that they rely on the whole of a specification, further and better particulars will not be ordered, and this is very often done to save trouble.⁴

In the case of a patent granted on an application made after the date prescribed by the Board of Trade for the coming into effect of section 1 of the Patents Act, 1902, the specification of a British patent, granted more than fifty years before the date of the application, is not available as an anticipation.⁵

It is improper to refer in the particulars of objection to publications which are to be merely used in evidence, and which are not put forward as objections to the

¹ Birmingham Pneumatic Tyre Syndicate v. Reliance Tyre Co., 1900, 17 R.P.C. 277.

² The Mica Insulator Co. v. The Electrical Co., 1898, 15 R.P.C. 489.

³ Holliday v. Heppenstall, 1889, C.A. 6 R.P.C. 320.

⁴ Edison-Bell Consolidated Phonograph Co. v. Columbia Phonograph Co., 1900, 18 R.P.C. 4.

⁵ Patents Act, 1902, sect. 1 (10).

Invention anticipated by prior publication. Cf. p. 24. In specification; in other publications.

Particulars should be very definite.

validity of the patent in dispute, and the costs of such improper particulars will not be allowed.¹

Anticipation by prior public user must be definite.
Cf. p. 22.

(l) "That the alleged invention was anticipated by prior public user by at on ."

This particular must give the details of the prior user; it should specify the persons by whom, the places where, the dates at and the manner in which the prior user took place.²

It is not sufficient to allege prior user over a space of several years many years ago.³ If general user in a locality is alleged, the plaintiff may interrogate as to the names and addresses of those who so used the invention.⁴

No order for inspection of anticipating machines not in the possession, or under the control, of the defendant will be made unless by consent.⁵

Considering public knowledge no subject-matter.
Cf. p. 17.
Public knowledge is a matter for evidence.

(m) "Considering the state of public knowledge at the date of the patent, the alleged invention was not proper subject-matter for the grant of letters patent."

No particulars of the public knowledge need be given,⁶ though it is not unusual to state that the specifications and publications put forward as prior publications will be relied on as evidence of the state of public knowledge.

A specification is no proof of public knowledge,

The specification of a prior patent is not evidence of much value as to prior public knowledge,⁷ which must be proved by ordinary evidence, as by that of persons

¹ *Acetylene Illuminating Co. v. United Alkali Co.*, 1902, 19 R.P.C. 213, 234.

² *Penn v. Bibby*, 1866, L.R. 1 Eq. 548.

³ *Smith v. Lang*, 1890, C.A. 7 R.P.C. 148.

⁴ *Alliance Pure White Lead Syndicate v. MacIvor's patents, Ltd.*, 1891, 8 R.P.C. 321.

⁵ *Garrard v. Edge*, 1889, C.A. 6 R.P.C. 372; *Sidebottom v. Fielden Pal. Ct., Lancashire*, 1891, 8 R.P.C. 266.

⁶ *Boxwell v. Cochran*, 1895, 12 R.P.C. 169.

⁷ *Peckover v. Rowland*, 1893, 10 R.P.C. 118.

engaged in the trade, though well-known books may also be referred to.¹

The knowledge of a particular man is not public knowledge, though it may be an anticipation,² since even a single person must not be restrained by a patent from doing that which he was able to do before the date of the grant.

As evidence of common knowledge a defendant may, if he has given notice in his particulars of objections of his intention so to do, but not unless, refer to a single specification, though where several publications are relied on no reference is necessary.³

On an objection on the ground of want of novelty evidence of want of subject-matter may be given.⁴

Sometimes objections (*b*), (*c*), (*f*), (*l*) and (*m*) are put in a hypothetical form, "If the complete specification be construed so as to include the alleged infringement, then," etc.

(*n*) "That the said letters patent are contrary to law, mischievous to the state by raising the prices of commodities at home, and hurt of trade and generally inconvenient."

(*o*) "That the said letters patent are prejudicial and inconvenient to the subjects of the Crown in general by preventing the growth of industries within the realm."

These may be applicable where a grant of monopoly has been abused. (See p. 96.)

Amendment of Particulars of Objection. (See p. 125.)

¹ Holliday v. Heppenstall, 1889, C.A. 6 R.P.C. 320.

² Benno Jaffé Fabrik v. Richardson, 1894, 11 R.P.C. 102.

³ English and American Machinery Co., Ltd., v. Union Boot and Shoe Machine Co., Ltd., 1894, C.A. 11 R.P.C. 367; Sutcliffe v. Abbott, 1903, 20 R.P.C. 50.

⁴ Electrolytic Plating Apparatus Co. v. Holland, 1901, 18 R.P.C. 521.

CHAPTER XVIII.

TRIAL OF A PATENT ACTION.

What is a patent action?

IN the term patent action are included the three kinds of action which have been already considered, *viz.*, actions for infringement, actions for threats where validity and infringement are in issue, and petitions for revocation.

One procedure in all patent actions.

Although in these three kinds of action the relations of the parties are different, the procedure at trial is practically the same in all, and the three varieties can be conveniently considered together.

Patent action may be tried at assizes.

Any action for infringement or threats may be put down for trial at assizes, and a petition for revocation may be ordered to be tried at assizes when that mode of trial appears to the Court to be convenient.

and must not be sent back to be tried in London for want of time.

If set down for trial at assizes, a patent action will be tried like any other action so standing for trial, and if in the Chancery Division it must not be sent back to the judge of the Chancery Division, because there is no time to try it; it must be treated as a remanet, or transferred to a neighbouring assize.¹

A corporation cannot appear in person, and must appear in court by counsel.²

Issues in a Patent Action.

Revocation.

The simplest kind of patent action is a petition for revocation in which only two points can arise, *viz.*, What

¹ Fairburn v. Household, 1885, C.A. 2 R.P.C. 195.

² Pneumatic Tyre Co. v. West London Rubber, 1898, 15 R.P.C. 129.

is the invention claimed in the complete specification? and, Is the patent for this invention a valid one?

In an action for infringement the same two points arise, and there is the further question, Has the defendant infringed? <sup>Infringe-
ment.</sup>

In an action for threats there are the further questions, Has the defendant threatened? and, if so, Has he with due diligence commenced and prosecuted an action for infringement? ^{Threats.}

Construction of the Specification.

The first question for the Court at the trial of any patent action is, What is the invention for which the patent is granted? that is, What does the patentee claim in his complete specification?

The construction of the specification is a matter of law for the Court, but it differs somewhat from that of most documents, since the Court will generally hear the evidence of experts as to its meaning. Upon this subject Lord Westbury in 1861 made the following statement: "It is undoubtedly true as a proposition of law that the construction of a specification, as the construction of all other written instruments, belongs to the Court; but a specification of an invention contains most generally, if not always, some technical terms, some phrases of art, some processes, and requires generally the aid of the light derived from what are called surrounding circumstances. It is, therefore, an admitted rule of law that the explanation of the words or technical terms of art, the phrases used in commerce and the proofs and results of the processes which are described (and in a chemical patent the ascertainment of chemical equivalents)—that all these are matters of fact upon which evidence may be given, contradictory testimony may be deduced, and upon which undoubtedly it is the province and the right of a jury to decide."¹ <sup>Construction
is matter
of law.
Evidence on
meaning of
specification.</sup>

¹ Hills v. Evans, 1862, 31 L.J.N.S. Ch. 460.

Although expert evidence may be given to explain technical terms, to show the practical working of machinery described or drawn, and to point out what is old and what is new in a specification, the nature of the invention for which a patent is granted must be ascertained from the specification itself, and has to be determined by the judge and not by a jury, nor by any expert or other witness.¹

Both parties usually call expert evidence in favour of the construction they desire to be put on the specification.

Construction forms a precedent.

The construction of a specification is so far a matter of law that it forms a precedent, which is binding in any later action brought on the same patent.²

In ascertaining what is the invention patented, the claims must be looked at and construed as forming part of the specification, and must not be dealt with independently of what precedes them.³

Rules for the Construction of a specification.

Upon this subject Lord Esher, M.R., said: "As to the rule of construction of a patent, when the question is what is the true construction, I cannot doubt myself that the same rules of construction, or the same canons of construction, are to be applied to the construction of a patent or to any part of it as are used with regard to any other instrument. You must look at the whole of the specification, and then, having looked at the whole, if it is an objection to the claim, see what the claim on the true construction of it is, having regard to the whole of the instrument."⁴

Ambiguity.

A specification is sometimes capable of bearing more than one construction, and then it becomes a question for the Court which construction is to be preferred.

¹ Brooks v. Steel, 1897, C.A. 14 R.P.C. 46.

² Edison & Swan v. Holland, 1889, C.A. 6 R.P.C. 243.

³ Reason Manufacturing Co. v. Moy, 1902, 19 R.P.C. 409; Arnold v. Bradbury, 1871, 6 Ch. 706; Edison v. Woodhouse, 1887, 4 R.P.C. 99.

⁴ Edison-Bell Phonograph Corporation Ltd., v. Smith & Young, 1894, C.A. 11 R.P.C. 395.

The grant provides that the letters patent shall be construed in the most beneficial sense for the advantage of the patentee, and it has been sometimes supposed that this means that the Court is to try and make out a meaning which will make the patent of the greatest benefit to the patentee.

See p. 8.
Benevolent
construction
of specifica-
tion.

On this subject, which is called the beneficial construction of a patent, Jessel, M.R., in 1882, used the following language:—

“ I have heard judges say, and I have read that other judges have said, that there should be a benevolent interpretation of specifications. What does this mean? I think, as I have explained elsewhere, it means this: when the judges are convinced that there is a genuine, great and important invention, which, as in some cases, one might almost say, produces a revolution in a given art or manufacture, the judges are not to be astute to find defects in the specification, but on the contrary, if it is possible, consistently with the ordinary rules of construction, to put such a construction on the patent as will support it. They are to prefer that construction to another which might possibly commend itself to their minds if the patent was of little worth and of very little importance. That has been carried out over and over again, not only by the Lord Chancellor on appeal, but by the House of Lords. There is, if I may say so, and I think there ought to be, a bias, as between two different constructions, in favour of the real improvement and genuine invention, to adopt that construction which supports an invention. Beyond that I think the rule ought not to go.”¹

Rule for
construction.

Limit of rule
of benevolent
construction.

In a recent case in the Court of Appeal, Lord Justice Kay went somewhat further than this when he laid down the rule that—

“ The Court will construe the specification so as to support the patent if it can fairly be done, and will not

¹ *Otto v. Linford*, 1881, C.A. 46 L.T. N.S. 39.

be astute to find flaws in small matters in a specification with a view to overthrow it. Where any expression is ambiguous the Court will endeavour to give effect to the intentions of the patentee."¹

Evidence which does not attack the validity of a patent may be given with a view to narrowing its scope without delivering particulars of objections,² and the Court will consider alleged anticipations for the purpose of arriving at the true construction of a specification,³ since it will not, unless obliged, extend the claim to matters which the patentee must have known were old when he drew up his specification.⁴

Even if the defendant be a licensee, who cannot dispute validity, he can attempt to show that he is outside the patent, though a licensee cannot, except in case of an ambiguity, refer to other specifications in order to limit the scope of the patent under which he is a licensee.⁵

Validity.

When the meaning of the specification has been arrived at, the next question is whether the patent is a valid one. Now, we have seen that if a patent be bad in one particular, it is altogether invalid; so that the question of validity resolves itself into the question—Has any one of the objections specified in the particulars been sustained?

A patent bad in one point is bad altogether.

These objections may involve the construction of the specification, or may be simple questions of fact, as of the sufficiency of the specification, or the utility or

¹ Edison-Bell Phonograph Corporation, Ltd., v. Smith & Young, 1894, C.A. 11 R.P.C. 400.

² Appleby v. Albert Eadie Chain, 1899, 16 R.P.C. 318.

³ Morris v. Young, 1895, H.L. 12 R.P.C. 455.

⁴ Haworth v. Hardcastle, 1834, 1 Webs. 484, quoted by Halsbury, L.C., in Tubes v. Perfecta Seamless Steel Tube Co., 1903, H.L. 20 R.P.C. 77, 97.

⁵ Jandus Arc Lamp v. Johnson, 1900, 17 R.P.C. 361.

novelty of the invention; but since a jury is now rarely employed in the trial of a patent action, these distinctions are not of very great importance.

The question of conformity of the specifications is a matter of law, which, when determined, forms a precedent binding in subsequent trials;¹ but all the other objections seem to be matters of fact, which must be decided *de novo* at each trial.² Most objections are matters of fact.

Expert evidence must be given upon the question whether or no two things are mechanical equivalents.³ Mechanical equivalents.

Documents that have been registered at the Patent Office can be put in evidence without being strictly proved.⁴

Infringement.

The question whether the defendant has infringed is one entirely of fact, which will, in a trial by jury, be left to the jury. Infringement is a question of fact.

Where the infringement is not clear expert evidence will be required to show that it exists, and, on the part of the defendant, to prove its absence.

Threats.

The question as to whether what was done by the defendant in an action for threats amounted to a threat, seems to be one partly of law and partly of fact, and is dealt with in the chapter on Threats. Whether a threat has been used.

Due Diligence.

Whether the defendant in an action for threats brought an action with due diligence depends entirely on the circumstances of the case.⁵

¹ Pneumatic Tyre Co. v. Leicester Pneumatic Tyre, 1899, C.A. 16 R.P.C. 50.

² Edison & Swan v. Holland, 1889, C.A. 6 R.P.C. 243.

³ Ticket Punch Register v. Colley's patents, Ltd. (per Smith, L.J.), 1895, 12 R.P.C. 171.

⁴ Jandus Arc Lamp v. Johnson, 1900, 17 R.P.C. 361.

⁵ Colley v. Hart, 1890, 7 R.P.C. 101.

The Hearing of a Patent Action.

The Act of 1883 provides that---

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

How assessor is paid. Sect. 28 (3). "The remuneration (if any) to be paid to an assessor under this section shall be determined by the Court, and be paid in the same manner as the other expenses of the execution of this Act."

Act, 1883, sect. 83 (2). "The other expenses of the execution of this Act shall be paid out of money provided by Parliament."

Act, 1883, sect. 107. Trial in Scotland. "In any action for infringement of a patent in Scotland the provisions of this Act, with respect to calling in the aid of an assessor, shall apply, and the action shall be tried without a jury, unless the Court shall otherwise direct; but otherwise nothing shall affect the jurisdiction and forms of process of the courts in Scotland in such an action, or in any action or proceeding respecting a patent hitherto competent to those courts.

"For the purposes of this section 'court of appeal' shall mean any court to which such action is appealed."

Employment of an assessor would reduce cost of action. It would certainly appear that this provision might more often be taken advantage of by suitors, and it would certainly often reduce the cost of a patent action; the assessor appointed by the Court does not entail any expense on the parties, and if an action be tried in this way the expense of expert witnesses might be almost, if not entirely, avoided. It would be a great boon to a poor plaintiff, to whom the proverbial cost of a patent action must often be a cause of great injustice. It is equally available as of right for a defendant.

Notwithstanding its apparent beneficence the right to demand an assessor has but seldom been exercised by the parties. The Court has, however, on numerous occasions, when the evidence of the experts called by the parties has been more than usually divergent, appointed an independent expert to report to it.¹ Sometimes such

¹ For a form of reference see *Badische Anilin Fabrik v. Levinstein*, 1885, 2 R.P.C. 77.

report is taken in writing and sometimes the referee is called to give verbal explanations or to answer questions, and in that case the report cannot be entered in the order of the Court as having been read.¹ If the referee be called, only such questions as the court may permit may be asked by the parties.²

It will be seen that the statutory provision as to trial without a jury does not apply to an action for threats, and if such an action be tried with a jury questions arising on the patent will be left to them.³

When the validity of a patent is in issue the party defending the patent commences; a somewhat curious provision, since, apart from the issue of infringement, practically the whole burden of proof rests on the party attacking the patent. If the attacking party adduces any evidence against the patent, the patentee may call evidence in reply. The usual result of this arrangement is that the cross-examination of the patentee's witnesses is prolonged to enormous length, often with very little benefit to either side, in order to avoid the necessity of having evidence in reply.

In spite of the particulars required to be given, the parties are often unaware of the case which their opponent intends to make, and their gradual enlightenment on this question during the course of the trial does not tend to rapidity.

If a novel point arises in the course of the trial, necessitating the calling of further evidence, application should be made for an adjournment to enable such evidence to be given; since, if this be not done, the Court of Appeal will not allow such evidence to be given on the hearing of an appeal.⁴

The title of the plaintiff in an action for infringement

^{Patentee commences.}
^{Surprises during trial.}
^{Title usually admitted,}

¹ British Motor Syndicate v. Andrews, 1899, 16 R.P.C. 594.

² North British Rubber Co. v. Macintosh, 1894, 11 R.P.C. 484.

³ Appleby v. Albert Eadie Chain, 1899, 16 R.P.C. 318.

⁴ Barcroft v. Smith, 1897, C.A. 14 R.P.C. 172.

or defendants
may have to
pay costs of
proving it.

Act, 1883,
sect. 89.
See p. 232.

Expert
witnesses
are usually
called.

Witnesses
may make
experiments
for use as
evidence.

Models and
drawings.

Proof of
anticipations
by models.

Experts
should
examine
models, draw-
ings and
publications.

is usually admitted by consent, as are the specifications and patents; and in one case the defendants, who refused to admit the plaintiff's title, had to pay the costs of proving it, although successful in the action.¹

If not admitted the patent must be proved by proof of the grant and subsequent title, and the specification by certified copies.

Each party must, of course, carefully consider which points his evidence is to be directed towards, and upon this his choice of witnesses will depend. It is very usual for both sides to call scientific experts, who are frequently really expert advocates of the cause they are called to support rather than witnesses.

The scientific witnesses generally have to prepare themselves specially for giving evidence, and come prepared with accounts of experiments which they have made in the course of this preparation. A witness is not compelled to make a general disclosure of all his experiments, though, if asked about any particular experiment, he must be prepared to give full particulars, for which purpose he should always have his original notes with him in court.

When the subject of the patent is mechanical, each party usually produces models and drawings of what they consider that the specification describes, and also of the alleged infringement; models of any articles alleged to anticipate the patent are usually produced, but it is advisable, where practicable, to have the actual articles produced in Court, since this will avoid not only the expense of making models and drawings, but also the expense of proving their correctness, and the possibility of a conflict of evidence as to what the articles really are. The expert witnesses should be well acquainted with all the models, drawings and specifications which it is intended to use in evidence.

Besides scientific experts it is often necessary or

¹ Vorwerk & Son v. Evans & Co., 1890, 7 R.P.C. 174.

advisable to call trade witnesses to speak to the knowledge possessed by the trade at the date of the patent, and as to the utility of the invention.

Trade witnesses to general knowledge.

When the sufficiency of the specification is in issue, workmen may be given the specification, and, without any further assistance, instructed to make what is described; and then they may be called and asked to produce the result of their work. Evidence may also be given of instructions issued by the patentee as to the user of his invention.

Sufficiency proved by workmen.

As a general rule all the issues in a patent action are tried together; the question of infringement will be tried separately only if the validity of the patent be admitted,¹ but where several instances of prior user are alleged, all the evidence on one will sometimes be taken before going into another.² Where it is admitted that an alleged prior user, if proved, would be fatal to the patent, the defendant will be allowed to call witnesses to prove such user before the rest of the case is gone into.³

When issues are taken separately.

In order to be successful in an action for infringement the plaintiff must be successful on every point, so that the defendant need succeed on only a single point to be entitled to judgment.

Plaintiff for infringement must succeed on every point.

Now it may happen that a plaintiff, who is entitled to succeed on every other point, is unable to prove infringement; and the Court can then say that, since the defendant has succeeded on that ground, the other issues do not affect the result of the action, and need not be considered. This result may, however, be very hard on a patentee, who may have devoted his chief attention to the issue of validity in order to get this established; but it seems that if the action can be determined on one issue

Defendant in infringement must succeed on one point.

¹ United Telephone Co. v. Mottishead, 1886, 3 R.P.C. 213.

² Richardson v. Castrey, 1887, 4 R.P.C. 265.

³ Badham v. Bird, 1888, 5 R.P.C. 238.

the patentee has no right to have any decision on the others. Formerly the Court of Appeal would decide every issue that had been fully argued and decided in the Court below,¹ but the House of Lords has laid down that this is not a proper thing to do, that if done after the first decisive issue the judgments are mere dicta, and that a Court ought not to go into matters not relevant to the issue.² It is possible that this may, to some extent, affect the obtaining of any decision on validity where infringement is not proved; and, in any event, if the Court finds no infringement its subsequent finding on validity would appear to be only a dictum.

An appeal a rehearing.

An appeal from the decision of a judge is by way of rehearing, and there is no presumption that the judgment appealed against is right.³

Questions of fact in House of Lords.

In the absence of exceptional circumstances the House of Lords will not reconsider concurrent findings of the Courts below on questions of fact.⁴

Shorthand Notes.

If the trial is likely to last more than one day, or if an appeal is at all probable, it is advisable to have a shorthand note of the evidence taken. The cost of this is very usually shared by the parties, but more usually they are, by agreement, made costs in the cause; unless this latter course be adopted they will not be allowed on taxation as between party and party, unless the Court makes a special order to that effect.

The necessity of shorthand notes is, however, so fully recognised that it is becoming more and more usual to allow their cost between party and party as part of the

¹ *Parkinson v. Simon*, 1894, C.A. 11 R.P.C. 493.

² *Parkinson v. Simon*, 1895, H.L. 12 R.P.C. 403.

³ *Rickmann v. Thierry*, 1897, H.L. 14 R.P.C. 105.

⁴ *Nobel's Explosives Co. v. Anderson*, 1895, H.L. 12 R.P.C. 164; but see *Montgomery v. Wallace Jones*, 1903, H.L. 90 L.T. 1.

costs of the trial;¹ and even where not so allowed, if used at the trial, and also in the Court of Appeal, the cost will be allowed as costs of an appeal.²

As in every other matter the parties must be careful to have all their evidence ready at the trial, as the Court of Appeal is not at all disposed to permit additional evidence on the hearing of an appeal.³

Judgment by Consent.

Where an action is compromised, an undertaking not to infringe is preferable to an injunction, since the latter may be used in a misleading way in advertisements.⁴

¹ Palmer Tyre Co. v. Pneumatic Tyre Co., 1899, 16 R.P.C. 451; Incandescent Gas Light Co. v. De Mare, 1896, 13 R.P.C. 301; Incandescent Gas Light Co. v. Sunlight Incandescent, 1896, 13 R.P.C. 333.

² The Castner Kellner Alkali Co. v. The Commercial Development Corporation, 1899, C.A. 16 R.P.C. 251.

³ Nadel v. Martin, 1903, C.A. 20 R.P.C. 721.

⁴ Dover v. New Townend Cycle, 1903, 21 R.P.C. 135.

CHAPTER XIX.

JUDGMENT IN INFRINGEMENT ACTION.

If the plaintiff succeeds in an action for infringement he is entitled to judgment for—

Injunction.

- (1) "An injunction to restrain the defendant, his servants and agents, from infringing the letters patent during the remainder of the term."

This may extend to restraining the sale after the patent has expired of articles made during the term of the patent.¹ If the patent has expired, an injunction will be required only when the defendant has made a number of articles before the expiration of the patent for sale afterwards, and in this case, if the infringement be commenced shortly before the expiration of the patent, an injunction will not always be granted.²

Where two kinds of infringement are alleged, and one only—and that one that has been used only to a limited extent—is established, while the other is held not to be an infringement, an injunction will be granted in a limited form only, directed specifically against the kind of infringement proved.³

In an action against a company and its directors, where the company has transferred its business to a new company with the same directors, an injunction will not

¹ *Crossley v. Beverley*, 1829, 1 R. & M. 166 n; 1 W.P.C. 106.

² *British Insulated Wire v. Dublin United Tramways*, 1900, C.D. (Ir.), 17 R.P.C. 14.

³ *Dunlop Pneumatic, etc., v. New Ixion Tyre, etc.*, 1899, C.A. 16 R.P.C. 16.

be granted against the directors so as to affect them in their management of the new company, which ought to be made a party to the action.¹

If an action be brought on several patents, and the plaintiff proves that they cover every known process of manufacture, but cannot identify the patent that has been infringed, an injunction, if granted, will be made to determine on the termination of the first patent under which the manufacture can be effected.²

The method of enforcing an injunction is, in the case of an individual, by committal, and, in the case of a corporation, by sequestration of the property of the corporation,³ or by committal of its directors or other agents.

To commit a person who has not been enjoined, it is necessary to prove that he is the servant or agent of a party who has been enjoined, or that with knowledge of the injunction he has been aiding and abetting its infringement.

An injunction can be enforced by committal for an infringement of a different character from that on which the injunction was made, and where the defendant endeavours to escape by changing the character of his infringement committal is the proper remedy.⁴

A person against whom an injunction has been made can be committed for contempt, if with knowledge of the injunction he persists in his infringement, although an order has not been drawn up and formally served on him.⁵

The liquidator of a company appointed before the

¹ *Welsbach Incandescent Gas v. New Incandescent (Sunlight Patent) Gas*, 1900, 17 R.P.C. 237.

² *Saccharine Corporation v. Dawson*, 1902, 19 R.P.C. 169.

³ *Spokes v. Banbury Board of Health*, 1865, 2 Eq. 42; *vide Seaward v. Paterson* (1897), 1 Ch. 545, approved in C.A.; *Incandescent Gas Light Co. v. Sluce*, 1900, C.A. 17 R.P.C. 173.

⁴ *Thomson v. Moore*, 1889, 6 R.P.C. 445.

⁵ *Incandescent Gas Light Co. v. Riemer*, 1900, C.A. 17 R.P.C. 378.

Liquidator of Company.

trial of an action cannot be committed for breach of an injunction against the company in which he is not named.¹

Evidence of public knowledge.

On a motion to commit for breach of an undertaking not to infringe, evidence of public knowledge may be given with a view to narrowing the construction of the specification.²

The plaintiff also claims—

Damages or an account of profits.

(2) "Damages or an account of the profits made by the defendant through his infringements."

The plaintiff must choose one or the other alternative, he cannot have both,³ and it is often very difficult to see which is likely to bring him the largest amount, since the damage suffered by the plaintiff is an entirely different matter from the profits made by the defendant. The choice need not be made till after verdict.

Assessment of damages.

If the plaintiff chooses to have damages, they may be assessed by the Court, or possibly the plaintiff may be entitled to apply at the trial to have them assessed by a jury;⁴ but, as a rule, the Court orders an inquiry to be taken of the amount of the damage suffered by the plaintiff, and the judgment will be for the amount so found.

An inquiry as to damages may be refused where only a single instance of infringement is proved, and the defendant, after putting in a defence, has not appeared at the trial.⁵

Measure of damages.

When the plaintiff is a manufacturer, the usual measure of damages is the total profit the plaintiff would have made if he had supplied the infringing articles

¹ *Saccharine Corporation, Ltd., v. Chemical and Drugs Co.*, 1900, 17 R.P.C. 743.

² *Schermuly v. Pain*, 1901, 18 R.P.C. 529.

³ *De Vitre v. Betts*, 1873, L.R. 6 H.L. 319; 21 W.R. 705; *Siddell v. Vickers*, 1892, 9 R.P.C. 162.

⁴ *American Braided Wire v. Thompson*, 1888, C.A. 5 R.P.C. 696.

⁵ *Webb Lamp Co. v. Atkinson*, 1902, 19 R.P.C. 599.

himself;¹ but where an article is made partly by infringing and partly by other machinery, the damages may be less than if the whole of the machinery was made in infringement of the plaintiff's patent rights.² When a complete article consists partly of a patented and partly of an unpatented part, and the parts are separate and obtainable separately, allowance should be made in respect of the unpatented part.³

Where the plaintiffs would, but for the defendant's competition, have had a practical monopoly of manufacture of the patented article, loss to the plaintiffs caused by their having to lower their prices owing to competition by the defendant may be taken into account.⁴

Where patentee does not grant licences. Lowering of prices may be considered.

As a general rule, a patentee can rightly claim from an infringer who litigates more than he would be prepared to accept from a licensee,⁵ but when a patentee both manufactures himself and licences others on fixed terms, he can recover in damages only the amount which he would have received for royalties;⁶ and, if he has accepted this amount as royalty from the users of infringing machines, he cannot recover anything as damages from the manufacturers.⁷

Litigation may increase amount claimed, except when licences are granted to all on fixed terms.

The fact that damages have been recovered against the manufacturer of infringing goods does not affect the amount of damages recoverable against a purchaser from him.⁸

Damages from purchaser and from manufacturer.

Damages ought not to be reduced on the ground that infringements were for a cheaper class of machine than

Inferior articles.

¹ *Boyd v. Tootal Broadhurst Lee Co., Ltd.*, 1894, 11 R.P.C. 175.

² *United Horse Nail v. Stewart*, 1887, 4 R.P.C. 130; 13 App. Cas. 401.

³ *United Telephone v. Walker*, 1887, 4 R.P.C. 63.

⁴ *American Braided Wire v. Thompson*, 1890, C.A. 7 R.P.C. 152.

⁵ *Penn v. Bibby*, 1866, L.R. 3 Eq. 308.

⁶ *English & American Machinery Co. v. Union Boot & Shoe Machine Co.*, 1896, 13 R.P.C. 64.

⁷ *Penn v. Jack*, 1867, L.R. 5 Eq. 81.

⁸ *United Telephone v. Walker*, 1887, 4 R.P.C. 63.

the patentee's own make of goods;¹ but where a patentee manufactures himself and also grants licences for the manufacture of articles of a somewhat inferior quality, it need not be assumed, in estimating damages, that every infringing tyre sold means loss of the sale of a tyre to the patentee, though, on the other hand, the ordinary royalty is not necessarily the true measure of damage to the patentee.²

Actual
damage must
be proved.

A patentee is not entitled to substantial damages for an infringement unless he can prove that he has actually sustained pecuniary loss thereby. If the difference between the price of an infringing article and that charged by the patentee would have prevented the sale of the article by the patentee, in place of that of the infringement, the patentee cannot recover substantial damages from the purchaser of such infringement.³

Where patentees regularly licence machines, but do not sell, the damages caused by infringements are the profits that would have been derived from licences for the infringing machines had they been duly licenced.⁴

Where, under a single contract with a foreign firm, infringing articles are imported both before and after the patent has expired, an inquiry as to damages will be confined to the articles actually received prior to the expiration of the patent.⁵

Account of
profits in lieu
of damages.

Instead of claiming damages the plaintiff may adopt the acts of the defendant as those of his agent, and make the defendant account to him for all the profits which he has made by his infringements. In this case the Court will order an account of such profits to be taken, and,

¹ *Dunlop Pneumatic Tyre Co. v. Green*, 1900, 17 R.P.C. 234.

² *Pneumatic Tyre Co. v. Puncture Proof Pneumatic, etc.*, 1899, C.A. 16 R.P.C. 209.

³ *Gavioli v. Shepherd*, 1899, 17 R.P.C. 157.

⁴ *English & American Machinery Co. v. Union Boot & Shoe Machine Co.*, 1896, 13 R.P.C. 64.

⁵ *British Insulated Wire v. Dublin United Tramways*, 1900, C.D (Ir.), 17 R.P.C. 14.

as a general rule, there will be judgment for the amount of profit so found, together with the costs of taking the account; but if it seems probable that the amount found due on taking an account will be trifling, the costs may be left to the discretion of the referee to whom the taking of the account is entrusted.¹

It is often to the patentee's advantage to adopt this course, since the profit, direct and indirect, made by the defendant may be much in excess of any damage which the plaintiff has suffered; indeed, the profits may be considerable when the damage is practically *nil*.
Costs of account.
Account of profits often advisable.

When the infringement is by user of an infringing machine only, the proper course is to compare the profits arising when the infringing machine is used with those which would have resulted had the infringement not taken place.² Of course, where no other machine would do the work of the patented machine, the plaintiff is entitled to the whole profit made by its use; but when the work could be done in other ways the plaintiff is entitled only to the increased profit arising from the use of his invention over what the defendants would have made without it.
Profits by user.

When the infringing machine has been introduced into an existing manufacture, the defendants must disclose their profits before and after its introduction.³

Whether damages or profits be chosen, the defendant must make a full disclosure of all the articles made or sold, and of the prices obtained; he must also disclose the names and addresses of purchasers of infringing machines.⁴
Defendant must make full disclosure.

It is inconvenient to order an account of profits against a public body, and some other arrangement
Defendant a public body.

¹ Shaw v. Jones, 1889, 6 R.P.C. 328.

² Siddell v. Vickers, 1892, C.A. 9 R.P.C. 152.

³ Siddell v. Vickers, 1889, 6 R.P.C. 464.

⁴ Murray v. Clayton, 1872, L.R. 15 Eq. 115; Saccharine Corporation v. Chemical & Drugs Co., 1900, C.A. 17 R.P.C. 612.

should be made for settling the amount of their liability for past infringements.¹

Profits from
bankrupt
defendant

When an account of profits is taken, the amount found due is not due by way of damages, but rather as money had and received for the use of the plaintiff; and when an infringer is bankrupt, a patentee may prove in the bankruptcy for profits which he is entitled to recover from the infringer.²

The Court may also order—

Delivery up.

(3) "The delivery up on oath by the defendant to the plaintiff, or the destruction of all infringing machines in the defendant's possession."

The value of infringing machines so ordered to be given up must not be considered in assessing the damages, or set off against the amount awarded for damages.³

When part only of a machine infringes, the infringing parts only need be delivered up.⁴

Instead of being delivered up, the infringing articles are sometimes ordered to be marked so as to prevent their being sold by the defendant,⁵ or to be destroyed.⁶

Where an infringement takes place a few days before the expiration of a patent, delivery up of the infringing articles will not always be ordered.⁷

¹ Automatic Coal Gas Retort v. Mayor, etc., of Salford, Romer, J., 1897, 14 R.P.C. 450; cf. Crossley v. The Derby Gas Co., 1834, 1 Webs. R. 119.

² Watson v. Holliday, 1882, 20 Ch. D. 780.

³ United Telephone v. Walker, 1887, 4 R.P.C. 63.

⁴ Edison-Bell Phonograph Corporation Ltd. v. Smith & Young, 1894 C.A. 11 R.P.C. 389.

⁵ Westinghouse v. Lancashire Railway Co., 1884, 1 R.P.C. 253.

⁶ Howes v. Webber, 1895, 12 R.P.C. 470.

⁷ British Insulated Wire v. Dublin United Tramways, C.D. (Ir.), 1900, 17 R.P.C. 14.

CHAPTER XX.

CERTIFICATE OF VALIDITY.

THE Act of 1883 provides that—

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

Sect. 31.
Effect of
certificate of
validity on
costs.

If a patent be held invalid at the trial, and be held good on appeal, the Court of Appeal will grant a certificate under this section.¹

A certificate obtained under this section is popularly known as a certificate of validity, though, as we shall see, the title is not an altogether accurate one. It will be readily understood that the possession of such a certificate is of immense advantage to the patentee, since not only does it entitle him to costs as between solicitor and client in any subsequent action, but it usually also enables him to obtain an interim injunction against any subsequent infringer.

Advantage of
having a
certificate.

It will be noticed that the section applies only to an action for infringement, and it is doubtful whether a valid certificate can be given in an action for threats.²

No certificate
in action for
threats.

As a general rule, where a certificate of validity has been given, a second one will not be given in a subse-

¹ Fawcett v. Homan, 1896, C.A. 13 R.P.C. 398.

² Crampton v. The Patents Investment Co., Limited, 1888, 5 R.P.C.

Only one certificate of validity granted.

quent action;¹ but if the grounds on which validity is disputed in the second action are substantially different from those which failed in the first action, a second certificate may be granted.²

Grant of certificate not appealable.

A certificate of validity may be given even though the patent has expired before the date of the judgment.³

The granting or withholding of a certificate of validity is in the discretion of the Court or judge, and from it there is no appeal.⁴

A certificate of validity should not be given unless the judge is satisfied that the validity has been in contest.⁵ The Court will not consider the circumstances under which a certificate has been given,⁶ so that a patentee who has obtained a certificate without a real contest has an unfair advantage over any future *bonâ fide* antagonist.

Validity need not be upheld.

A certificate may be given when the patent is held invalid,⁷ and it seems reasonable that this should be done whenever the invalidity can be cured by amendment, and only in such cases is it likely to be granted.⁸

When validity not decided.

A certificate has been granted when, after a contest, the parties have come to a settlement, of which it was a term that a certificate should be applied for;⁹ but, on

¹ Edison & Swan Electric Light Co. v. Holland, 1889, C.A. 6 R.P.C. 287; Pneumatic Tyre Co. v. East London Rubber, 1897, 14 R.P.C. 77.

² Otto v. Steel, 1886, 3 R.P.C. 120.

³ Sunlight Incandescent Gas v. Incandescent Gas Light Co., 1897, 14 R.P.C. 757; British Motor Syndicate v. Universal Motor Carriage, etc., 1899, 16 R.P.C. 113.

⁴ Haslam v. Hall, 1888, C.A. 5 R.P.C. 144.

⁵ Per Byrne, J., Fabriques de Produits Chimiques, etc., v. Lafitte & Co., 1899, 16 R.P.C. 68; per Romer, L.J. C.A., British Motor Syndicate v. Andrews, 1899, 16 R.P.C. 594.

⁶ Incandescent Gas Light v. De Mare, 1896, 13 R.P.C. 301.

⁷ Haslam v. Hall, 1888, 5 R.P.C. 27; but see Morris v. Young, 1895, H.L. 12 R.P.C. 455.

⁸ Acetylene Illuminating Co. v. United Alkali Co., 1902, 19 R.P.C. 213; cf. Badische Anilin v. Société Chimique, 1897, 14 R.P.C. 875.

⁹ Delta Metal v. Maxim-Nordenfelt Co., 1891, 8 R.P.C. 247; but cf. Cloughton v. Foster, 1903, 21 R.P.C. 17.

the other hand, a certificate has since been refused when the question of validity was raised, but not decided, at the trial.¹

A certificate has been refused when validity was disputed in the pleadings and admitted at the trial,² and also where defendant put in a defence and provisional order, but did not appear at the trial;³ but the practice in this respect has not been uniform.⁴

The rule as to costs applies only to a subsequent action—that is, to an action commenced after the certificate is given;⁵ but it applies even where, in the subsequent action, the validity is not put in question.⁶ What actions are affected by certificate of validity.

The rule has been held to apply to an action in which the plaintiff fails to prove infringement, so as to entitle him to costs as between solicitor and client, of the issue of validity.⁷ Plaintiff's unsuccessful in action.

When the defendant admits infringement, and does not dispute validity, but has offered the plaintiff less than the amount for which he obtains judgment, and even if infringement be the only issue,⁸ the plaintiff may be deprived of his full costs.⁹ When only issue is as to amount of damage.

¹ *Jardine v. King, Mendham & Co.*, 1896, 13 R.P.C. 411.

² *Presto Gear Case v. Simplex Gear Case*, 1898, 15 R.P.C. 835.

³ *Webb Lamp Co. v. Atkinson*, 1902, 19 R.P.C. 591.

⁴ *Haycock v. Bradbury*, 1887, 4 R.P.C. 74; *Edison-Bell Phonograph v. Edison Phonograph*, 1894, 11 R.P.C. 33; *Acetylene Illuminating Co. v. Midland Acetylene (Parent) Syndicate*, 1900, 17 R.P.C. 534; *Welsbach Incandescent Gas v. Krumm*, 1901, 18 R.P.C. 211.

⁵ *Saccharine Corporation v. Anglo-Continental Chemical Works*, 1900, 17 R.P.C. 307; *Automatic Weighing v. Combined Weighing Machine*, 1889, 6 R.P.C. 120; *Automatic Weighing v. International Hygienic Soc.*, 1889, 6 R.P.C. 480.

⁶ *United Telephone v. Patterson*, 1889, 6 R.P.C. 140.

⁷ *Dunlop Pneumatic Tyre Co. v. Wapshare Tube Co.*, 1900, 17 R.P.C. 433.

⁸ *Edison-Bell Corporation v. Waterfield*, 1902, 19 R.P.C. 329; *Saccharine Corporation v. Dawson*, 1902, 19 R.P.C. 173; but *cf. Welsbach v. Daylight*, 1899, 16 R.P.C. 353.

⁹ *Boyd v. Tootal Broadhurst Lee Co., Limited*, 1894, 11 R.P.C. 185 (Lanc. Ct. case).

Rule as to costs applies unless it is ordered otherwise.

The rule as to costs applies, unless the Court or the judge trying the action certifies that it ought not to apply; so that whenever a plaintiff, having a certificate of validity, is successful, application should be made to the judge on behalf of the defendant for a certificate to deprive the plaintiff of solicitor and client costs.

Notice of certificate of validity should be given.

When he has obtained a certificate of validity, the plaintiff should, in any subsequent action, give the defendant notice of the fact, as it is likely to have considerable weight in inducing a submission. It should also be mentioned in the statement of claim, and costs as between solicitor and client should be claimed.

CHAPTER XXI.

COSTS.

IN an action for infringement or threats, and in a petition for revocation, the successful party is in the usual course, unless deprived thereof by the judge, entitled to the general costs of the action or petition. Costs of action follow event.

Where several issues are decided, the costs of each separate issue may, if separable from the general costs of the action, be made to follow the event of the issue, and be set off against the costs awarded to the other party. Costs of issues may be set off.

Thus, a plaintiff unsuccessful in the action, by reason of the invalidity of his patent, but proving infringement, may be allowed the costs of that issue;¹ but this is only true when that issue can be distinguished from the rest of the case.² When costs of issue of infringement may be set off.

There can be no infringement of a bad patent; but a plaintiff on a bad patent may, in some cases, be allowed costs of the issues which are unnecessary without infringement, because those costs have been improperly and unnecessarily incurred.³

Where the defendants were successful on infringement, but had pleaded that if they had infringed, the patent was bad, and the question of validity not fought When costs of other issues set off.

¹ *Badische Anilin Fabrik v. Levinstein*, 1885, C.A. 2 R.P.C. 143; 29 Ch. D. 420.

² *Guilbert-Martin v. Kerr*, 1887, 4 R.P.C. 18; *White v. Hartley*, 1903, Pal. Ct. Lanc., 20 R.P.C. 265.

³ *Blakey & Co. v. Latham & Co.*, 1889, C.A. 6 R.P.C. 190.

out, the plaintiffs were given the costs of all issues but that of infringement.¹

Costs of particulars. Act, 1883, sect. 29 (6).

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

Certificate as to particulars should always be applied for.

In consequence of this it is necessary that both the plaintiff² and defendant should ask the judge at the trial to certify that their particulars are reasonable and proper, or, if proved, that they have been proved; but where the defendant is not called on to prove any particulars of objections, as where the defendant succeeds on the issue of infringement, and the question of validity is not gone into,³ the judge will probably refuse a certificate as to their being reasonable and proper.⁴

Where, however, an action breaks down on the cross-examination of the plaintiff's first witness, leave may be given to further cross-examine, with a view to obtaining a certificate that the particulars of objection were reasonable and proper.⁵

Subsequent application.

Costs of the particulars of objections may be allowed on an application made subsequently to the trial, but the costs of such an application will not be given to either party.⁶

Action withdrawn.

If the plaintiff withdraws his action before trial, it seems that the successful defendant will have to bear the costs of his particulars of objections.⁷ Where, at the trial, the defendant in a threats action withdraws his

¹ Tweedale v. Ashworth, 1892, H.L. 9 R.P.C. 121.

² Kane v. Guest, 1899, 16 R.P.C. 433.

³ Peters v. Owen, 1898, 15 R.P.C. 663.

⁴ Newsum v. Mann, 1890, 7 R.P.C. 310.

⁵ Pegamoid, Ltd., v. British Leather Cloth Manufacturing Co., Ltd., 1901, 18 R.P.C. 317.

⁶ Duckett v. Sankey & Son, 1899, 16 R.P.C. 337.

⁷ Middleton v. Bradley, 1895, 12 R.P.C. 390; but see Rothwell v. King, 1887, 4 R.P.C. 397 (Lanc. Ct. case).

counter-claim, the plaintiff may be allowed the costs of his particulars of objections.¹

Where a plaintiff can discontinue his action without leave, it appears that he can, by so doing, deprive the defendant of the costs of his particulars; but where leave to discontinue is necessary, the Court has a discretion as to costs,² and the plaintiff will probably be required to pay the costs of the particulars of objections as if certified, or as the master shall certify,³ not to bring a fresh action against the defendants on the same grounds, or in respect of infringements prior to the date of the writ, and, in case the defendant be a public authority, to pay the defendant's costs as between solicitor and client.⁴

It may also be made a condition that no action shall be brought against any purchaser from the defendant before the date of the writ.⁵

If a plaintiff at the trial offer no evidence, and the action is dismissed, no certificate can be given by the judge at the trial, and, consequently, no costs of the particulars of objections can be allowed.⁶

The judge sometimes gives a certificate as to some only of the particulars of objections; and judges have frequently complained of the insertion of particulars which are really not applicable to the case, but are put in as general forms. As a general rule, however, certificates of reasonableness of particulars are granted, so as to secure to the party delivering them the costs of everything reasonably and properly inserted in them, although he may fail to prove the specific objections under which the detailed particulars may be ranged.⁷

¹ Willoughby v. Taylor, 1894, 11 R.P.C. 45.

² Brooks v. Lycett, 1902, C.A. 19 R.P.C. 366.

³ Kerr v. Crompton, 1901, Pal. Ct. Lanc., 19 R.P.C. 9.

⁴ Chamberlain & Hookham v. Mayor of Huddersfield, 1901, 18 R.P.C. 454.

⁵ Bethell v. Gage, 1897, 14 R.P.C. 699.

⁶ Mandleberg v. Morley, 1895, 12 R.P.C. 35; American Steel and Wire Co. v. Glover, 1902, 19 R.P.C. 102.

⁷ Castner Kellner Alkali Co. v. Commercial Development Corporation, 1899, C.A. 16 R.P.C. 251.

Costs will not be allowed of particulars going only to the construction of a patent that is held valid.¹

Court of Appeal can give certificate.

If the defendant should fail at the trial, he will not require any certificate as to his particulars, since he must have failed on every issue; but if he should appeal against the judgment, and the Court of Appeal should reverse the decision of the Court below, it can give a certificate that the particulars of objections are reasonable and proper.²

Action on several patents.

In an action on four patents, one being abandoned at the trial, while the plaintiffs succeeded on one and failed on the other two, the costs were ordered to be taxed as on separate actions.³

Appeal to House of Lords.

The Court of Appeal will not order the solicitor of the successful party to give a personal undertaking to repay costs paid by the other side in the event of a successful appeal to the House of Lords.⁴

Shorthand notes.

As has been already said, there is an increasing tendency to allow the cost of a shorthand note of the evidence, and where such note is used by the Court such costs will probably be allowed.⁵

Costs on higher scale.

Although a patent action probably involves more work and expense than almost any other kind of action, it is not often that costs are given on the higher scale; the rule being that only ordinary costs shall be given, except in a case of unusual difficulty and skill—antiquarian research and things of that kind,⁶ not usually experienced in a patent action.

Where costs are given on the higher scale in the

¹ *Shoe Machinery Co. v. Cutlan*, Romer J., 1895, 12 R.P.C. 342.

² *Cole v. Saqui*, 1889, C.A. 6 R.P.C. 41; 40 Ch. D. 132.

³ *Brooks v. Lamplugh*, 1898, C.A. 15 R.P.C. 33.

⁴ *Castner Kellner Alkali Co. v. Commercial Development Corporation*, 1899, C.A. 16 R.P.C. 251.

⁵ See p. 195.

⁶ *Gadd v. Mayor, etc., of Manchester*, 1892, C.A. 9 R.P.C. 516; *cf. Incandescent Gas v. De Mare*, 1896, 13 R.P.C. 361.

Court of first instance, it does not follow that they will be given in the Court of Appeal.¹ Costs on appeal.

The costs of a witness present in the Court of Appeal, but not called, cannot be allowed on taxation.

A view by counsel between judgment and appeal may be allowed.²

Judgment by Default.

Where the plaintiff obtains judgment in default of defence, he will be allowed the costs of his particulars of breaches.³

¹ Chamberlain & Hookham *v.* Mayor, etc., of Bradford, 1901, 19 R.P.C. 78.

² Leeds Forge Co. *v.* Deighton's Patent Flue, 1903, 20 R.P.C. 185.

³ Brooks *v.* Hall, 1903, 21 R.P.C. 29; Saccharine Corpn. Ltd. *v.* Skidmore, 1903, 21 R.P.C. 31.

CHAPTER XXII.

EXTENSION OF TERM OF LETTERS PATENT.

The fourteen years' limit is sometimes found too short.

Extension was by special Act.

Extension now by Privy Council when remuneration is inadequate.

Grounds for extension of term.

THE Statute of Monopolies limited the time for which letters patent for an invention could be granted to fourteen years; and this is so far still the limit that every patent is now granted for that term. It was found, however, that in some cases the term of fourteen years was not long enough to enable an inventor to get his invention introduced and to obtain a proper reward for his labour, and so, in special cases, Parliament extended the limit of time beyond the fourteen years. To attain this object a special Act of Parliament was formerly required, but it was thought better to simplify the process, and to allow the Crown to extend the term of a patent upon a report of the Judicial Committee of the Privy Council that the patentee had been inadequately remunerated by his patent.

This is the only ground upon which a patent may be extended; and, in order to obtain an extension, the patentee will have to show that his invention was one of unusual merit, and that, through no fault of his own, he has failed to secure proper remuneration, but not necessarily that if the term be extended he will be able to do so,¹ though, where the original inventor will not benefit, an extension will not be granted.²

A petition may be presented, and an extension of the

¹ Jones' patent, 1840, 1 W.P.C. 579.

² Finch's patent, 1898, 15 R.P.C. 676.

patent may be granted, for part only of the invention originally protected.¹ Extension as to part of patent.

Procedure for obtaining Extension.

"A patentee may, after advertising in manner directed by any rules made under this section his intention to do so, present a petition to His Majesty in Council, praying that his patent may be extended for a further term; but such petition must be presented at least six months before the time limited for the expiration of the patent."
Patentee may petition for extension. Act, 1883, sect. 25 (1).

A patentee here means a person for the time being entitled to the benefit of the patent; and it is only such a person who may present a petition for extension. If the petitioner be an assignee, he must prove his title strictly;² but there is no objection to an extension being granted in a suitable case to an assignee, whether a private person or a public company,³ provided such extension will benefit the first inventor.⁴ Meaning of patentee.

There does not appear to have been any case in which one of several joint patentees has presented a petition for extension without joining his co-patentees, but there seems no reason, provided he can show what profits they have made, why such a petition would not be properly presented, and an extension granted to such joint patentee with due provision for preserving the rights of his co-patentees. A joint patentee can probably petition alone.

When a patent has been once extended, no further extension can be granted.⁵ Only one extension.

The Privy Council have no power to extend the time for petitioning for the extension of a patent beyond the limit of six months before its expiration.⁶ Time for petitioning.

¹ Bodmer's patent, 1853, 8 Moo. P.C.C. 282; Lee's patent, 1856, 10 Moo. P.C.C. 226; Napier's patent, 1881, L.R. 6 App. Cas. 174.

² Galloway's patent, 1843, 1 W.P.C. 725.

³ Houghton's patent, 1871, L.R. 3 P.C. 461.

⁴ Finch's patent, 1898, 15 R.P.C. 676.

⁵ Goucher's patent, 1865, 2 Moo. P.C.C. (N.S.) 532.

⁶ Adam's patent, 1899, 16 R.P.C. 1.

Rules for Procedure on Petitions.

Act, 1883,
sect. 25 (6).

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

The following are the Rules to be observed in Proceedings before the Judicial Committee of the Privy Council under the Patents, Designs, and Trade Marks Act, 1883, Section 25.

I.

Advertise-
ment of
petition

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

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

The applicant shall in his advertisements state the object of his Petition, and shall give notice of the day on which he intends to apply for a time to be fixed for hearing the matter thereof, which day shall not be less

than four weeks from the date of the publication of the last of the advertisements to be inserted in the *London Gazette*. He shall also give notice that caveats must be entered at the Council Office on or before such day so named in the said advertisements.

II.

A Petition under section 25 of the Act must be pre-^{Time for} sented within one week from the publication of the last ^{presenting} of the advertisements required to be published in the *London Gazette*.

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

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

III.

A party presenting a Petition under section 25 of ^{Documents to} the Act must lodge at the Council Office eight printed ^{be lodged.} copies of the specification; but if the specification has not been printed, and if the expense of making eight copies of any drawing therein contained or referred to would be considerable, the lodging of two copies only shall be deemed sufficient.

The Petitioner shall also lodge at the Council Office eight copies of the balance sheet of expenditure and receipts relating to the patent in question, which accounts are to be proved on oath before the Lords of the Committee at the hearing. He shall also furnish three copies of the said balance sheet for the use of the Solicitor

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

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

IV.

Opposition

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

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

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

V.

Copies of deposited documents.

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

All such Petitions and all statements of grounds of objection shall be printed in the form prescribed by the Rules which apply to proceedings before the Judicial

Committee of the Privy Council. Balance sheets of expenditure and receipts shall be printed in a form convenient for binding along with such Petitions.

VI.

Costs incurred in the matter of any Petition under section 25 of the Act shall be taxed by the Registrar of the Privy Council, or other officer deputed by the Lords of the Judicial Committee of the Privy Council to tax the costs in the matter of any Petition, and the Registrar, or such other officer, shall have authority to allow or disallow in his discretion all payments made to persons of science or skill examined as witnesses. Costs.

VII.

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

VIII.

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

The Privy Council cannot, under Rule VII., extend the time for lodging a petition for extension beyond six months prior to the termination of the term of the patent, that time being fixed by statute.¹

¹ Adam's patent, 1899, 16 R.P.C. 1.

Time for
advertising.

Where, however, by an oversight, the necessary advertisements have not been published, the Privy Council will, in order to enable the petition to be presented before six months from the date of expiration of the patent, allow a petition to be received subject to an undertaking to insert the proper advertisements.¹

It will be seen that, by Rule I., the advertisement must give notice that any person may lodge a caveat against the petition within a certain time, and the Act itself provides that—

Caveats
Act, 1883,
sect. 25 (2).

“Any person may enter a caveat addressed to the Registrar of the Council at the Council Office, against the extension.”

A caveat must be lodged in the name of the actual objector, not in that of a patent agent for him.²

Time for
lodging
caveat.

The time for entering a caveat will not be extended merely because the party desirous of opposing was not aware of the proceedings for prolongation.³

Who will be
heard on
petition.
Act, 1883,
sect. 25 (3).

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

As a rule, not more than two counsel will be heard on behalf of any party entitled to be heard.

Grounds for
decision.
Sect. 25 (4).

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

In a petition for extension the petitioner must not withhold anything which is material; the committee require that *uberrima fides* shall be shown by him, since the grant of an extension is entirely a matter of grace; and if the committee find that any material fact has been suppressed, they will dismiss the petition.⁴

¹ Lindon's patent, 1897, 14 R.P.C. 643.

² Lowe's patent, 1852, 8 Moo. P.C.C. 1.

³ Hopkinson's patent, 1896, 13 R.P.C. 114.

⁴ Horsey's patent, 1884, 1 R.P.C. 225; Clark's patent, 1870, L.R. 3: P.C. 421; Ferranti's petition, 1901, 18 R.P.C. 518.

Any earlier patents dealing with the same subject-matter should be disclosed, and generally everything bearing on the matter should be stated on the face of the petition.¹

The committee will not grant an adjournment to supplement an obvious defect in the petition.²

The first thing which the Judicial Committee look at is the profit made by the patentee, and it is most essential that the accounts filed should be as perfect as possible. Accounts must be perfect.

“ It is the duty of every patentee who comes for the prolongation of his patent to take upon himself the onus of satisfying this committee, in a manner which admits of no controversy, what has been the amount of remuneration which in every point of view the invention has brought to him, in order that their lordships may be able to come to a conclusion whether that remuneration may fairly be considered as a sufficient reward for his invention or not. It is not for the committee to send back the accounts for further particulars, nor to dissect the accounts for the purpose of surmising what might be their real outcome if they were differently cast; it is for the applicant to bring his accounts before the committee in a shape which will leave no doubt as to what the remuneration has been which he has received.”³

A patentee should always keep accurate accounts of matters connected with his patent, in view of a possible petition for extending its term, since accounts made up from memory or conjecture are very objectionable and likely to defeat the petition. This was clearly stated in the Privy Council in the following language: “ Their Lordships have to complain of the very unsatisfactory manner in which the accounts have been presented to them, which has compelled them in many particulars to Duty of patentee to keep accounts.

¹ *In re* Standfield's patent, per Lord Hobhouse, 1898, 15 R.P.C. 17.

² Peach's patent, 1901, 19 R.P.C. 65.

³ Henderson's patent, 1901, P.C., 18 R.P.C. 449, quoting Saxby's patent, L.R. 3 P.C. 294.

resort to conjecture where certainty ought to have been afforded. There can be no difficulty in a patentee beginning from the first to keep a patent account distinct and separate from any other business in which he may happen to be engaged. He knows perfectly well that if his invention is of public utility, and he has not been adequately remunerated, he will have a claim for an extension of the original term of his patent. It is not, therefore, too much to expect that he should be prepared when the necessity arises to give the clearest evidence of everything that has been paid and received on account of the patent. In the present case it is said that the capsule business, the subject of the patent, was blended with the other business of the petitioner, and that it is impossible to distinguish them. This may be perfectly true at the present time, but it need not have been so if the petitioner had proceeded from the first upon a separate system of account keeping. For want of this he has to resort to speculation as to how much of the entire business ought to be ascribed to the patent, and to arrive at the conclusion by assuming as the basis of calculation the royalty which a licensee would be disposed to give." ¹

Form of
accounts.

The accounts should, on the one side, show all receipts in connection with the patent, and, on the other, all the expenditure, and in the latter may be included the cost of legal proceedings, the cost of the patent and of experiments, and the expense of bringing the invention into use.²

Profits of
company
working
patent.

The accounts of the original patentee must, of course, be filed, and, if he has sold his patent to a company for cash and shares, the accounts must show the profits made by the company.³ And also what sales of the patentee's shares, if any, have taken place, since it is necessary to

¹ Betts' patent, 1 Moo. P.C.C. (N.S.) 49, cited in Hughes' patent, 1898, 15 R.P.C. 372.

² Galloway's patent, 1843, 1 W.P.C. 725.

³ Deacon's patents, 1887, 4 R.P.C. 119.

show that the original inventor, as well as the assignee, has been inadequately remunerated.¹

The fact that the patentee has no interest in the prolongation is very strong against prolongation being granted.²

The accounts must, of course, show all royalties received from licencees under the patent, and, if there be a free licencee, the profits made by him, compared with those made by royalty-paying licencees, should be shown in the account.³ Manufacturer's profit cannot be distinguished from patentee's profit.⁴

The ground for granting an extension being want of proper remuneration for the invention, the patentee must show what remuneration he has received for the invention independently of the English patent. For this purpose, if there be any foreign patents, accounts of the profits in respect of them should be submitted to the Judicial Committee.⁵

If proper accounts are not filed in time, an adjournment will not be granted;⁶ and, if the accounts are not clear, evidence to explain them will not be allowed, but the petition will be dismissed with costs.⁷

When there is any profit, the utmost accuracy is necessary; but, when the accounts show a heavy loss, extreme accuracy is not required.⁸

A meritorious patent will be prolonged despite some

¹ Barff's and Bowen's patent, 1895, [1895]; A.C. 675, 12 R.P.C. 383.

² Clark's patent, 1899, 16 R.P.C. 433; Norton's patent, 1863, 1 Moore P.C.C. (N.S.) 339; Barff's and Bowen's patent [1895], A.C. 675; 12 R.P.C. 383; Finch's patent, 1898, 15 R.P.C. 674.

³ Thomas's patents, 1892, 9 R.P.C. 367.

⁴ Muntz's patents, 1846, 2 W.P.C. 121; Duncan and Wilson's patents, 1884, 1 R.P.C. 257; Saxby's patent, 1870, L.R. 3 P.C. 292.

⁵ Newton's patents, 1884, 9 App. Cas. 592, 1 R.P.C. 177; Johnson's patent, 1871, L.R. 4 P.C. 75.

⁶ Yates and Kellett's patent, 1887, 4 R.P.C. 150.

⁷ Lake's patent, 1891, 8 R.P.C. 227.

⁸ Darby's patent, 1891, 8 R.P.C. 380.

difficulty in ascertaining the exact amount of the patentee's remuneration.¹

Remuneration for patentee's time.

In estimating the patentee's profits the Judicial Committee will, where he has been personally engaged in developing his invention, and in superintending the manufacture of goods under it, make an allowance out of the net amount received by him for remuneration for the time so expended by him.² Thus, even when the patentee has received considerably more than a fair return for capital expended by him, he may be able to show that most of the balance would be absorbed in paying him at a fair rate for work done after the patent was granted.³

In order to have a *prima facie* case for extension, the remuneration must appear to be decidedly inadequate; and where large profits are shown the Judicial Committee will not go into the question of merit.⁴

When merits are considered

When the accounts show that the patentee has not made very large profits, the Judicial Committee will proceed to examine into the merits of the invention and into the other circumstances of the case. For this purpose the Judicial Committee assume that the patent is a valid one,⁵ even though it may have been declared invalid in a Court of first instance, against the judgment of which an appeal is pending.⁶ Although, however, the general question of validity will not be considered, evidence of anticipation by patents and by actual user is admissible.⁷

validity assumed.

¹ *In re Parson's patent*, 1898, 15 R.P.C. 349.

² *Joy's patent*, 1893, 10 R.P.C. 89; *Carr's patent*, 1873, L.R. 4 P.C. 539; *Perkin's patent*, 1845, 2 W.P.C. 17.

³ *Livet's patent*, 1892, 9 R.P.C. 332; *Hazeland's patent*, 1894, 11 R.P.C. 467.

⁴ *Houghton's patent*, 1871, L.R. 3 P.C. 461.

⁵ *Heath's patent*, 1853, 2 W.P.C. 247; *Hill's patent*, 1863, 1 Moo. P.C.C. (N.S.) 258.

⁶ *Lane Fox's patent*, 1892, 9 R.P.C. 411.

⁷ *Duncan Stewart's patent*, 1885, 3 R.P.C. 7.

It has not been decided whether a patent which requires amendment can be extended.¹

In order to obtain prolongation the petitioner must show that there is exceptional merit in the invention,² and, when a reasonable profit has resulted, the committee will consider whether the benefit to the patentee is commensurate with that to the public.³ Exceptional merit must be shown.

If the patentee has not made any profit from the patent, the only questions for the Judicial Committee to consider are those of the merit of the invention and the conduct of the patentee.

The patentee will have to show that there is some considerable usefulness to the public⁴ in the invention, and on the question of utility the fact that the invention has not been brought into extensive public use might lead the Judicial Committee to infer that it was not useful;⁵ to remove this inference the patentee should be prepared to show that the invention is not from its nature easily brought into public use.⁶ Utility must be shown.

As a rule, if the invention has not been brought into public use at all, this fact will go very strongly against any extension being granted, since the inference is that, if not used for fourteen years, the invention cannot be of any value.⁷ If, however, the patentee can show that the invention is of such limited applicability that it has hardly had a fair chance of being used,⁸ or that the experiments necessary to perfect it were difficult to carry Invention not brought into use. Extension of patent not brought into use.

¹ *In re* Burlingham Innes & Lee's patent, 1898, 15 R.P.C. 195.

² Beanland's patent, 1887, 4 R.P.C. 489.

³ Derosne's patent, 1844, 2 W.P.C. 1.

⁴ Woodcroft's patent, 1846, 2 W.P.C. 31.

⁵ Simister's patent, 1842, 1 W.P.C. 723; Napier's patent, 1861, 13 Moo. P.C.C. 543.

⁶ Semet and Solway's patent, 1895, A.C. 78, 12 R.P.C. 10.

⁷ Wright's patent, 1839, 1 W.P.C. 576; Roper's patent, 1887, 4 R.P.C. 201; Allan's patent, 1867, L.R. 1 P.C. 507.

⁸ Roper's patent, 1887, 4 R.P.C. 201; Stoney's patent, 1888, 5 R.P.C. 518; Southby's patent, 1891, 8 R.P.C. 433; Bakewell's patent, 1852, 15 Moo. P.C.C. 385; Currie and Timmis' patent, 1898, 15 R.P.C. 63.

out, and that due diligence has been used in carrying them out,¹ and that there is every prospect that if the term be extended it will get into use, the Judicial Committee may grant the extension.

The consideration of utility by the Judicial Committee is not at all connected with validity, as the following quotation clearly shows :—

Utility considered in relation to merit.

“ Their Lordships do not propose in this case to go into any question with reference to the novelty or utility of this invention. In point of fact, it is not the practice of this tribunal to decide upon the novelty or utility of a patent; and although they would, of course, abstain in any case from prolonging a patent which was manifestly bad, yet, in one point of view, they are in the habit, in taking into account that which may be termed the question of utility, to consider not that amount of utility which would be necessary to support a patent, but that kind of utility which might more properly be described as merit.”²

Effect of unchecked infringement.

The Judicial Committee will also consider all the circumstances of the case, and in this connection they will look at what the patentee has done in endeavouring to get the patent worked. It will go against him if he has slept on his rights for a long time, either by allowing infringements to go unchecked, or by not endeavouring to get the invention worked till a large part of his time had expired.³

Effect of exclusive licence.

An agreement giving one party an exclusive right to use the invention will be treated with disfavour;⁴ and, if an extension be granted, an exclusive licensee may be required to renounce all claim under his licence before the extension is registered.⁵

¹ Thompson's patent, 1902, 19 R.P.C. 565.

² Saxby's patent, 1870, L.R. 3 P.C. 294; Cockling's patent, 1885, 2 R.P.C. 151.

³ Pettit Smith's patent, 1850, 7 Moo. P.C.C. 133.

⁴ Darby's patent, 1891, 8 R.P.C. 384.

⁵ Shone's patent, 1892, 9 R.P.C. 438; Lyon's patent, 1894, 11 R.P.C. 537.

Where the patentee will not derive any benefit from a prolongation, a prolongation will not be granted.¹

When there are foreign patents, whether granted before or after the English Patent, the fact that they have lapsed does not affect the discretion of the Judicial Committee in recommending an extension;² but if, at the date of the application for a patent in this country, the invention was well known abroad, the importer is unlikely to obtain any extension.³

Lapsed foreign patents do not affect extension.

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

Act, 1883, sect. 25 (5).
How patent is extended.

When the extension is granted to some party other than the original patentee, the Judicial Committee sometimes make it a condition that some benefit should be reserved to him,⁴ or to his family,⁵ unless he has been already remunerated.⁶

It is not unusual to impose terms as to the granting of licences to any persons who may care to apply for them,⁷ and to make other conditions for the working of the patent, so as to protect the public and parties other than the patentee from hardship or injustice.⁸

Where a patent is mortgaged the patentee will be required to extend the mortgage so as to cover the extended patent.⁹

¹ *In re* Finch's patent, 1898, 15 R.P.C. 674.

² *Semet and Solway's* patent [1895], A.C. 78.

³ *Claridge's* patent, 1851, 7 Moo. P.C.C. 394.

⁴ *Hardy's* patent, 1849, 6 Moo. P.C.C. 441.

⁵ *Herbert's* patent, 1867, L.R. 1 P.C. 399.

⁶ *Bodmer's* patent, 1849, 6 Moo. P.C.C. 468.

⁷ *Lyon's* patent, 1894, 11 R.P.C. 537; *Mallet's* patent, 1866, L.R. 1 P.C. 308.

⁸ *Normandy's* patent, 1855, 9 Moo. P.C.C. 452.

⁹ *Church's* patents, 1886, 3 R.P.C. 95.

Assessor may
be called in.
Act, 1883,
sect. 28 (2) (3).

"The Judicial Committee of the Privy Council may, if they see fit, in any proceeding before them, call in the aid of an assessor."

"The remuneration, if any, to be paid to an assessor under this section shall be determined by the Judicial Committee, and be paid in the same manner as the other expenses of the execution of this Act."

Costs.
Act, 1883,
sect. 25 (7).

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

No rule can be laid down as to costs in petitions for extension; in each case the Judicial Committee will consider all the circumstances of the case, and one case is no guide to what will be done in another. If the petition is abandoned, the petitioner will have to pay the opponent's costs.¹

Council Office Fees.

ON PETITIONS TO THE KING IN COUNCIL.

	£	s.	d.
Entering	1	1	0
Setting down petition	0	10	0
Summons	0	10	0
Committee Report	1	10	0
Order of His Majesty in Council	3	2	6
Committee Order	1	12	6
Lodging affidavit	1	1	0
Lodging petition	1	1	0
Searching books for information for parties	0	10	0
Committee references	2	2	0
Lodging caveat	1	1	0
Subpcena to witness.	0	10	0
Fee for taxation petitions	1	1	0

¹ Morgan Brown's patent, 1886, 3 R.P.C. 212.

CHAPTER XXIII.

OFFENCES.

“(1) ANY person who represents that any article sold by him is a patented article, when no patent has been granted for the same, shall be liable for every offence on summary conviction to a fine not exceeding five pounds. Act, 1883, sect. 105. Penalty on falsely re-

“(2) A person shall be deemed, for the purposes of this enactment, to represent that an article is patented if he sells the article with the word ‘patent,’ ‘patented,’ or any word or words expressing or implying that a patent has been obtained for the article stamped, engraved or impressed on, or otherwise applied to the article.” presenting articles to be patented.

If a patent has been granted, but has lapsed before the time at which the representation is made, this will be sufficient to avoid the penalty.¹ If patent has lapsed.

When a complete specification has been accepted, articles made under it may be safely marked “Patent”.

Section 15 gives all privileges on acceptance.²

An improper use of the word patent in a trade mark is sufficient to disable the owner thereof from suing for infringement.³

“If any person makes or causes to be made a false entry in any register kept under this Act, or a writing falsely purporting to be a copy of an entry in any such register, or produces or tenders or causes to be produced or tendered in evidence any such writing, knowing the entry or writing to be false, he shall be guilty of a misdemeanour.” Act, 1883, sect. 93. Falsification of register.

“After the 1st day of July, 1889, 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.” Using the title of patent agent.

¹ Myers v. Baker, 1858, 3 H. & N. 802; Cheavin v. Walker, 1876, 5 Ch. D. 850; The Leather Cloth Co. v. The American Cloth Co., 1865, 11 H.L.C. 523.

² R. v. Townsend, 1896, Pal. Ct., 13 R.P.C. 265.

³ Per Rigby, L.J., Hubbuck v. Brown, 1900, 17 R.P.C. 638, 647.

Act, 1888,
sect. 1 (1).
Sect. 1 (4).
Sect. 1 (5).

“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 £20.”

In this section “patent agent” means exclusively an agent for obtaining patents in the United Kingdom.

The fact that a person is qualified to be on the register does not entitle him to describe himself as a patent agent; he must pay the fees and do all that is necessary to procure himself to be registered.¹

It is not an offence against this section for any person to describe himself as a patent expert, or to use any other similar title, provided he does not make use of the actual designation “Patent Agent”.² Nor is it an offence for any person to sign a specification or do any other act as agent for an applicant for letters patent.³

An action will not lie to restrain an unqualified person from describing himself as a patent agent.⁴

Summary
proceedings
in Scotland.
Act, 1883,
section 108.
In Ireland.
Act, 1883,
sect. 117.

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

“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.”

In Isle of
Man.
Act, 1883,
sect. 112 (c).

“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.”

Misde-
meanour
in Isle of
Man.
Act, 1883,
sect. 112 (b).

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

¹ *Starey v. Graham*, 1899, Div. Ct., 16 R.P.C. 106.

² *Graham v. Eli*, 1898, Div. Ct., 15 R.P.C. 259.

³ *Graham v. Fanta*, 1892, Div. Ct., 9 R.P.C. 263; *Graham v. Eli*, *supra*.

⁴ *Chartered Institute of Patent Agents v. Lockwood*, 1894, H.L. 11 R.P.C. 374.

CHAPTER XXIV.

REGISTER OF PATENTS.

"THERE shall be kept at the Patent Office a book called the Register of Act, 1883, Patents, wherein shall be entered the names and addresses of grantees of sect. 23. patents, notifications of assignments and of transmission of patents, of licences under patents, and such other matters affecting the validity or proprietorship of patents as may from time to time be prescribed.

"The Register of Patents shall be *prima facie* evidence of any matters by this Act directed or authorised to be inserted therein.

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

The actual proprietorship must, in general, be affected by a document that is entered on the register; a letter agreeing to give an exclusive licence on terms of royalties to be agreed on is not a document that can be entered on the register;¹ nor can an old agreement, in a general form, relating to future patents.²

"Upon the sealing of a patent the Comptroller shall cause to be entered in the Register of Patents the name, address and calling of the patentee as the grantee thereof, and the title of the invention, together with the address for service." Entry of grant. Rule 51.

"The patent granted on any Convention application shall be entered in the register as dated of the date on which the first foreign application was made, and the payment of renewal fees, and the expiration of the patent, shall be reckoned as from the date of the first foreign application." Entry in respect of Convention application. Rule 52.

"Upon the issue of a certificate of payment under Rule 68, the Comptroller shall cause to be entered in the register a record of the date of payment of the fee on such certificate." Entry of payment of fees on issue of certificate. Rule 61.

¹ Fletcher's patent, 1893, 10 R.P.C. 252.

² Parnell's patent, 1888, 5 R.P.C. 126.

Entry of failure to pay fees.
Rule 62.

"If a patentee fails to make any prescribed payment within the prescribed time, or any enlargement thereof duly granted, there shall be duly entered in the register a notification of such failure."

Alteration of address.
Rule 53.

"If a patentee send to the Comptroller, on Form R, notice of an alteration in his address, the Comptroller shall cause the register to be altered accordingly, and may require the altered address to be in the United Kingdom."

This application must bear a stamp for 5s.

Registration of assignments, etc.
Act, 1883, sect. 87.

"Where a person becomes entitled by assignment, transmission or other operation of law to a patent, 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 in the Register of Patents. The person for the time being entered in the Register of Patents as proprietor of a patent shall, subject to the provisions of this Act and 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 may be enforced in like manner as in respect of any other personal property."

But although it is provided that—

No notice of trust on register.
Act, 1883, sect. 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,"

Equitable assignment.

it has been decided that an equitable assignment of a patent can be entered in the register.¹

A patent belonging to a bankrupt, or granted to an undischarged bankrupt, passes to the trustee as part of his estate.²

Notice of an equity will defeat priority of registration,³ and the assignee of an assignee takes subject to the terms of the first assignment.⁴

Request for entry of subsequent proprietorship.
Rule 54.

"Where a person becomes entitled to a patent, or to any share or interest therein, by assignment, or by transmission, or other operation of law, a request for the entry of his name in the register as such complete or partial proprietor of the patent, or of such share or interest therein, as the case may be, shall be addressed to the Comptroller and left at the Patent Office."

¹ Stewart v. Casey, 1892, C.A. 9 R.P.C. 9.

² Hesse v. Stevenson, 1803, 3 Bos. & P. 565.

³ New Ixion Tyre v. Spilbury, 1898, 15 R.P.C. 380; [1898] 2 Ch. 484.

⁴ Werdeman v. Société Générale d'Électricité, 1881, 19 Ch.D. 247.

“ Such request shall be on Form L., and shall, in the case of individuals, be made and signed by the person requiring to be registered as proprietor, or by his agent duly authorised to the satisfaction of the Comptroller, and in the case of a body corporate, by its agent, authorised in like manner.”

Form and signature of request.
Rule 55.

Such request must bear a stamp for 10s.

“ Every such request shall state the name, address and calling of the person claiming to be entitled to the patent or to any share or interest therein, as the case may be, and the particulars of the assignment, transmission or other operation of law, by virtue of which he claims to be entered in the register as proprietor, so as to show the manner in which, and the person or persons to whom, the patent, or such share or interest therein as afore-said, has been assigned or transmitted.”

Particulars to be stated in request.
Rule 56.

“ Every assignment and every other document containing, giving effect to, or being evidence of the transmission of a patent or affecting the proprietorship thereof as claimed by such request, except such documents as are matters of record, shall, unless the Comptroller in his discretion otherwise directs, be produced to him, together with the request and such other proof of title as he may require for his satisfaction.”

Production of documents of title and other proof.
Rule 57.

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

“ There shall also be left with the request an attested copy of the assignment or other document or copy above required to be produced.”

Copies for Patent Office.
Rule 58.

“ A body corporate may be registered as proprietor by its corporate name.”

Body corporate.

“ Where an order has been made by His Majesty in Council for the extension of a patent for a further term, or for the grant of a new patent, or where an order has been made for the revocation of a patent or the rectification of the register under section 90 of the Act of 1883, or otherwise affecting the validity or proprietorship of the patent, the person in whose favour such order has been made shall forthwith leave at the Patent Office an office copy of such order. The register shall thereupon be rectified, or the purport of such order shall otherwise be duly entered in the register, as the case may be.”

Rule 59.
Entry of orders of the Privy Council or of the Court.
Rule 60.

An application for the entry of an order of the Privy Council in the register must be made on Patent Form S, and must bear a stamp for 10s.

See App. A.

“ 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.”

Scotch or Irish Order, how registered.
Act, 1883,

“ An attested copy of every licence granted under a patent or of any other document purporting to affect the proprietorship of a patent, shall be left at the Patent Office by the licensee, with a request on Form M that a notification thereof may be entered in the register. The accuracy of such copy shall be certified as the Comptroller may direct, and the original document shall at the same time be produced and left at the Patent Office if required for further verification.”

sect. 111 (2).
Entry of licences and other documents.
Rule 63.

See App. A.

A request to enter a notification of a licence or other document must bear a stamp for 10s.

Register to be open to public.
Act, 1883,
sect. 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 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.”

The fee for each inspection is 1s.

Hours of inspection of register.
Rule 64.

“The Register of Patents shall be open to the inspection of the public on every week day except Saturday between the hours of ten and four, and on Saturday between the hours of ten and one, except on the days and the times following:—

- (a) Christmas Day, Good Friday, the day observed as His Majesty's birthday, days observed as days of public fast or thanksgiving, and days observed as holidays at the Bank of England; or
- (b) Days which may from time to time be notified by a placard posted in a conspicuous place at the Patent Office;
- (c) Times when the register is required for any purpose of official use.

Sealed copies are evidence.
Act, 1883,
sect. 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 His Majesty's dominions, and in all proceedings, without further proof or production of the originals.”

Certified copies of documents.
Rule 79.

“Certified copies of any entry in the register, or certified copies of, or extracts from, patents, specifications, disclaimers, affidavits, statutory declarations and other public documents in the Patent Office, or of or from registers and other books kept there, may be furnished by the Comptroller on payment of the prescribed fee.”

The fee for office copies is 4d. per 100 words, but never less than 1s., and for drawings according to agreement. The cost of a printed specification is 8d. There is a fee of 1s. for certifying an office copy or specification, etc.

Certificate of Comptroller to be evidence.
Act, 1883,
sect. 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.”

See App. A.

The fee for a certificate from the Comptroller is 5s.; it is given on Patent Form Q.

“The Comptroller may, on request in writing, accompanied by the prescribed fee,—

(a) Correct any clerical error in or in connection with an application for a patent; or

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

Clerical errors may be corrected. Act, 1883, sect. 91.

An application to the Comptroller to correct a clerical error must be made on Patent Form P, which must bear a stamp for 5s. or £1, according as the application is made before or after the patent is sealed. See App. A.

“The Court may, on the application of any person aggrieved by the omission without sufficient cause of the name of any person 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, 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. Correction of register by the Court. Act, 1883, sect. 90.

“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.

“Any order of the Court rectifying a register shall direct that due notice of the rectification be given to the Comptroller.”

A person who has agreed to purchase a share of a patent is aggrieved by the registration of a transfer of another share, executed by a bankrupt, but if the invalidity of the transfer has been cured by a transfer from the Official Receiver, a motion for rectification will be refused with costs.¹

Rectification of the register cannot be obtained by means of a counter-claim in an action, but must be made the subject of an original motion.²

The Court here means the High Court, or other Court having jurisdiction in patent matters.

“If any person makes or causes to be made a false entry in any register kept under this Act, or a writing falsely purporting to be a copy of an entry in any such register, or produces or tenders or causes to be produced or tendered in evidence any such writing, knowing the entry or writing to be false, he shall be guilty of a misdemeanour.” Falsification of register a misdemeanour. Act, 1883, sect. 93.

¹ *In re Manning's patent*, 1903, 20 R.P.C. 74.

² *Pinto v. Badman*, 1891, 8 R.P.C. 181.

CHAPTER XXV

COMPULSORY LICENCES.

Act, 1902,
sect. 3.

- (1) ANY person interested may present a petition to the Board of Trade alleging that the reasonable requirements of the public with respect to a patented invention have not been satisfied, and praying for the grant of a compulsory licence, or, in the alternative, for the revocation of the patent ;
- (2) The Board of Trade shall consider the petition, and if the parties do not come to an arrangement between themselves, the Board of Trade, if satisfied that a *prima facie* case has been made out, shall refer the petition to the Judicial Committee of the Privy Council, and if the Board are not so satisfied, they may dismiss the petition ;
- (3) Where any such petition is referred by the Board of Trade to the Judicial Committee, and it is proved to the satisfaction of the Judicial Committee that the reasonable requirements of the public with reference to the patented invention have not been satisfied, the patentee may be ordered by an Order in Council to grant licences on such terms as the said Committee may think just, or if the Judicial Committee are of opinion that the reasonable requirements of the public will not be satisfied by the grant of licences, the patent may be revoked by Order in Council ;
Provided that no order of revocation shall be made before the expiration of three years from the date of the patent, or if the patentee gives satisfactory reasons for his default ;
- (4) On the hearing of any petition under this section the patentee and any person claiming an interest in the patent as exclusive licensee or otherwise, shall be made parties to the proceeding, and the law officer or such other counsel as he may appoint shall be entitled to appear and be heard ;
- (5) If it is proved to the satisfaction of the Judicial Committee that the patent is worked or that the patented article is manufactured exclusively or mainly outside the United Kingdom, then, unless the patentee can show that the reasonable requirements of the public have been satisfied, the petitioner shall be entitled either to an order for a compulsory licence or, subject to the above proviso, to an order for the revocation of the patent ;

- (6) For the purposes of this section the reasonable requirements of the public shall not be deemed to have been satisfied if, by reason of the default of the patentee to work his patent or to manufacture the patented article in the United Kingdom to an adequate extent, or to grant licences on reasonable terms, (a) any existing industry or the establishment of any new industry is unfairly prejudiced, or (b) the demand for the patented article is not reasonably met ; /
- (7) An Order in Council directing the grant of any licence under this section shall, without prejudice to any other method of enforcement, operate as if it were embodied in a deed granting a licence and made between the parties to the proceeding ;
- (8) His Majesty in Council may make rules of procedure and practice See p. 241. for regulating proceedings under this section, and, subject thereto, such proceedings shall be regulated according to the existing procedure and practice in patent matters. Any Order in Council or any order made by the Judicial Committee under this Act may be enforced by the High Court as if it were an order of the High Court ;
- (9) The costs of and incidental to all proceedings under this section shall be in the discretion of the Judicial Committee, but in awarding costs on any application for the grant of a licence the Judicial Committee may have regard to any previous request for, or offer of, a licence made either before or after the application to the Committee ;
- (10) For the purposes of this section three members of the Judicial Committee shall constitute a quorum ;
- (11) This section shall apply to patents granted before as well as after the commencement of this Act.

The provisions of this section are far stronger than those of the section 22 of the Act of 1883 which it replaces, and may be found to be of even wider application than was expected when the Act was passed. It will be noticed that two cases are provided for in sub-sections 3 and 5 respectively. Sub-section 3 provides for any case in which the reasonable requirements of the public have not been satisfied, without any question as to the reason for such being the case, and in such cases the Judicial Committee has a discretionary power to make an order for a compulsory licence or for revocation, in case the grant of a licence would not meet the case ; but if the patentee can show any good ground for not making such an order, as, for example, that he is about to commence working the patent himself, or has arranged

Comparison with repealed provisions.

for its working by some one else, in such a way as to secure the satisfaction of public requirements in the future, the petitioner cannot absolutely claim an order in his favour.

In the special case dealt with by sub-section 5 the Committee is not left to exercise any such discretion, and if the petitioner can show that the patent is worked, and the patented article is manufactured exclusively or mainly outside the United Kingdom, then the burden is thrown on the patentee of showing that, in spite of the facts proved by the petitioner as to the working of the patent being done abroad, still the reasonable requirements of the public have been satisfied.

Reason for provision.

Now, there is little doubt that the main reason for the enactment was to prevent a British patent from being used simply to prevent the growth of a new industry in this country, by what may be termed the dog-in-the-manger policy adopted by many foreign patentees, and the words of the section, if followed to their logical conclusion, seem very apt for effectuating that object. It will be seen that by sub-section 6 the reasonable demands of the public shall not be deemed to have been satisfied if, by reason of the default of the patentee to work his patent or to manufacture the patented article in the United Kingdom to an adequate extent, or to grant licences on reasonable terms: (a) Any existing industry or the establishment of any new industry is unfairly prejudiced; or (b) the demand for the patented article is not reasonably met. It is to the former of these conditions that most consideration must be given, since any demand for a patented article would appear to be capable of being met by importation as fully as by home manufacture.

Effect of condition as to foreign working.

The first condition is very general in its application, and, indeed, seems to apply to practically every case in which manufacture is carried on entirely or mainly abroad. The expression "establishment of any new

industry" includes, of course, the establishment of the industry of manufacturing the patented article, or of carrying into effect the patented process, while the section, of course, alludes to the establishment of an industry in the United Kingdom. This being the case, it is not easy to see how the establishment of such an industry can be otherwise than unfairly prejudiced by being delayed for fourteen years until the foreign producer has trained his men to the work, obtained the benefit of long experience, and, at the same time, secured the markets of the world for himself, so that when his monopoly shall at last expire he will have practically nothing to fear from competition in this country, and will have practically obtained a perpetual monopoly. Precisely the same reasoning applies to any working of the patent in the United Kingdom, merely with a view to formally satisfying the requirements of the Act while carrying on the bulk of the work abroad; indeed, it would seem as though working to an adequate extent in the United Kingdom must necessitate sufficient working to train those engaged in the work in sufficient numbers, and to a sufficient extent, to enable the home producer to compete on fair terms with the foreign producer, both at home and abroad, when the term of the patent shall have expired. If the patent relates to an article in large demand for export to countries in which it is not protected by a patent, and the patentee works his patent in the United Kingdom, even to a sufficient extent to supply the home demand, but so that there is no export trade from this country established in the subject-matter of the patent during its existence, it must surely be held that the establishment of the industry here is unfairly prejudiced by its exclusion from foreign markets.

It is to be hoped that the Judicial Committee will put a liberal interpretation on sub-section 6, and regard the reasonable requirements of the public as satisfied.

Reasonable
requirements
of public.

only by such working in the United Kingdom as will put the home producer on an equality with his foreign rivals, both in the home markets and in the markets of the world.

Sub-sect. 6.
Licence or
revocation.

It will be noticed that, if the case comes under subsection 6, the Judicial Committee have no choice, except between ordering the grant of a licence or revoking the patent; but this is merely a special case under subsection 3, and the licence is to be on such terms as appear just, and, in the case of the article being unprotected in any foreign country, it might be made a term of the licence that goods for export should be free from royalty, but be marked not to be used in the United Kingdom, while a proper royalty would be reserved for articles intended for home use. Unless such a provision be made for exported articles it is not easy to see how the grant of a licence would be a sufficient remedy, and the alternative would therefore appear to be revocation, which would be even more unsatisfactory to the patentee.

Terms of
licences.

As to the terms upon which the Judicial Committee will order licences to be granted, it is, of course, impossible to make any accurate forecast. In the case of an applicant asking only for a licence to manufacture for export to countries in which the patentee has no protection, there seems to be no reason why a licence for such manufacture should not be granted at a nominal royalty, with the condition of proper marking of all articles made by the licensee, as the rights of the patentee under his patent are not materially affected by the establishment of an export trade.

Under the old procedure the royalty fixed by a compulsory licence might be higher than the usual royalty required by the patentee,¹ while a minimum royalty depending on the subject-matter was usual.²

¹ Hutton & Bleakley's petition (Bousfield, Q.C., referee), 1898, 15 R.P.C. 749.

² Levinstein's petition, 1898, 15 R.P.C. 74, where a form of licence is given.

Whether, in any case outside sub-section 5, a licence ^{Discretionary grants.} be granted or not depends entirely upon the special facts, and it is impossible to formulate any general rules to guide intending petitioners.

The following are instances of petitions, of which there were very few, under the old provisions. A petitioner who had an invention that was an improved variety of a species covered by the respondent's patent, was refused a licence on the respondent's making a reasonable offer to manufacture such improved variety for the petitioners.¹

The proprietor of a newspaper was granted a licence for an invention for rapidly inserting late news, although the proprietor of a rival paper was in possession of an exclusive licence for its use in the district.²

A licence was granted to work under a chemical patent owned by a foreign manufacturer.³

Procedure.

A petition to the Board of Trade for a compulsory licence or revocation must be made on Form H, bearing ^{See App. A.} an impressed stamp for £1.

“ A petition to the Board of Trade for an order under ^{Petition for grant of compulsory licence or revocation of Patent. Rule 69.} section 3 of the Patents Act, 1902, shall show clearly the nature of the petitioner's interest, and the ground or grounds upon which he claims to be entitled to relief, and shall state in detail the circumstances of the case, the terms upon which he asks that an order may be made, and the purport of such order, and the name and address of the patentee and any other person who is alleged in the petition to have made default.”

“ The petition and an examined copy thereof shall be left at the Patent Office, accompanied by affidavits or

¹ Bartlett's patent, Gormully petition, 1899, 16 R.P.C. 641.

² Hutton & Bleakley's petition, 1898, 15 R.P.C. 749.

³ Levinstein's petition, 1898, 15 R.P.C. 742.

To be left
with evidence
at Patent
Office.
Rule 70.

statutory declarations in proof of the allegations contained in the petition, together with any other documentary evidence in support, and the petitioner shall, simultaneously with, or as soon as may be after the leaving of such petition, deliver to the patentee and any other person who is alleged in the petition to have made default, copies of the petition and of such affidavits or statutory declarations and other documentary evidence in support."

Opponent's
evidence.
Rule 71.

"The persons to whom such copies are delivered by the petitioner, may, within fourteen days after being invited to do so by the Board of Trade, leave at the Patent Office their affidavits or statutory declarations in answer, and, if they do so, shall deliver copies thereof to the petitioner; and the petitioner may, within fourteen days from such last-mentioned delivery, leave at the Patent Office his affidavits or statutory declarations in reply, and, if he does so, shall deliver copies thereof to the patentee or any other person alleged in the petition to have made default, such last-mentioned affidavits or statutory declarations being confined to matters strictly in reply."

Evidence
in reply.

"The times prescribed by this Rule may be altered or enlarged by the Board of Trade, if they think fit, upon such notice to parties interested, and upon such terms, if any, as they may direct."

Closing of
evidence.
Rule 72.

"No further evidence than as aforesaid may be left by either side at the Patent Office, except by leave or on requisition of the Board of Trade; and upon such terms, if any, as the Board may think fit."

For form of declarations, etc., see p. 81.

Power of
Board of
Trade to
dismiss
petition.
Rule 73.

"The Board of Trade shall consider the petition and the evidence, with a view to satisfying themselves whether a *prima facie* case has been made out for proceeding further with the petition, and if they are not so satisfied they shall dismiss the petition."

"If they are so satisfied, they shall consider whether

there is any probability of an arrangement being come to between the parties, and if it appears to them that there is any reasonable probability that such an arrangement can be come to, they may take such steps as they consider desirable to bring it about, and in the meanwhile may defer the reference of the petition to the Judicial Committee of the Privy Council.”

Arrangements
between
parties.
Rule 74.

“ If the Board are not of opinion that there is a reasonable probability of any arrangement being come to between the parties, and are satisfied that a *prima facie* case has been made out by the petitioner, they shall refer the petition to the Judicial Committee, with copies of any affidavits, statutory declarations, or other documentary evidence which may have been furnished under the foregoing Rules, and with certified copies of all entries in the Register of Patents relating to the patent in question, and any other information in the possession of the Board which it appears to them may be of service to the Judicial Committee in ascertaining what persons should be made parties to the proceedings before the Committee, and the Board shall give written notice to the parties that the petition has been referred to the Judicial Committee.”

Reference
of petition
to Judicial
Committee.
Rule 75.

Rules to be observed in Proceedings before the Judicial Committee of the Privy Council, under the Patents Act, 1902, Section 3.¹

I. On receiving written notice from the Board of Trade that a Petition has been referred to the Judicial Committee of the Privy Council, the Petitioner shall, after satisfying the requirements of Rules II. and IV., apply to the Judicial Committee to fix a time for hearing the Petition.

II. (a) No application to fix a time for hearing the Petition shall be made unless the Petitioner shall have

¹ Dated 16th February, 1903.

previously given notice to the Patentee, to the opponents and to any other person claiming an interest in the patent as exclusive licensee or otherwise, that the Petition has been referred to the Judicial Committee, that it is his intention to apply to the Judicial Committee on a specified day, which day shall be not less than four weeks from the date when the notice is served or sent, to fix a time for hearing the Petition, and that any person desiring to be heard before the Judicial Committee at the time so fixed must enter a caveat at the Council Office on or before the day so specified.

(b) The said notice shall be served in the usual way, but where the person to be served resides or has his principal place of business outside the United Kingdom, it may be sent to him by post in a registered envelope.

III. (a) Any person claiming an interest in the patent as exclusive licensee or otherwise, whether he has received the notice prescribed by Rule II, or not, shall, if he desires to be heard before the Judicial Committee, enter a caveat at the Council Office on or before the day specified by such notice, provided always that, if he has not received the said notice, or if he resides or has his principal place of business outside the United Kingdom, he may apply to the Judicial Committee to extend the time for entering his caveat, on the ground that the time limited by such notice is insufficient.

(b) Every caveat shall specify the caveator's address for service, which address shall be within four miles of the Council Office.

IV. An application to the Judicial Committee to fix a time for the hearing of the Petition shall be accompanied by eight printed copies of the Specification, and by an affidavit of the Petitioner showing the persons to whom, and the manner in which, the notice prescribed by Rule II, has been given.

V. The time for hearing a Petition shall be fixed

by an Order of the Judicial Committee, and shall be not less than four weeks from the day on which the application for fixing the same is made. The Petitioner shall, immediately after the issue of such Order, give public notice thereof by advertising the same once at least in the *London Gazette* and in the *Times*, and in such other newspaper or newspapers (if any) as the Judicial Committee may direct. After completing such advertisements, the Petitioner shall forthwith lodge an affidavit thereof at the Council Office.

VI. The statements contained in the affidavits required by Rules IV. and V. may be disputed upon the hearing.

VII. The Petitioner shall be entitled to be served by the caveators, not less than three weeks before the day of hearing, with notice of the grounds of their respective objections, if such grounds are different from or additional to those taken by them in the proceedings before the Board of Trade. Copies of all objections, or additional objections, so served as aforesaid, shall be lodged at the Council Office not less than fourteen days before the day fixed for the hearing.

VIII. (a) All Petitions and other documents lodged at the Council Office shall (unless the Judicial Committee otherwise direct) be printed in the form prescribed by the Patents Rules of the Board of Trade which are in force for the time being, and the parties shall furnish as many copies of the documents lodged by them as shall be required by the Judicial Committee.

(b) Parties shall be entitled to have copies of all papers lodged in respect of the Petition at their own expense.

IX. No solicitor or agent shall be entitled to conduct proceedings under this Act before the Judicial Committee, unless he is a solicitor or agent admitted to practise before the Privy Council, in accordance with Her late Majesty's Order in Council of the 6th March,

1896. Such solicitor or agent shall be allowed the same fees, and the same Council Office fees shall be chargeable in respect of proceedings under this Act as are prescribed by the general Rules applicable to proceedings before the Judicial Committee.

X. Applications to the Judicial Committee to fix a time for hearing the Petition, and on other matters of procedure, shall be addressed in the first instance to the Registrar of the Privy Council, who shall take their Lordships' instructions thereon and communicate the same to the parties. In cases of doubt the Registrar may, or, if so requested by any of the parties, he shall, enter the application for hearing before their Lordships' Board.

XI. The Judicial Committee may excuse the parties from compliance with any of the requirements of these Rules, and may give such directions in matters of procedure and practice and otherwise as they shall consider to be just and expedient.

XII. (a) Any affidavits, statutory declarations or other documentary evidence which may have been furnished to the Board of Trade, or any copies thereof which may be referred by the Board to the Judicial Committee, may be received in evidence in proceedings under this Act before the Judicial Committee, subject to such cross-examination of any of the deponents as may be permitted by the Judicial Committee. The Judicial Committee may require the production of any original documents, copies of which are tendered in evidence under this Rule.

(b) The parties may tender before the Judicial Committee such further documentary or other evidence as they may be advised.

XIII. The Judicial Committee may refer any matters in connection with proceedings under this Act to be examined and reported on in the same manner as matters may be referred by them under Section 17 of

the Act 3 & 4 Will. IV. c. 41 (Judicial Committee Act, 1833).

This section is as follows :—

It shall be lawful for the said committee to refer any matters to be examined and reported on to the afore-^{Judicial} said Registrar, or to such other person or persons as ^{Committee} shall be appointed by His Majesty in Council, or by the ^{Act, 1833,} said Judicial Committee, in the same manner and for the ^{sect. 17.} like purposes as matters are referred by the Court of Chancery to a master of the said Court; and for the purposes of this Act the said Registrar and the said person or persons so to be appointed shall have the same powers and authorities as are now possessed by a Master in Chancery.

XIV. The Judicial Committee will hear the Attorney-General or other counsel on behalf of the Crown on the question of granting the prayer of any petition. Counsel on behalf of the Crown is not required to give notice of the grounds of any objection he may think fit to take, or of any evidence which he may think fit to place before the Committee.

XV. Costs incurred in the matter of any Petition under this Act shall be taxed by the Registrar of the Privy Council, or other officer deputed by the Judicial Committee to tax the same, and the Registrar or such other officer shall have authority to allow or disallow in his discretion all payments made to persons of science or skill examined as witnesses.

CHAPTER XXVI.

INTERNATIONAL AND COLONIAL ARRANGEMENTS.

International arrangements for protection of inventions. Act, 1883, sect. 103 (1), as amended by Act, 1901, sect. 1 (1).

“ If His Majesty is pleased to make any arrangements with the Government or Governments of any foreign state or states for mutual protection of inventions . . . then any person who has applied for protection for any invention . . . in any such state shall be entitled to a patent for his invention . . . under this Act in priority to other applicants; and such patent . . . shall have the same date as the date of the application in such foreign state.

“ Provided that his application is made . . . within twelve 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 . . . to recover damages for infringements happening prior to the date of the actual acceptance of his complete specification.”

Act, 1901, sect. 1 (2), 1 Ed. 7, c. 18.

An application under this section shall be accompanied by a complete specification, which, if not accepted within the period of twelve months, shall, with the drawings (if any), be open to public inspection at the expiration of that period.

Provision for Colonies and India. Act, 1883, sect. 104.

“ Where it is made to appear to His Majesty that the Legislature of any British possession has made satisfactory provision for the protection of inventions . . . patented . . . in this country, it shall be lawful for His 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 His Majesty in Council may seem fit, to such British possession.

“ 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 His Majesty in Council to revoke any Order in Council made under this Act.

Definition of British possession. Act, 1883, sect. 117.

“ ‘ British possession ’ means any territory or place situate within His 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.”

An International Convention for the protection of industrial property exists between the following states:— Patent Office
Circular.

Belgium.	Norway.
Brazil.	Portugal with the Azores and Madeira.
Denmark with the Faroe Islands.	Santo Domingo.
France with Algeria and Colonies.	Servia.
Great Britain with New Zealand and Queensland.	Spain.
Italy.	Sweden.
Japan.	Switzerland.
Netherlands with the Dutch East Indies, Surinam and Curaçoa.	Tunis.
	United States of America.

“ Similar arrangements, for the mutual protection of inventions, have been made between Great Britain on the one side, and each of the following States and Colonies on the other:—

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

“ The publication in the United Kingdom or the Isle of Man during the . . . periods aforesaid of any description of the invention, or the use therein . . . shall not invalidate the patent which may be granted for the invention. . . .” Act, 1883,
sect. 103 (2).

“ The application for the grant of a patent . . . under this section must be made in the same manner as an ordinary application under this Act. . . .” Act, 1883,
sect. 103 (3).

Where the foreign state in which the first patent was taken out becomes a member subsequently to the date of that patent, but before that of the application here, the International Convention applies.¹ State joining
Convention
after date of
first patent.

An appeal lies to the law officer with regard to an application under the International Convention.

¹ *Re Main's patent*, 1890, 7 R.P.C. 13.

Limitation of international arrangements.

Act, 1883, sect. 103 (4).

“The provisions of this section shall apply only in the case of those foreign states with respect to which His 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.”

Definition of convention application.
Rule 3.

“‘Foreign Application’ means an application by any person for protection of his invention in a Foreign State or British possession to which, by any Order in Council for the time being in force, the provisions of section 103 of the Act of 1883 as amended by any subsequent Act have been declared applicable.”

“‘Convention Application’ means an application in the United Kingdom, under the provisions of section 103 of the Act of 1883, as amended by any subsequent Act.”

Applications under the International Convention.

Convention applications.
Rule 13.

“Every Convention application shall contain a declaration that foreign application has been made for protection of the invention to which such Convention application relates, and shall specify all the Foreign States or British possessions in which such foreign applications have been made, and the official date or dates thereof respectively. The application must be made within twelve months from the date of the first foreign application, and must be accompanied by a complete specification, and signed by the person or persons, by whom such first foreign application was made. If such person, or any of such persons, be dead, the application must be signed by the legal representative of such dead person, as well as by the other applicants, if any.”

Foreign specification, etc., to accompany application.
Rule 14.

“Every Convention application, in addition to the specification left therewith, must be accompanied by a copy or copies of the specification, and drawings or documents filed or deposited by the applicant in the Patent Office of the Foreign State or British possession in respect of the first foreign application, duly certified by the official chief or head of the Patent Office of such

Foreign State or British possession as aforesaid, or otherwise verified to the satisfaction of the Comptroller. If any specification or other document relating to the application is in a foreign language, a translation thereof shall be annexed thereto, and verified by statutory declaration or otherwise to the satisfaction of the Comptroller.”

“ If the complete specification left with the application be not accepted within twelve months from the date of the first foreign application, it shall, with the drawings, if any, be open to public inspection at the expiration of that period.” Public inspection. Rule 15.

“ Save as aforesaid, and as provided by Rule 52, all proceedings in connection with a Convention application shall be taken within the times and in the manner prescribed by the said Acts or these Rules for ordinary applications.” Proceedings. Rule 16.

“ The patent granted on any Convention application shall be entered in the register as dated of the date on which the first foreign application was made, and the payment of renewal fees and the expiration of the patent shall be reckoned as from the date of the first foreign application.” Rule 52.

Such further proceedings include any act within the discretion or jurisdiction of the Comptroller, and consequent appeals to the law officer.¹

A foreign patentee must elect whether he will apply under the International Convention, or risk having his patent invalidated by a prior publication in England of his prior foreign patent² or other anticipation. The election must be made when the application is lodged on which the patent is granted, and the date of the patent is conclusive as to the patentee's right to priority.³

¹ *Re Main's patent*, 1890, 7 R.P.C. 13.

² *The British Tanning Co., Limited, v. Groth*, 1891, 8 R.P.C. 121.

³ *Acetylene Illuminating Co. v. United Alkali Co.*, 1902, 19 R.P.C. 213; C.A. 20 R.P.C. 161.

Only the foreign patentee himself, or his legal personal representative, can take advantage of the International Convention; a patent to an agent for him can only be granted as of the date of application as on "an application for a communication from abroad".¹

The chief points in the International Convention² are:—

Art. IV.

(1) The right of priority obtained by a person who first applies for a patent in this country is seven months.

Importation.
Art. V.

(2) The importation by the patentee into the country where the patent has been granted of objects manufactured in any other state, belonging to the Union, does not entail forfeiture; but the patentee must work his patent in conformity with the laws of the country into which he so imports articles, when any working in such country is required in order to keep a patent in force.

Art. XI.

(3) Temporary protection is given to patentable inventions for articles exhibited at official or officially recognised International Exhibitions.

International
Office and
periodical.

"An International Office, in connection with the Convention, has been established at Berne, Switzerland, which publishes a monthly periodical, entitled *La Propriété Industrielle*. The yearly subscription (including postage) for all countries within the Postal Union is 5 francs 60 centimes, and should be forwarded by money order to L'Imprimerie Co-opérative, Berne."

¹ Shallenberger's application, 1889, 6 R.P.C. 550.

² The text of the Convention with a translation is published by Messrs. Eyre & Spottiswoode at 2d.

CHAPTER XXVII.

MISCELLANEOUS.

Warlike Inventions.

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

Assignment to Secretary for War of certain inventions. Act, 1883, sect. 44.

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

“(3) Where any such assignment has been made to the Secretary of State, he may at any time before the application for a patent for the invention, or before publication of the specification or specifications, certify to the Comptroller his opinion that, in the interest of the public service, the particulars of the invention and of the manner in which it is to be performed should be kept secret.

Secretary for War may prevent publication of specifications.

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

Specifications, etc., kept in sealed packet.

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

“(6) Such sealed packet shall be delivered at any time during the continuance of the patent to any person authorised by writing under the hand

of the Secretary of State to receive the same, and shall, if returned to the Comptroller, be again kept sealed by him.

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

“(8) Where the Secretary of State certifies as aforesaid, after an application for a patent has been left at the Patent Office, but before the publication of the specification or specifications, the application, specification or specifications, with the drawings (if any), shall be forthwith placed in a packet sealed by authority of the Comptroller, and such packet shall be subject to the foregoing provisions respecting a packet sealed by authority of the Secretary of State.

No revocation
of patent not
published.

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

No copies
allowed.

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

May be
published at
any subse-
quent time.

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

Communica-
tion of
invention to
Secretary for
War is not a
publication.

“(12) The communication of any invention for any improvement in instruments or munitions of war to the Secretary of State, or to any person or persons authorised by him to investigate the same or the merits thereof, shall not, nor shall anything done for the purposes of the investigation, be deemed use or publication of such invention so as to prejudice the grant or validity of any patent for the same.”

Postal Communications.

Act, 1883,
sect. 97.
Rule 80.

“(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.”

Excluded Days.

Act, 1883,
sect. 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." Excluded days.

Person Incapacitated from doing Anything.

"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." Act, 1883, sect. 99.

Fraudulent Applications.

"A patent granted to the true and first inventor shall not be invalidated by an application in fraud of him, or by provisional protection obtained thereon, or by any use or publication of the invention subsequent to that fraudulent application during the period of provisional protection." Act, 1883, sect. 35.

Power to Dispense with Evidence, etc.

"Where, under these rules, any person is required to do any act or thing, or to sign any document, or to make any declaration on behalf of himself or of any body corporate, or any document or evidence is required to be produced to or left with the Comptroller or at the Patent Office, and it is shown to the satisfaction of the Comptroller that from any reasonable cause such person is unable to do such act or thing, or to sign such document or make such declaration, or that such document or evidence cannot be produced or left as aforesaid, it shall be lawful for the Comptroller, with the sanction of the Board of Trade, and upon the production of such other evidence, and subject to such terms as they may think fit, to dispense with any such act or thing, document, declaration, or evidence." Rule 78.

"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, without (if so required within the prescribed time by the applicant) giving the applicant an opportunity of being heard personally or by his agent." Discretionary power of Comptroller. Act, 1883, sect. 94.

Difficulties in
administration.

Act, 1883,
sect. 95.

Power of
amendment,
etc.

Rule 76.

General
power to
enlarge time.
Rule 77.

Annual
reports of
Comptroller.
Act, 1883,
sect. 102.

Reservation
of remedies
in Ireland.
Act, 1883,
sect. 110.

Act, 1883,
sect. 112 (1).

Patent Office
Circular, p. 8.

Models for
Patent
Museum.
Act, 1883,
sect. 42.

"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."

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

The times prescribed by these Rules for doing any act, or taking any proceeding thereunder, other than the times for lodging evidence referred to in Rule 33 or in the procedure in these Rules relating to compulsory licences and revocation of patents, may be enlarged by the Comptroller if he think fit, and upon such notice to other parties, and proceedings thereon, and upon such terms, as he may direct.

"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."

Ireland and the Isle of Man.

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

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

"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, competent to those Courts."

Patent Museum, South Kensington.

"This Museum was in 1883 placed under the management of the Department of Science and Art. It no longer forms a separate section, but has been incorporated with the general Science Collections of the South Kensington Museum. All communications relating thereto should be addressed to the Secretary, Science and Art Department, South Kensington, London, S.W. The Science Collections are open to the public *free* daily, from 10 A.M. to 10 P.M. on Mondays, Tuesdays and Saturdays, and from 10 A.M. to 4, 5 or 6 P.M. on other days of the week, according to the season. A number of the models may be seen in motion from 11 A.M. to the hour of closing. Entrance—Exhibition Road."

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

"Copies of all specifications, drawings and amendments left at the Documents 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."

Certified copies of any entry in the Register, or certified copies of or extracts from patents, specifications, disclaimers, affidavits, statutory declarations, and other public documents in the Patent Office, or of or from registers and other books kept there, may be furnished by the Comptroller on payment of the prescribed fee (see p. 258).

Fees Payable at the Patent Office.

The fees to be paid under the said Acts shall be those specified in the list of fees in the first schedule to these Rules.

Forms to be used at the Patent Office.

The forms contained in the second schedule to these Rules may, as far as they may be applicable, be used in any proceedings under the said Acts or under these Rules, and so far as they relate to the same subject-matter, shall be substituted for the forms in the first schedule to the Act of 1883.

The above list of fees and the forms are given in Appendix A.

Patent Office Publications.

These may be consulted daily at the Free Public Library of the Patent Office; at the Science and Art Department, South Kensington; and at the Free Lib-

sent to
British
capitals.
Act, 1883.
sect. 100.

Certified
copies of
documents.
Rule 65.

Rule 4.

Rule 5.

Patent Office
Circular.

raries, etc., named in Appendix C. They are also on sale at the Patent Office, 25 Southampton Buildings, Chancery Lane, W.C., and will be forwarded by post on receipt of the price and of the postage (if any is charged). *Sums amounting to 1s. or more must be remitted by Postal or Post Office Order, payable to the Comptroller-General.* Postage stamps sent in payment of any amount exceeding 11d. will be returned. Deposit accounts may be opened, the minimum deposit being £2.

In ordering specifications, the price of which is 8d. each, the name of the patentee and the number and year of the patent must be given. In searching for the invention of any particular person, the Name Indexes, published as part of the Illustrated Official Journal of Patents, should be consulted. In searching as to the novelty of any particular invention, the Abridgment Class and Index Key should first be consulted to ascertain where the subject-matter is classified in the Patent Office publications. The corresponding volumes of Abridgments of Specifications, each of which is furnished with Name and Subject-Matter Indexes, should then be examined. In the case of recent specifications, for which abridgment volumes have not yet been published, the annual and monthly Subject-Matter Indexes and Illustrated Official Journal must be consulted. Such searches cannot be undertaken by the Patent Office. See Par. 11.

“Specifications or other publications cannot be returned by the purchasers unless a wrong number has been supplied through an error on the part of the Patent Office.”

APPENDIX A.

PATENT OFFICE FORMS.

FIRST SCHEDULE TO RULES.

List of Fees Payable on and in Connection with Letters Patent.

	£	s.	d.	£	s.	d.
1. On application for provisional protection ...	1	0	0			
2. On filing complete specification	3	0	0			
	<hr style="width: 50%; margin: 0 auto;"/>			4	0	0
or						
3. On filing complete specification with first application ...				4	0	0
4. On appeal from Comptroller to Law Officer. By appellant				3	0	0
5. On notice of opposition to grant of patent. By opponent				0	10	0
6. On hearing by Comptroller. By applicant and by opponent respectively				1	0	0
On application to amend specification:—						
7. Up to sealing. By applicant				1	10	0
8. After sealing. By patentee						0
9. On notice of opposition to amendment. By opponent ...					5	0
10. On hearing by Comptroller. By applicant and by opponent respectively						0
11. On application to amend specification during action on appeal proceeding. By patentee				3	0	0
12. On application to the Board of Trade for a compulsory licence. By person applying				1	0	0
13. On opposition to grant of compulsory licence. By opponent				1	0	0
On certificate of renewal:—						
14. Before the expiration of the 4th year from the date of the patent and in respect of the 5th year				5	0	0
15. Before the expiration of the 5th year from the date of the patent and in respect of the 6th year				6	0	0
16. Before the expiration of the 6th year from the date of the patent and in respect of the 7th year				7	0	0
17. Before the expiration of the 7th year from the date of the patent and in respect of the 8th year				8	0	0

18.	Before the expiration of the 8th year from the date of the patent and in respect of the 9th year	9	0	0
19.	Before the expiration of the 9th year from the date of the patent and in respect of the 10th year	10	0	0
20.	Before the expiration of the 10th year from the date of the patent and in respect of the 11th year	11	0	0
21.	Before the expiration of the 11th year from the date of the patent and in respect of the 12th year	12	0	0
22.	Before the expiration of the 12th year from the date of the patent and in respect of the 13th year	13	0	0
23.	Before the expiration of the 13th year from the date of the patent and in respect of the 14th year	14	0	0
On enlargement of time for payment of renewal fees:—				
24.	Not exceeding one month	1	0	0
25.	„ two months	3	0	0
26.	„ three months	5	0	0
27.	For every entry of an assignment, transmission, agreement, licence, or extension of patent	0	10	0
28.	For duplicate of letters patent each	2	0	0
29.	On notice to Comptroller of intended exhibition of a patent under Section 39	0	10	0
30.	Search or inspection fee each	0	1	0
31.	For office copies every 100 words (but never less than one shilling)	0	0	4
32.	For office copies of drawings, cost according to agreement			
33.	For certifying office copies, MSS. or printed ... each	0	1	0
34.	On postal request for printed specification	0	0	8
On request to Comptroller to correct a clerical error:—				
35.	Up to sealing	0	5	0
36.	After sealing	1	0	0
37.	For certificate of Comptroller under Section 96	0	5	0
38.	For altering address in register	0	5	0
39.	For enlargement of time for filing complete specification, not exceeding one month	2	0	0
For enlargement of time for acceptance of complete specification:—				
40.	Not exceeding one month	2	0	0
41.	„ two months	4	0	0
42.	„ three months	6	0	0

SECOND SCHEDULE TO RULES.

FORMS.¹

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¹ As to obtaining forms, see p. 288.

PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1883 TO 1902.



Form A.

(To be accompanied by two copies of Form B or of Form C.)

APPLICATION FOR PATENT.

(a) Here insert (in full) name, address and calling of applicant or applicants.

(a) _____

_____do hereby declare that _____ in possession of an invention the title of which

(b) Here insert title of invention.

is (b) _____

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

that (c) _____ claim to be the true and first inventor _____ thereof; and that the same is not in use by any other person or persons to the best of _____ knowledge and belief; and _____ humbly pray that a Patent may be granted to _____ for the said invention.

Dated _____ day of _____ 19 _____

(d) To be signed by applicant or applicants.

In the case of a Firm, each member of the Firm must sign.

(d) _____

NOTE.—One of the two forms on the opposite page or a separate authorisation of agent should be signed by the applicant or applicants.

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

(1) *Where application is made through an Agent (Rule 81).*

_____ hereby appoint _____

of _____

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

_____ day of _____ 19_____

* _____

* To be signed by applicant or applicants.

(2) *Where application is made without an Agent (Rule 7).*

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

_____ day of _____ 19_____

† _____

† To be signed by applicant or applicants.

PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1883 TO 1902.

Form A1.

(To be accompanied by two copies of Form B or of Form C.)



APPLICATION FOR PATENT FOR INVENTION COMMUNICATED FROM ABROAD.

(a) Here insert (in full) name, address, and calling of applicant.

I (a) _____ of _____ in the county of _____ do hereby declare that I

(b) Here insert title of invention.

am in possession of an invention the title of which is (b) _____

(c) Here insert name, address, and calling of communicator.

which invention has been communicated to me by (c) _____

that I claim to be the true and first inventor thereof; and that the same is not in use within the United Kingdom of Great Britain and Ireland and the Isle of Man by any other person or persons to the best of my knowledge and belief; and I humbly pray that a Patent may be granted to me for the said invention.

Dated _____ day of _____ 19____

(d) To be signed by applicant or applicants.

(d) _____

NOTE.—One of the two forms on the opposite page or a separate authorisation of agent should be signed by the applicant or applicants.

To the Comptroler,
 The Patent Office, 25 Southampton Buildings,
 Chancery Lane, London, W.C.

(1) *Where application is made through an Agent (Rule 81).*

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

_____ day of _____ 19____

* _____

*To be signed
by applicant or
applicants.

(2) *Where application is made without an Agent (Rule 7).*

_____ hereby request that all notices, requisitions, and communi-
cations in respect of the within application may be sent to _____

_____ at _____

_____ day of _____ 19____

† _____

† To be signed
by applicant or
applicants.

PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1883 TO 1902.

Form A2.

(To be accompanied by two copies of Form C.)

PATENT.

**APPLICATION FOR PATENT UNDER INTERNATIONAL
AND COLONIAL ARRANGEMENTS.**

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

(a)

(b) Here insert title of invention.

do hereby declare that I (or we) have made applications for protection of my (or our) invention of (b)

(c) Here insert the name of each Foreign State, followed by the official date of the application in each respectively.

in the following Foreign States and on the following official dates, *viz.*: (c)

and in the following British Possessions and on the following official dates, *viz.*: (d)

(d) Here insert the name of each British possession, followed by the official date of application in each respectively.

That the said invention was not in use within the United Kingdom of Great Britain and Ireland and the Isle of Man by any other person or persons before the (e)

(e) Here insert the official date of the earliest foreign application.

to the best of knowledge, information, and belief, and humbly pray that a patent may be granted to for the said invention in priority to other applicants, and that such patent shall have the date (f)

(f) Here insert the official date of the earliest foreign application.

(g) Signature of applicant or of each of applicants.

(g) _____

NOTE.—If the application be made through an agent a proper authorisation should be supplied: if not, an address for service to which communications may be sent should be furnished.

To the Comptroller,

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

To be issued with Form A or A1.

PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1883 TO 1902.

Form B.

PROVISIONAL SPECIFICATION.

(To be furnished in Duplicate.)

(a) _____

(a) Here insert title verbally agreeing with that in the application form.

(b) _____

(b) Here insert (in full) name, address and calling of applicant or applicants as in application form.

do hereby declare the nature of this invention to be as follows: (c)

(c) Here begin description of the nature of the invention. The continuation of the specification should be upon wide-ruled paper of the same size, on one side only, with a margin of two inches on the left hand of the paper. The specification and the duplicate thereof must be dated (thus): "Dated this day of 19 .," and signed at the end

Where provisional specification has been left, quote No and date.

No. _____

Date _____

PATENT.

Form C.

COMPLETE SPECIFICATION.

(To be furnished in Duplicate—one unstamped.)

(a) Here insert title verbally agreeing with that in the application form.

(a) _____

(b) Here insert (in full) name, address and calling of applicant or applicants as in application form.

(b) _____

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

(c) Here begin full description of invention. The continuation of the specification should be upon wide-ruled paper of the same size, on one side only, with a margin of two inches on the left hand of the paper. The completion of the description should be followed by the words:—

(c) _____

“Having now particularly described and ascertained the nature of my said Invention, and in what manner the same is to be performed, I declare that what I claim is:” After which should be written the claim or claims numbered consecutively. The specification and the duplicate thereof must be dated (thus): “Dated this day of , 19 ,” and signed at the end.

PATENTS, DESIGNS, AND TRADE MARKS ACTS,
1883 TO 1902.

Form C1.

POSTAL REQUEST FOR PRINTED SPECIFICATION:

To the Comptroller-General.

Please send one copy of Specification, No. _____ Year _____

to

(Name in full) _____

(Address) _____

PATENTS,
7½d.

½d.

The Comptroller-General,

The Patent Office,

25 Southampton Buildings,

London, W.C.

PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1883 TO 1902.



Form D.

FORM OF OPPOSITION TO GRANT OF PATENT.

(To be accompanied by an unstamped copy.)

* Here state (in full), name and address.

* I _____

hereby give notice of my intention to oppose the grant of Letters Patent upon application No. _____ of _____, applied for by _____

† Here state upon which of the grounds of opposition permitted by section 11 of the Act of 1883, as amended by section 4 of the Act of 1888, the grant is opposed.

upon the ground † _____

‡ To be signed by opponent.

(Signed) ‡ _____

My address for service in the United Kingdom is :—

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

PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1883 TO 1902.

Form E.



FORM OF NOTICE THAT HEARING BEFORE THE COMPTROLLER WILL BE ATTENDED.

OPPOSITIONS TO THE GRANT OF PATENTS OR TO AMENDMENTS.

SIR,

_____ of (a) _____

(a) Here insert address.

hereby give notice that the hearing in reference to _____

_____ will be attended by myself or by some person on

my behalf.

Sir,

Your obedient Servant,

(Signed) _____

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

PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1883 TO 1902.

Form F.

PATENT.

**FORM OF APPLICATION FOR AMENDMENT OF
SPECIFICATION.**

* Here state
(in full) name
and address of
applicant or
patentee.

* _____

seek leave to amend the specification of Letters Patent No. _____
of 1 _____, as shown in red ink in the certified copy of the original
specification hereunto annexed.

† These words
are to be struck
out when Letters
Patent have not
been sealed, or
when, if Letters
Patent have
been sealed, the
application is
made in pur-
suance of an
order of the
Court or a judge.

† I declare that no action for infringement or proceeding for revocation
of the Letters Patent in question is pending.

My reasons for making this amendment are as follows ‡ _____

‡ Here state
reasons for seek-
ing amendment;
and where the
applicant is not
the patentee,
state what in-
terest he pos-
sesses in the
Letters Patent.

(Signed) § _____

§ To be signed
by applicant.

My address for service in the United Kingdom is:—

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

N.B.—No amendment is permissible that would make the invention sub-
stantially larger or substantially different (section 18 of the Act of 1883);
nor, so long as any action for infringement or proceeding for revocation
of a patent is pending, may the application be made except by leave of
the Court or a judge under section 19 of the Act of 1883. If the appli-
cation is made by such leave, this should be stated, and an office copy
of the order of the Court or judge should accompany the application.

PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1883 TO 1902.

Form G.



FORM OF OPPOSITION TO AMENDMENT OF SPECIFICATION.

(To be accompanied by an unstamped copy.)

* _____

† Here state
(in full) name
and address of
opponent.

hereby give notice of objection to the proposed amendment of the
specification of Letters Patent No. _____ of 1 _____ for the

following reason: † _____

† Here state
reason of
opposition.

(Signed)

My address for service in the United Kingdom is:—

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

PATENTS ACT, 1902.

Form H.

**FORM OF APPLICATION FOR GRANT OF COMPULSORY
LICENCE OR REVOCATION OF PATENT.**

PATENT.

(To be accompanied by an unstamped copy.)

* Here state
(in full) name
and address of
applicant.

hereby request you to bring to the notice of the Board of Trade the accom-
panying petition for the grant of a licence to me by †_____

† Here state
name and ad-
dress of paten-
tee, and number
and date of his
Patent.

(Signed) _____

NOTE.—The petition must clearly set forth the facts of the case and be accompanied by an examined copy thereof. See Form H1.

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

PATENTS ACT, 1902.

Form H1.

FORM OF PETITION FOR GRANT OF COMPULSORY LICENCE OR REVOCATION OF PATENT.

To the LORDS of the COMMITTEE of PRIVY COUNCIL for TRADE.

THE PETITION of (a) _____ of _____, being a person interested in the matter of this petition as herein-after described:—

(a) Here insert (in full) name, address, and calling.

SHOWETH as follows:—

(b) Here insert title of invention.

1. A patent dated _____ No. _____ was duly granted to _____ for an invention of (b)

(c) Here state fully the nature of petitioner's interest.

2. The nature of my interest in the matter of this petition is as follows: (c)

3. (d)

(d) Here state in detail the circumstances of the case under section 3 of the said Act, and show that it arises by reason of the default of the patentee, or as the case may be, of any other person claiming an interest in the Patent as exclusive licensee or otherwise to work his Patent or to manufacture the patented article in the United Kingdom to an adequate extent, or to grant licences on reasonable terms. The statement of the case should give the names and addresses of any persons who are alleged in the petition to have made default. The paragraphs should be numbered consecutively.

The evidence which I propose to leave at the Patent Office accompanying this petition is as follows: (c)

Having regard to the circumstances above stated, the petitioner alleges that by reason of the aforesaid default the reasonable requirements of the public with respect to the invention patented as above stated have not been satisfied.

Your petitioner therefore prays that an order may be made granting to him a compulsory licence on the terms following, viz.: (f)

or that the said patent may be revoked.

(Signed) _____

NOTE.—In pursuance of the requirements of Rule 70, the petitioner must deliver to the patentee, and to any other person alleged to have made default, copies of the petition and of the affidavits or statutory declarations and other documentary evidence in support.

(c) Here state what affidavits or statutory declarations together with any other documentary evidence will be left at the Patent Office with the petition, as required by Rule 70.

(f) Here state the terms as to the amount of royalties, security for payment, or otherwise, upon which the petitioner claims to be entitled to the relief in question.

PATENTS ACT, 1902.

Form I.

PATENT.

**FORM OF OPPOSITION TO PETITION FOR GRANT OF
COMPULSORY LICENCE OR REVOCATION OF PATENT**

(a) Here state
(in full) name
and address.

(a) _____

hereby give notice of opposition to the petition of _____

for the grant of a compulsory Licence under Patent No. _____ of 1

or the revocation of the said patent. The grounds upon which I oppose the

(b) Here state
fully the grounds
of opposition.

said application are as follows, viz.: (b)

(Signed) _____

NOTE.—In pursuance of the requirements of Rule 71, copies of the affidavits or statutory declarations in reply to the evidence left with the petition must be delivered to the petitioner.

To the Comptroller,

The Patent Office, 25 Southampton Buildings,

Chancery Lane, London, W.C.

[When stamped this Form must be sent at once to the Patent Office.]

PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1883 TO 1902.

Form J.

APPLICATION FOR CERTIFICATE OF PAYMENT OR RENEWAL.

_____ hereby transmit the fee prescribed for the continuation in force of * _____ Patent No. _____, of 1 _____ for a further period of _____ of _____.

* Here insert name of patentee.

Name † _____

† Here insert name and full address.

Address _____

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

[This part of the Form to be filled in at the Patent Office.]

CERTIFICATE OF PAYMENT OR RENEWAL.

Letters Patent No. _____ of 1 _____.

_____ 1 _____

This is to certify that _____ did this _____ day of _____ 1 _____, make the prescribed payment of £ _____ in respect of a period of _____ from _____ and that by virtue of such payment the rights of the patentee remain in force.*



* See section 17 of the Patents, Designs, and Trade Marks Act, 1883.



The Patent Office, London.

PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1883 TO 1902.

Form K.



**FORM OF APPLICATION FOR ENLARGEMENT OF TIME
FOR PAYMENT OF RENEWAL FEE.**

SIR,

I HEREBY apply for an enlargement of time for _____ month in
which to make the _____ payment of _____
upon my Patent, No. _____ of 1

(a) The cir-
cumstances must
be stated in
detail; see Rule
67.

The circumstances in which the payment was omitted are as follows (a):

I am,

Sir,

Your obedient Servant,

(b) Here in-
sert full address
to which receipt
s to be sent.

(b) _____

To the Comptroller,

The Patent Office, 25 Southampton Buildings,

Chancery Lane, London, W.C.

PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1883 TO 1902.

Form L.



FORM OF REQUEST TO ENTER NAME UPON THE REGISTER OF PATENTS.

I (a) _____

(a) *I or We.*
 Here insert
(in full) name,
 address, and de-
 scription.

hereby request that you will enter (b) _____ name (c) in the Register
 of Patents:—

(b) *My or our*
 (c) *Or names.*

(d) _____ claim to be entitled (e) _____
 of the Patent No. _____ of _____, granted to (f) _____

(d) *I or We.*
 (e) Here in-
 sert the nature
 of the claim, e.g.,
as Assignee.

the title of which is (g) _____

(f) Here give
 name and ad-
 dress of person
 to whom Patent
 was granted.

by virtue of (h) _____

(g) Here in-
 sert title of the
 invention.

(h) Here spe-
 cify the parti-
 culars of such
 document, giv-
 ing its date, and
 the parties to the
 same, and show-
 ing how the
 claim here made
 is substantiated.

And in proof whereof I transmit the accompanying (i) _____
 _____ with an attested copy thereof.

(i) Here in-
 sert the nature
 of the document.

I am,

Sir,

Your obedient Servant,

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

[PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1883 TO 1902.

Form M.

PATENT.

**FORM OF REQUEST TO ENTER NOTIFICATION OF
LICENCE OR OTHER DOCUMENT IN THE REGISTER
OF PATENTS.**

SIR,

(a) Here insert a description of the nature of the document.

I HEREBY transmit an attested copy of (a) _____

under Patent No. _____ of 1 _____, as well as the original document for verification, and I have to request that a notification thereof may be entered in the Register.

I am,

Sir,

Your obedient Servant,

(Signed) _____

(b) _____

(b) Here insert full address.

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

PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1883 TO 1902.

Form N.

APPLICATION FOR DUPLICATE OF PATENT.



Date

SIR,

I REGRET to have to inform you that the Patent dated *

* Here insert date, number, full name and address of grantee.

No. granted to

for an invention the title of which is †

† Here insert title of invention.

has been ‡

‡ Here insert the word "destroyed" or "lost" as the case may be, and state, in full, the circumstances of the case, which must be verified by statutory declaration.

I beg therefore to apply for the issue of a duplicate of such Patent.§

§ Here state interest possessed by applicant in the Patent.

(Signature of Patentee.)

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

PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1883 TO 1902.

Form O.



NOTICE OF INTENDED EXHIBITION OF AN UNPATENTED INVENTION.

* Here state (in full) name and address of applicant.

* _____

hereby give notice of my intention to exhibit a _____
of _____ at the _____

† State "opened" or "is to open".

Exhibition, which † _____ of _____ I ,

under the provisions of the Patents, Designs, and Trade Marks Acts, 1883
to 1902.

‡ This description of invention should be accompanied by drawings if necessary.

‡ _____ herewith enclose a brief description of my invention

(Signed) _____

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

PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1883 TO 1902.

Form P.

**FORM OF REQUEST FOR CORRECTION OF CLERICAL
ERROR.**



SIR,

I HEREBY request that the following clerical error (a) _____ (a) or errors.

_____ in the (b) _____

(b) Here state whether in application, specification or register.

No. _____ of 1 _____, may be corrected in the manner shown in red ink

in the certified copy of the original (b) _____

hereunto annexed.

Signature _____

Full Address _____

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

PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1883 TO 1902.

Form Q.



CERTIFICATE OF COMPTROLLER-GENERAL.

The Patent Office,
London,

19

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

* Here insert
(in full) name
and address of
person requiring
the certificate.

To * _____

PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1883 TO 1902.

Form R.

**FORM OF NOTICE FOR ALTERATION OF AN ADDRESS
IN REGISTER.**



SIR,

(a) _____

(a) Here state
(in full) name or
names and ad-
dress of appli-
cant or appli-
cants.

hereby request that _____ address now upon the Register may be altered
as follows:—

(b) _____

(b) Here insert
full address.

Sir,

Your obedient Servant,

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

PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1883 TO 1902.

Form S.

PATENT.

**FORM OF APPLICATION FOR ENTRY OF ORDER OF
PRIVY COUNCIL IN REGISTER.**

(a) Here state
(in full) name
and address of
applicant.

(a) _____

(b) Here state
the purport of
the order.

hereby transmit an office copy of an Order in Council with reference to (b)

Sir,

Your obedient Servant,

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

PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1883 TO 1902.

Form T.

FORM OF APPEAL TO LAW OFFICER.



I, (a) _____

(a) Here insert (in full) name and address of appellant.

hereby give notice of my intention to appeal to the Law Officer from (b) _____

(b) Here insert "the decision" or "that part of the decision," as the case may be.

of the Comptroller of the _____ day of _____

19 _____, whereby he (c) _____

(c) Here insert "refused [or allowed] application for Patent," or "refused [or allowed] application for leave to amend Patent," or otherwise, as the case may be.

No. (d) _____ of the year 1 _____ (d)

(d) Insert number and year.

Signature _____

Date _____

N.B.—This notice must be sent to the Comptroller-General at the Patent Office, London, W.C., and a copy of the same to the Law Officers' Clerk at Room 549, Royal Courts of Justice, London.

PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1883 TO 1902.

Form U.



FORM OF APPLICATION FOR EXTENSION OF TIME FOR LEAVING A COMPLETE SPECIFICATION.

SIR,

_____ hereby, in respect of application No. _____
dated _____, apply for one month's extension of time in
which to leave a Complete Specification.

The circumstances in and grounds upon which this extension is applied

(a) The circumstances and grounds must be stated in detail; see Rule 10.

for are as follows (a) :—

Sir,

Your obedient Servant,

(b) _____

(b) To be signed by applicant or applicants, or his or their agent.

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

PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1883 TO 1902.

Form V.

**FORM OF APPLICATION FOR EXTENSION OF TIME FOR
ACCEPTANCE OF A COMPLETE SPECIFICATION.**



SIR,

_____ hereby apply for _____ months' extension of time
for the acceptance of the Complete Specification upon application
No. _____ dated _____.

The circumstances in and grounds upon which this extension is applied
for are as follows (a):— _____

(a) The cir-
cumstances and
grounds must be
stated in detail;
see Rule 10.

Sir,

Your obedient Servant

(b) _____

(b) To be
signed by appli-
cant or appli-
cants, or his or
their agent.

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

Patent Forms and Fees.—(i.) 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), Strand, London, W.C., or, at a few days' notice and upon pre-payment of the value of the stamp, at any Money Order Office in the United Kingdom.

If it should not be convenient to apply in either of the ways above specified, the stamped forms can be ordered by post from the Controller of Stamps, Room 7, Inland Revenue Office, Somerset House, London, W.C. In this case a bankers' draft or a Money or Postal Order payable to the Commissioners of Inland Revenue and crossed Bank of England, to cover the value of the stamp and the cost of transmitting the Form in a registered envelope by post, must be forwarded to Somerset House with the application for the Form. Cheques will not be accepted.

(ii.) Forms A, B, C and Cx are *usually kept on sale* at the undermentioned places :—

London General Post Office, E.C.	Post Office, Lombard Street, E.C.
Post Office, 195 Whitechapel Road, E.	„ 28 Eversholt St., Camden Town, N.W.
„ 239 Borough High Street, S.E.	„ 12 Parliament St., S.W.,
„ Charing Cross, W.C.	

and the chief Post Offices in the towns named below :—

IN ENGLAND AND WALES.

Accrington.	Croydon.	Lichfield.	St. Helens.
Altrincham.	Darlaston.	Lincoln.	Scarborough.
Ashton-under-Lyne.	Derby.	Liverpool.	Sedgeley.
Barnsley.	Dewsbury.	Macclesfield.	Sheffield.
Barrow-in-Furness.	Doncaster.	Manchester.	Southampton.
Bath.	Dorchester.	Middlesbrough.	Stafford.
Bedford.	Driffield.	Nantwich.	Stalybridge.
Beverley.	Droitwich.	Newcastle.	Stockport.
Birkenhead.	Dudley.	Newport (Mon.)	Stoke-on-Trent.
Birmingham.	Durham.	Northallerton.	Stourbridge.
Blackburn.	Exeter.	Northampton.	Stourport.
Bolton.	Gateshead.	Nottingham.	Sunderland.
Bradford.	Goole.	Nuneaton.	Swansea.
Brighton.	Greenwich.	Oldbury.	Tamworth.
Bristol.	Guildford.	Oldham.	Truro.
Bromsgrove.	Halifax.	Pattingham.	Tunstall.
Burnley.	Hartlepool.	Plymouth.	Wakefield.
Burslem.	Huddersfield.	Pontefract.	Walsall.
Burton-on-Trent.	Hull.	Portsmouth.	Warrington.
Bury.	Ipswich.	Prescot.	Wednesbury.
Cambridge.	Keighley.	Preston.	West Bromwich.
Cardiff.	Kendal.	Reading.	Whitby.
Carlisle.	Kidderminster.	Redditch.	Widnes.
Chatham.	Knaresbro'.	Richmond (Yorks).	Wigan.
Chester.	Knutsford.	Ripon.	Wolverhampton.
Clitheroe.	Lancaster.	Rochdale.	Wolverton.
Congleton.	Leamington.	Rotherham.	Woolwich.
Coventry.	Leeds.	Rugby.	Worcester.
Crewe.	Leicester.	Salford.	York.

IN SCOTLAND.

Aberdeen.	Inverness.
Dumbarton.	Lanark.
Dundee.	Leith.
Edinburgh.	Paisley.
Glasgow.	Perth.
Greenock.	Renfrew.

IN IRELAND.

Belfast.	Limerick.
Cork.	Londonderry.
Dublin.	Waterford.
Dundalk.	Wexford.
Galway.	

APPENDIX B.
CONVEYANCING FORMS.

FORM I.

AGREEMENT FOR JOINT APPLICATION.

MEMORANDUM OF AGREEMENT made the day of
 19 between A. B. of the one part and C. D.
of the other part WHEREAS the said A. B. claims to be in
possession of an invention relating to and by him
entitled of which the said A. B. claims to be
the first and true inventor and which is hereinafter referred
to as the said invention AND WHEREAS the said A. B. has
requested the said C. D. to provide him with the funds re-
quisite for perfecting and bringing out the said invention
and the said C. D. has agreed to provide such funds sub-
ject to the conditions hereinafter contained NOW IT IS HEREBY
MUTUALLY AGREED AS FOLLOWS that is to say—

1. The said A. B. shall in confidence explain the said
invention to the said C. D. or some person named by him.

2. If within one month after such explanation the said
C. D. is satisfied or such other person reports favourably
as to the value of the said invention the said A. B. and
C. D. will forthwith apply for a joint grant of letters patent
for the United Kingdom in respect of the said invention and
will make similar applications in such colonies and foreign
countries as to the said C. D. shall appear advisable Such
applications shall be made through E. F. or some other
registered patent agent named by the said C. D. and at the
sole cost of the said C. D. and the said A. B. will supply
the said E. F. or other patent agent aforesaid with full

information as to the said invention in order to enable him to apply for the said letters patent and will assist as and when required in the preparation of the necessary specifications and drawings.

3. The said A. B. will as and when reasonably required by the said C. D. and at the cost of the said C. D. make or assist in making or supervise the making of any working or other models to show the working of the said invention and the said A. B. will at any time after the said application for letters patent for the United Kingdom has been accepted explain and demonstrate the said invention and models and the working thereof to such person or persons and at such place or places and time or times as the said C. D. shall reasonably require.

4. The said C. D. will pay the cost of making the application or applications aforesaid and will advance to the said A. B. from time to time such sums subject as hereinafter provided as the said A. B. shall reasonably require for defraying the cost of travelling and hotel expenses in connection with the carrying out of these presents and the cost of models and demonstrations as aforesaid and the said C. D. will also pay the said A. B. at the rate of _____ per day for all time reasonably occupied in the carrying out of these presents including time during which by reason of his obligations hereunder the said A. B. is prevented from engaging in or obtaining other work.

5. Any letters patent obtained under this agreement shall be under the control of the said C. D. who shall have full power without consulting the said A. B. to enter into any contracts for the sale thereof or for granting licences thereunder or otherwise in connection therewith including the mortgaging thereof PROVIDED ALWAYS that the said A. B. is not thereby rendered subject to any pecuniary liability or obligation and the said C. D. shall have full power to give a good and sufficient discharge to any purchaser licensee or mortgagee for any purchase money royalty or mortgage money payable in respect thereof and the said A. B. hereby agrees to concur in the execution of any deed licence or other document necessary for carrying any such

contract into execution AND the said A. B. hereby irrevocably appoints the said C. D. to be his attorney in his name and on his behalf to do all such acts and things and to execute all such deeds and other instruments as may in the opinion of the said C. D. be necessary or convenient for giving effect to these presents PROVIDED that the said A. B. shall not thereby be subjected to any pecuniary liability.

6. It shall be lawful for the said C. D. in lieu of applying for letters patent for any colony or foreign country to sell the right to make any such application on any terms that the said C. D. may approve and any money or other consideration received in respect thereof shall be applied as though it were purchase-money paid for such letters patent.

7. The said A. B. shall not without the consent in writing of the said C. D. previously obtained either himself work under the said letters patent or licence any other person so to do.

8. The said C. D. shall be at liberty to work under the said letters patent but in the event of his so doing he shall keep proper accounts in separate books showing all his dealings in respect of goods made in accordance with the said invention and will permit the said A. B. or his agent thereto appointed in writing at all reasonable times to inspect and take copies therefrom and will also permit the said A. B. or his agent appointed as aforesaid at all reasonable times to inspect any works whereon the said C. D. is carrying on any process of manufacture in accordance with the said invention and will render to the said A. B. half-yearly accounts showing the profits made by the said C. D. by working the said invention and will account for one-third of the profits so shown as though the same were royalties received by him in respect of the said letters patent and this clause shall apply so long as any letters patent obtained under these presents shall be in force.

9. ALL moneys and other considerations received by the said C. D. under or by virtue of these presents shall be applied by him in repaying all expenses incurred by him under or by virtue of these presents together with interest thereon at the rate of per cent. and the balance

thereof shall be equally divided between the said A. B. and C. D.

10. The said A. B. may at any time after the expiration of _____ months after the date of the application for letters patent for the United Kingdom by written notice require the said C. D. to state in writing whether he proposes to apply for any particular foreign or colonial letters patent and unless the said C. D. within fourteen days after such notice states in writing that he intends so to apply such foreign country or colony shall be excluded from this agreement and the said A. B. shall be at liberty to apply for letters patent for such foreign country or colony himself or to dispose for his own sole benefit of the right to make such application as to him shall seem good.

11. If the said A. B. shall at any time during the continuance of this agreement make any improvement in respect of the said invention he shall forthwith communicate the same in confidence to the said C. D. or some person named by him as aforesaid and if the said C. D. shall within one month after such communication state in writing his desire to include such improvement in this agreement this agreement shall apply thereto as though the said improvement were part of the said invention otherwise the said A. B. shall be at liberty to apply for letters patent in respect of the said improvement on his own behalf or to otherwise deal with the same as to him shall appear right.

12. The said C. D. shall not be bound under these presents to pay any renewal fee necessary for keeping any letters patent obtained under these presents in force nor to work the said invention in any country where such working is required in order to support a patent but in the event of the said C. D. determining not to pay such renewal fee or to provide for such working the said C. D. shall give to the said A. B. in the case of a renewal fee one month's and in the case of working three months' notice of such his intention and from the date of such notice such letters patent shall cease to be subject to this agreement and the said C. D. shall at the request and cost of the said A. B. assign and convey or release the same to the said A. B. or his

assigns without prejudice to any right the said A. B. may have to recover from the said C. D. any moneys previously received by the said C. D. in respect of the said letters patent.

13. The said C. D. shall at any time during the continuance of this agreement be at liberty to apply for the amendment or to bring any action for the infringement of any letters patent for the time being subject hereto and to use the name of the said A. B. therein upon indemnifying him against any liability for the costs thereof and in the event of the said C. D. being unwilling to defend any petition for the revocation of any such letters patent or if any such letters patent shall be declared invalid in any legal proceedings to appeal from such decision or if such invalidity can be cured by amendment to apply for leave to amend the said A. B. shall be entitled at his own cost and risk to defend such petition or to prosecute an appeal from such decision or to make such application for leave to amend and in the event of his so doing such letters patent shall forthwith cease to be subject to this agreement and the said C. D. shall at the request and cost of the said A. B. assign and release such letters patent to the said A. B. or his assigns PROVIDED ALWAYS that the said A. B. shall not be entitled to use the name of the said C. D. in defending any such petition or in prosecuting any such appeal unless he shall before so doing reasonably secure the said C. D. against any liability for the costs thereof.

14. The said C. D. may at any time after making the application for letters patent give one month's notice in writing to the said A. B. revoking this agreement and from the expiration of such notice this agreement shall determine without prejudice to anything done in the meantime or to the right of the said A. B. to recover from the said C. D. any moneys due to him under these presents and the said C. D. shall at any time thereafter at the request and cost of the said A. B. assign and release any letters patent and other rights then subject to these presents to the said A. B. or his assigns.

15. If the said C. D. shall not be satisfied with the said invention or shall not as provided in Clause 2 hereof state

of his so doing he shall account to the said A. B. for per cent. of the profits made by him thereby and the said C. D. shall be at liberty to grant licences under the said letters patent and shall account to the said A. B. for per cent. of the royalties or other payments received by him in respect thereof.

4. The said C. D. shall not be bound to pay any renewal fee in respect of the said letters patent but in the event of his determining not to do so he shall at least one month before such renewal fee shall be due give to the said A. B. notice in writing of his intention not to pay such fee and he shall at any time thereafter at the request and cost of the said A. B. convey or release the said letters patent to the said A. B. or his assigns.

In witness etc.

FORM III.

ASSIGNMENT OF LETTERS PATENT.

THIS INDENTURE made the day of 19 between A. B. hereinafter called the patentee of the one part and C. D. hereinafter called the purchaser of the other part WITNESSETH that in consideration of the sum of £ now paid to the patentee the receipt whereof is hereby acknowledged the patentee as beneficial owner doth hereby assign unto the purchaser all those letters patent and grant of privilege dated the day of and numbered granted to E. F. for the sole making using exercising and vending within the United Kingdom of Great Britain and Ireland and the Isle of Man for the term of fourteen years from the date thereof of an invention entitled together with all rights benefits and privileges thereby conferred TO HAVE AND HOLD AND ENJOY the same unto the said C. D. for the residue of the term thereof and any extension thereof absolutely.

In witness etc.

One or both of the following covenants may also be added where the patentee is the original grantee.

And the patentee doth hereby covenant with the purchaser that he has not at any time prior to the date of the application for the said letters patent made any disclosure or publication of the said invention such as would render the said letters patent invalid.

If Improvements are included in the Sale.

And the patentee doth hereby covenant with the purchaser that he will from time to time after making any improvement in or addition to the said invention or discovery in connection therewith including any improvement addition or discovery aforesaid now (if so) in their knowledge and possession forthwith give notice thereof in writing to the purchaser or his assigns who shall be entitled to the sole and exclusive benefit thereof and as and when reasonably required by the purchaser or his assigns but at his or their expense as to actual costs (if any) out of pocket occasioned thereby communicate and explain to the purchaser or his assigns or his or their agents any such improvement addition or discovery and shall at the expense of the purchaser or his assigns if he or they shall require the same apply for and obtain or (if he or they shall so think fit) join with him or them in applying for and obtaining letters patent in respect of any such improvement addition or discovery and execute and do all such assurances and things as shall be necessary or convenient for vesting the same letters patent and the exclusive benefit thereof in the purchaser or his assigns as by the purchaser or his assigns shall be reasonably required. And further the foregoing provisions in this clause shall as far as possible apply to the interest of the patentee in every such improvement addition or discovery aforesaid which he may in conjunction with any other person or persons now have in their knowledge and possession or hereafter make.

FORM IV.

ASSIGNMENT OF LETTERS PATENT FOR A DISTRICT.

THIS INDENTURE made the _____ day of _____ 19____
between A. B. of the one part and C. D. of the other part
witnesseth that in consideration of the sum of £ _____ paid
to the said A. B. the receipt whereof is hereby acknowledged
the said A. B. as beneficial owner doth hereby convey and
assign unto the said C. D. all those letters patent and grant
of privilege dated the _____ day of _____ and num-
bered _____ for the sole making using exercising and
vending within the United Kingdom of Great Britain and
Ireland and the Isle of Man for the term of fourteen years
from the date thereof of an invention entitled _____
together with all the rights benefits and privileges thereby
conferred so far as the same relate to the administrative
County of London and no further TO HAVE HOLD AND ENJOY
the same within the said administrative County unto the
said C. D. for the remainder of the term thereof and any
extension thereof absolutely And the said A. B. doth hereby
for himself his executors administrators assigns and licencees
covenant with the said C. D. that he and they respectively
will not during the remainder of the said term or any ex-
tension thereof unless and until the said letters patent be
revoked sell give lend let on hire or otherwise supply to any
person other than the said C. D. his executors administrators
assigns or licencees any _____ made in accordance
with the said invention unless such _____ be marked in
a conspicuous and permanent manner with a notice that it
may not be used or sold within the said administrative
County of London so long as the said letters patent shall
remain in force And the said C. D. for himself his executors
administrators assigns and licencees doth hereby covenant
with the said A. B. that he and they respectively will not
during the said term or any extension thereof as aforesaid
sell give away lend let on hire or otherwise supply to any
person other than the said A. B. his executors administrators
assigns or licencees any _____ so made as aforesaid

thereof of an invention entitled _____ granted to E. F. And whereas the mortgagee has agreed to advance the present sum of £ _____ and may advance further sums by _____ monthly instalments upon having the same secured in manner hereinafter appearing NOW THIS INDENTURE WITNESSETH that in consideration of the sum of £ _____ now paid to the mortgagor and of any further sums which may be advanced as aforesaid the mortgagor hereby covenants with the mortgagee that he will on the _____ day of _____ repay to the mortgagee the said sum of £ _____ and any further sums that shall have then been actually advanced by the mortgagee and will six months after any further advance by the mortgagee repay the sums advanced with interest thereon from the date hereof or from the date or dates on which the same shall have been advanced respectively at the rate of _____ per cent. per annum and that if the said sum or sums or any of them shall not be repaid as aforesaid that the mortgagor will pay interest on the same or such part thereof as shall be from time to time outstanding at the said rate by equal half-yearly payments on the _____ day of _____ and the _____ day of _____ respectively until the same shall be repaid AND THIS INDENTURE FURTHER WITNESSETH that for the same consideration the mortgagor as beneficial owner doth hereby convey and assign to the mortgagee all those letters patent and grant of privilege dated the _____ day of _____ and numbered _____ granted to the said E. F. as aforesaid together with all rights and privileges thereby conferred TO HAVE AND TO HOLD the same to the mortgagee his executors administrators and assigns for the residue of the unexpired term thereof and any extension thereof subject nevertheless to the provisoes for redemption and for the granting of licences hereinafter contained AND the mortgagor doth hereby covenant with the mortgagee that he will during the remainder of the said term so long as any money shall remain owing under these presents pay each of the renewal fees necessary for keeping the said letters patent in force not less than one month before the same shall become due and that in the event of his not paying any such fee as aforesaid that it shall

be lawful for the mortgagee to pay the same together with any further fee that may be necessary for extending the time for paying the same and that the mortgagor will on demand repay to the mortgagee the amount of any such fee or fees so paid as aforesaid together with any expense properly incurred by the mortgagee in making such payment with interest thereon at the rate of 5 per cent. per annum and that until the repayment thereof the same shall be a charge on the said letters patent AND the mortgagor doth hereby covenant with the mortgagee that the said letters patent are good and valid AND it is hereby agreed and declared that the mortgagor shall until the registration of the declaration as hereinafter provided or until the exercise by the mortgagee of the statutory power of sale have full power without the concurrence of the mortgagee to work under the said letters patent for his own benefit and to grant licences to manufacture in accordance with the said invention in consideration of the payment of any royalty not less than for each made and sold under such licence and with or without a minimum royalty but not for any other consideration whatever PROVIDED ALWAYS that such licence shall not be binding on the mortgagee whether he shall have notice thereof or not unless the same shall have been registered at the Patent Office before the registration thereof by the mortgagee or his assigns of some document showing that the right of the mortgagor to grant licences has ceased AND that the royalties reserved by the said licences shall form part of the security for the money due from time to time under these presents as though the same had been expressly assigned to the mortgagee hereby AND it is hereby declared that in the event of any principal or interest payable under these presents remaining unpaid for the space of thirty days after the same shall have become due and payable it shall be lawful for the mortgagee to register at the Patent Office a declaration under his hand that the mortgagor shall no longer have the right to grant licences under the said letters patent as above provided and upon the registration thereof the right of the mortgagor to grant licences hereunder shall determine And it is further declared that

2. The licensee shall pay to the licensor by way of royalty in respect of every manufactured by him during the residue of the term of the said letters patent or any extension thereof the sum of Provided that in the event of the licensor granting any licence for the manufacture of of similar quality to the said deposited at a lower royalty than that above mentioned the licensee shall as from the date of such licence pay the same royalty as is thereby reserved in lieu of that above mentioned.

3. The licensee shall within ten days after the last days of June and December in each year deliver to the licensor an account in writing showing the number of manufactured by him during the preceding half-year and shall within one month after such last days respectively pay the royalty due in respect thereof and in the event of such royalty not being paid within the time aforesaid the licensee will pay interest thereon from the expiration thereof until payment at the rate of 5 per cent. per annum PROVIDED ALWAYS that if the royalty payable in respect of any half-year shall be less than £ the licensee shall pay in addition thereto such further sum as will therewith make up the sum of £ But in the event of his so doing he shall be entitled to deduct the sum or sums so paid over the said sum of £ from the excess if any of the royalty payable in respect of any succeeding half-year.

4. The licensee shall keep proper accounts in separate books showing the number of manufactured by him and shall permit the licensor or his agent authorised thereto in writing to examine the same at any reasonable time and to take copies thereof and extracts therefrom and shall permit the licensor or his agent as aforesaid at any time to inspect any premises on which are being manufactured under these presents.

5. The licensee shall mark every manufactured by him under these presents in the manner shown on the deposited and shall not in any way depart from the pattern of the said deposited without the consent in writing of the licensor previously obtained.

6. The licensee will not repudiate this licence nor will

he at any time directly or indirectly dispute the validity of the said letters patent.

7. In the event of the said letters patent being declared invalid by any competent Court and of the licensor not appealing therefrom or being unable so to appeal the said royalties shall not be payable in respect of any manufactured after the date of such declaration of invalidity unless such invalidity can be cured by amendment and the licensor shall within three months after such declaration apply for and on such application obtain leave to amend.

8. The licensee will at all times during the continuance of this licence give information to the licensor of any infringements of the said letters patent that may come under his notice and will do all in his power to prevent the infringement thereof.

Lastly if any royalty due under these presents shall remain unpaid for one month after the same ought to have been paid whether payment thereof shall have been demanded by the licensor or not or if the licensee shall make default in the performance of any obligation on his part herein contained it shall be lawful for the licensor at any time before such royalty shall have been paid or before such default shall have been remedied to his reasonable satisfaction or waived by notice in writing to the licensee to revoke this licence as from the date of such notice without prejudice to the right of the licensor to recover any moneys due to him hereunder.

In witness etc.

FORM VII.

EXCLUSIVE LICENCE.

THIS INDENTURE made the _____ day of _____ between A. B. hereinafter called the licensor of the one part and C. D. hereinafter called the licensee of the other part WHEREAS the licensor is the registered proprietor of letters patent for the United Kingdom number _____ of _____ and dated the _____ day of _____ granted to E. F. for the sole making using exercising and

vending of an invention entitled _____ of which the said E. F. claims that he is the true first inventor AND WHEREAS the licencee is desirous of working under the said letters patent and the licensor has agreed to grant him an exclusive licence to work thereunder as hereinafter provided NOW THIS INDENTURE WITNESSETH as follows that is to say—

1. The licensor in consideration of the sum of £ _____ paid to him by the licencee the receipt whereof is hereby acknowledged and in consideration of the royalties hereinafter reserved doth hereby grant to the licencee the sole power authority and licence during the residue of the term of the said letters patent and any extension thereof by himself his servants agents and sub-licencees as hereinafter provided to make use exercise and vend within the United Kingdom of Great Britain and Ireland and the Isle of Man the invention described and claimed in and by the specification of the said letters patent No. _____ of _____.

2. The licencee will pay to the licensor by way of royalty a sum equal to _____ per cent. of the net selling price of all the _____ made and sold by him hereunder and will also pay to the licensor a sum equal to _____ per cent. of any moneys received by him by way of royalty or payment for any licence granted by him hereunder or the net amount after payment of costs obtained by way of damages or on an account of profits or otherwise against any infringer of the said letters patent as hereinafter provided.

3. The licencee shall within ten days after the last days of _____ and _____ respectively in each year deliver to the licensor an account in writing showing the sales for the preceding half-year and the sums received by the licencee on account of royalties or by way of damages or profits or otherwise as aforesaid during the same period and shall within three months thereof pay to the licensor the sum or sums due to him hereunder in respect thereof and in the event of any such moneys not being paid within the time aforesaid the licencee will pay interest thereon from the expiration of such period of three months at the rate of 5 per cent. per annum provided always that the total sum payable to the licensor in respect of any half-year shall

not be less than £ but subject to such minimum payments being made the licensee shall be entitled to deduct from the moneys payable in respect of any succeeding half-year any sum paid in excess of the sum shown to be due on the account aforesaid.

4. The licensee shall keep proper accounts in separate books containing full particulars of everything made and sold by him under these presents of all licences granted by him and of all receipts of royalties and other payments under or in respect thereof and of all other things which may be material for the purpose of showing the amounts payable to the licensor hereunder and will at any time produce the same for the inspection of the licensor or of his agent thereto appointed in writing who shall be at liberty to make copies or extracts therefrom.

5. The licensor shall be at liberty at any reasonable time during the continuance of this licence by himself or his agent thereto appointed in writing to enter upon any factory or place of business of the licensee or his sub-licensees in which the manufacture of anything made under these presents is being carried on at any reasonable hour with the object of obtaining any information that may be material for the purpose of ascertaining the amount of any royalty or other sum payable hereunder and the licensee and his sub-licensees respectively shall afford every reasonable facility for obtaining such information.

6. The licensee will pay the fees due for renewal of the said letters patent as and when the same shall become due and will not at any time repudiate this licence nor will he at any time either directly or indirectly dispute the validity of the said letters patent.

7. The licensee shall take all reasonable steps to prevent infringement of the said letters patent and shall be at liberty to use the name of the licensor for the purpose of bringing any legal proceedings to enforce the said letters patent upon indemnifying the licensor against any pecuniary liability in respect thereof and shall subject as hereinbefore provided be entitled to retain for his own benefit any damages or other sums recovered therein In the event of a petition

being presented for the revocation of the said letters patent the licensee will defend the same and indemnify the licensor against any liability for the costs thereof. In the event of the said letters patent being declared invalid in any legal proceeding the licensee will carry the same on appeal to the final Court of Appeal. Provided that if such invalidity can be cured by amendment it shall be lawful for the licensee with the consent of the licensor (such consent not to be unreasonably withheld) to apply for leave to amend the specification of the said letters patent in lieu of appealing. Any proceedings for amendment shall be at the cost of the licensee.

8. In the event of the said letters patent being declared invalid by the highest Court of Appeal the royalties hereby reserved shall cease to be payable as from the date of such declaration but the licensee shall be entitled to recover all royalties due in respect of sales made previous to the date of such declaration. Provided always that if the invalidity of the said letters patent so declared shall be capable of being cured by amendment the licensee shall forthwith apply in the name of the licensor but at the cost of the licensee for leave to amend the same and in the event of such leave being obtained the provisions of this clause as to the cesser of royalty shall not take effect.

9. The licensee shall have the right to grant sub-licences at such royalties as he may consider reasonable and such sub-licences may be for the residue at the time of the granting thereof of the term of the said letters patent and any extension thereof or for any shorter term and may be limited to particular districts or to special forms of manufacture and may be subject to such conditions as to the licensee may appear right.

10. If the licensee shall dispose of his business during the continuance of this licence it shall be lawful for him to transfer the benefit of this licence to the purchaser but such transfer shall not release the licensee from any liability hereunder to indemnify the licensor against the costs of any legal proceedings or from any other obligation on his part hereunder.

11. If the licensee shall become bankrupt or insolvent

or shall compound with his creditors this licence shall *ipso facto* determine without prejudice to the right of the licensor to recover any moneys then accrued due to him hereunder.

Lastly if any moneys due to the licensor from the licensee under these presents shall remain unpaid for fourteen days after the same ought to have been paid or if the licensee shall make default in the performance of any obligation on his part herein contained it shall be lawful for the licensor at any time before such moneys shall have been paid or such default shall have been remedied to the reasonable satisfaction of the licensor or have been waived by notice in writing to the licensee to revoke this licence as from the date of such notice without prejudice to the right of the licensor to recover any moneys due to him hereunder at the date of such notice. Provided always that such revocation or the determination of this licence under the last preceding clause shall not affect any sub-licences *bonâ fide* granted by the licensee previously to such revocation or determination but the royalties thereafter payable thereunder shall be payable to the licensor as if the same had been duly assigned to him.

In witness etc.

FORM VIII.

AGREEMENT FOR THE USE OF A MACHINE AT A ROYALTY WITH RIGHT TO PURCHASE.

MEMORANDUM OF AN AGREEMENT made the _____ day of _____ 19____ between A. B. hereinafter called the company of the one part and C. D. hereinafter called the licensee of the other part WHEREAS the company is the registered proprietor of the letters patent of which particulars are contained in the schedule hereto AND WHEREAS the licensee has paid to the company the sum of £_____ and in consideration thereof and of the royalties hereinafter reserved the company has agreed to grant to the licensee the licence hereinafter expressed NOW IT IS HEREBY AGREED AS FOLLOWS that is to say—

1. The company will forthwith deliver to the licensee the machine numbered _____ hereinafter referred to as the machine. The licensee shall pay the cost of carriage of the machine from the company's depot and the cost of fixing the machine in position which shall be done by the company's workmen.

2. The licensee will pay to the company within ten days after the last days of March June September and December respectively for the use of the machine during the preceding three months the sum of _____ for every thousand revolutions of the machine during such period and for the purpose of ascertaining the number of such revolutions the number indicated by the counter attached to the machine shall be conclusive evidence.

3. The licensee will at any reasonable time during the continuance of this licence permit the agent of the company duly authorised thereto in writing to inspect the machine.

4. The licensee will during the continuance of this licence keep the machine clean and in good repair and condition and in the event of any substantial repair becoming necessary will give notice thereof to the company and will not before or during _____ days after giving such notice unless at the written request of the company attempt to do such repairs. The company will endeavour to do any repairs of which notice is given as aforesaid within the time aforesaid but in the event of the company not commencing to do such repairs within such time the licensee shall be at liberty to have such repairs done at his own cost and risk by any person who is in the opinion of the licensee capable of doing the same. If any repairs are done by the company the licensee will pay the company's reasonable charge therefor.

5. The licensee will not at any time during the continuance of this licence remove the name-plate from the machine nor remove the said counter or permit the same to be removed from the machine or to be in any way tampered or interfered with except for necessary cleaning and oiling and not for such purposes in any way that can affect the reading thereof.

6. The licencee will on the _____ day of _____ in every year so long as this licence shall continue pay to the company for insuring the machine against fire the sum of _____ and in the event of the machine being destroyed or damaged by fire during such time the company will without cost to the licencee repair or replace the same as to the company may appear best and in the event of the company replacing the same the substituted machine shall be deemed to be the machine for all purposes of these presents and the licencee shall in the event of the said counter being so damaged that it cannot be read pay to the company in respect to the time between the last reading of the said counter and the date of the fire a sum proportionate to that paid in respect of the last preceding period of three months.

7. The machine shall remain the property of the company during the continuance of this licence but after the licencee shall have paid the sum of £ _____ by way of royalty for the use thereof as aforesaid the licencee shall have the right of purchasing the same outright for the sum of one shilling.

8. Subject to the provisions of the last preceding clause the term of this licence shall be from the date when the machine shall be delivered to the licencee until the expiration of the terms of all the said letters patent. Provided that if during the said term and the continuance of these presents the company shall make or acquire any improvement which can be applied to the machine the company will at the request and cost of the licencee apply such improvement thereto. And if such improvement shall be the subject of letters patent belonging to the company the term of this licence shall be extended until the expiration of the term of such letters patent and the said sum of £ _____ shall be increased to such sum as may be agreed or in default of agreement as may be determined by arbitration.

9. The licencee shall not at any time directly or indirectly dispute the validity of any of the letters patent specified in the said schedule or of any other letters patent referred to in the last preceding clause hereof nor shall the revocation or any declaration of the invalidity of any of such letters

patent affect this licence or the payment of the said royalties thereunder so long as any of the said letters patent shall be in force.

10. The licensee will not at any time during the continuance of this licence permit or suffer a distress to be levied on any premises where the machine shall be and will at all reasonable times upon the request of the company's agent produce to him the receipts for the last rent or rates that shall have become due in respect of such premises.

11. The licensee shall not except on an emergency remove the machine from the place where it shall be fixed by the company as aforesaid without giving the company at least one week's previous notice in writing and the company shall be entitled to superintend such removal and the subsequent fixing of the machine and the licensee shall pay the reasonable charges of the company for so doing.

12. If this licence shall continue until the expiration of the term thereof as defined in clause 8 hereof the licensee shall be entitled within one month from the expiration of the said term and in this respect time shall be of the essence of the contract to purchase the machine at a price equal to the difference between the total sum paid by him as royalty under this licence and the sum of £ or such increased sum as aforesaid.

13. If any royalty or other money payable to the company under these presents shall be in arrear for ten days or if the licensee shall make default in the performance of any obligation on his part herein contained or if the licensee shall become bankrupt or insolvent or shall compound with his creditors it shall be lawful for the company at any time before such money shall have been paid or such default shall have been remedied to the reasonable satisfaction of the company or waived without any notice to the licensee to enter on the premises where the machine shall be and retake possession thereof and upon the company so retaking possession this licence shall determine without prejudice to the right of the company to recover any moneys due to it from the licensee under these presents at the date of such retaking of possession.

14. This licence is assignable with the consent in writing of the company such consent not to be unreasonably withheld.

In witness etc.

FORM IX.

AGREEMENT TO GRANT A LICENCE TO A COMPANY TO BE FORMED.

THIS AGREEMENT made the day of
between hereinafter called the patentee of the one
part and hereinafter called the promoter of the other
part WHEREAS the patentee is the owner of the letters
patent mentioned in the schedule hereto . AND WHEREAS the
promoter is desirous of promoting a company to work under
the said letters patent in accordance with the terms of the
licence contained in the said schedule NOW IT IS HEREBY
MUTUALLY AGREED as follows that is to say—

If the promoter shall procure within months from
the date hereof the registration of and the provision of work-
ing capital of at least £ for a company for the purpose
of working under the said letters patent as aforesaid the
patentee hereby agrees at the request and cost of such com-
pany to grant to it a licence in the form contained in the
schedule hereto or in such other form as may be agreed
between the patentee and such company to be formed and
in the event of the patentee upon reasonable proof of such
registration and of the provision of such working capital
failing or refusing to grant such licence upon being thereto
required by such company the patentee hereby appoints the
promoter or any person appointed by him his agent and
attorney in his name and on his behalf to execute a licence
to such company in the form contained in the schedule hereto
and the patentee hereby agrees to ratify and confirm such
execution and licence and hereby declares that this appoint-
ment is irrevocable for the space of twelve months from the
date hereof.

In witness etc.

FORM X.

AGREEMENT TO PROMOTE A COMPANY TO ACQUIRE AN INVENTION.

THIS AGREEMENT made the _____ day of _____ between _____ hereinafter called the inventor of the one part and _____ hereinafter called the promoter of the other part WHEREAS the inventor is in possession of an invention entitled _____ which is the subject of an application for letters patent for the United Kingdom No. _____ dated _____ AND WHEREAS the inventor has requested the promoter to promote a company for the purpose of acquiring the said invention and patent and of obtaining letters patent for the said invention for foreign countries to which request the promoter has acceded NOW IT IS HEREBY MUTUALLY AGREED as follows that is to say—

1. The promoter _____ agrees to register a company under the name of _____ or some other suitable name with a capital of £ _____ divided into _____ shares of _____ each and having for its primary object to enter into an agreement with the inventor in the form contained in the schedule hereto and to pay or provide for the payment of the preliminary expenses in connection with the registration and formation thereof and to procure the subscription of _____ shares therein.

2. Upon the registration of the said company the inventor agrees to enter into an agreement with the company in the form contained in the _____ schedule hereto upon being required so to do by the said company or by the promoter or by any person appointed by them or either of them by notice in writing served upon the inventor in the manner described in the said form of agreement and in the event of the inventor upon being so required refusing or failing or omitting to enter into and duly execute such agreement the inventor hereby appoints the promoter or any person appointed by him his agent and attorney in his name and on his behalf to enter into and duly execute the said agreement and the inventor hereby agrees to ratify confirm and allow such

agreement and execution and to carry such agreement into effect. And the inventor hereby declares that this appointment is irrevocable for the space of _____ months from the date hereof.

3. If the said company shall enter into the said agreement with the inventor the inventor will pay to the promoter or his nominees by way of remuneration for his services the sum of £ _____ in cash and the sum of _____ in fully paid shares out of the said company and the inventor hereby authorises the directors of the said company to allot the same to the promoter or his nominees out of the fully paid shares to become due to the inventor under the said agreement as and when the same shall become due.

4. If the promoter should fail to register the said company within _____ weeks after the date of these presents the inventor may give him notice in writing terminating this agreement and in the event of such notice being given this agreement shall determine and neither party shall be entitled to any compensation.

In witness etc.

THE SCHEDULE ABOVE REFERRED TO.

THIS AGREEMENT made the _____ day of _____ between _____ hereinafter called the inventor of the one part and _____ limited hereinafter called the company of the other part WHEREAS the inventor is in possession of an invention entitled _____ which is the subject of an application by him for letters patent for the United Kingdom No. _____ of _____ AND WHEREAS the company has been formed with the object *inter alia* of entering into this agreement being the agreement referred to in paragraph _____ of its Memorandum of Association NOW IT IS HEREBY AGREED as follows that is to say—

1. The inventor shall sell and the company shall purchase all that said invention and the benefit of the said application for letters patent and the right to make application for letters patent in any country or colony in respect of the said invention.

2. The price to be paid by the company for the said in-

vention and rights shall be the sum of £ to be paid as to £ part thereof immediately upon the execution hereof and as to the balance in fully paid-up shares of the company to be allotted to the inventor or his nominees upon the sealing of the said letters patent for the United Kingdom.

3. The inventor will forthwith at the request and cost of the company apply to amend his said application by joining the company as an applicant and will supply all requisite information to any patent agent appointed by the company to enable him to prepare the necessary specifications and applications and will at the request and cost of the company execute all deeds and documents that may be required for enabling the company to complete the said application and to make and complete any other applications for letters patent that the company may think right to make and for vesting any letters patent obtained in respect of the said invention in the company.

4. If the inventor shall at any time during the term of years from the date hereof make any improvement in respect of the said invention he shall forthwith inform the company thereof and shall at the request of the company communicate the same to some person appointed thereto in writing by it. And if the company shall within one month after such communication express its desire to include such improvement in this agreement and shall agree to apply for letters patent for the United Kingdom in respect thereof this agreement shall apply to such improvement as though the same were part of the said invention otherwise the inventor shall be at liberty to deal with such improvement in such way as he shall think fit. In the event of the company including any improvement in this agreement the company shall pay to the inventor in respect thereof upon the sealing of any patent therefor such remuneration as may be agreed or in default of agreement as may be settled by arbitration to be the fair value to the company thereof and the company shall have the option of paying the same in cash or fully paid ordinary shares or part thereof in cash and part in such shares.

5. In the event of the company not applying for letters

patent in any country or colony within months after the date of the application for the United Kingdom the inventor shall have the right to apply on his own behalf for letters patent in such country or colony and the right to apply therefor shall thenceforth cease to be subject to this agreement.

6. The company shall employ the inventor as its manager for a term of years from the date hereof at a salary of £ per annum and the inventor agrees to act as such manager for the said term and at the said salary and to devote his whole time to the service of the company and during such time as he may remain such manager as aforesaid to retain in his name not less than of the fully paid shares to be allotted as aforesaid.

7. Any notice to the inventor hereunder may be served by delivering or sending the same by prepaid letter addressed to him at and in the case of service by post, shall be deemed to have been received on the day following that on which it has been posted

8. If any difference shall arise between the parties hereto touching these presents or the construction hereof or any clause or thing herein contained or any matter in any way connected with these presents or the operation thereof or the rights duties or liabilities of either party hereto in connection with the premises then and in every such case the matter in difference shall be referred to the arbitration of whose decision shall be final.

In witness etc.

APPENDIX C.

LISTS OF PLACES RECEIVING DONATIONS OF PATENT OFFICE WORKS.

A.—Places in the United Kingdom receiving a complete set of the publications of the Patent Office including the Specifications, on condition that they shall be daily accessible to the public, for reference or for copying, free of all charge.

Belfast—Free Public Library.

*Birmingham—Reference Library, Patent Department, Eden Place.

Bolton—Little Bolton Library.

Bradford, Yorkshire—Free Library, Darley Street.

Bristol—Public Libraries, Hotwells Branch Library.

Cardiff—Central Free Library, Reference Department.

Carlisle—Public Library, Tullie House.

Derby—Public Library and Museum.

Dublin—National Library of Ireland, Kildare Street.

Dundee—Public Library, Albert Institute.

*Glasgow—Stirling's and Glasgow Public Library, Miller Street.

Halifax—Public Library, Akroyd Park.

*Horwich—Mechanics' Institute Library.

Huddersfield—Town Hall.

Hull—Public Libraries.

Ipswich—Museum Library, High Street.

*Keighley—Mechanics' Institute, North Street.

Kidderminster—Free Library.

*Leeds—Free Public Library.

Leicester—Free Public Library, Wellington Street.

Liverpool—Free Library, William Brown Street.

London—Free Library, London Street, Bethnal Green (from 1888).

*Manchester—Free Library, Deansgate.

Newcastle-upon-Tyne—Public Library, New Bridge Street.

Newport, Monmouth—Free Library.

Nottingham—Central Free Public Library.

*Oldham—Free Library, Union Street.

Preston—Harris Free Public Library and Museum.

Rochdale—Free Public Library, Esplanade.

Salford—Free Library, Peel Park.

*Sheffield—Free Public Library, Surrey Street.

Stockport—Central Free Library.

Swansea—Public Library.

Wolverhampton—Free Library.

* This Library also receives a set of Specifications of United States Patents (from 1898).

B.—Public Offices, etc., in the United Kingdom, and British Colonies and Foreign States receiving a complete set of the Publications of the Patent Office.

PUBLIC OFFICES, ETC.

London—British Museum.

Science Library, South Kensington Museum.

*Edinburgh—Museum of Science and Art.

Dublin—Public Record Office.

Isle of Man—Castletown—Rolls Office.

BRITISH COLONIES, ETC.

Canada—Quebec—Montreal—Council of Arts and Manufactures of Quebec.

Ontario—Ottawa—Patent Office.

Toronto—Public Library.

India—Bombay—Patent Office, Secretariat.

Calcutta—Patent Office, Imperial Secretariat.

Madras—Patent Office, Secretariat.

New South Wales—Sydney—Patent Office.

New Zealand—Wellington—Patent Office.

Queensland—Brisbane—Patent Office.

South Australia—Adelaide—Colonial Institute.

Patent Office (from 1878).

Tasmania—Hobart—General Register Office.

Victoria—Melbourne—Patent Office.

Public Library.

Western Australia—Perth—Patent Office (from 1898).

FOREIGN STATES.

Austria—Vienna—Handelsministerium (from 1898).

Polytechnic University.

Belgium—Brussels—École Industrielle, Palais du Midi.

Ministère de l'Industrie.

Denmark—Copenhagen—Patent Office (from 1893).

LISTS OF PLACES RECEIVING DONATIONS 319

France—Paris—Bibliothèque Nationale.

Office National des Brevets d'Invention et des Marques de
Fabrique.

Germany—Berlin—Kaiserliches Patentamt.

Kaiserliches Statistischeamt.

Alsace—Mühlhausen—Société Industrielle.

Baden—Carlsruhe—Technische Hochschule (from 1876).

Bavaria—Munich—Polytechnische Verein.

Prussia—Aachen—Königliche Technische Hochschule.

Berlin—Königliche Bibliothek.

Hanover—Polytechnische Schule.

Saxony—Dresden—Polytechnische Schule.

Italy—Naples—Royal Institution for the Encouragement of Science (from
1852).

Rome—Ufficio delle Privative Industriali.

Japan—Tokio—Patent Office (from 1884).

Norway—Christiania—Patent Office (from 1884).

Russia—Riga—Polytechnic School.

St. Petersburg—Bibliothèque Impériale.

Spain—Madrid.

Sweden—Stockholm—Patent Office.

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Pittsburg—Carnegie Library.

Wisconsin—Madison—Historical Society.

C.—Places in the United Kingdom receiving the Abridgments
of Specifications, and, if an asterisk is affixed, the Illus-
trated Official Journal of Patents also.

*Aberdeen—Public Library.

*Accrington—Public Library.

*Airdrie—Free Public Library.

*Alloa—Public Library.

Alnwick—Scientific and Mechanical Institution.

Armagh—Natural History and Philosophical Society.

- *Ashton-under-Lyne—Heginbottom Free Library.
- *Aston, near Birmingham—Aston Manor Public Library.
- Ayr—Carnegie Public Library.
- Bacup—Mechanics' Institution.
- Banbury—Mechanics' Institute.
- *Barnsley—Free Library.
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- *Barrow-in-Furness—Free Public Library and Museum.
- *Basingstoke—Mechanics' Institute and Club.
- *Birkenhead—Free Public Library.
- *Blackburn—Free Library and Museum.
- Blyth—Mechanics' Institution.
- Bodmin—Literary Institution.
- *Bootle—Free Public Library.
- Braintree—Braintree and Bocking Mechanics' Institute.
- *Brighton—Public Library, Royal Pavilion.
- *Burnley—Mechanics' Institution.
- Burslem—Wedgwood Institute.
- Bury St. Edmund's—Athenæum Library.
- *Canterbury—Free Library.
- Cardiff—South Wales Institution of Engineers, Park Place.
- Carmarthen—Literary and Scientific Institute.
- *Carnarvon—Free Library.
- Cheltenham—Public Library.
- *Chester—Free Library, St. John Street.
- Colchester—Public Library.
- *Cork—Free Library, Nelson's Place.
- Coventry—Free Library.
- *Crewe—Mechanics' Institution.
- *Darwen—Public Library.
- *Devonport—Free Public Library.
- *Dewsbury—Public Free Library.
- *Doncaster—Free Library.
- *Dumbarton—Free Public Library.
- Ebbw Vale—Literary and Scientific Institute.
- *Exeter—Albert Memorial Museum and Free Library.
- Frome—Literary and Scientific Institution.
Mechanics' Institution.
- Glasgow—*Athenæum.
Kelvingrove Museum.
West of Scotland Iron and Steel Institute.
*Institution of Engineers and Shipbuilders in Scotland, 207 Bath
Street.
*Philosophical Society.
- *Gloucester—Free Library, Guildhall.
- Guernsey—Guille-Allés Library, Market Place.

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- Halesworth—Mechanics' Institute.
Halifax—Mechanics' Institute, Crossley Street
*Hanley—Public Free Library.
Hebden Bridge—Mechanics' Institution, Commercial Street.
*Heywood—Public Free Library.
Huddersfield—Technical School.
*Inverness—Public Library.
*Jersey—Public Library.
Kettering—Church Institute and Working Men's Club.
Kilmarnock—Public Library.
Lancaster—Public Library, Storey Institute.
*Leamington Spa—Free Library, Town Hall.
Leeds—*Association of Engineers.
 Church Institute.
 Philosophical and Literary Society.
 Yorkshire College.
Leek, Staffordshire—Literary and Mechanics' Institution.
Liverpool—Polytechnic Society, Royal Institution.
London—*Brixton Oval, Tate Central Library.
 *Camberwell Central Library, Peckham Road, S.E.
 *Canning Town Free Public Library, Barking Road, E.
 *Guildhall Library, E.C.
 *Imperial Institute.
 *Incorporated Law Society, Chancery Lane.
 *Chartered Institute of Patent Agents, Southampton Buildings,
 Chancery Lane.
 *Institution of Civil Engineers, Gt. George Street.
 *Institution of Mechanical Engineers, Storey's Gate, St. James's
 Park, S.W.
 *Inner Temple Library.
 *London Institution, Finsbury Circus.
 *Newington Public Library, Walworth Road, S.E.
 *People's Palace, Mile End Road, E.
 *Society of Arts.
 *Southwark, St. George's Public Library, Borough Road, S.E.
 *Walthamstow Public Library.
 *Wandsworth Public Library.
 *War Office, Pall Mall.
 *West Ham Public Library, Stratford.
 *Westminster Free Public Library, Great Smith Street.
 *Wimbledon Free Public Library.
*Loughborough—Public Library.
Lowestoft—Public Library.
Manchester—*Chemical Club.
 *Moss Side Public Library.
 *Owen's College.

- *Mansfield—Free Public Library.
- *Middlesborough—Public Free Library.
- *Middleton, Manchester—Free Library.
- *Newcastle-upon-Tyne—North of England Institute of Mining and Mechanical Engineers.
- *North Shields—Free Library.
- *Northwich—Brunner Free Public Library.
- *Norwich—Free Library.
- *Nottingham—Mechanics' Institution.
- Oswestry—Free Public Library, Guildhall.
- *Penzance—Free Library.
- *Perth—Sandeman Public Library.
- *Peterhead—Public Library.
- *Plymouth—Free Public Library.
- *Pontypridd—Free Library.
- Portsmouth—*Dockyard.
*Public Free Library, Central Library, Town Hall.
- *Reading—Free Public Library, Museum and Art Gallery.
- Redditch—Literary and Scientific Institution.
- *Redruth—Free Public Library.
- *Richmond, Surrey—Free Public Library.
- Rotherham—Free Public Library.
- Ryde, Isle of Wight—Young Men's Christian Association and Literary Institute, Lind Street.
- Saffron Walden—Literary and Scientific Institution.
- *St. Helens—Free Public Library, the Gamble Institute.
- Scarborough—Mechanics' and Literary Institute, Vernon Place.
- Shipley—Salt Schools.
- *Shrewsbury—Free Public Library.
- Southend-on-Sea—Institute.
- *South Shields—Public Free Library.
- Spalding—Christian Young Men's Association.
- *Stafford—Free Library.
- Stockton-on-Tees—Free Library.
- Stowmarket—The Institute.
- Sudbury, Suffolk—Literary and Mechanics' Institute.
- *Swansea—Royal Institution of South Wales.
- Swindon, New—G.W.R. Mechanics' Institution.
- Uttoxeter—Reading Room and Library.
- *Walsall—Free Library.
- *Warrington—Municipal Museum.
- *Wednesbury—Free Library.
- Wellington—Young Men's Christian Association.
- *West Bromwich—Free Library.
- *West Hartlepool—Public Library.
- *Weston-super-Mare—Free Public Library.
- Whitby—Museum.

- *Whitehaven—Free Public Library.
- *Woolwich—Ordnance Factories.
- *Worcester—Public Library, Victoria Institute.
- *Workington—Public Library and Reading Room.

D.—Places abroad receiving the Abridgments of Specifications, and, if an asterisk is affixed, the Illustrated Official Journal of Patents also.

BRITISH COLONIES, ETC.

- Canada—Quebec—Montreal—Society of Civil Engineers.
- Manitoba—*Winnipeg—Public Library.
- *Cape Colony—Cape Town—Colonial Secretary's Office.
- *Malta—Valetta—Chief Secretary's Office.
- *Mauritius—Colonial Secretary's Office.
- *New Zealand—Auckland Free Public Library.
- Victoria—Ballarat—School of Mines.
- Western Australia—Perth—Victoria Library.

FOREIGN STATES.

- France—Paris—British Chamber of Commerce.
- *Germany—Gotha—Ducal Friedenstein Collection.
- Strasburg—Imperial and Provincial Library of the University.
- Netherlands—Delft—Polytechnic School.
- *Peru—Lima—Escuela de Ingenieros.
- *Switzerland—Berne—Bureau International pour la Protection de la Propriété Industrielle.
- Zurich—Federal Polytechnic School.
- United States—Illinois—Urbana—University of Illinois.
- Indiana—Crawfordsville—Wabash College.
- Terre Haute—Rose Polytechnic Institute.
- Massachusetts—Boston—American Academy of Arts and Sciences.
- Springfield—City Library Association.
- Michigan—*Detroit—Public Library.
- *Lansing—State Library.
- Minnesota—Saint Paul—Minnesota Historical Society.
- *New Jersey—Newark—Free Public Library.
- *New York—American Society of Civil Engineers.
- Pennsylvania—Philadelphia—Engineers' Club, 1122 Girard Street.
- Philadelphia—Law Association.
- Pittsburg—Mercantile Library Association.
- Scranton—Young Men's Christian Association.
- *Wisconsin—Milwaukee Public Library.

E.—Places receiving some special portion of the publications of the Patent Office.

Belfast—The Linen Trade Board.
 Birmingham—Mason College.
 Leek—The Nicholson Institute.
 Liverpool—Chemical Laboratory, University College.
 London—British Horological Institute.
 Federated Institutes of Brewing.
 Home Office.
 Institute of British Carriage Manufacturers.
 Institute of Electrical Engineers.
 Institution of Naval Architects.
 Iron and Steel Institute.
 Microscopical Society.
 Photographic Society.
 Society of Chemical Industry.
 Surveyors' Institution.
 Manchester—Municipal Technical School.
 Society of Dyers and Colorists.
 Waltham Abbey—Gunpowder Factory.
 Woolwich—Ordnance Committee.

F.—Places in the United Kingdom receiving the Illustrated Official Journal of Patents.

Accrington—Mechanics' Institution.
 Arbroath—Public Library.
 Belfast—Queen's College.
 Birmingham—Cycle Engineers' Institute.
 Blackpool—Free Library.
 Blackrock (Co. Dublin)—Public Library.
 Brechin—Public Library.
 Bristol—Literary and Philosophical Club.
 School of Science, Merchants' Hall.
 Burnley—Corporation Free Library.
 Bury—Public Library.
 Cambridge—Free Library.
 University Library.
 Chatham—Dockyard.
 Chorley—Free Public Library.
 Croydon—Central Free Public Library.
 Darlington—Edward Pease Public Library.
 Denbigh—Free Reading Room.
 Dublin—King's Inn Library.
 Law Library—Four Courts.

Dudley—Free Library.
 Dundalk—Free Library.
 Edinburgh—Advocates' Library.
 Public Library.
 Elgin—Library.
 Enfield—Small Arms Factory.
 Falkirk—Public Library.
 Falmouth—Free Public Library.
 Galashiels—Public Library.
 Glasgow—Library of the Faculty of Procurators.
 Gravesend—Public Library.
 Hawick—Public Library.
 High Wycombe—Free Library.
 Holyhead—Public Library.
 Huddersfield—Lockwood Mechanics' Institution.
 Lincoln—Public Library.
 Llanelly—Mechanics' Institution.
 London—Acton Public Library.
 Admiralty.
 Aeronautical Society.
 Austrian Embassy.
 Bar Library, Royal Courts of Justice.
 Battersea Public Library, Lavender Hill.
 Battersea Public Library, Lurline Gardens, Victoria Road.
 Battersea Public Library, Lammas Hall, Bridge Road West.
 Bishopsgate Institute.
 Board of Trade.
 Borough Road Polytechnic Institution.
 Central Young Men's Christian Association, 186 Aldersgate Street.
 Clerkenwell Public Library.
 Coach Builders' and Wheelwrights' Art Journal.
 Cold Storage and Ice Trades Review.
 Ealing Free Public Library.
 East Ham—Plasnet Library.
 Edmonton Public Library.
 Electrician.
 Feilden's Magazine.
 Fulham Free Public Library.
 Fulham Free Public Library, Wandsworth Bridge Road Branch.
 German Embassy.
 Goldsmiths' Company's Technical Institute, New Cross, S.E.
 Hamme-smith Free Public Library.
 Hampstead Public Libraries, Kilburn Branch.
 Harlesden Public Library.
 Historical Society, Royal.
 India Office.

Inland Revenue Department.
 Kensington Free Public Library, Notting Hill.
 Kilburn Public Library.
 Lewisham Public Libraries.
 London Chamber of Commerce.
 Old Brompton Road Free Public Library.
 Pharmaceutical Society of Great Britain.
 Polytechnic, Regent Street.
 Poplar Public Library.
 Postal Stores, Mount Pleasant, Clerkenwell.
 Privy Council.
 Rotherhithe Public Library.
 Royal Institution.
 St. Bride Foundation Institute.
 Society of Patent Agents.
 Stoke Newington Public Library.
 Tottenham Public Library.
 Tottenham Public Library, St. Ann's Road Branch.
 Toynbee Hall.
 Treasury.
 Whitechapel Free Public Library.
 Willesden Green Public Library.
 Ludlow—Young Men's Christian Association.
 Macclesfield—Free Library, Town Hall.
 Manchester—Association of Engineers.
 Merthyr Tydvil—Free Library.
 Nelson—Free Library.
 Nenagh—Town Hall.
 Newburgh, Fife—Laing Free Library.
 Newcastle-on-Tyne—Institution of Engineers and Ship Builders.
 Newport, Mon.—Chamber of Commerce.
 Newport, Salop—Literary Institute.
 Oldbury—Public Library.
 Oxford—Bodleian Library.
 Public Library.
 Pembroke—Dockyard.
 Sheerness—Dockyard.
 Sheffield—Chamber of Commerce.
 Southport.—Atkinson Free Library.
 Stony Stratford—Church Institute.
 Stroud—Free Library.
 Sunderland—Equitable Industrial Society, Limited.
 Public Free Library.
 Thetford—Mechanics' Institution.
 Thornaby-on-Tees—Public Library.
 Todmorden—Free Library.
 Watford—Public Library.

Whitchurch—Mechanics' Institute.
 Wigan—Corporation Library.
 Wolverton—L. and N. W. R. Library.
 Woolwich—Royal Artillery Institution.
 Royal Gun Factory.
 Wrexham—Free Public Library.
 York—Institute of Art, Literature and Science.
 Free Library.

G.—Places abroad receiving the Illustrated Official Journal of Patents.

(a) BRITISH COLONIES, ETC.

British Guiana—Georgetown; Demerara—Government Secretary's Office.
 Canada—Ontario—Kingston—School of Mining.
 Ottawa—Exchequer Court.
 Toronto—Bureau of Agriculture,
 Canadian Institute.
 Manitoba—Winnipeg—Library of Parliament.
 Cape Colony—Kimberley Public Library.
 Ceylon—Government.
 India—Calcutta—"Indian and Eastern Engineer."
 Ishapore, Bengal—Gunpowder Factory.
 New South Wales—Sydney—Engineering Association.
 Trinidad—Government.
 Victoria—Melbourne—Australian Institute of Patent Agents.
 Department of Mines.

(b) FOREIGN STATES.

Argentine Republic—Buenos Ayres—Patent Office.
 "Revista de Patentes y Marcas."
 Austria-Hungary—Buda Pesth—Patent Office.
 Prague—Deutsche Technische Hochschule.
 Vienna—"Austrian Trade Journal."
 "Der Electro Techniker."
 Belgium—Brussels—Society of Electricians.
 "L'Industrie."
 France—Marseilles—Société Scientifique Industrielle.
 Paris—Association des Chemistes.
 "L'Eclairage Electrique."
 "L'Electricien."
 "Le Mois Scientifique et Industriel."
 France—Paris—"Les Brevets de Sucrierie."
 "Revue Générale des Matières-Colorantes."
 Société Anonyme de Publications Industrielles.
 Société Nationale d'Agriculture.

Germany—Berlin—"Der Grossbetrieb."

Zeitschrift für Werkzeugmaschinen und Werkzeuge.

Stuttgart—Bibliothek der Musterlagers.

Italy—Turin—La Proprietà Industriale.

Switzerland—Berne—Bureau de la Propriété Intellectuelle.

United States—New York—American Institute of Electrical Engineers.

American Railway Association.

"India Rubber World." ❖

Municipal Journal and Engineer.

"Scientific American."

Pennsylvania—Harrisburg—State Library of Pennsylvania

Pittsburg—Engineers' Society of Western
Pennsylvania.

Washington—Smithsonian Institution.

H.—Places receiving the Trade Marks Journal only.

Edinburgh—Fishery Board for Scotland.

Jamaica—Spanish Town—Registrar-General.

London—Board of Agriculture.

Netherlands—The Hague—Office de la Propriété Industrielle.

Wolverhampton—Chamber of Commerce.

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