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 ———— (precious metal or imitation thereof). 14.
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 ———— (metal). 13.
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 ————, Cooking. 18.
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 ————, Knotter. 6.
 ————, Name (metal). 13.
 ————, Shovel, Spade, and Bowl. 13.
 ————, Side, for ploughs. 7.
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 ————, Stencil. 39.
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 ———— cards. 39.
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 ————, Steam. 7.
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 ———— levels, Workmen's (wood). 50.
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 ———, Railway. 6.
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 ——— (wood). 50.
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 ——— preparations and materials. 50.
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 ——— flasks. 19.
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 ———, Ginger beer. 42.
 ———, Knife. 50.
 ———, Plate. 50.
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 ——— (medicinal) for human use. 3.
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 ——— (parts of machines). 6.
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 ———, Letter-press. 39.
 ——— presses. 6.
 ——— slabs, not parts of printing machines. 39.
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 Projectiles (explosive). 20.
 ——— (non-explosive). 19.
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 ———, Sight (for guns). 19.
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 ——— (wood). 50.
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 ———, Air (philosophical). 8.
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 ———, Saddlers', with a cutting edge. 12.
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- Pyretic saline. 3.
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- Quarries. 16.
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 — pens. 39.
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 — (aerated). 44.
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 —, Hay (metal). 13.
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- Refreshment bars. 18.
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 —, Velvet (silk and cotton, silk predominating). 32.
 — (wool, worsted, or mohair predominating). 35.
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 — (metal). 13.
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 — (wood). 50.
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 — (wood). 50.
 — (india-rubber), for umbrellas. 40.
 — (metal). 13.
 —, Napkin (electroplate and precious metal). 14.
 — (bone, ivory, wood). 50.
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 Rope (jute or hemp). 50.
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 ——— in the nature of carpets. 36.
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 ——— (wood). 50.
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- Saccharometers. 8.
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 Sacks. 50.
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 ——— paste. 50.
 Saddles, Air; for bicycles (india-rubber).
 40.
 Saddlers' ironmongery. 13.
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 Safes, Ice. 50.
 ———, Meat. 50.
 ——— (metal) for money and valuables.
 13.
 Sago. 42.
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 ——— food. 42.
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 ———, Eye. 3.
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 ———, Silver. 50.
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 18.
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- Sausage machines. 6.
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 ——— sets. 13.
 ——— tables. 6.
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 Saws. 12.
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 14.
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 ——— (india-rubber). 40.
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 Screens, Fire (metal). 13.
 ——— (furniture). 41.
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 ——— machines. 6.
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 ——— in manufactures. 4.
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 Serges. 31.
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 ————— wound on spools or reels. 23.
 ————— (flax and linen). 26.
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 Shalloons. 31.
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 Sharpening powder. 50.
 ————— sticks (metal). 13.
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 Shaving brushes. 50.
 ————— paste. 48.
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 — (linen). 28.
 — (silk). 32.
 — (woollen and worsted) in the piece. 31.
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 Shear steel. 5.
 Shearing machines (for sheep). 7.
 ————— (not for agricultural purposes). 6.
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 — shearing machines. 7.
 — shears. 12.
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 Sheetings (cotton) in the piece. 24.
 — (linen and hemp) in the piece. 27.
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 — (india rubber). 40.
 — (linen) not in the piece. 23.
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 Shell, Articles of (not included in other classes). 50.
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 Sherbet. 42.
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 Shields, Nipple. 11.
 Ships' berths (metallic). 41.
 —, Compositions for the bottoms of. 1.
 — equipments (except nautical instruments). 21.
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 ————— (precious metal or imitation of the same). 14.
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 Shirts. 38.
 Shives and spiles (wood). 50.
 Shoddy piece goods. 31.
 Shoe bills. 13.
 — drills. 27.
 — hides (calf and kid). 37.
 — horns (bone, ivory, wood). 50.
 ————— (metal). 13.
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 Shoes. 38.
 Shop counters. 41.
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 — belts. 19.
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 Shovels (metal). 13.
 Shutters (revolving). 18.
 — (wood). 50.
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 ————— metal. 13.
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 — (wood). 50.
 Sifters, Cinder (being machines). 6.
 —————, for household use. 13.
 ————— (imitation of precious metal). 11.
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 — protectors for guns. 19.
 Signals, Fog (explosive). 20.
 Silica furnace fittings. 16.
 Silk antimacassars. 32.
 — braids, bindings, galloons, ribbons, webbing, and other silk smallwares (not included in other classes). 32.
 —, Flags of. 32.
 —, Oiled. 11.
 — piece goods. 31.
 — (raw or partly prepared). 4.
 — (spun, thrown, sewing, or knitting: twist, yarn, and thread). 30.
 Silver and imitations of silver. 5.
 —————, Wares of. 14.
 —, German (in sheets, bars, and ingots). 5.
 ————— (wire). 5.
 — leaf. 5.
 —, Nitrate of. 1.
 — paper. 39.
 — sand. 50.
 — thread. 14.
 — wire. 5.
 Silversmiths' soap. 50.
 Singeing lamps. 13.
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- Sinks (metal). 13.
 — (slate and stone). 50.
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 Sizing machines. 6.
 Skates. 12.
 —, Roller. 49.
 Skins, wrought and unwrought. 37.
 Skirts. 38.
 Skylights (metal). 13.
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 Slaters' rippers, axes, and horses. 12.
 Slates (roofing and building). 17.
 — (writing). 39.
 Slide rests. 6.
 — rules. 8.
 Slippers for wear. 38.
 Slotting machines. 6.
 Small-arms. 19.
 Small wares not included in other classes (metal) in Class 13.
 ——— not included in other classes (precious metal or imitation thereof). 11.
 ——— not included in other classes (textile) according to the material or the predominating material. 25, 28, 29, 32, and 35.
 ——— not included in other classes (wood, ivory, bone, jet). 50.
 Smelling bottles mounted in precious metals or imitations of them. 14.
 ——— salts. 3.
 Smiths' bellows. 50.
 Smoke boards (metal). 13.
 Soap caps. 19.
 Sneads, Scythe (metal). 13.
 Snuff. 45.
 Snuffers. 13.
 Soap, Common. 47.
 —, Disinfecting. 2.
 —, Extract of. 47.
 — (medicated), for human use. 3.
 — for dogs, cattle, &c. 2.
 —, Perfumed. 48.
 —, Shaving. 48.
 —, Silversmiths'. 50.
 Socks for curative purposes. 11.
 ——— wear. 38.
 Soda and its preparations (for use in manufactures). 1.
 — water. 44.
 ——— apparatus and machines. 6.
 ——— bottles. 15.
 Sofas (furniture). 41.
 —, Garden (metal). 13.
 Solder. 5.
 Sole plates for ploughs. 7.
 Soles (cork). 38.
 Sounding machines and apparatus. 8.
 Soups. 42.
 Spades. 13.
 Spangles of gold. 14.
 Spanish stripes. 34.
 Spanners. 13.
 Spars for ships. 21.
 Spectacles. 8.
 Speed indicators and gauges. 8.
 Spelter. 5.
 Spice extracts (alcoholic). 43.
 Spices. 42.
 Spikes (marine). 13.
 Spiles (wood). 50.
 Spills (wood). 50.
 Spirit indicators. 8.
 — levels. 8.
 Spirits (beverages). 43.
 — of camphor. 3.
 — (perfumed). 48.
 Spittoons (metal). 13.
 ——— (porcelain or earthenware). 16.
 Spokeshaves. 12.
 Spokes (metal). 13.
 — (wood). 50.
 Sponges. 4.
 — (india-rubber). 40.
 Spoons (brass and tin). 13.
 — (precious metal and imitations thereof). 14.
 Spouting (metal). 13.
 Spreaders (wood). 50.
 Sprigs (flax and linen). 27.
 Spring balances. 6.
 — mattresses. 41.
 — steel. 5.
 Springs (bell). 13.
 — (door, railway waggon and carriage, buffing or buffer). 13.
 — (machine). 6.
 — (watches and clocks). 10.
 Spuds. 13.
 Spurs (iron or steel). 13.
 Squares, Workmen's (metal). 13.
 ——— (wood). 50.
 Squeegees (india-rubber). 40.
 Squeezers, Lemon. 6.
 Stain powders. 1.
 Stains, Wood. 1.
 Stair cases (metal). 18.
 — rods (metal). 13.
 Stakes (metal). 13.
 Stamps, Hand (for marking linen and paper). 39.
 Standard gauges. 8.
 Standards, Gas (metal). 13.
 Stands for casks, sewing machines, and similar articles, in the class of the material.
 —, Umbrella, with furniture in Class 41.
 Staples (metal). 13.
 Starch, for laundry purposes. 47.
 — use as food. 42.
 Stationery. 39.
 — cases. 39.
 Statuary (porcelain). 16.
 Stay busks (metal). 13.

- Stays. 38.
 Steam boilers, Composition for preventing and removing scale in. 1.
 ———, Composition for preventing radiation of heat from. 1.
 ——— for agricultural purposes. 7.
 ——— not for agricultural purposes. 6.
 ——— coils. 18.
 ——— engines, for agricultural purposes. 7.
 ——— not for agricultural purposes. 6.
 ——— gauges. 8.
 ——— hammers. 6.
 ——— packing. 50.
 ——— pumps. 6.
 ——— traps. 6.
 Stearino. 4.
 ——— candles. 47.
 Stentite articles. 50.
 Steel. 5.
 ——— carboniser, for use in manufactures. 4.
 ——— pens. 39.
 ——— toys. 13.
 ——— wire ropes. 13.
 Steels, Butchers'. 13.
 Steelyards. 6.
 Steering engines. 6.
 ——— gear. 21.
 Stencil plates. 39.
 Stereotyping paper. 39.
 Sticks, Walking (wood). 50.
 ———, Whip. 50.
 Stills (experimental). 8.
 Stirrups. 13.
 Stockings. 38.
 ——— (surgical). 11.
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 ——— prepared for use in medicine and pharmacy. 3.
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 ——— candles. 47.
 ———, Paraffin, for use in manufactures. 4.
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 ——— covered with silk, cotton, &c., in the class of the covering material.
 ——— drawing, Jewels for. 50.
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 ———, German silver. 5.
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 ———, Telegraph. 5.
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 ——— cocks. 50.
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INSTRUCTIONS TO PERSONS WHO WISH TO REGISTER TRADE MARKS.

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1. GENERAL.

It is advisable in the first instance for a person who desires to register a trade mark to buy a copy of the Trade Marks Rules, 1906, and of the Trade Marks Act of 1905 now governing the registration of trade marks. For information as to obtaining copies of the rules and Act, *see* paragraph 26.

2. WHO MAY APPLY FOR REGISTRATION OF A TRADE MARK.

Any person claiming to be the proprietor of a trade mark, whether a British subject or not, may make an application for the registration of a trade mark in the United Kingdom.

The term "person" includes firm, partnership, and body corporate.

Any person who has made a previous application for registration of a trade mark, which is registrable under the Trade Marks Act, 1905, either in any of the Foreign States or in any of the British Possessions (*see* paragraph 24) with which certain arrangements for mutual protection of trade marks have been made, may obtain priority of date

in the United Kingdom, provided that the application is made within four months from the date of the application in such Foreign State or British Possession.

3. WHAT MAY BE REGISTERED AS A TRADE MARK.

(This paragraph is a reprint of Section 9 of the Trade Marks Act, 1905.)

4. MANNER OF APPLYING FOR REGISTRATION OF A TRADE MARK.

All applications and communications must be made in the English language.

Applications relating to marks not being cotton marks or Sheffield marks must be left at the Patent Office by hand or sent by post addressed to the Registrar, The Patent Office, Trade Marks Branch, 25, Southampton Buildings, London, W.C.

In the case of cotton marks, applications should be addressed to the Keeper of Cotton Marks, Manchester Branch of the Trade Marks Registry, 48, Royal Exchange, Manchester. (See paragraph 19.)

In the case of Sheffield marks, applications should be addressed to the Law Clerk to the Cutlers' Company, The Cutlers' Hall, Sheffield. (See paragraph 18.)

Applicants must use the appropriate stamped forms (see paragraph 5), as fees cannot be received by cheque or money order or in cash at the Patent Office.

5. TRADE MARK FORMS AND FEES.

The following is a list of the forms under the Trade Marks Act, 1905, and of the principal fees:—

Number of Form.	Title of Form.	Fee.		
		£	s.	d.
TM No. 1	Form of authorisation of agent	—		
TM No. 2	Application for registration of trade mark	0	10	0
TM No. 3	Additional representation of trade mark	No stamp.		
TM No. 4	Request for statement of grounds of decision under sect. 12 (3)	0	10	0
TM No. 5	Application for registration of trade mark under sect. 9 (5)	0	10	0
TM No. 6	Application for registration of special trade mark under sect. 62	0	10	0
TM No. 7	Notice of opposition to application for registration	1	0	0
TM No. 8	Counter-statement to opposition to application for registration	0	10	0
TM No. 9	Application for hearing in cases of opposition	1	0	0
TM No. 10	Application to the Board of Trade for hearing under Rule 38	1	0	0

Number of Form.	Title of Form.	Fee.		
		£	s.	d.
TM No. 11	Fee for registration of a trade mark	1	0	0
TM No. 12	Renewal of registration before notice has been given by registrar	1	0	0
TM No. 13	Renewal of registration after notice has been given by registrar	1	0	0
TM No. 14	Additional fee to accompany renewal fee within one month after advertisement of non-payment of renewal fee	0	10	0
TM No. 15	Restoration of trade mark where removed for non-payment of fee	1	0	0
TM No. 16	Joint request by registered proprietor and assignee to register assignee as subsequent proprietor.....	1	0	0
TM No. 17	Form of declaration (only to be furnished when requested by registrar) by assignee in support of Form TM No. 16	—		
TM No. 18	Request to enter name of subsequent proprietor upon register	1	0	0
TM No. 19	Form of declaration (only to be furnished when requested by registrar) in support of statement of case accompanying Form TM No. 18.....	—		
TM No. 20	Application for alteration of address on register	0	5	0
TM No. 21	Application to permit an apportionment of trade marks	5	0	0
TM No. 22	Request for correction of clerical error or amendment of application	0	5	0
TM No. 23	Request to enter change of name of registered proprietor	0	5	0
TM No. 24	Application to cancel entry on register	0	5	0
TM No. 25	Request to strike out goods from those for which a mark is registered	0	5	0
TM No. 26	Request to enter disclaimer or memorandum	0	5	0
TM No. 27	Application to add to or alter a trade mark	1	0	0
TM No. 28	Request for search under Rule 95	0	10	0
TM No. 29	Appeal from registrar to Board of Trade	1	0	0
TM No. 30	Notice of Order of Court for alteration of register	0	10	0
TM No. 31	Request for general certificate	1	0	0
TM No. 32	Request for certificate of refusal to register	1	0	0
TM No. 33	Request for certificate of registration for use in obtaining registration abroad.....	0	5	0
TM No. 34	Request for certificate of registration for use in legal proceedings	1	0	0
	For office copies every 100 words, but never less than one shilling	0	0	4
	For certifying office copies MS. or printed matter	0	10	0
	An additional stamp duty of one shilling is also charged under the Stamp Act upon certified copies of certain documents.			

These stamped 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 No. 5), 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.

Forms bearing the numbers TM No. 2, TM No. 3, and TM No. 11 are kept in stock at the following post offices in London :—

The General Post Office, E.C.
 District Post Office, Lombard Street, E.C.
 „ 195, Whitechapel Road, E.
 „ 239, Borough High Street, S.E.
 „ Charing Cross, W.C.
 „ 28, Eversholt Street, Camden Town, N.W.
 Post Office, 12, Parliament Street, S.W., and

The chief post office of the undermentioned cities and towns :—

IN ENGLAND AND WALES.

Accrington.	Croydon.	Lichfield.	Salford.
Altrincham.	Darlaston.	Lincoln.	Searborough.
Ashton-under-Lyne.	Derby.	Liverpool.	Sedgley.
Barnsley.	Dewsbury.	Macclesfield.	Sheffield.
Barrow-in-Furness.	Doncaster.	Manchester.	Southampton.
Bath.	Dorchester.	Middlesbrough.	Stafford.
Belford.	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.	Leicester.	Rochdale.	Wolverton.
Cogleton.	Leamington.	Rotherham.	Woolwich.
Coventry.	Leeds.	Rugby.	York.
Crewe.	Leicester.	St. Helen's.	

IN SCOTLAND.		IN IRELAND.	
Aberdeen.	Inverness.	Belfast.	Limerick.
Dumbarton.	Lanark.	Cork.	Londonderry.
Dundee.	Leith.	Dublin.	Waterford.
Edinburgh.	Paisley.	Dundalk.	Wexford.
Glasgow.	Perth.	Galway.	
Greenock.	Renfrew.		

6. DOCUMENTS, &c. REQUIRED ON APPLICATION FOR REGISTRATION OF A TRADE MARK.

An application for the registration of a trade mark, under Section 9 (*see* paragraph 3), must be made on an application form (Form TM No. 2) bearing an impressed stamp of 10s. (*See* paragraph 5.) In the case of a special application under Section 9 (5), Form TM No. 5 must be used.

(The applicant should, before filling up the form, carefully read the marginal notes.)

Four additional representations of the trade mark, each mounted on Form TM No. 3, should accompany every application on TM No. 2. (*See* paragraph 5.)

A *separate* application form is required for *each* class in cases where the same trade mark is claimed in more than one class of goods.

If the mark be the property of a firm or partnership, the Form TM No. 2 should be signed by some one or more members of such firm or partnership, who should add, after his or their signature, "A member of the firm" or "Members of the firm" (as the case may be); if of a body corporate, by a director or by the secretary or other principal officer, who should add, after his signature and designation, "For the Company."

Applications may be made by agents in the names of and on behalf of the owners of trade marks. The agent must be duly authorised in writing, in the Form TM No. 1, by the owner or owners; the authority to an agent should be signed by the owner or owners; in the case of a firm, partnership, or body corporate, the authority should be signed in the same manner as indicated in the paragraph next above.

Each application made by an agent should have, after the signature of the agent, the description "agent."

When an applicant, or his authorised agent, for the registration of a trade mark, otherwise than under an international convention, resides out of the United Kingdom at the time of making the application, an address for service in the United Kingdom must be given in the application.

When the mark consists of or includes words printed in other than Roman characters, there should be given upon the forms a translation and a transliteration of such words, signed by the applicant or his agent.

In the case of marks claimed in the cotton classes and Class 34, the applicant should state by what name the particular mark claimed would be referred to in the invoices of his house.

The representations of the mark on the Form TM No. 3 must agree *in every respect* with each other, and with that on the Form TM No. 2.

Representations of a mark of a large size may be folded. In that case they must, however, be backed with linen, tracing cloth, or other suitable material, and firmly affixed to the forms. Representations must in no case be executed *in pencil*. They should be not only of a durable nature, but of such a kind as will admit of their being preserved and bound together in volumes as records of the property of the owners. Photographs are not, as a rule, therefore, acceptable.

7. WORD MARKS.

In most of the classes, except the cotton classes, word marks are very popular. Speaking broadly, the Act debars from registration three kinds of words: (1) Geographical names; (2) surnames; (3) descriptive words; and it is frequently difficult to decide whether any given word falls under any of these heads. Cases often happen in which a person thinks he has invented a word, and yet on investigation it is found that such a word already exists, and falls under one of the heads above mentioned.

Again, though a given word may, after argument, be decided not to fall under one of the forbidden heads, yet the matter is so much on the border line that much discussion can be raised before a final decision is reached.

It is very greatly to the advantage of a person adopting a new word mark—it being immaterial to him what word he adopts—to choose a word open to little or no discussion, and which clearly falls within paragraphs 3 or 4 of the ninth section of the Act. The registrar will give what assistance he can on this subject, and it is suggested that an applicant desirous of adopting a new word mark should, before doing so, submit by letter a word, such as he thinks will suit his purpose, for the registrar's consideration. The registrar will of course only express an opinion as to how far a word submitted is within the section, and will make no search for the purpose of ascertaining whether any other person has a similar registered mark, unless a search fee is paid.

8. SEARCH.

A person wishing to adopt a trade mark may make application to the registrar in writing upon a Form TM No. 28, to cause a search to be made to ascertain whether any marks are on record at the date of such search which may resemble the proposed mark, and the applicant will be informed of the result of such search. The request on Form TM No. 28 should be accompanied by two representations of the proposed mark, each mounted on a half-sheet of foolscap.

A person may, however, search amongst the classified representations of trade marks at the Trade Marks Branch of the Patent Office, if he so desire. The index includes a general collection of marks, a divisional index of devices, and an alphabetically arranged index of words appearing as parts of trade marks or alone. It must not be assumed, however, that all words contained in this index are protected by registration.

The fee payable by a person making a search is 1s. for every quarter of an hour.

Complete searches amongst classified collections of marks in the *cotton classes* (Classes 23, 24 and 25) can only be made at the Manchester Branch Office, 48, Royal Exchange, Manchester. (See paragraph 19.)

9. SERIES OF TRADE MARKS.

By sect. 26 of the Act, when a person claiming to be the proprietor of several trade marks for the same description of goods which, while resembling each other in the material particulars thereof, yet differ in respect of—

- (a) statements of the goods for which they are respectively used or proposed to be used; or
- (b) statements of number, price, quality, or names of places; or
- (c) other matter of a non-distinctive character which does not substantially affect the identity of the trade mark; or
- (d) colour;

seeks to register such trade marks, they may be registered as a series in one registration.

When an application is made for a series, a representation of each of the marks of the series must be affixed to Form TM No. 2, and also to each of the Forms TM No. 3.

10. OLD MARKS.

In order that an application for an "old mark" may be treated as such, there must have been continuous user since before the date mentioned in paragraph 3, in the United Kingdom and in connexion with the goods stated in the application. An applicant for such a mark should state how, *i.e.*, whether as a label, by branding or embossing or in any other manner, the mark has been so used. The registrar may require a declaration verifying the statements made in such an application.

11. PROCEDURE ON RECEIPT OF APPLICATION.

As soon as may be following the receipt of an application and after due consideration and search, the registrar will communicate the result to the applicant in writing.

12. NON-COMPLETION OF REGISTRATION OF A TRADE MARK.

When registration is not completed within twelve months from the date of the application by reason of default on the part of the applicant, the application may, after notice duly given, be treated as abandoned, unless it be completed within the time specified in such notice.

13. DURATION OF REGISTRATION AND PAYMENT OF RENEWAL FEES.

Registration of a trade mark is for a period of fourteen years from the date of the original application, but may be renewed from time to time on payment of the prescribed fee.

Each renewal is for fourteen years.

The fee for renewal should be paid in due time by lodging the proper form as directed by the rules.

If the renewal fee is not paid in due time, extra cost is incurred, and, possibly, the registration may entirely lapse.

14. CLASSIFICATION OF GOODS.

A guide to the classification of goods under the Trade Marks Rules can be obtained on application at the Patent Office, Trade Marks Branch, and should be asked for if the applicant feels any difficulty in determining to which of the classes set out in the third schedule to the Rules the goods for which he uses his mark belong.

15. ADVERTISEMENT IN THE "TRADE MARKS JOURNAL."

A trade mark cannot in any case be entered upon the register until after the expiration of one month from the date of its advertisement in the *Journal*.

A wood-block or electrotype must be furnished for each mark (even though the mark consists only of a word or words) in each class claimed, except in the case of the cotton classes, for which no blocks are required.

No block or electrotype should be forwarded until a formal demand for it is sent by the registrar.

In the case of a "series" of trade marks differing only in respect of the particulars mentioned in sect. 26 of the Act, a wood-block or electrotype must, if the registrar so require, be furnished for each mark in the series.

The wood-blocks or electrotypes furnished must correspond *exactly* with the representations, must afford *perfectly distinct* impressions of the marks, and must be upon a scale sufficiently large to reproduce the marks faithfully. Worn or mutilated blocks or electrotypes cannot be accepted. It is found in practice that zincotypes or process blocks do not, as a rule, yield impressions distinct enough for the purposes of this *Journal*, and a great number of such blocks have to be returned as unsuitable. It is generally found that the most suitable blocks are wood-blocks or electrotypes.

In the case of word marks the words on the block should be in plain block type.

The largest space available for the insertion of any single block or electrotype is five and a half inches broad by seven and a half inches deep.

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

in breadth, and for every inch or part of an inch over two inches in depth.

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

All blocks or electrotypes should be sent to the Patent Office, Trade Marks Branch, together with the paper marked "Form R. Adv. 3," and with the representation of the mark sent for the guidance of the applicant in preparing the block or electrotype.

After the advertisement of a trade mark the block or electrotype supplied for such advertisement cannot in any case be returned to applicants, even for temporary use.

16. RESTRICTIONS ON REGISTRATION.

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

Applications may be refused in cases where the following appear upon the representations of trade marks forming part of an application:—

- (a) The words "Patent," "Patented," "By Royal Letters Patent," "Registered," "Registered Design," "Copyright," "Entered at Stationers' Hall," "To counterfeit this is Forgery," or words to like effect.
- (b) Representations of their Majesties or of any member of the Royal Family.

The following also may not appear on trade marks, the registration of which is applied for, unless the marks have been used since before 13th August, 1875:—

- (a) The Royal arms or Royal crests, or arms or crests so nearly resembling them as to lead to mistake.
- (b) British Royal crowns.
- (c) British national flags.
- (d) The word "Royal" or any other words, letters or devices calculated to lead persons to think that the applicant has Royal patronage or authorisation.

In cases where the following appear on a mark, the registrar may call for such justification as he may deem necessary for their use:—

Representation of the arms of a foreign state or place.

In cases where the following appear on a mark, the registrar may require to be furnished with consents from such officials, persons, or their legal representatives as he may consider necessary:—

- (a) Representations of the arms or emblems of any city, borough, town, place, society, body corporate, or institution.
- (b) Names or representations of living persons or persons recently dead.

Where there appears on the face of a trade mark the name or a description of the goods to which the mark is applied, the registrar may refuse to register such mark in respect of any goods other than

the goods so named or described. Where the name or description of any goods appears on a trade mark, which name or description in use varies, the applicant should state in his application that the name or description varies.

17. OPPOSITIONS.

Notice of opposition to the registration of a trade mark (*see* Rules, Form TM No. 7) must be filed within one month from the date of advertisement of the mark in the *Journal*, accompanied by an unstamped duplicate.

The applicant's counter-statement, Form TM No. 8, accompanied by an unstamped duplicate, must be filed within one month from the date of receipt by him of the duplicate notice of opposition.

The opponent's evidence, in support of the opposition, must be filed within one month from the date of receipt by him of the duplicate counter-statement, and copy of such evidence must be forthwith sent to the applicant.

The applicant's evidence must be filed within one month from the receipt of the copies of the applicant's evidence, and a copy of such evidence must be forthwith sent to the opponent.

The opponent's evidence in reply must be filed within fourteen days from the receipt of the copies of the applicant's evidence, and a copy of such evidence must be forthwith sent to the applicant.

On the completion of the evidence, a hearing is appointed by the registrar. Each party attending the hearing must lodge the hearing fee form (Form TM No. 9, with £1 stamp).

18. CUTLERS' COMPANY.

By section 63 of the Act, application for the registration of trade marks used on metal goods shall, if made by a person carrying on business in Hallamshire or within six miles thereof, be made to the Cutlers' Company of Sheffield. (*See* Rules 107 to 112.)

Applications made to the Cutlers' Company in pursuance of section 63 of the Act should be made on Form TM No. 2, the address in the left-hand corner to be "To the Cutlers' Company, Sheffield," instead of "To the Registrar," and should be left at, or sent by post to, the Cutlers' Hall, Sheffield.

Each application should be accompanied by an unstamped copy on an application Form TM No. 2. (*See* rules 107.)

Requests to enter old corporate marks on the Sheffield register, under section 63 (2), should be made on Form Sheffield No. 1.

Applications sent by post should be addressed—

The Law Clerk to the Cutlers' Company,
The Cutlers' Hall,
Sheffield.

19. MANCHESTER BRANCH.

By section 64 of the Act, application for the registration of cotton marks should be made to the Manchester Branch on Form Cotton No. 1.

It should be accompanied by an un-stamped duplicate of the form, and also by four additional representations on Form Cotton No. 2.

These forms can be obtained at the Chief Post Office, Manchester, and at the Inland Revenue Office, Royal Courts of Justice, London, Room No. 6.

Applications sent by post should be addressed—

The Keeper of Cotton Marks,
Manchester Branch of the Trade Marks Registry,
48, Royal Exchange, Manchester.

Searches can be made at the Manchester Branch on payment of 1s. for each quarter of an hour for marks in the cotton classes.

20. CERTIFICATES.

The registrar's certificate in relation to a trade mark is of four kinds, viz. :—

- (i.) Of registration for use in legal proceedings.
- (ii.) Of registration for use in obtaining registration abroad.
- (iii.) Of any application made and of proceedings thereon.
- (iv.) Of refusal to register a mark in use since before 13th August, 1875, and not registrable.

A person desirous of obtaining any of the above certificates should forward Form TM No. 34, Form TM No. 33, Form TM No. 31, or Form TM No. 32 (*see* paragraph 5), as the case may be, to the registrar, giving the registrar's official number of the mark and the class, and stating whether the certificate is required for use in legal proceedings, or for use in applying for the registration of the mark abroad, or for what other purpose.

In every case where a certificate is required in respect of a cotton mark, or in respect of any trade mark of which the representations or specimens forming part of the application for registration are *coloured*, or in respect of an application made, or in respect of an application refused, two unmounted copies of the mark must be supplied, agreeing *in every respect* with the representations forming part of the application for registration. Special attention should be paid to this requirement, as the certificate cannot in any such case be prepared until these unmounted copies are received.

21. INSPECTION OF REGISTER AND COPIES OF ENTRIES.

The fee payable by a person inspecting the register in connection with any particular trade mark is 1s. for every quarter of an hour.

Copies of any entry in the register can be supplied at the rate of 4d. for every 100 words, with a minimum charge of 1s.

22. REGISTRATION OF SUBSEQUENT PROPRIETORS OF REGISTERED TRADE MARKS.

The request to be made by a subsequent proprietor on application for the registration in his name of a registered trade mark must be

made on Form TM No. 16 or Form TM No. 18 (*see* paragraph 5), as the case may be. In the case of a firm or partnership the declaration may be made by one member of the firm or partnership. In the case of a body corporate the declaration should be made by a director, or by the secretary, or a principal officer of such body corporate.

If the registrar considers it necessary he may require a declaration on Form TM No. 17 or Form TM No. 19 to be furnished in support of the request.

Where a person becomes entitled to the goodwill of a business, he should forthwith ascertain what registered marks have been in use in that business, and at the earliest possible moment get those marks transferred into his name on the register. The mere possession of the certificates of registration is quite insufficient.

23. MISCELLANEOUS MATTERS RELATING TO TRADE MARKS AND THE PATENT OFFICE.

(a.) *Advice on Trade Mark Matters, &c.*—The Patent Office does not undertake to give legal advice or opinions on questions of infringement or on any subject connected with trade mark law which, like other laws, is left to the interpretation of professional men.

(b.) The registrar cannot recommend any particular agent for employment by applicants. A list of registered patent agents who, as a rule, also transact trade mark business, may be obtained from Messrs. Eyre and Spottiswoode, East Harding Street, Fleet Street, London, E.C., and 32, Abingdon Street, Westminster, London, S.W., or through any bookseller. Price (including postage), 1s. 1d.

(c.) *Application for Reduction of Fees.*—It is not within the power of the registrar to comply with any request for the reduction or remission of any of the fees required by the trade mark law.

(d.) *Use of the word "Registered."*—Any person who represents that a trade mark is registered which is not so is liable for every offence on summary conviction to a fine not exceeding five pounds.

A person is deemed, for the purposes of the Trade Marks Act, 1905, to represent that a trade mark is registered if he uses in connection with the trade mark the word "registered" or any words expressing or implying that registration has been obtained for the trade mark. (*See* sect. 67 of the Trade Marks Act, 1905.)

(e.) *Patent Medicines.*—Communications with respect to the preparation and supply of medicine stamps appropriated to a particular medicine, or as to the liability to stamp duty of so-called "patent medicines," should be addressed to the Secretary (Stamps and Taxes), Inland Revenue, Somerset House, London, W.C.

(f.) *Mere Trading Names.*—Mere trading names or names given to business premises cannot be registered at the Patent Office.

24. INTERNATIONAL AND COLONIAL ARRANGEMENTS.

An international convention for the protection of industrial property exists between the following states:—

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

Copies of the text of the convention, and of the additional Act modifying the convention, may be purchased for 2*d.* and 1*d.*, respectively, from Messrs. Eyre and Spottiswoode, East Harding Street, Fleet Street, London, E.C., and 32, Abingdon Street, Westminster, London, S.W., or through any bookseller.

Under this convention, an applicant for a trade mark in any one of the contracting states may obtain priority of date in any of the other states.

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

Ecuador.	Roumania.
Greece.	Tasmania.
Honduras.	Uruguay.
Paraguay.	Western Australia.

The above list may of course be varied from time to time.

25. APPLICATIONS FOR THE REGISTRATION OF TRADE MARKS IN THE BRITISH COLONIES AND FOREIGN STATES.

Applications for the registration of trade marks in the colonies and foreign states must be made to the Government of the colony or foreign state in which protection is desired. A collection of colonial and foreign trade mark laws and rules may be seen in the free library of the Patent Office.

26. SALE OF OFFICIAL PUBLICATIONS.

Copies of the Act and of the Rules can be purchased at the Sale Branch of the Patent Office. The price of the Act and Rules together is 8*d.*, postage 2½*d.*; of the Act alone, 3*d.*, postage, 1*d.*; and of the

Rules alone, 5*d.*, postage, 1½*d.* Sums exceeding 5*d.* should be remitted by postal order or post office order.

Copies of the *Trade Marks Journal* may also be obtained from the Sale Branch of the Patent Office.

The price of the *Trade Marks Journal* is :—

	Per No.
Nos. 1 to 509 (years, 1876 to 1887)	1 0
Nos. 510 to 561 (year, 1888)	1 6
No. 562 and following numbers from 1st January, 1889 ..	0 6

27. PATENT OFFICE LIBRARY.

The free public library of the Patent Office, 25, Southampton Buildings, Chancery Lane, London, W.C., is open daily, from 10 a.m. to 10 p.m., except on Sundays, Christmas Day, Good Friday, and Bank Holidays. On the day observed as his Majesty's birthday, Christmas Eve, Easter Eve, and Whitsun Eve, the library is closed at 4 p.m.

April, 1906.

C. N. DALTON,
Registrar.

APPENDIX B.

INTERNATIONAL ARRANGEMENTS.

(See *Patents, &c. Acts, 1883—1902, § 103.*)

I.

INTERNATIONAL CONVENTION FOR THE PROTECTION OF INDUSTRIAL PROPERTY.

Signed at Paris, March 20th, 1883.

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

Official Translation.

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

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

(Here follow the appointments of the plenipotentiaries.)

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

ARTICLE I.

The Governments of Belgium, Brazil, Spain, France, Guatemala, Italy, Holland, Portugal, Salvador, Servia, and Switzerland constitute themselves into a union for the protection of industrial property.

ARTICLE II.

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

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

ARTICLE III.

Subjects or citizens of states not forming part of the union, who are domiciled, or have industrial or commercial establishments in the territory of any of the states of the union, shall be assimilated to the subjects or citizens of the contracting states (a).

(a) New Art. III. substituted for this in 1900. See *post*, p. 162.

ARTICLE IV.

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

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

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

(a) New Art. IV. substituted for this in 1900, and Art. IV. *bis* added. See *post*, p. 162.

ARTICLE V.

(Relates only to patents.)

ARTICLE VI.

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

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

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

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

(a) No effect can be given to this or any other article of the convention by the Courts of the United Kingdom, except so far as it is embodied in sect. 103 of the Patents Act, 1883: *In re Californian Fig Syrup Co.*, 40 Ch. D. 620. And it seems that, to entitle a foreign mark to protection in the United Kingdom, it must comply with the requirements of the Act in force: *In re Carter Medicine Co.*, (1892) 3 Ch. 472. And similarly in the United States legislation is necessary to enable effect to be given to it. See opinion of the Attorney-General of the United States, 47 U. S. Pat. Gaz. 397; and *Ex parte Zirack & Co.*, 76 U. S. Pat. Gaz. 1855.

ARTICLE VII.

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

ARTICLE VIII.

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

ARTICLE IX.

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

The seizure shall be effected at the request of either the proper public department or of the interested party, pursuant to the internal legislation of each country (a).

(a) See additions made to this article in 1900, *post*, p. 162.

ARTICLE X.

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

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

(a) New Art. X. substituted for this in 1900, and Art. X. *bis* added. See *post*, p. 163.

ARTICLE XI.

The high contracting parties agree to grant temporary protection to patentable inventions, to industrial designs or models, and trade marks, for articles exhibited at official or officially recognised international exhibitions (a).

(a) New Art. XI. substituted for this in 1900. See *post*, p. 163.

ARTICLE XII.

Each of the high contracting parties agrees to establish a special government department for industrial property, and a central office for communication to the public of patents, industrial designs or models, and trade marks.

ARTICLE XIII.

An international office shall be organised under the name of "Bureau International de l'Union pour la Protection de la Propriété Industrielle" (International Office of the Union for the Protection of Industrial Property).

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

ARTICLE XIV.

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

To this end conferences shall be successively held in one of the contracting states by delegates of the said states. The next meeting shall take place in 1885 at Rome (a).

(a) New Art. XIV. substituted for this in 1900. See *post*, p. 163.

ARTICLE XV.

It is agreed that the high contracting parties respectively reserve to themselves the right to make separately, as between themselves, special arrangements for the protection of industrial property, in so far as such arrangements do not contravene the provisions of the present convention.

ARTICLE XVI.

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

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

(a) New Art. XVI. substituted for this in 1900. See *post*, p. 163.

ARTICLE XVII.

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

ARTICLE XVIII.

The present convention shall come into operation one month after the exchange of ratifications, and shall remain in force for an unlimited

time, till the expiry of one year from the date of its denunciation. This denunciation shall be addressed to the Government commissioned to receive adhesions. It shall only affect the denouncing State, the convention remaining in operation as regards the other contracting parties.

ARTICLE XIX.

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

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

Dated at Paris the 20th March, 1883.

(Signed by the Plenipotentiaries.)

II.

FINAL PROTOCOL.

(Official Translation.)

On proceeding to the signature of the convention concluded this day between the Governments of Belgium, Brazil, Spain, France, Guatemala, Italy, the Netherlands, Portugal, Salvador, Servia, and Switzerland, for the protection of industrial property, the undersigned plenipotentiaries have agreed as follows:

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

2. (Relates only to patents.)

3. The last paragraph of Article II. does not affect the legislation of each of the contracting states as regards the procedure to be followed before the tribunals, and the competence of those tribunals (a).

(a) See par. 3 bis introduced here in 1900, *post*, p. 163.

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

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

5. The organisation of the special department for industrial property mentioned in Article XII. shall comprise, so far as possible, the publication in each state of a periodical official paper.

6. (After providing for the common expenses of the international office, continues:—)

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

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

The numbers of this paper, as well as all the documents published by the international office, shall be circulated among the administrations of the states of the union in the proportion of the number of contributing units as mentioned above. Such further copies as may be desired either by the said administrations, or by societies or private persons, will be paid for separately.

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

The administration of the country in which the next conference is to be held will make preparation for the transactions of that conference, with the assistance of the international office.

The director of the international office will be present at the meetings of the conferences, and will take part in the discussions, but without the privilege of voting.

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

The official language of the international office will be French.

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

In witness whereof the undersigned plenipotentiaries have drawn up the present protocol.

(Signed by the Plenipotentiaries.)

III.

ACCESSION OF HER MAJESTY'S GOVERNMENT TO THE CONVENTION.

The undersigned, ambassador extraordinary and plenipotentiary of her Majesty the Queen of the United Kingdom of Great Britain and Ireland to the French Republic, declares that her Britannic Majesty, having had the International Convention for the Protection of Indus-

trial Property, concluded at Paris on the 20th March, 1883, and the protocol relating thereto, signed on the same date, laid before her, and availing herself of the right reserved by Article XVI. of that convention to states not parties to the original convention, accedes, on behalf of the United Kingdom of Great Britain and Ireland, to the said international convention for the protection of industrial property, and to the said protocol, which are to be considered as inserted word for word in the present declaration, and formally engages, as far as regards the President of the French Republic and the other high contracting parties, to co-operate on her part in the execution of the stipulations contained in the convention and protocol aforesaid.

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

In witness whereof the undersigned, duly authorised, has signed the present declaration of accession, and has affixed thereto the seal of his arms.

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

(L.S.) (Signed) LYONS.

IV.

DECLARATION OF ACCEPTANCE OF ACCESSION.

(Official Translation.)

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland having acceded to the International Convention relative to the protection of industrial property, concluded at Paris, March 20th, 1883, together with a protocol dated the same day, by the declaration of accession delivered by her Ambassador Extraordinary and Plenipotentiary to the Government of the French Republic; the text of which declaration is word for word as follows:—

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

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

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

Done at Paris, the 2nd April, 1884.

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

V.

ORDER IN COUNCIL.

(*The Patents Act, 1883.*)

At the Court at Windsor, the 26th of June, 1884. Present, the Queen's Most Excellent Majesty in Council.

Whereas by the provisions of the Patents, Designs, and Trade Marks Act, 1883, it is, amongst other things, provided:—

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

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

Now, therefore, her Majesty, by and with the advice and consent of her Privy Council, and by virtue of the authority committed to her by the said Act, doth declare, and it is hereby declared, that the provisions of the said Act hereinbefore specified shall apply to the following countries, viz.:—Belgium, Brazil, France, Guatemala, Italy, Netherlands, Portugal, Salvador, Servia, Spain, Switzerland, Ecuador,* and Tunis.*

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

C. L. PEEL.

* These States had acceded to the Convention and Protocol.

VI.

SUBSEQUENT ORDERS IN COUNCIL.

Orders in Council under § 103 making that Section applicable.

	Date of Order.	To take effect from—	"London Gazette."
Santo Domingo.....	Jan. 27th, 1885 ..	Jan. 27th, 1885 ..	1885, p. 418.
Sweden and Norway.....	July 9th, 1885 ..	July 1st, 1885 ..	1885, p. 3173.
Paraguay and Uruguay....	Sept. 21th, 1886 ..	Sept. 21th, 1886 ..	1886, p. 4725.
United States of America...	July 12th, 1887 ..	July 12th, 1887 ..	1887, p. 3827.
Netherlands East Indies....	Nov. 17th, 1888 ..	Mar. 17th, 1889 ..	1888, p. 6412.
Mexico.....	May 28th, 1889 ..	Sept. 28th, 1889 ..	1889, p. 2954.
Curacao and Surinam.....	May 17th, 1890 ..	Sept. 17th, 1890 ..	1890, p. 2891.
Santo Domingo.....	Oct. 21st, 1890 ..	Feb. 21 1891 ..	1890, p. 5661.
Roumania.....	Aug. 5th, 1892 ..	Dec. 5th, 1892 ..	1892, p. 4551.
Ecuador.....	May 16th, 1893 ..	Sept. 16th, 1893 ..	1893, p. 2899.
Greece.....	Oct. 15th, 1894 ..	Feb. 15th, 1895 ..	1894, p. 5918.
Denmark.....	Nov. 20th, 1894 ..	Mar. 20th, 1895 ..	1894, p. 6879.
Japan.....	Oct. 7th, 1899 ..	Oct. 7th, 1899 ..	1899, p. 6211.
Honduras.....	Sept. 26th, 1901 ..	Sept. 25th, 1901 ..	1901, p. 6383.
Germany.....	Oct. 9th, 1903 ..	May 1st, 1903 ..	1903, p. 6220.
Cuba.....	Jan. 12th, 1905 ..	Nov. 17th, 1904 ..	1905, p. 321.

Orders in Council under § 104 making § 103 applicable.

Queensland.....	Sept. 17th, 1885 ..	Sept. 17th, 1885 ..	1885, p. 4429.
New Zealand.....	Feb. 8th, 1890 ..	June 8th, 1890 ..	1890, p. 727.
Tasmania.....	April 30th, 1894 ..	Aug. 30th, 1894 ..	1894, p. 2578.
Western Australia.....	May 11th, 1895 ..	Sept. 11th, 1895 ..	1895, p. 2818.
Ceylon.....	Aug. 7th, 1905 ..	June 10th, 1905 ..	1905, p. 6459.

Orders in Council making § 103 cease to be applicable.

Ecuador.....	April 16th, 1886 ..	Dec. 26th, 1886 ..	1886, p. 1894.
Salvador.....	Sept. 24th, 1886 ..	Aug. 17th, 1887 ..	1886, p. 4726.
Santo Domingo.....	May 28th, 1889 ..	May 28th, 1889 ..	1889, p. 3035.
Guatemala.....	Feb. 2nd, 1895 ..	Nov. 8th, 1895 ..	1895, p. 754.

VII.

ADDITIONAL ACT MODIFYING THE INDUSTRIAL PROPERTY
CONVENTION OF MARCH 20, 1883.

Signed at Brussels, December 14th, 1900.

Official Translation.

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India; His Majesty the King of the Belgians; the President of the United States of Brazil; His Majesty the King of Denmark; the President of the Dominican Republic; Her Majesty the Queen-Regent of Spain, in the name of His Majesty the

King of Spain; the President of the United States of America; the President of the French Republic; His Majesty the King of Italy; His Majesty the Emperor of Japan; Her Majesty the Queen of the Netherlands; His Majesty the King of Portugal and the Algarves; His Majesty the King of Servia; His Majesty the King of Sweden and Norway; the Federal Council of the Swiss Confederation; and the Tunisian Government, having deemed it expedient to make certain modifications in, and additions to, the International Convention of the 20th March, 1883, and also as regards the Final Protocol annexed to the said convention, have named as their plenipotentiaries, that is to say:

(Here follow the appointments of the plenipotentiaries.)

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

ARTICLE I.

The International Convention of the 20th March, 1883, shall be modified as follows:—

1. Article III. of the convention shall run as follows:—

“Art. III. The subjects or citizens of states which are not parties to the union shall be assimilated to the subjects or citizens of the contracting states, provided that they are domiciled in, or have industrial or commercial establishments, real and effective, in the territory of one of the states of the union.”

2. Article IV. shall run as follows:—

“Art. IV. Any person who shall have duly applied for a patent, industrial design, or model or trade mark in one of the contracting states, shall enjoy, in order to admit of such request being lodged in the other states, during the periods of time mentioned below, a right of priority, the rights of third parties being reserved.

“Consequently, subsequent registration in one of the other states of the union, before the expiration of such periods of time, shall not be invalidated by any acts accomplished in the interval—either, for instance, by another registration, by the publication of the invention, or by the working of it, by the sale of patterns of the design or model, or by the use of the trade mark.

“The above-mentioned periods of time during which priority is guaranteed shall be twelve months for patents with respect to inventions, and four months for patents for industrial designs or models, as well as for trade or merchandize marks.”

3. There shall be inserted in the convention an Article IV.*bis* in the following terms:—

“Art. IV.*bis*.” (Relates only to patents.)

4. The two following paragraphs shall be added to Article IX. :—

“In states the laws of which do not admit of seizure upon importation, prohibition of importation may take the place of such seizure.

“The authorities shall not be compelled to effect the seizure in the case of goods in transit.”

5. Article X. shall run as follows :—

“Art. X. The stipulations of the preceding Article shall be applicable to every production which may falsely bear as indication of origin the name of a specified locality, when such indication shall be joined to a trade name of a fictitious character or used with intent to defraud.

“Any producer, manufacturer, or trader engaged in the production, manufacture, or trade of such goods, and established either in the locality falsely designated as the place of origin, or in the district where the locality is situated, is to be deemed a party concerned.”

6. There shall be inserted in the convention an Article X.*bis* in the terms following :—

“Art. X.*bis*. Persons resorting to the countries referred to in the convention (Articles II. and III.) shall enjoy in all the states of the union the protection accorded to nationals against dishonest competition.”

7. Article XI. shall run as follows :—

“Art. XI. The high contracting parties shall, in conformity with the legislation of each country, accord temporary protection to inventions susceptible of being patented, and to industrial designs or models, as well as to trade marks or merchandize marks, in respect of products which shall be exhibited at official or officially recognized international exhibitions held in the territory of one of them.”

8. Article XIV. shall run as follows :—

“Art. XIV. The present convention shall be submitted to periodical revisions with a view to the introduction of amendments calculated to improve the system of the union.

“For this purpose, conferences shall be held successively, in one of the contracting states, between the delegates of the said states.”

9. Article XVI. shall run as follows :—

“Art. XVI. States which are not parties to the present convention shall be allowed to accede to it upon their request.

“The accession shall be notified through the diplomatic channel to the Government of the Swiss Confederation, and by the latter to all the other states.

“It shall entail, as a matter of right, accession to all the clauses, as well as admission to all the advantages stipulated in the present convention, and shall take effect one month after the dispatch of the notification by the Swiss Government to the other states of the union, unless a subsequent date have been indicated by the acceding state.”

ARTICLE II.

The final protocol annexed to the International Convention of the 20th March, 1883, shall be completed by the addition of No. 3*bis* in the following terms :—

“3*bis*.” (Relates only to patents.)

ARTICLE III.

The present additional Act shall have the same value and duration as the convention of the 20th March, 1883.

It shall be ratified, and the ratifications shall be deposited at the Ministry for Foreign Affairs, Brussels, as soon as possible, and at the latest within a period of eighteen months from the date of signature.

It shall come into force three months after the protocol of deposit shall have been closed.

In witness whereof the respective plenipotentiaries have signed the present additional Act.

Done at Brussels, in a single copy, the 14th December, 1900.

(Signed by the Plenipotentiaries.)

Procès-Verbal.

The contracting parties having unanimously agreed that the exchange of the ratifications of the additional Act to the Convention of the 20th March, 1883, signed at Brussels on the 14th December, 1900, shall be effected by means of the deposit of the respective instruments in the archives of the Belgian Ministry for Foreign Affairs, the present protocol recording the deposit has been, for this purpose, drawn up at the Ministry for Foreign Affairs this 3rd day of May, 1901.

(Then follow the dates of ratification, as follows :—

United States of America, May 3rd, 1901.
 Switzerland, August 5th, 1901.
 Denmark, October 10th, 1901.
 Portugal, November 5th, 1901.
 United Kingdom, December 6th, 1901.
 Belgium, December 10th, 1901.
 Italy, December 12th, 1901.
 Japan, April 21st, 1902.
 France, May 23rd, 1902.
 Tunis, May 23rd, 1902.
 Sweden, June 5th, 1902.
 Norway, June 5th, 1902.
 Netherlands, June 10th, 1902.)

In conformity with Article 3 of the additional Act of the 14th December, 1900, the present protocol has been closed on this date.

The Belgian Minister for Foreign Affairs,

(Signed) P. DE FAVEREAU.

Brussels, June 14, 1902.

It not having been possible to deposit the ratifications of the President of the United States of Brazil, the President of the Dominican Republic, His Majesty the King of Spain, and His Majesty the King of Servia, within the stipulated period, the Governments of Belgium, Denmark, the United States of America, France, Great Britain, Italy, Japan, Norway, the Netherlands, Portugal, Sweden, Switzerland, and Tunis have unanimously agreed that the additional Act of the 14th December, 1900, shall, from the 14th September, 1902, take effect as regards themselves, and also as regards those of the other four signatory States whose ratifications may in the interval have been deposited.

Certified copy :

The Secretary-General of
the Belgian Ministry for Foreign Affairs,
(Signed) BARON LAMBERMONT.

APPENDIX C.

THE TRADE MARKS REGISTRATION ACTS, 1875—1877,
WITH THE ORDERS IN COUNCIL THEREUNDER.[*All repealed.*]

THE TRADE MARKS REGISTRATION ACT, 1875.

38 & 39 VICT. c. 91 (a).

An Act to establish a Register of Trade Marks.

[13th August, 1875.]

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

Registration
of trade
marks.

1. A register of trade marks as defined by this Act, and of the proprietors thereof, shall be established under the superintendence of the Commissioners of Patents, and from and after the first day of July one thousand eight hundred and seventy-six a person shall not be entitled to institute any proceeding to prevent the infringement of any trade mark as defined by this Act until and unless such trade mark is registered in pursuance of this Act.

Character-
istics of
registered
trade mark.

2. A trade mark must be registered as belonging to particular goods, or classes of goods; and when registered shall be assigned and transmitted only in connection with the goodwill of the business concerned in such particular goods or classes of goods, and shall be determinable with such goodwill; but subject as aforesaid, registration of a trade mark shall be deemed to be equivalent to public use of such mark.

Title of first
proprietor of
a trade mark.

3. The registration of a person as first proprietor of a trade mark shall be *prima facie* evidence of his right to the exclusive use of such trade mark, and shall, after the expiration of five years from the date of such registration, be conclusive evidence of his right to the exclusive use of such trade mark, subject to the provisions of this Act as to its connection with the goodwill of a business.

(a) It is frequently necessary to refer to these Acts, though repealed, and they are consequently printed here, for facility of reference.

4. Every proprietor registered in respect to a trade mark subsequently to the first registered proprietor shall, as respects his title to that trade mark, stand in the same position as if his title were a continuation of the title of the first registered proprietor.

5. If the name of any person who is not for the time being entitled to the exclusive use of a trade mark in accordance with this Act, or otherwise in accordance with law, is entered on the register of trade marks as a proprietor of such trade mark, or if the registrar refuses to enter on the register as proprietor of a trade mark the name of any person who is for the time being entitled to the exclusive use of such trade mark in accordance with this Act, or otherwise in accordance with law, or if any mark is registered as a trade mark which is not authorised to be so registered under this Act, any person aggrieved may apply in the prescribed manner for an order of the Court that the register may be rectified: and the Court may either refuse such application, or it may, if satisfied of the justice of the case, make an order for the rectification of the register, and may award damages to the party aggrieved.

Where each of several persons claims to be registered as proprietor of the same trade mark, the registrar may refuse to comply with the claims of any of such persons until their rights have been determined by the Court, and the registrar may himself submit or require the claimants to submit in the prescribed manner their rights to the Court.

The Court may, in any proceeding under this section, decide any question as to whether a mark is or is not such a trade mark as is authorised to be registered under this Act, also any question relating to the right of any person who is party to such proceeding to have his name entered on the register of trade marks, or to have the name of some other person removed from such register, also any other question that it may be necessary or expedient to decide for the rectification of the register.

The Court may direct an issue to be tried for the decision of any question of fact which may require to be decided for the purposes of this section.

Whenever any order has been made rectifying the register the Court shall by its order direct that due notice of such rectification be given to the registrar.

6. The registrar shall not, without the special leave of the Court, to be given in the prescribed manner, register in respect of the same goods or classes of goods a trade mark identical with one which is already registered with respect to such goods or classes of goods, and the registrar shall not register with respect to the same goods or classes of goods a trade mark so nearly resembling a trade mark already on the register with respect to such goods or classes of goods as to be calculated to deceive.

It shall not be lawful to register as part of or in combination with a trade mark any words the exclusive use of which would not, by reason of their being calculated to deceive or otherwise, be deemed entitled to protection in a court of equity; or any scandalous designs.

7. Subject as aforesaid, a register office shall be established from and after such time (not being later than the first day of January one thousand eight hundred and seventy-six), in such manner, and with

Title of proprietor claiming by transmitted proprietorship.

Rectification of register.

Restrictions on registry of trade marks.

Establishment of registry and general rules.

such officers, and at such salaries, to be paid out of monies provided by Parliament, as the Lord Chancellor may, with the consent of the Treasury, direct; and the Lord Chancellor may, from time to time, with the assent of the Treasury as to fees, make, and when made, alter, annul, or vary, such general rules as to the registry of trade marks, and as to notices to be given by advertisement before the registration of trade marks, and as to the classification of goods for the purposes of this Act, and as to the registration of first and subsequent proprietors of trade marks, and as to the fees to be charged for registration, and also for the continuance of a trade mark on the register or otherwise, and as to the removal from the register of any trade mark, as to notices, and as to the persons entitled to inspect the register, and as to any proceedings to be taken to obtain the judgment or leave of the Court in any matter in which the judgment or leave of the Court is required to be obtained under this Act, and generally for the purpose of carrying into effect this Act, as he may deem expedient.

Any rules made in pursuance of this section shall be laid before both Houses of Parliament if Parliament be then sitting, or if not then sitting, then within ten days from the then next assembling of Parliament, and shall be of the same validity as if they had been enacted by Parliament; provided that if either House of Parliament resolve, within one month after such rules have been laid before such House, that any of such rules ought not to continue in force, any rule in respect of which such resolution has been passed shall, after the date of such resolution, cease to be of any force, without prejudice, nevertheless, to the making of any other rule in its place, or to anything done in pursuance of any such rules before the date of such resolution.

Certificate of registrar to be evidence.

8. The certificate of the registrar 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 evidence of such entry having been made, and of the contents thereof, and of such matters and things having been done or left undone.

Provision as to Cutlers' Company and Sheffield corporate marks.

9. With respect to the master, wardens, searchers, assistants, and commonalty of the Company of Cutlers in Hallamshire, in the County of York (in this Act called "the Cutlers' Company"), and the marks or devices (in this Act called "Sheffield corporate marks") assigned or to be assigned by the master, wardens, searchers, and assistants of that company, be it enacted as follows:—

- (1.) Within the prescribed time and in the prescribed manner the Cutlers' Company shall at their own expense deliver to the registrar under this Act copies of all Sheffield corporate marks in force at the time of such delivery:
- (2.) When any person, after the passing of this Act, applies to the said master, wardens, searchers, and assistants to assign to him any mark or device, notice of such application, with a copy of such mark or device, shall, within the prescribed time and in the prescribed manner, be delivered to the registrar under this Act; and such mark or device shall not be assigned until after the expiration of the prescribed period from the giving of such notice. In like manner, when any person applies for the registration under this Act of a trade

mark as belonging to any goods or class of goods specified in § 2 of the Cutlers' Company's Act of 1860, notice of such application, with a copy of such trade mark, shall, within the prescribed time and in the prescribed manner, be delivered to the Cutlers' Company; and such trade mark shall not be registered until after the expiration of the prescribed period from the giving of the last-mentioned notice:

- (3.) Upon the assigning of any such mark or device, or the registration of any such trade mark as aforesaid, notice of the assignment or registration shall, within the prescribed time and in the prescribed manner, be given to the registrar under this Act, or to the Cutlers' Company, as the case may be:
- (4.) The registrar under this Act, without the special leave of the Court, to be given only in cases where the applicant proves his right, shall not in respect of any goods or classes of goods with respect to which a Sheffield corporate mark shall have been assigned and actually used, and of which mark a copy or description or notice of the assigning thereof shall have been delivered or given to the registrar as aforesaid, register a trade mark identical with such Sheffield corporate mark, or so nearly resembling the same as to be calculated to deceive:
- (5.) The master, wardens, searchers, and assistants of the Cutlers' Company shall not assign to any person a mark or device identical with any trade mark registered under this Act, and notice of the registration whereof shall have been given to the Cutlers' Company as aforesaid, or so nearly resembling the same as to be calculated to deceive:
- (6.) Any person to whom a Sheffield corporate mark legally belongs shall be entitled to have the same mark registered also as a trade mark under this Act, in respect of any particular goods or classes of goods, in the same manner and upon the same terms and conditions in and upon which he might have registered the same if it were not a Sheffield corporate mark:
- (7.) Nothing in this Act shall prejudice or affect the rights and privileges of the Cutlers' Company, nor, save as is otherwise in this Act expressly provided, shall any of the provisions of this Act apply to or in the case of any Sheffield corporate mark.

10. For the purposes of this Act:

A trade mark consists of one or more of the following essential Definitions.
particulars; that is to say:

A name of an individual or firm printed, impressed, or woven in some particular and distinctive manner; or

A written signature or copy of a written signature of an individual or firm; or

A distinctive device, mark, heading, label, or ticket;

and there may be added to any one or more of the said particulars any letters, words, or figures, or combination of letters, words, or figures; also

Any special and distinctive word or words or combination of figures

or letters used as a trade mark before the passing of this Act may be registered as such under this Act.

“Prescribed” means prescribed by general rules made in pursuance of this Act; and

“Court” means any of her Majesty’s superior courts of law or equity at Westminster, or any court to which the jurisdiction of such courts may be transferred, or any one or more of such courts which may be declared to be the court for the purposes of this Act by such general rules as aforesaid; but the provisions of this Act conferring a special jurisdiction on the court as above defined shall not, excepting so far as such jurisdiction extends, affect the jurisdiction of any court in Scotland or Ireland in causes, actions, suits, or proceedings relating to trade marks; and if the register requires to be rectified in consequence of any proceedings in any such court in Scotland or Ireland, due notice of such requirements shall be given to the registrar, and he shall rectify the register accordingly.

Short title
of Act.

11. This Act may be cited for all purposes as the Trade Marks Registration Act, 1875.

THE TRADE MARKS REGISTRATION AMENDMENT ACT, 1876.

39 & 40 Vict. c. 33.

*An Act for the Amendment of the Trade Marks Registration Act,
1875.* [24th July, 1876.]

Whereas by the Trade Marks Registration Act, 1875, in this Act referred to as the principal Act, it is provided that from and after the first day of July one thousand eight hundred and seventy-six, a person shall not be entitled to prevent the infringement of any trade mark as defined by the principal Act until and unless such trade mark is registered in pursuance of that Act:

And whereas by reason of the number of trade marks, and especially by reason of the difficulties attending the registration of trade marks in relation to textile fabrics, it has been found impossible to complete the registration of existing trade marks within the time specified by the said section; and it is therefore expedient to prolong the time for the completion of such registration as aforesaid, and otherwise to amend the principal Act:

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

Amendment
of sect. 1 of

1. There shall be repealed so much of § 1 of the principal Act as provides that from and after the first day of July one thousand eight

hundred and seventy-six, a person shall not be entitled to institute any proceeding to prevent the infringement of any trade mark as defined by that Act until and unless such trade mark is registered in pursuance of that Act; and in place thereof be it enacted that—

the principal Act.

From and after the first day of July one thousand eight hundred and seventy-seven, a person shall not be entitled to institute any proceeding to prevent or to recover damages for the infringement of any trade mark as defined by the principal Act, until and unless such trade mark is registered in pursuance of that Act, or until and unless, with respect to any device, mark, name, combination of words, or other matter or thing in use as a trade mark before the passing of the principal Act, registration thereof as a trade mark under the principal Act shall have been refused as hereinafter is mentioned.

2. When an application by any person to register as a trade mark a device, mark, name, word, combination of words, or other matter or thing proposed for registration as a trade mark, which has been in use as a trade mark before the passing of the recited Act, has been refused, it shall be the duty of the registrar, on request, and on payment of the prescribed fee, to give to the applicant a certificate of such refusal, and a certificate so granted shall be conclusive evidence of such refusal.

Saving of marks and devices not capable of being registered under Act.

3. This Act may be cited for all purposes as the Trade Marks Registration Amendment Act, 1876.

Short title.

THE TRADE MARKS REGISTRATION EXTENSION ACT, 1877.

40 & 41 Vict. c. 37.

An Act for extending the Time for the Registration of Trade Marks, in so far as relates to Trade Marks used in Textile Industries.

[6th August, 1877.]

Whereas by § 1 of the Trade Marks Registration Amendment Act, 1876, it is provided that from and after the first day of July one thousand eight hundred and seventy-seven, a person shall not be entitled to institute any proceeding to prevent or to recover damages for the infringement of any trade mark as defined by the Trade Marks Registration Act, 1875 (referred to in such Amendment Act and in this Act as the principal Act), until and unless such trade mark is registered in pursuance of the principal Act, or until and unless, with respect to any device, mark, name, combination of words, or other matter or thing in use as a trade mark before the passing of the principal Act, registration thereof as a trade mark under the principal Act shall have been refused, as is in the said Act thereafter mentioned:

39 & 40 Vict. c. 33.

38 & 39 Vict. c. 91.

And whereas by reason of the difficulties attending the registration of trade marks used in the textile industries it has been found impossible to complete the registration of such trade marks within the time specified by the said section, and it is therefore expedient to prolong such time as aforesaid:

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

Extension of time for registration of trade marks used in textile industries.

1. In so far as relates to the registration of trade marks used in the textile industries, but not further or otherwise, § 1 of the Trade Marks Registration Amendment Act, 1876, shall be construed as if for the words "from and after the first day of July one thousand eight hundred and seventy-seven" there were substituted the words "from and after the first day of January one thousand eight hundred and seventy-eight, or such further time as her Majesty may by Order in Council determine."

Definition of "trade marks used in the textile industries."

2. The expression in this Act "Trade marks used in the textile industries" means the trade marks relating to goods comprised in Classes 23 to 35, both inclusive, of the First Schedule to the Rules under the Trade Marks Registration Acts, 1875, 1876, dated September, 1876.

Short title of Act.

3. This Act may be cited for all purposes as the Trade Marks Registration Extension Act, 1877; and this Act and the Trade Marks Registration Amendment Act, 1876, and the Trade Marks Registration Act, 1875, may be cited together as the Trade Marks Registration Acts, 1875—1877.

ORDERS IN COUNCIL

EXTENDING THE TIME FOR REGISTRATION.

Dec. 12th, 1877,	extension till	June 30th, 1878	(a).
June 29th, 1878,	"	Dec. 31st, 1878	(a).
Nov. 27th, 1878,	"	May 31st, 1879	(b).
May 17th, 1879,	"	July 31st, 1879	(b).

(a) These orders related only to trade marks used in the textile industries.

(b) These orders related only to trade marks used for cotton piece goods.

APPENDIX D.

THE PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1883—1902 (SO FAR AS RELATES TO TRADE MARKS), CONSOLIDATED.

(Nearly all repealed. See Schedule to T. M. A. 1905, p. 51.)

THE PATENTS, DESIGNS, AND TRADE MARKS ACT, 1883 (*a*). 46 & 47 Vict. c. 57.

*An Act to amend and consolidate the Law relating to Patents for
Inventions, Registration of Designs, and of Trade Marks.*
[25th August, 1883.]

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

(*a*) The amending Acts are as follows :—

The Patents, Designs, and Trade Marks (Amendment) Act, 1885 (18 & 19
Vict. c. 63).

The Patents Act, 1886 (19 & 50 Vict. c. 37).

The Patents, Designs, and Trade Marks Act, 1888 (51 & 52 Vict. c. 50).

The Patents Act, 1901 (1 Edw. VII. c. 18).

The Patents Act, 1902 (2 Edw. VII. c. 34).

Of such Acts those passed in 1886 and 1901 do not affect trade marks at all, and those of 1885 and 1902 only do so in one or two small details.

The parts of the principal Act which have been expunged by the later Acts are printed in italics, and the provisions which have been introduced are printed in brackets.

PART I.

PRELIMINARY.

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

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

Part I.—PRELIMINARY.

Part II.—PATENTS.

Part III.—DESIGNS.

Part IV.—TRADE MARKS.

Part V.—GENERAL.

Short title.
Division of
Act into
parts.

Commence-
ment of Act.

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

(*a*) The Act of 1888, except where otherwise provided, commenced on the 1st January, 1889 (§ 28).

PART II. (SECTS. 4—16.)

PATENTS.

PART III. (SECTS. 47—61.)

DESIGNS.

PART IV.

TRADE MARKS.

Registration of Trade Marks.

Application
for registra-
tion.

See T. M. A.
1905,
ss. 12, 59.

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

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

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

(4.) The comptroller may, if he thinks fit, refuse to register a trade mark; but any such refusal shall be subject to appeal to the Board of Trade, who shall, if required, hear the applicant and the comptroller, and may make an order determining whether, and subject to what conditions, if any, registration is to be permitted.

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

[(6.) Where an applicant for the registration of a trade mark otherwise than under an International Convention is out of the United Kingdom at the time of making the application, he shall give the comptroller an address for service in the United Kingdom, and if he

fails to do so the application shall not be proceeded with until the address has been given.]

The amendments in this section were made by § 8 of the Act of 1888.

63. Where registration of a trade mark has not been or shall not be completed within twelve months from the date of the application, by reason of default on the part of the applicant, *the application shall be deemed to be abandoned* (a) [the comptroller shall give notice of the non-completion to the agent employed on behalf of the applicant, and if at the expiration of fourteen days from that notice the registration is not completed, shall give the like notice to the applicant, and if at the expiration of the latter fourteen days, or such further time as the comptroller may in special cases permit, the registration is not completed, the application shall be deemed to be abandoned].

Limit of time for proceeding with application.
See T. M. A. 1905, s. 18.

(a) This provision was first made by the edition of March, 1883, of the Rules under the old Acts. The amendments in this section were made by § 9 of the Act of 1888.

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

Conditions of registration of trade mark.
See T. M. A. 1905, ss. 9, 15.

- (a.) *A name of an individual or firm printed, impressed, or woven in some particular and distinctive manner; or*
- (b.) *A written signature or copy of a written signature of the individual or firm applying for registration thereof as a trade mark; or*
- (c.) *A distinctive device, mark, brand, heading, label, ticket, or fancy word or words not in common use.*

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

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

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

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

(2.) There may be added to any one or more of the essential particulars mentioned in this section any letters, words, or figures, or combination of letters, words, or figures, or of any of them; but the

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

(3.) Provided as follows :

- (i.) A person need not under this section disclaim his own name or the foreign equivalent thereof, or his place of business ; but no entry of any such name shall affect the right of any owner of the same name to use that name or the foreign equivalent thereof :
- (ii.) Any special and distinctive word or words, letter, figure, or combination of letters or figures, or of letters and figures, used as a trade mark before the thirteenth day of August, one thousand eight hundred and seventy-five, may be registered as a trade mark under this part of this Act.]

This section is enlarged from § 10 of the Act of 1875. The amendments in this section were made by § 10 of the Act of 1888.

Connection of trade mark with goods.

See **T. M. A. 1905, s. 8.**

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

This came from § 2 of the Trade Marks Registration Act, 1875.

Registration of a series of marks.

See **T. M. A. 1905, s. 26.**

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

This section was entirely new.

Trade marks may be registered in any colour.

See **T. M. A. 1905, s. 10.**

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

The amendments in this section were made by § 11 of the Act of 1888.

Advertisement of application.

See **T. M. A. 1905, s. 13.**

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

The amendments in this section were made by § 12 of the Act of 1888.

69.—(1.) Any person may within *two months* [one month or such further time, not exceeding three months, as the comptroller may allow] of the *first* advertisement of the application, give notice in duplicate at the Patent Office of opposition to registration of the trade mark, and the comptroller shall send one copy of such notice to the applicant. Opposition to registration.
See T. M. A. 1905, ss. 14, 59.

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

(3.) *If the applicant sends such counter-statement, the comptroller shall furnish a copy thereof to the person who gave notice of opposition, and shall require him to give security in such manner and to such amount as the comptroller may require for such costs as may be awarded in respect of such opposition; and if such security is not given within fourteen days after such requirement was made or such further time as the comptroller may allow, the opposition shall be deemed to be withdrawn.*

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

[3.] If the applicant sends such counter-statement, the comptroller shall furnish a copy thereof to the person who gave notice of opposition, and shall, after hearing the applicant and the opponent, if so required, decide whether the trade mark is to be registered; but his decision shall be subject to appeal to the Board of Trade, who shall, if required, hear the applicant and the opponent and the comptroller, and may make an order determining whether, and subject to what conditions (if any), registration is to be permitted.

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

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

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

This section came from the old rules. The amendments were made by § 13 of the Act of 1888.

70. A trade mark, when registered, shall be assigned and transmitted only in connection with the goodwill of the business concerned in the particular goods or classes of goods for which it has been registered, and shall be determinable with that goodwill. Assignment and transmission of trade mark.
See T. M. A. 1905, s. 22.

This section came from § 2 of the Act of 1875.

71. Where each of several persons claims to be registered as proprietor of the same trade mark, the comptroller may refuse to register Conflicting claims to registration.

See T. M. A. 1905, s. 20. any of them until their rights have been determined according to law. and the comptroller may himself submit or require the claimants to submit their rights to the Court.

This section came from § 5 of the Act of 1875.

Restrictions on registration.

See T. M. A. 1905, s. 19.

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

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

This section came from § 6 of the Act of 1875. The amendments in this section were made by § 14 of the Act of 1888.

Further restriction on registration.

See T. M. A. 1905, s. 11.

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

This section was taken from § 6 of the Act of 1875, and was amended by § 15 of the Act of 1888.

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

See T. M. A. 1905, s. 15.

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

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

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

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

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

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

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

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

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

The amendments in this section were made by § 16 of the Act of 1888.

Effect of Registration.

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

Registration equivalent to public use.

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

See T. M. A. 1905, s. 16.

The original § 75, for which this section was substituted by § 17 of the Act of 1888, came from § 2 of the Act of 1875.

The last part of this section, as altered, came from Rule 32 of the Rules of 1883, and originally from the old rules.

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

Right of first proprietor to exclusive use of trade mark.

See T. M. A. 1905, ss. 39, 40.

This section came from § 3 of the Act of 1875.

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

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

See T. M. A. 1905, s. 42.

This section came from § 1 of the Act of 1876.

Certificate as to exclusive use and costs thereon.

See T. M. A. 1905, s. 46.

[77A. In an action for infringement of a registered trade mark the Court or a judge may certify that the right to the exclusive use of the trade mark came in question; and if the Court or a judge so certifies, then in any subsequent action for infringement the plaintiff in that action, on obtaining a final order or judgment in his favour, shall have his full costs, charges, and expenses as between solicitor and client, unless the Court or judge trying the subsequent action certifies that he ought not to have the same.]

This section was introduced by § 18 of the Act of 1888.

Register of Trade Marks.

Register of trade marks.

See T. M. A. 1905, s. 4.

78. There shall be kept at the Patent Office a book called the Register of Trade Marks, wherein shall be entered the names and addresses of proprietors of registered trade marks, notifications of assignments and of transmissions of trade marks, and such other matters as may be from time to time prescribed.

Removal of trade mark after fourteen years unless fee paid.

See T. M. A. 1905, ss. 28—31.

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

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

(3.) If before the expiration of the said three months the registered proprietor pays the said fee together with the additional prescribed fee, the comptroller may, without removing such trade mark from the register, accept the said fee as if it had been paid before the expiration of the said fourteen years.

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

(5.) Where a trade mark has been removed from the register for non-payment of the fee or otherwise, such trade mark shall nevertheless, for the purpose of any application for registration during *the five years* [one year] next after the date of such removal, be deemed to be a trade mark which is already registered [unless it is shown to the satisfaction of the comptroller that the non-payment of the fee arises from the death or bankruptcy of the registered proprietor, or from his having ceased to carry on business, and that no person claiming under that proprietor or under his bankruptcy is using the trade mark].

This section came from the old rules. The amendments were made by § 19 of the Act of 1888.

Fees.

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

Fees for registration, &c.
See T. M. A.
1905, s. 61.

Sheffield Marks.

81. With respect to the Master, wardens, searchers, assistants, and commonalty of the Company of Cutlers in Hallamshire, in the county of York (in this Act called the Cutlers' Company), and the marks or devices (in this Act called Sheffield marks) assigned or registered by the Master, wardens, searchers, and assistants of that Company, the following provisions shall have effect:—

Registration by Cutlers' Company of Sheffield marks.
See T. M. A.
1905, s. 63.

- (1.) The Cutlers' Company shall establish and keep at Sheffield a new register of trade marks (in this Act called the Sheffield register):
- (2.) *The Cutlers' Company shall enter in the Sheffield register, in respect of cutlery, edge tools, or raw steel, and the goods mentioned in the next sub section, all the trade marks entered before the commencement of this Act in respect of cutlery, edge tools, or raw steel and such goods in the register established under the Trade Marks Registration Act, 1875, belonging to persons carrying on business in Hallamshire, or within six miles thereof, and shall also enter in such register, in respect of the same goods, all the trade marks which shall have been assigned by the Cutlers' Company and actually used before the commencement of this Act, but which have not been entered in the register established under the Trade Marks Registration Act, 1875.*
- [(2.) The Cutlers' Company shall enter in the Sheffield register, in respect of metal goods as defined in this section, all the trade marks entered before the first day of January one thousand eight hundred and eighty-nine, in respect of metal goods, either in the register established under the Trade Marks Registration Act, 1875, or in the register of trade marks under this Act, belonging to persons carrying on business in Hallamshire or within six miles thereof. The Cutlers' Company shall also, on request made in the prescribed manner, enter in the Sheffield register, in respect of metal goods, all the trade marks which shall have been assigned by the Cutlers' Company and actually used before the first day of January one thousand eight hundred and eighty-four, but which have not been entered in either of the said registers.]
- (3.) An application for registration of a trade mark used *on cutlery, edge tools, or on raw steel, or on goods made of steel, or of steel and iron combined, whether with or without a cutting edge,* [on metal goods] shall, if made after the commencement of this Act by a person carrying on business in Hallamshire, or within six miles thereof, be made to the Cutlers' Company.

- (4.) Every application so made to the Cutlers' Company shall be notified to the comptroller in the prescribed manner, and unless the comptroller within the prescribed time gives notice to the Cutlers' Company that he objects to the acceptance of the application, it shall be proceeded with by the Cutlers' Company in the prescribed manner :
- (5.) If the comptroller gives notice of objection as aforesaid, the application shall not be proceeded with by the Cutlers' Company, but any person aggrieved may appeal to the Court :
- (6.) Upon the registration of a trade mark in the Sheffield register the Cutlers' Company shall give notice thereof to the comptroller, who shall thereupon enter the mark in the register of trade marks ; and such registration shall bear date as of the day of application to the Cutlers' Company, and have the same effect as if the application had been made to the comptroller on that day :
- (7.) *The provisions of this Act, and of any general rules made under this Act, with respect to application for registration in the register of trade marks, the effect of such registration, and the assignment and transmission of rights in a registered trade mark, shall apply in the case of applications and registration in the Sheffield register ; and notice of every entry made in the Sheffield register must be given to the comptroller by the Cutlers' Company, save and except that the provisions of this sub-section shall not prejudice or affect any life estate and interest of a widow of the holder of any Sheffield mark which may be in force in respect of such mark at the time when it shall be placed upon the Sheffield register :*
- [(7.) The provisions of this Act, and of any general rules made under this Act, with respect to the registration of trade marks, and all matters relating thereto, shall, subject to the provisions of this section, apply to the registration of trade marks on metal goods by the Cutlers' Company, and to all matters relating thereto ; and this Act, and any such general rules shall, so far as applicable, be construed accordingly, with the substitution of the Cutlers' Company, the office of the Cutlers' Company, and the Sheffield register, for the comptroller, the Patent Office, and the register of trade marks respectively ; and notice of every entry, cancellation, or correction made in the Sheffield register shall be given to the comptroller by the Cutlers' Company : provided that this section shall not affect any life estate and interest of a widow of the holder of any Sheffield mark which may be in force in respect of such mark at the time when it shall be placed upon the Sheffield register.]
- (8.) Where the comptroller receives from any person not carrying on business in Hallamshire or within six miles thereof an application for registration of a trade mark used on *cutlery, edge tools, or on raw steel, or on goods made of steel, or of steel and iron combined, whether with or without cutting edge*, [on metal goods] he shall in the prescribed manner notify the application and proceedings thereon to the Cutlers' Company :

- (9.) At the expiration of five years from the commencement of this Act the Cutlers' Company shall close the Cutlers' register of corporate trade marks, and thereupon all marks entered therein shall, unless entered in the Sheffield register, be deemed to have been abandoned :
- (10.) A person may (notwithstanding anything in any Act relating to the Cutlers' Company) be registered in the Sheffield register as proprietor of two or more trade marks :
- (11.) A body of persons, corporate or not corporate, may (notwithstanding anything in any Act relating to the Cutlers' Company) be registered in the Sheffield register as proprietor of a trade mark or trade marks :
- (12.) Any person aggrieved by a decision of the Cutlers' Company in respect of anything done or omitted under this Act may, in the prescribed manner appeal to the comptroller, who shall have power to confirm, reverse, or modify the decision, but the decision of the comptroller shall be subject to a further appeal to the Court :
- (13.) So much of the Cutlers' Company's Acts as applies to the summary punishment of persons counterfeiting Sheffield corporate marks, that is to say, the fifth section of the Cutlers' Company's Act of 1814, and the provisions in relation to the recovery and application of the penalty imposed by such last-mentioned section contained in the Cutlers' Company's Act of 1791, shall apply to any mark entered in the Sheffield register.
- [(14.) For the purposes of this section, the expression "metal goods" means all metals whether wrought, unwrought, or partly wrought, and all goods composed wholly or partly of any metal.
- (15.) For the purpose of legal proceedings in relation to trade marks entered in the Sheffield register a certificate under the hand of the Master of the Cutlers' Company shall have the same effect as the certificate of the comptroller.]

The amendments in this section were made by § 20 of the Act of 1888.

PART V.

GENERAL.

Patent Office and Proceedings thereat.

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

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

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

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

The words in *italics* were expunged by the Act of 1902, s. 4.

Officers and
clerks.
(*Unrepealed.*)

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

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

Seal of Patent
Office.
(*Unrepealed.*)
Trust not to
be entered in
registers.

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

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.

See T. M. A.
1905, s. 5.

This section, so far as it relates to trade marks, came from the old rules.

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

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

See T. M. A.
1905, s. 11.
Entry of
assignments
and trans-
missions in
registers.

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

See T. M. A.
1905,
ss. 33, 38.

The amendment in this section was made by § 21 of the Act of 1888.

Inspection of
and extracts
from registers.

88. Every register kept under this Act shall at all convenient times be open to the inspection of the public, subject to [the provisions of

this Act and to] such regulations as may be prescribed; and certified copies, sealed with the seal of the Patent Office, of any entry in any such register shall be given to any person requiring the same on payment of the prescribed fee. **See T. M. A. 1905, s. 7.**

This section came from the old rules.

The amendment in this section was made by § 22 of the Act of 1888.

89. Printed or written copies or extracts, purporting to be certified by the comptroller and sealed with the seal of the Patent Office, of or from patents, specifications, disclaimers and other documents in the Patent Office, and of or from registers and other books kept there, shall be admitted in evidence in all courts in her Majesty's dominions, and in all proceedings, without further proof or production of the originals. **Scaled copies to be received in evidence. See T. M. A. 1905, s. 50.**

90.—(1.) 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. **Rectification of registers by Court. See T. M. A. 1905, ss. 35, 37.**

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

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

This section came from § 5 of the Act of 1875. The amendment was made by § 23 of the Act of 1888.

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

- (a.) Correct any clerical error in or in connection with an application for a patent, or for registration of a design or trade mark; or
- (b.) Correct any clerical error in the name, style or address of the registered proprietor of a patent, design, or trade mark.
- (c.) Cancel the entry or part of the entry of a trade mark on the register: Provided that the applicant accompanies his request by a statutory declaration made by himself, stating his name, address, and calling, and that he is the person whose name appears on the register as the proprietor of the said trade mark.
- (d.) Permit an applicant for registration of a design or trade mark to amend his application by omitting any particular goods or classes of goods in connection with which he has desired the design or trade mark to be registered.] **Power for comptroller to correct clerical errors. See T. M. A. 1905, s. 32.**

The amendment in this section was made by § 24 of the Act of 1888.

Alteration
of registered
mark.

See T. M. A.
1905, s. 34.

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

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

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

This section was taken from the old rules.

Falsification
of entries in
registers.

See T. M. A.
1905, s. 66.

Exercise of
discretionary
power by
comptroller.

See T. M. A.
1905, s. 53.

Power of
comptroller to
take directions
of law officers.

See T. M. A.
1905, s. 56.

Certificate of
comptroller to
be evidence.

See T. M. A.
1905, s. 51.

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

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

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

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.

This section was somewhat modified from § 8 of the Act of 1875.

Applications
and notices
by post.

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

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

Provision
as to days
for leaving
documents
at office.

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

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

Declaration
by infant,
lunatic, &c.

This section, so far as it relates to trade marks, came from the old rules.

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

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

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

- (a.) For regulating the practice of registration under this Act;
- (b.) For classifying goods for the purposes of designs and trade marks;
- (c.) For making or requiring duplicates of specifications, amendments, drawings, and other documents;
- (d.) For securing and regulating the publishing and selling of copies, at such prices and in such manner as the Board of Trade think fit, of specifications, drawings, amendments, and other documents;
- (e.) For securing and regulating the making, printing, publishing, and selling of indexes to, and abridgments of, specifications and other documents in the Patent Office; and providing for the inspection of indexes and abridgments and other documents;
- (f.) For regulating (with the approval of the Treasury) the presentation of copies of Patent Office publications to patentees and to public authorities, bodies, and institutions at home and abroad;
- (g.) Generally for regulating the business of the Patent Office, and all things by this Act placed under the direction or control of the comptroller or of the Board of Trade.

Power for
Board of
Trade to make
general rules
for classifying
goods and
regulating
business of
Patent Office.
See T. M. A.
1905, s. 60.

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

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

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

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

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

[102A.—(1.) All things required or authorised under this Act to be done by, to, or before the Board of Trade, may be done by, to, or before the President or a secretary or an assistant secretary of the Board.

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

(3.) A certificate signed by the President of the Board of Trade, that any order made or act done is the order or act of the Board, shall be conclusive evidence of the fact so certified.]

This section was introduced by § 25 of the Act of 1888.

International and Colonial Arrangements.

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

Annual reports of comptroller.

See T. M. A. 1905, s. 57.

Proceedings of Board of Trade.

See T. M. A. 1905, ss. 52, 58.

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

(Unrepealed.) See T. M. A. 1905, s. 65.

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

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

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

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

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

This section was new. The amendment in it was made by § 6 of the Act of 1885. For list of Orders in Council, see Appendix B., p. 161.

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

Provision for Colonies and India.
(Unrepealed.)
See T. M. A. 1905, s. 65.

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

For list of Orders in Council, see Appendix B., p. 161.

Offences.

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

Penalty on falsely representing

articles to be patented.

See T. M. A. 1905, s. 67.

Penalty on unauthorised assumption of Royal Arms.
(Unrepealed.)

See T. M. A. 1905, s. 68.

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

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

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

This section was new.

Scotland, Ireland, &c.

Saving for Courts in Scotland.

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

Summary proceedings in Scotland.

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

See T. M. A. 1905, s. 72.

Proceedings for revocation of patent in Scotland.

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

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

Reservation of remedies in Ireland.

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

General saving for jurisdiction of Courts.

See T. M. A. 1905, s. 69.

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

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

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

- (1.) Nothing in this Act shall affect the jurisdiction of the Courts in the Isle of Man, in proceedings for infringement or in any action or proceeding respecting a patent, design, or trade mark competent to those Courts; Isle of Man. See T. M. A. 1905, s. 70.
- (2.) The punishment for a misdemeanour under this Act in the Isle of Man shall be imprisonment for any term not exceeding two years, with or without hard labour, and with or without a fine not exceeding one hundred pounds, at the discretion of the Court;
- (3.) Any offence under this Act committed in the Isle of Man which would in England be punishable on summary conviction may be prosecuted, and any fine in respect thereof recovered at the instance of any person aggrieved, in the manner in which offences punishable on summary conviction may for the time being be prosecuted.

[112A. The Court of Chancery of the County Palatine of Lancaster shall, with respect to any action or other proceeding in relation to trade marks, the registration whereof is applied for in the Manchester Office, have the like jurisdiction under this Act as her Majesty's High Court of Justice in England, and the expression "the Court" in this Act shall be construed and have effect accordingly. Jurisdiction of Lancashire Palatine Court. See T. M. A. 1905, s. 71.

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

This section was introduced by sect. 26 of the Act of 1888.

Repeal; Transitional Provisions; Savings.

113. The enactments described in the Third Schedule to this Act are hereby repealed. But this repeal of enactments shall not—
- (a.) Affect the past operation of any of those enactments, or any patent or copyright or right to use a trade mark granted or acquired, or application pending, or appointment made, or compensation granted, or order or direction made or given, or right, privilege, obligation, or liability acquired, accrued, or incurred, or anything duly done or suffered under or by any of those enactments before or at the commencement of this Act; or
 - (b.) Interfere with the institution or prosecution of any action or proceeding, civil or criminal, in respect thereof, and any such proceeding may be carried on as if this Act had not been passed; or
 - (c.) Take away or abridge any protection or benefit in relation to any such action or proceeding.
- Repeal and saving for past operation of repealed enactments, &c. See T. M. A. 1905, s. 73.

Former registers to be deemed continued.

See T. M. A. 1905, s. 6.

Saving for existing rules.

See T. M. A. 1905, s. 73.

Saving for prerogative.

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

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

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

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

General Definitions.

General definitions.

See T. M. A. 1905, s. 3.

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

“Person” includes a body corporate;

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

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

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

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

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

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

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

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

SCHEDULES.

THE FIRST SCHEDULE.

Forms.

THE SECOND SCHEDULE.

Fees on Instruments for obtaining Patents and Renewal.

THE THIRD SCHEDULE.

Enactments Repealed.

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38 & 39 Vict. c. 91 (1875).—The Trade Marks Registration Act, 1875.

39 & 40 Vict. c. 33 (1876).—The Trade Marks Registration Amendment Act, 1876.

40 & 41 Vict. c. 37 (1877).—The Trade Marks Registration Extension Act, 1877.

APPENDIX E.

THE INTERPRETATION ACT, 1889.

52 & 53 VICT. c. 63.

An Act for consolidating enactments relating to the Construction of Acts of Parliament and for further shortening the Language used in Acts of Parliament. [30th August, 1889.]

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

Re-enactment of existing Rules.

Rules as to
gender and
number.

1.—(1.) In this Act and in every Act passed after the year one thousand eight hundred and fifty, whether before or after the commencement of this Act, unless the contrary intention appears,—

- (a.) words importing the masculine gender shall include females; and
- (b.) words in the singular shall include the plural, and words in the plural shall include the singular.

(2.) The same rules shall be observed in the construction of every enactment relating to an offence punishable on indictment or on summary conviction, when the enactment is contained in an Act passed in or before the year one thousand eight hundred and fifty.

Application
of penal Acts
to bodies
corporate.

2.—(1.) In the construction of every enactment relating to an offence punishable on indictment or on summary conviction, whether contained in an Act passed before or after the commencement of this Act, the expression "person" shall, unless the contrary intention appears, include a body corporate.

(2.) Where under any Act, whether passed before or after the commencement of this Act, any forfeiture or penalty is payable to a party aggrieved, it shall be payable to a body corporate in every case where that body is the party aggrieved.

Meanings of
certain words

3. In every Act passed after the year one thousand eight hundred and fifty, whether before or after the commencement of this Act, the

following expressions shall, "unless the contrary intention appears, have the meanings hereby respectively assigned to them ; namely,— in Acts since 1850.

The expression "month" shall mean calendar month :

* * * * *

The expressions "oath" and "affidavit" shall, in the case of persons for the time being allowed by law to affirm or declare instead of swearing, include affirmation and declaration, and the expression "swear" shall, in the like case, include affirm and declare.

- 4. [Meaning of "county" in past Acts.]
- 5. [Meaning of "parish."]
- 6. [Meaning of "county court."]
- 7. [Meaning of "sheriff clerk," &c. in Scottish Acts.]

8. Every section of an Act shall have effect as a substantive enactment without introductory words. Sections to be substantive enactments.

9. Every Act passed after the year one thousand eight hundred and fifty, whether before or after the commencement of this Act, shall be a public Act and shall be judicially noticed as such, unless the contrary is expressly provided by the Act. Acts to be public Acts.

10. Any Act may be altered, amended, or repealed in the same session of Parliament. Amendment or repeal of Acts in same session.

11.—(i.) Where an Act passed after the year one thousand eight hundred and fifty, whether before or after the commencement of this Act, repeals a repealing enactment, it shall not be construed as reviving any enactment previously repealed, unless words are added reviving that enactment. Effect of repeal in Acts passed since 1850.

(2.) Where an Act passed after the year one thousand eight hundred and fifty, whether before or after the commencement of this Act, repeals wholly or partially any former enactment and substitutes provisions for the enactment repealed, the repealed enactment shall remain in force until the substituted provisions come into operation.

New General Rules of Construction.

12. In this Act, and in every other Act whether passed before or after the commencement of this Act, the following expressions shall, unless the contrary intention appears, have the meanings hereby respectively assigned to them, namely :— Official definitions in past and future Acts.

- (1.) The expression "the Lord Chancellor" shall, except when used with reference to Ireland only, mean the Lord High Chancellor of Great Britain for the time being, and when used with reference to Ireland only, shall mean the Lord Chancellor of Ireland for the time being.
- (2.) The expression "the Treasury" shall mean the Lord High Treasurer for the time being or the Commissioners for the time being of Her Majesty's Treasury.
- (3.) The expression "Secretary of State" shall mean one of Her Majesty's Principal Secretaries of State for the time being.

* * * * *

- (5.) The expression "the Privy Council" shall, except when used with reference to Ireland only, mean the Lords and others

for the time being of Her Majesty's Most Honourable Privy Council, and when used with reference to Ireland only, shall mean the Privy Council of Ireland for the time being.

* * * * *

(8.) The expression "the Board of Trade" shall mean the Lords of the Committee for the time being of the Privy Council appointed for the consideration of matters relating to trade and foreign plantations.

* * * * *

(18.) The expression "the Bank of England" shall mean, as circumstances require, the Governor and Company of the Bank of England or the bank of the Governor and Company of the Bank of England.

* * * * *

13. [Judicial definitions in past and future Acts.]

Meaning of
"rules of
Court."

14. In every Act passed after the commencement of this Act, unless the contrary intention appears, the expression "rules of Court" when used in relation to any Court shall mean rules made by the authority having for the time being power to make rules or orders regulating the practice and procedure of such Court, and as regards Scotland shall include acts of adjournment and acts of sederunt.

The power of the said authority to make rules of Court as above defined shall include a power to make rules of Court for the purpose of any Act passed after the commencement of this Act, and directing or authorising anything to be done by rules of Court.

15. [Meaning of "borough."]

16. [Meaning of "guardians" and "union."]

17. [Definitions relating to elections.]

Geographical
and colonial
definitions in
future Acts.

18. In this Act, and in every Act passed after the commencement of this Act, the following expressions shall, unless the contrary intention appears, have the meanings hereby respectively assigned to them, namely:—

(1.) The expression "British Islands" shall mean the United Kingdom, the Channel Islands, and the Isle of Man.

(2.) The expression "British possession" shall mean any part of her Majesty's dominions exclusive of the United Kingdom, and where parts of such dominions are under both a central and a local legislature, all parts under the central legislature shall, for the purposes of this definition, be deemed to be one British possession.

(3.) The expression "colony" shall mean any part of her Majesty's dominions exclusive of the British Islands, and of British India, and where parts of such dominions are under both a central and a local legislature, all parts under the central legislature shall, for the purposes of this definition, be deemed to be one colony.

(4.) The expression "British India" shall mean all territories and places within her Majesty's dominions which are for the time being governed by her Majesty through the Governor-General of India or through any governor or other officer subordinate to the Governor-General of India.

(5.) The expression "India" shall mean British India together with any territories of any native prince or chief under the suzerainty of her Majesty exercised through the Governor-General of India, or through any governor or other officer subordinate to the Governor-General of India.

(6.) The expression "governor" shall, as respects Canada and India, mean the Governor-General, and include any person who for the time being has the powers of the Governor-General, and as respects any other British possession, shall include the officer for the time being administering the government of that possession.

(7.) The expression "colonial legislature" and the expression "legislature," when used with reference to a British possession, shall respectively mean the authority, other than the Imperial Parliament or her Majesty the Queen in Council, competent to make laws for a British possession.

19. In this Act and in every Act passed after the commencement of this Act the expression "person" shall, unless the contrary intention appears, include any body of persons corporate or unincorporate. Meaning of "person" in future Acts.

20. In this Act and in every other Act whether passed before or after the commencement of this Act expressions referring to writing shall, unless the contrary intention appears, be construed as including references to printing, lithography, photography, and other modes of representing or reproducing words in a visible form. Meaning of "writing" in past and future Acts.

21. In this Act, and in every other Act, whether passed before or after the commencement of this Act, the expression "statutory declaration" shall, unless the contrary intention appears, mean a declaration made by virtue of the Statutory Declarations Act, 1835. Meaning of "statutory declaration" in past and future Acts, 5 & 6 Will. 4, c. 62.

22. [Meaning of "financial year" in future Acts.]

23. [Definition of "Lands Clauses Acts."]

24. [Meaning of "Irish Valuation Acts."]

25. [Meaning of "ordnance map."]

26. Where an Act passed after the commencement of this Act authorises or requires any document to be served by post, whether the expression "serve," or the expression "give" or "send," or any other expression is used, then, unless the contrary intention appears, the service shall be deemed to be effected by properly addressing, prepaying, and posting a letter containing the document, and unless the contrary is proved to have been effected at the time at which the letter would be delivered in the ordinary course of post. Meaning of "service by post."

27. [Meaning of "committed for trial."]

28. [Meanings of "sheriff," "felony," and "misdemeanour" in future Scotch Acts.]

29. [Meaning of "county court" in future Irish Acts.]

30. In this Act and in every other Act, whether passed before or after the commencement of this Act, references to the Sovereign reigning at the time of the passing of the Act or to the Crown shall, unless the contrary intention appears, be construed as references to the Sovereign for the time being, and this Act shall be binding on the Crown. References to the Crown.

31. Where any Act, whether passed before or after the commencement of this Act, confers power to make, grant, or issue any instru- Construction of statutory rules, &c.

ment, that is to say, any Order in Council, order, warrant, scheme, letters patent, rules, regulations, or byelaws, expressions used in the instrument, if it is made after the commencement of this Act, shall, unless the contrary intention appears, have the same respective meanings as in the Act conferring the power.

Construction of provisions as to exercise of powers and duties.

32.—(1.) Where an Act passed after the commencement of this Act confers a power or imposes a duty, then, unless the contrary intention appears, the power may be exercised and the duty shall be performed from time to time as occasion requires.

(2.) Where an Act passed after the commencement of this Act confers a power or imposes a duty on the holder of an office, as such, then, unless the contrary intention appears, the power may be exercised and the duty shall be performed by the holder for the time being of the office.

(3.) Where an Act passed after the commencement of this Act confers a power to make any rules, regulations, or byelaws, the power shall, unless the contrary intention appears, be construed as including a power, exercisable in the like manner and subject to the like consent and conditions, if any, to rescind, revoke, amend, or vary the rules, regulations, or byelaws.

33. [Provisions as to offences under two or more laws.]

34. [Measurement of distances.]

Citation of Acts.

35.—(1.) In any Act, instrument, or document, an Act may be cited by reference to the short title, if any, of the Act, either with or without a reference to the chapter, or by reference to the regnal year in which the Act was passed, and where there are more statutes or sessions than one in the same regnal year, by reference to the statute or the session, as the case may require, and where there are more chapters than one, by reference to the chapter, and any enactment may be cited by reference to the section or sub-section of the Act in which the enactment is contained.

(2.) Where any Act passed after the commencement of this Act contains such reference as aforesaid, the reference shall, unless a contrary intention appears, be read as referring, in the case of statutes included in any revised edition of the statutes purporting to be printed by authority, to that edition, and in the case of statutes not so included, and passed before the reign of King George the First, to the edition prepared under the direction of the Record Commission: and in other cases to the copies of the statutes purporting to be printed by the Queen's Printer, or under the superintendence or authority of Her Majesty's Stationery Office.

(3.) In any Act passed after the commencement of this Act a description or citation of a portion of another Act shall, unless the contrary intention appears, be construed as including the word, section, or other part mentioned or referred to as forming the beginning and as forming the end of the portion comprised in the description or citation.

"Commencement."

36.—(1.) In this Act, and in every Act passed either before or after the commencement of this Act, the expression "commencement," when used with reference to an Act, shall mean the time at which the Act comes into operation.

(2.) Where an Act passed after the commencement of this Act, or any Order in Council, order, warrant, scheme, letters patent, rules,

regulations, or byelaws made, granted, or issued, under a power conferred by any such Act, is expressed to come into operation on a particular day, the same shall be construed as coming into operation immediately on the expiration of the previous day.

37. Where an Act passed after the commencement of this Act is not to come into operation immediately on the passing thereof, and confers power to make any appointment, to make, grant, or issue any instrument, that is to say, any Order in Council, order, warrant, scheme, letters patent, rules, regulations, or byelaws, to give notices, to prescribe forms, or to do any other thing for the purposes of the Act, that power may, unless the contrary intention appears, be exercised at any time after the passing of the Act, so far as may be necessary or expedient for the purpose of bringing the Act into operation at the date of the commencement thereof, subject to this restriction, that any instrument made under the power shall not, unless the contrary intention appears in the Act, or the contrary is necessary for bringing the Act into operation, come into operation until the Act comes into operation.

Exercise of statutory powers between passing and commencement of Act.

38.—(1.) Where this Act or any Act passed after the commencement of this Act repeals and re-enacts, with or without modification, any provisions of a former Act, references in any other Act to the provisions so repealed, shall, unless the contrary intention appears, be construed as references to the provisions so re-enacted.

Effect of repeal in future Acts.

(2.) Where this Act or any Act passed after the commencement of this Act repeals any other enactment, then, unless the contrary intention appears, the repeal shall not—

- (a.) revive anything not in force or existing at the time at which the repeal takes effect; or,
- (b.) affect the previous operation of any enactment so repealed or anything duly done or suffered under any enactment so repealed; or
- (c.) affect any right, privilege, obligation, or liability acquired, accrued, or incurred under any enactment so repealed; or
- (d.) affect any penalty, forfeiture, or punishment incurred in respect of any offence committed against any enactment so repealed; or
- (e.) affect any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid;

and any such investigation, legal proceeding, or remedy may be instituted, continued, or enforced, and any such penalty, forfeiture, or punishment may be imposed, as if the repealing Act had not been passed.

Supplemental.

39. In this Act the expression "Act" shall include a local and personal Act and a private Act.

Definition of "Act" in this Act.

40. The provisions of this Act respecting the construction of Acts passed after the commencement of this Act shall not affect the construction of any Act passed before the commencement of this Act,

Saving for past Acts.

although it is continued or amended by an Act passed after such commencement.

Repeal.

41. The Acts described in the Schedule to this Act are hereby repealed to the extent appearing in the third column of the Schedule.

Commencement of Act.

42. This Act shall come into operation on the first day of January one thousand eight hundred and ninety.

Short title.

43. This Act may be cited as the Interpretation Act, 1889.

SCHEDULE.

ENACTMENTS REPEALED.

Sect. 41.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
7 & 8 Geo. 4, c. 28.	An Act for further improving the administration of justice in criminal cases in England.	Section fourteen.
9 Geo. 4, c. 51	An Act for improving the administration of justice in criminal cases in Ireland.	Section thirty-five.
7 Will. 4 & 1 Vict. c. 39.	An Act to interpret the word "sheriff," "sheriff clerk," "shire," "sheriffdom," and "county," occurring in Acts of Parliament relating to Scotland.	The whole Act.
13 & 14 Vict. c. 21.	An Act for shortening the language used in Acts of Parliament.	The whole Act.
29 & 30 Vict. c. 113.	The Poor Law Amendment Act of 1866.	Section eighteen, from the beginning to "can be appointed, and."
42 & 43 Vict. c. 49.	The Summary Jurisdiction Act, 1879..	In section twenty the subsections numbered (3) and (6). Section fifty.
47 & 48 Vict. c. 43.	The Summary Jurisdiction Act, 1884..	Section seven.
51 & 52 Vict. c. 43.	The County Courts Act, 1888.....	Section one hundred and eighty-seven, from the beginning to "is meant, and."

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