

**Sect. 39.** representative to apply for and obtain provisional protection and a patent in respect of the invention or the validity of any patent granted on the application, provided that both the following conditions are complied with, namely—

- (a.) The exhibitor must, before exhibiting the invention, give the Comptroller the prescribed notice of his intention to do so (d); and
- (b.) The application for a patent must be made before or within six months from the date of the opening of the exhibition (e).

**Note.**—Refer to Pat. Rules No. 17 (p. 243).

This section re-enacts and amends the provisions of section 3 of 28 & 29 Vic., c. 3 (the Industrial Exhibitions Act, 1865); and section 2 of 33 and 34 Vic., c. 27 (the Protection of Inventions Act, 1870), both of which are repealed in the third schedule of the present Act.

It will require careful attention on the part of inventors who propose to exhibit unpatented inventions to ascertain that the exhibition is certified by the Board of Trade as an industrial exhibition. This can be done by application to the Board of Trade. Probably the Comptroller of Patents will be the proper officer to apply to.

(b.) This enactment will cover any description of the invention, no matter how or where published, “*during the period of the holding of the exhibition only.*” If, therefore, the exhibition be closed before six months from the opening, and a publication of the invention be made between the date of closing and the application for patent, such publication will be fatal to the patent.

(c.) The protection to the inventor is only in the case of the user of the invention without his consent or privity elsewhere than in the exhibition, *i.e.*, if the inventor uses the invention himself elsewhere than at the exhibition, such user will be fatal to the validity of the patent afterwards obtained.

(d.) This notice is imperative, and must be given before exhibiting the invention. Rule 17 of the Pat. Rules (p. 243) prescribes the procedure. The notice required is seven days and a brief description of the invention, with drawings if necessary. The obvious intention of the enactment is to obtain a record at the Patent Office by means of this notice and description.

(e.) *i.e.*, if the patent be not applied for within six months from the opening of the exhibition, the inventor abandons and loses his right to a patent.

**40.** (1.) The Comptroller shall cause to be issued **Sect. 40.** periodically an illustrated journal (a) of patented inventions, as well as reports of patent cases decided by courts of law (b), and any other information that the Comptroller may deem generally useful or important.

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Publica-  
tion of  
illustrated  
journal,  
indexes,  
&c.

(2.) Provision shall be made by the Comptroller for keeping on sale copies of such journal, and also of all complete specifications of patents for the time being in force, with their accompanying drawings, if any (c).

(3.) The Comptroller shall continue, in such form as he may deem expedient, the indexes and abridgments of specifications hitherto published, and shall from time to time prepare and publish such other indexes, abridgments of specifications, catalogues, and other works relating to inventions, as he may see fit.

**Note.**—(a.) “*Illustrated Journal.*” The nature of this journal is intentionally left very much to the discretion of the Comptroller. It is intended to contain all that has hitherto been published in the “Commissioners of Patents Journal,” and a great deal more.

(b.) “*Reports of Patent Cases.*” The publication of these reports is made compulsory upon the Comptroller. Reporters in the law courts will therefore become a necessary part of the staff in his office.

(c.) The Act of 1852 contained (section 30) a very useful provision, requiring the printing, publication, and sale of all specifications, disclaimers and memoranda of alteration deposited under that Act. Under this provision, printed copies of the specifications and drawings of almost all patents, not only of those in force, but of those which had expired, could be purchased, for a small sum, at the office of the Commissioners of Patents. The convenience and advantage of such a privilege to inventors and to others interested in inventions and patent rights, has been very great. The provision was omitted from the first draft of the Bill, and was only inserted in consequence of strong representations made; but it has been somewhat grudgingly done, and only relates to “patents for the time being in force,” instead of to all patents, whether in force or expired. Inventors and patentees requiring exact information as to the subject matter of expired patents will henceforth be unable to procure printed copies of the specifications of such expired patents, but will have to depend, practically, upon the illustrated journal of patented inventions above mentioned.

Sect. 41.  
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Patent  
Museum.

**41.** The control and management of the existing Patent Museum, and its contents shall from and after the commencement of this Act, be transferred to and vested in the Department of Science and Art, subject to such directions as Her Majesty in Council may see fit to give.

**Note.**—The “existing Patent Museum” is contained in a building or shed forming an annexe to the South Kensington Museum. It consists of a somewhat heterogeneous collection of machines and models, which have, from time to time, been presented to it, and is under the care of a curator, appointed and paid by the Government.

Power to  
require  
models on  
payment.

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

**Note.**—This provision is new. It appears to be borrowed from a provision in the law of the United States which requires the applicant for a patent to deposit a model or specimen of the invention at the time he lodges his application for patent. This section differs, because it only empowers the Department of Science and Art to require the patentee to furnish a model on being paid its cost price. It appears very likely to become a dead letter, as no provision is made as to where the money to pay for the models is to come from.

Foreign  
vessels in  
British  
waters.

**43.** (1.) A patent shall not prevent the use of an invention for the purposes of the navigation of a foreign vessel within the jurisdiction of any of Her Majesty's Courts in the United Kingdom or Isle of Man, or the use of an invention in a foreign vessel within that jurisdiction, provided it is not used therein for or in connection with the manufacture or preparation of anything intended to be sold in or exported from the United Kingdom or Isle of Man.

(2.) But this section shall not extend to vessels of any foreign state of which the laws authorise subjects of such foreign state, having patents or like privileges for the exclusive use or exercise of inventions within its territories, to prevent or interfere with the use of such

inventions in British vessels while in the ports of such foreign state, or in the waters within the jurisdiction of its Courts, where such inventions are not so used for the manufacture or preparation of anything intended to be sold in or exported from the territories of such foreign state. Sect. 43.

**Note.**—This section re-enacts section 26 of the Act of 1852. It was introduced into that Act in consequence of decision in the Court of Chancery, in 1851—*Caldwell v. Van Vlissingen* (9 Hare., 415; 21 L. J., Ch. 97; 16 Jur., 115). In that case the foreign owners of a ship made and attached to their vessel in their own country a screw propeller, unpatented there, but patented in England. The vessel came to England with a cargo, and the owners of the patent obtained an injunction restraining the use of the propeller within the waters covered by the English patent.

As to the case of the use of a patented invention in an English ship in foreign waters see *Adair v. Young* (L. R., 12 Ch. D., 13), decided in 1879.

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

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

(3.) Where any such assignment has been made to the Secretary of State, he may at any time before the application for a patent for the invention, or before publication of the specification or specifications, certify to the Comptroller his opinion that, in the interest of the

**Sect. 44.** public service, the particulars of the invention and of the manner in which it is to be performed should be kept secret.

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

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

(6.) Such sealed packet shall be delivered at any time during the continuance of the patent to any person authorised by writing under the hand of the Secretary of State to receive the same, and shall, if returned to the Comptroller, be again kept sealed by him.

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

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

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

(10.) No copy of any specification or other document or drawing, by this section required to be placed in a sealed packet, shall in any manner whatever be published or open to the inspection of the public, but save as in

this section otherwise directed, the provisions of this Sect. 44. part of this Act shall apply in respect of any such invention and patent as aforesaid. —

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

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

**Note.**—This section re-enacts the provisions of the patent for Instruments and Munitions of War Act, 1859 (22 Vic., c. 13), which is repealed by this Act (see the third schedule); see also section 27, and the note thereto, *supra*, p. 151.

### *Existing Patents.*

**45.** (1.) The provisions of this Act, relating to applications for patents and proceedings thereon, shall have effect in respect only of applications made after the commencement of this Act. Provisions respecting existing patents.

(2.) Every patent granted before the commencement of this Act, or on an application then pending, shall remain unaffected by the provisions of this Act relating to patents binding the Crown, and to compulsory licenses.

(3.) In all other respects (including the amount and time of payments of fees) this Act shall extend to all patents granted before the commencement of this Act, or on applications then pending, in substitution for such enactments as would have applied thereto, if this Act had not been passed.

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

**Sect. 45.** after the commencement of this Act in the Patent Office.

**Note.**—This is not a happily worded section. Its meaning is, however, clear:—1st. Every patent, for which application is made before the 1st January, 1884 (no matter when granted), remains liable to the right of the Crown to use it without remuneration to the patentee, *i.e.*, liable to the doctrine of *Feather v. Queen* (see note to section 27), and unaffected by section 27. 2nd. No patent applied for before 1st January, 1884 (no matter when granted), shall be liable to the obligation imposed by section 22 (*supra* p. 142), of granting compulsory licenses. 3rd. With regard to all applications for patents made up to and including the 31st December, 1883, the proceedings and the fees payable up to the filing of the complete specification are under the old law. After the filing of the complete specification those patents come under the new law, except in the two respects (liability to use by the Crown, and freedom from liability to compulsory license) above pointed out. 4th. With regard to all applications for patents made upon and after the 1st January, 1884, the new law, of course, applies exclusively.

The words in brackets, in sub-section 3—“(including the amount and time of payment of fees)” —appear to have suggested a doubt to some persons as to whether the Act intended to abolish the fees payable for notices to proceed (£5), and for the warrant and seal (£10), and to alter the fee on the final specification from £5 to £3, upon applications made before the 1st January, 1884, where those payments had not been made before that date. It is, however, clear that this is not the true construction of the section. The words in the brackets are governed by the words preceding: “in all other respects,” and those words clearly refer to the two preceding sub-sections, and except from the operation of sub-section 3 the preceding provisions of sub-sections 1 and 2, the first of which is, that “the provisions of this Act, relating to applications for patents and the proceedings thereon, shall have effect in respect only of applications made after the commencement of this Act.”

### *Definitions.*

Defini-  
tions of  
patent,  
patentee,  
and inven-  
tion.

**46.** In and for the purposes of this Act—

“Patent” means Letters Patent for an invention:

“Patentee” (*b*) means the person for the time being entitled to the benefit of a patent:

“Invention” means any manner of new manufacture

the subject of Letters Patent and grant of privilege within section six of the Statute of Monopolies (c) (that is, the Act of the twenty-first year of the reign of King James the First, chapter three, intituled "An Act concerning monopolies and dispensations with penal laws and the forfeiture thereof"), and includes an alleged invention (d). Sect. 46.

In Scotland "injunction" means "interdict."

**Note.**—(b.) "Patentee," that is includes the assignee or other legal representative of the person to whom the patent was granted.

See note (a) to section 5, sub-section 2, *supra* p. 119.

(c.) The Statute of Monopolies declared all monopolies however or by whomsoever granted, to be illegal and void, excepting by section 6:—"Letters Patent and grants of privilege for the term of fourteen years or under hereafter to be made of the sole working or making of any manner of new manufactures within this realm to the true and first inventor or inventors of such manufactures, which others at the time of making such Letters Patent and grants shall not use, so as also they be not contrary to the law nor mischievous to the state, by raising the prices of commodities at home, or hurt of trade, or generally inconvenient, the said fourteen years to be accounted from the date of the first Letters Patent or grants of privilege hereafter to be made, but that the same shall be of such force as they should be as if this Act had never been made, and of none other.

(d.) That is, that the word "Invention," used in this Act, for the purposes of this Act only, includes "alleged invention."

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## PART III.

### DESIGNS (a).

(a.) For the scheme of the legislation enacted in this part of the Act, the reader is referred to p. 109, where will be found that part of the Memorandum indorsed upon the Bill upon its first introduction into Parliament relating to designs.

The Acts of Parliament relating to Copyright of Designs, and repealed by this Act, are:—

1. The Act of 1842, relating to Ornamental Designs, 5 & 6 Vic., c. 100.



**Note.**  
**Part III.**

2. The Act of 1843, relating to Useful Designs, 6 & 7 Vic., c. 69.
3. The Act of 1850, amending the two previous ones, 13 & 14 Vic., c. 104.
4. The Act of 1858, amending the Act of 1842, 21 & 22 Vic., c. 70.
5. The Act of 1861, amending the previous Act, 24 & 25 Vic., c. 73.

This part of the Act practically codifies and re-enacts the practical parts of the old legislation, other parts of which had become obsolete from disuse. The only alterations in the law beyond matters of detail, are (1) Equalisation of the period of protection for all designs to a period of *five* years, in the place of periods varying, in the case of ornamental designs from nine months to three years, according to the class in which they were registered; and in the case of useful designs, a period of ten years; and (2) The abolition of the distinction between ornamental and useful designs; and (3) The abolition of provisional registration.

See also Chapter II., p. 68, for principles of the law.

*Registration of Designs.*

Applica-  
tion for  
registra-  
tion of  
designs.

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

(2.) The application must be made in the form set forth in the first schedule to this Act (*d*), 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 (*e*).

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

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

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

(6.) The Comptroller may, if he thinks fit, refuse to register any design presented to him for registration,

but any person aggrieved by any such refusal may appeal **Sect. 47.** therefrom to the Board of Trade (*k*).

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

**Note.**—(*a*.) “Any person,” including a foreigner residing abroad (see repealed Act, 24 & 25 Vic., c. 73).

(*b*.) “Proprietor,” *i.e.*, the author, or the person for whom the design was executed (see section 61), and who has given consideration for it.

(*c*.) “New and original design” (see section 60).

The following were held not to be proper subjects for registration as useful designs under the Act of 1843 (6 & 7 Vic., c. 65):—A design for ventilation by opening a hinged pane of a window by means of a screw, in which the utility was not produced by the shape of the parts, but by the mode of putting them together. Another Court quashed a conviction for pirating such design for want of jurisdiction—*Reg. v. Bessell* (16 Q. B., 810; 20 L. J., M. C., 177). A protector label, which consisted in making in the label an eyelet hole, and lining it with a ring of a metallic substance, through which a string attached to the packages passed—*Rogers v. Driver* (16 Q. B., 102; 20 L. J., Q. B., 31). A design for a dog-cart, specifying as the purpose of utility, that higher front wheels could be used, and closer couplings effected, consisting of parts 1, 2, 3, and 4, of which 1, 2, and 3 had nothing to do with front wheels, or closer couplings, and No. 4 was old—*Windover v. Smith* (32 L. J., Ch. 561; 32 Beav., 200).

But the following was held to be a proper subject for registration as a useful design under that Act (6 & 7 Vic., c. 65):—A brick so shaped, that when several bricks were laid together in building, a series of apertures were left in the wall, by which air was admitted to circulate, and a saving in the number of bricks required was effected.

The following were held proper subjects for registration as ornamental designs under the Act of 1842 (5 & 6 Vic., c. 100):—A new combination of old patterns. The design was applied to a fabric woven in cells, called “The Honeycomb Pattern,” and it consisted of a combination of the large and small honeycomb, so as to form a large honeycomb stripe, or a small honeycomb ground. The large honeycomb was not new, but had never been used in combination before; other fabric had been woven with a similar combination of a large and small pattern—*Harrison v. Taylor* (4 H. & N., 815; 29 L. J.,

**Note.** Exch. 3). A new combination of several old and known designs so as to constitute one design, and not a multiplicity of designs—*Norton v. Nicholls* (1 El. & El. 761; 27 L. J., Q. B., 225). A particular collection of shaded and bored stars upon an ornamental chain surface, forming the ornamentation of a woven fabric; the stars and surface were old, but the combination was new—*McCrea v. Holdsworth* (5 B. & S., 495; 33 L. J., Q. B., 329). Affirmed on appeal (35 L. J., Q. B., 123; L. R., 1 Q. B., 264).

The following were held not to be proper subject for registration as ornamental designs, under the latter Act, 5 & 6 Vic., c. 100:—Four old designs respectively applied to three ribbons and to a button, and the three ribbons were then united by the button, so as to form a badge—*Mulloney v. Stevens* (10 L. T., N. S., 190). The portrait of a well-known public character, copied from a photograph, and applied as a design, upon earthenware—*Adams v. Clementson* (L. R., 12 Ch. D., 714).

A double card basket, forming a combination of two baskets, both old in design—*Lazarus v. Charles* (L. R., 16 Eq., 117; 42 L. J., Ch. 507). An article of manufacture (see section 60), to which a new design is applied, is not in itself a design within the meaning of 5 & 6 Vic., c. 100 (the language of which was similar to that used in section 60 of this Act—*Norton v. Nicholls* (1 El. & El., 761; 27 L. J., Q. B., 225).

(d.) Rule 4 of the Designs Rules requires Form E in the second schedule to these rules (p. 273). See Designs Schedule of Fees (p. 272).

(e.) “*Prescribed manner,*” i.e., by section 48, and the Designs Rules 6 to 15 (see p. 266).

(f.) “*Statement of the nature of the Design.*” This statement is in addition to copies of drawings or specimens required by section 48. The Act requires both a statement of the nature of the design, and drawings or specimens of the design itself. This statement is not required to be like the specification of a patent, but should be sufficiently full and explicit to make the design intelligible to enable the Comptroller to give the information required to be given by him by section 53 (which see), and to fully explain all matters pertinent to the registration which cannot be gathered from looking at the representation or specimen of the design filed with the application. It will be advisable, when registering useful designs, to make these statements particularly full.

(g.) “*Class or classes of goods.*” The classification prescribed by the Designs Rules made by the Board of Trade under section 101, sub-section 2, appear in the third schedule

to those rules printed at p. 276. The application (see Form E) must state in which of the classes enumerated in that schedule the design is to be registered. **Note.**  
**Sect. 47.**

(*h.*) It will be necessary to register in as many classes as the design is capable of application to if it be desired to obtain complete protection. The proprietor possesses copyright in the design only in that class or those classes in which the design is registered.

(*i.*) The decision of the Comptroller as to the class will be apparently final, as no means of appealing from his decision upon that point are provided.

(*k.*) The procedure for appealing to the Board of Trade is regulated by the Designs Rules, Nos. 16 and 20, (p. 268). The form of notice of appeal is Designs Form F (p. 273).

(*l.*) The decision of the Board of Trade as to the refusal to register will be apparently final. The Court, however, possesses a general controlling power over the Register of Designs under section 90 of the Act.

**48.** (1.) On application for registration of a design, the applicant shall furnish to the Comptroller the prescribed number of copies of drawings, photographs, or tracings of the design sufficient, in the opinion of the Comptroller, for enabling him to identify the design; or the applicant may, instead of such copies, furnish exact representations or specimens of the design (*u*). Drawings,  
&c., to be  
furnished  
on appli-  
cation.

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

**Note.**—(*a.*) See Designs Rules 8 and 9 (p. 266), as to the drawings, &c., required.

(*b.*) No means are provided for questioning the Comptroller's refusal.

**49.** (1.) The Comptroller shall grant a certificate of registration to the proprietor of the design when registered (*a*). Certificate  
of regis-  
tration.

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

**Note.**—(*a.*) Refer to section 51 as to the prescribed mark. The certificate of registration will be in Designs Form G (p. 273).

**Note.** (b.) The application for copy certificate will be Designs  
**Sect. 49.** Form H (p. 274). The fee will be 1s. No. 5 in Schedule of  
 — Designs Fees (p. 272).

*Copyright in Registered Designs.*

Copyright  
on regis-  
tration.

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

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

**Note.**—The provision in sub-section 2 is new, and requires great attention. The only safe way of complying with its provisions is, whenever the articles to which the design is applied are manufactured, to send the prescribed number (see Designs Rule 9, p. 267) of the articles themselves to the Comptroller before issuing any of them for sale. In the case of impossibility or great inconvenience in sending the articles themselves, exact representations (by photograph or drawings, &c.) of the articles to which the design is applied, showing the design, should be sent. It is apprehended that in the case of neglect to do this, it would be the Comptroller's duty, on such neglect being brought to his attention, to cancel the registration in the way provided.

Marking  
regis-  
tered  
designs.

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

**Note.**—(a.) “The prescribed mark, or with the prescribed word or words or figures denoting the design is registered.”

See the Designs Rule 32 (p. 270), which prescribes the mark which is the abbreviation "R<sup>d</sup>." for classes 1 to 12 (see Designs Classification, p. 276), and "REG<sup>d</sup>." for Classes 13 and 14. The provision is taken from section 4 of 5 & 6 Vic., c. 100; and section 3 of 6 & 7 Vic., c. 65. The wording, however, is materially different, and the alteration is in favour of the proprietor of the design. Section 4 of 5 & 6 Vic., c. 100 (ornament), required that, *after publication*, every article to which the registered design had been applied, should bear the mark prescribed. Section 3 of 6 & 7 Vic., c. 65 (utility), required that, after publication, every article made by the proprietor should have thereon the word "registered," with the date of registration. Under these Acts, therefore, even if the proprietor had fixed the mark and word, and it subsequently was removed, he lost his copyright. But under the above section, if he has "caused each article to be marked with the prescribed mark" before delivery or sale, he has fulfilled his obligation, and the subsequent removal of the mark will not affect his copyright.

Note.  
Sect. 51.

(b.) "Unless he shows he took all proper steps to ensure the marking of the article." This proviso is new, and is intended to meet the case whereby some accident or some neglect for which the proprietor is not fairly responsible, articles to which the design has been applied are delivered on sale without the mark. It will, however, still be necessary to be very careful. The provision as to marking will be construed strictly — *Pierce v. Worth* (18 L. T., N. S., 710).

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

Inspection  
of regis-  
tered de-  
signs.

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

**53.** On the request of any person producing a particular design, together with its mark of registration,

Informa-  
tion as to  
existence

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

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**Note.**—See Designs Rules 33 and 35 as to inspection.

These provisions are adopted from section 17, of 5 & 6 Vic., c. 100. The power to the Court to authorise an inspection of a design, during the period of copyright, now conferred, was not contained in that section, nor the obligation now imposed upon the Comptroller to furnish details after the period of copyright has expired of the design to a person furnishing information sufficient to identify the design.

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copyright  
in certain  
events.

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

**Note.**—This provision is new, and requires careful attention. It is somewhat curious that it should be introduced for the first time into the law in the same Act of Parliament which repeals, without re-enacting, section 25 of the Patent Act of 1852, which made the duration of a patent for the United Kingdom dependent on the continued existence of a prior foreign patent for the same invention.

#### *Register of Designs.*

Register  
of designs.

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

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

**Note.**—See Designs Rules 21 to 28 (p. 268) as to the register and as to assignments.

Assignments of the copyright of and license to use a design must be in writing. It was held by Sir Geo. Jessell, M. R., in the case of *Jewitt v. Echhardt* (L. R., 8 Ch. D., 404; 26 W. R., 415)—upon the construction of section 3 of 5 & 6 Vic., c. 100, that an assignment of a license to use a design must be in writing, and can only be made by the registered proprietor. The reasoning of this decision remains the same under the present Act and the case will still remain an authority. No time should be lost in registering an assignment, for in the case of the bankruptcy of the assignor after assignment, and before registration thereof, the proprietorship of the design would probably be held to be in his order and disposition, and as such would pass to his trustee—*Longman v. Tripp* (2 Bos. & Pull. N. R., 67; *Hesse v. Stevenson* (3 Bos. & Pull. 565); *re Dilworth* (1 Dea. & Chitt., 411)..

Note.  
Sect. 55.  
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### Fees.

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

Fees on  
registra-  
tion, &c.

**Note.**—See schedule of fees for designs (p. 272).

### *Industrial and International Exhibitions.*

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

Exhibition  
at indus-  
trial or  
inter-  
national  
exhibition  
not to pre-  
vent or  
invalidate  
registra-  
tion.

- (a.) The exhibitor must, before exhibiting the design or article, or publishing a description of the design, give the Comptroller the prescribed notice of his intention to do so; and
- (b.) The application for registration must be made



## Sect. 57.

before or within six months from the date of the opening of the exhibition.

**Note.**—These provisions were taken from section 4 of 28 & 29 Vic., c. 3 and section 3 of 33 & 34 Vic., c. 27, both of which are repealed in the schedule to the present Act.

The Designs Rules 36 and 37 regulate the procedure of notice to the Comptroller of intention to exhibit. The exhibitor must give seven days' notice to the Comptroller, and, for the purpose of identifying his design, furnish that officer with a brief description and a sketch of the design. The form of notice is Designs Form L (p. 275).

*Legal Proceedings.*

**58.** During the existence of copyright in any design (a)—

Penalty on piracy of registered design.

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

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

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

**Note.**—(a) These provisions are adopted from section 7 of 5 & 6 Vic., c. 100. Under that section, the words of which were, "No person shall either do or cause to be done," the acts therein mentioned including the application of any such design for the purpose of sale; Sir Geo. Jessel, M. R., held

that a lace merchant, who had received a pattern of lace sent him by letter of the plaintiff's registered design and had sold one parcel only, came within it, and had been guilty of a piracy, because he had caused the plaintiff's design to be applied—*Mallett v. Howitt* (Weekly Notes, 1879, p. 107). The words now are to "apply" merely. Note.  
Sect. 58.

(b.) "*License or written consent.*" The fact of an author of new designs which have been registered, publishing them in a book, containing a notice that persons wishing to manufacture them for purposes of sale must have the author's permission, does not amount to a license to sell articles to which the designs have been applied—*Branchardiere v. Elvery* (4 Exch., 380; 18 L. J., Exch., 381).

(c.) "*Fraudulent or obvious imitation thereof.*" A. registered as a design a pattern consisting of a combination of distinct designs; B. slightly altered the combination, but not so as to affect the general appearance of the pattern. Held that this was an infringement of the copyright in the pattern—*McCrea v. Holdsworth* (6 L. R., Ch. 418; 23 L. T., 444; 19 W. R., 36 C.).

(d.) "*Knowing that the same has been so applied without the consent of the registered proprietor.*" The words of the old Act, 27 Geo. III., c. 38, repealed by the 5 & 6 Vic., c. 65, rendered it necessary that the proprietor should prove that he had not given his consent, and great difficulty was experienced in proving this knowledge. Section 7 of 5 & 6 Vic., c. 65 did not contain this provision, but required that the offender should have notice that the proprietor had not given his consent. The present Act returns nearly to the original form of words, and it will now be necessary to prove that the offender knew that the proprietor had not given his consent. Sir Geo. Jessell, in the case of *Mallett v. Howitt* (Weekly Notes, 1879, p. 107), expressed his opinion that a manufacturer of an article within the provisions of the Designs Acts was bound to inquire whether the article was already registered.

The effect of this proviso will be to render it advisable in all cases, to give notice to the proposed defendant before proceeding against him, that the design applied to the article he is publishing or exposing for sale, had been applied without the consent of the proprietor. Such a notice will fix him with knowledge, and if he does not stop then, he will be liable to the penalty, in an action for damages (section 59). On the question of notice, it was held that a notice given under section 7 of 5 & 6 Vic., c. 65, was not sufficient unless it expressly stated that the proprietor had not given his consent to the application of the design, and whether he intended to use it either (a) for the application of the design; or (b) for the sale

**Note.** of articles with the design applied—*Norton v. Nicholls* (5 Jur.,  
**Sect. 58.** N. S., 1203). It will, therefore, be not only advisable to give  
 a notice, but to take care to render the notice sufficiently  
 specific.

(e.) "*Fifty Pounds.*" The limit of penalty under the repealed Act (5 & 6 Vic., c. 100, section 8), was £30 only. And the means provided by that section for recovering the penalty by summary proceedings before justices are not re-enacted. Henceforth it will be necessary to proceed by action in the superior or county courts, to recover the same. Section 12 of repealed Act (5 & 6 Vic., c. 100), limited the time within which proceedings should be taken to twelve months from the commission of the offence. This provision is not re-enacted.

Action for  
 damages.

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

**Note.**—The Designs Rule 34 (p. 270) enables the Comptroller to give certificates for use or legal proceedings.

This section re-enacts section 9 of the repealed Act 5 & 6 Vic., c. 100. Under the repealed Acts (see note to section 58), the action must have commenced within twelve months from the infringement, but this provision has been repealed, and is not re-enacted. The action will be for the actual damages to be assessed by the Court (or by a jury, if the case be so tried) sustained by the plaintiff in consequence of the infringement. An injunction restraining the defendant from a repetition or continuance of the infringement may also be claimed and granted in such an action, or the action may be brought for an infringement alone—*McCrea v. Holdsworth* (2 De G. & S., 496; 12 Jur., 820). For a form of injunction under the repealed Acts see *Norton v. Nicholls* (4 K. & J., 475; Pemberton's Judgment, 297). See the remarks in note to section

58 upon knowledge of the defendant that application of the design was unauthorised.

Note.  
Sect. 59.

For an instance of an action for falsely representing that a particular design has been registered, whereby the plaintiff has been injured, see *Barley v. Walford* (9 Q. B., 197).

### Definitions.

**60.** In and for the purposes of this Act—

Definition  
of "de-  
sign,"  
"copy-  
right."

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

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

**Note.**—The definition of designs, is taken *ipsissima verba*, from the repealed Act of 1862 (5 & 6 Vic., c. 65, section 3). This definition of copyright renders it necessary, as pointed out in the note (*h*) to section 47, to register a design in as many classes as it is capable of application to, in order to secure complete protection. The exclusive right conferred by the Act is limited to the "class or classes in which the design "is registered." Anyone may apply the design in any other class or classes with impunity.

**61.** The author of any new and original design shall be considered the proprietor thereof, unless he executed the work on behalf of another person for a good or valuable consideration, in which case such person shall be considered the proprietor, and every person acquiring for a good or valuable consideration a new and original

Definition  
of pro-  
prietor.

**Sect. 61** design, or the right to apply the same to any such article or substance as aforesaid, either exclusively of any other person or otherwise, and also every person on whom the property in such design, or such right to the application thereof, shall devolve, shall be considered the proprietor of the design in the respect in which the same may have been so acquired, and to that extent, but not otherwise.

**Note.**—This definition of “proprietor” is taken, *ipsissima verba*, from the repealed Act of 1842 (5 & 6 Vic., c. 100, section 5).

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## PART IV.

### TRADE MARKS.

#### *Registration of Trade Marks.*

Applica-  
tion for re-  
gistration.

**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 (*a*), and must be left at, or sent by post to, the Patent Office, in the prescribed manner.

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

(4.) The Comptroller may, if he thinks fit, refuse to register a trade mark (*d*), 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 (*e*).

(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 (*f*). Sect. 62.

**Note.**—(*a.*) The Trade Marks Rules 7 to 16 (p. 277) regulate the procedure on the application to register. For fees payable see first schedule to Trade Marks Rules (p. 288). The forms prescribed as those in the second schedule to the Trade Marks Rules (p. 299), rules 4 and 5 (p. 277). A corporation or partnership may register a trade mark (rule 7).

(*b.*) The prescribed number is three (rule 13).

(*c.*) The classes of goods in which the registration is to be effected are stated in the third schedule to the Trade Marks Rules (p. 299), rule 6 (p. 277).

(*d.*) The Trade Marks Rules 17 to 19 (p. 279) provide that the applicant have an opportunity of being heard by the Comptroller before he refuses to register (see section 94, p. 222).

(*e.*) The procedure on appeal to the Board of Trade is regulated by the Trade Marks Rules 20 to 24 (p. 280).

(*f.*) The decision of the Board of Trade is final, unless the Board shall refer the appeal to the Court. The mode of reference to the Court is unprovided for. By section 117 the Court is defined. See rule 29 (p. 281) for mode of bringing matter before the Court in cases of opposition.

**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. Limit of time for proceeding with application.

**Note.**—This section is new. Its object is to clear the list of applications for trade marks of those applications which have not been proceeded with during a reasonable period. It will require careful attention. The leading point in the section is “default on the part of the applicant,” but there is nothing in the Act to define what shall be considered to be such default. No doubt the “default” in contemplation of the draftsman of the section is failure to comply with some requisition of the office.

“*Deemed to be abandoned,*” that is, the application is at an end; but there appears to be nothing to prevent a fresh application being made upon the same material as the abandoned application, subject, of course, to the risk of having been anticipated, pending the second application.

## Sect. 64.

Condi-  
tions of re-  
gistration  
of trade  
mark.

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

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

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

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

(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* (f).

(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 (g).

**Note.**—(a.)—This section is a re-enactment of section 10 of the Trades Marks Registration Act, 1875 (38 & 39 Vic., c. 91), repeating the words thereof exactly, with the important additional words *in italics* above. The Bill, upon its first introduction into Parliament, contained the above section in the exact words in which it now stands, and it has, therefore, become law, without alteration. The Memorandum indorsed thereupon (printed in extenso at Chapter IV., p. 103) stated that the definition of a trade mark has been extended to include, in addition, what was covered by section 10 of the Act of 1875—

1. Fancy words not in common use.
2. Brands.
3. Single letters as *old* trade marks (used before 13th August, 1875).

The above, therefore, are capable of registration as trade marks from and after the 1st January, 1884.

Fancy words were held not within section 10 of the Act of 1875, when not used before the coming into operation of that Act, in the case of *ex parte Stephens* (L. R., 3 Ch. D., 659; 46 L. J., Ch. 46). The word in that case was "AEILYTON." The words in clause (c) of the above section—"fancy word or

“ words not in common use ”—are inserted to meet such a case, and such words are now capable of registration.

Note.  
Sect. 64.

Single letters, as old trade marks, used before the coming into operation of the Act of 1875, were held not to be within section 10 of the Act of 1875, in the case of *re Mitchell's Trade Mark* (L. R., 7 Ch. D., 36 ; 46 L. J., Ch. 876). Messrs. Mitchell were steel-pen manufacturers, who, long before 1875, had used single letters of the alphabet, from A to W, raised in relief upon different kinds of pens manufactured by them. It was held that the words of section 10, “ combination of words or letters,” did not include the case of a single letter. The law is now amended by sub-section 3 of the above section, enacting that “ any special and distinctive word or words, letter, figure, &c., used before 13th August, 1875, may be registered as a trade mark.”

The introduction of the word *brand* seems to have been due to the necessity for meeting the tendency of the Court to adopt the very strict construction of the definition of a trade mark capable of registration, illustrated by the above cases. It is difficult to conceive any case where a *distinctive brand* would not also be a *distinctive mark*.

(b.) *Essential particulars.* As to what are *essential*, as distinguished from *non-essential*, particulars of a trade mark, the case of *in re Barrows* (L. R., 5 Ch. D., 353 ; 46 L. J., Ch. 450 and 725), especially the order made by the Court of Appeal, may be consulted. The particulars comprised in sub-section 1 are essential ; those mentioned in sub-section 2 are non-essential.

(c.) That is to say, the name distinguished in a particular manner. The registered trade mark will not, therefore, consist of the name merely, but of the name with the characteristic printing, impressing, or weaving. The name of an individual or a firm may be a trade mark ; but another person of the same name cannot be prevented from using his own name, if it is done *bonâ fide* and not fraudulently, so as to represent himself as being the other person, and so obtaining his trade—*Holloway v. Holloway* (13 Beav., 209) ; *Burgess v. Burgess* (3 De G. M. and G., 896) ; *Ainsworth v. Walmsley* (L. R., 1. Eq., 518). Such being the law, the intention is not to permit the registration of the name merely, but the name with such a characteristic way of printing, impressing, or weaving it, that an imitation of such characteristic way, would afford clear evidence of the fraudulent attempt to appropriate trade.

(d.) The written signature, or copy of the written signature, is, of course, the name of the individual or firm “ printed, impressed, or woven in some particular or distinctive



**Note.** “manner,” and the remarks of the above note equally apply.  
**Sect. 64.** Where M. applied to register as his trade mark, his signature in combination with the descriptive words, “Filtre Rapide,” he was allowed to do so, but had to pay the costs of the Registrar of Trade Marks—*Re Maignen’s application* (28 W. R., 759, M. R.).

(e.) The words “Family Salve” were held to be a distinctive heading within section 10 of Act of 1875—*Reinhardt v. Spalding* (49 L. J., Ch. 57; 28 W. R., 300). It was doubted whether the scientific name of a tree, “Limetta,” was a sufficiently distinctive word to be capable of registration as an old mark in respect of lime juice—*Rose v. Evans* (48 L. J., Ch. 618).

A word in foreign characters (Arabic) was held to be a distinctive device, overruling the direction of the Commissioners of Patents—*Re Rotherham’s Trade Mark* (L. R., 14 Ch. D., 585; 49 L. J., Ch. 511).

(f.) The word “figures” in sub-section 2 means numerals—*Jessell, M. R., ex parte Stephens* (L. R., 3 Ch. D., 660).

The matters mentioned in sub-section 2 are *non-essential* particulars; those in sub-section 1 are essential particulars.

(g.) See Note (a), *supra*. A trade mark, used as such before 13th August, 1875, is an “old” trade mark. The following cases, in addition to those above noted, have been decided upon section 10 of the Act of 1875, of which the above section is a re-enactment, with certain additions already pointed out—*Ransome v. Graham* (51 L. J., Ch. 897; 47 L. T., 218); see the note to section 66, *infra*; *re Worthington and Co.’s Trade Mark* (L. R., 14 Ch. D., 8); *re Robinson’s Trade Mark* (29 W. R., 31), both shortly stated in the note to section 67, *infra*; *Benbow v. Low* (44 L. T., 875; 29 W. R., 837, V. C. B.); *re Jelley’s application* (51 L. J., Ch. 639 n.; 46 L. T., 381 n.); *re Braby’s application* (L. R., 21 Ch. D., 223; 51 L. J., Ch. 637); *re Dugdale’s Trade Mark* (49 L. J., Ch. 303); see note to section 72, *infra*; *re Whiteley’s Trade Mark* (43 L. T., 627 n.; 29 W. R., 235 n.); see note to section 65, *infra*.

Con-  
 nec-  
 tion of  
 trade  
 mark with  
 goods.

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

**Note.**—This re-enacts the first clause of section 2 of the repealed Act of 1875.

The classes of goods are regulated by the Trade Marks Rules, No. 6 (p. 277), and are set out in the third schedule thereto, printed at p. 299.

The trade mark when registered is a trade mark for the particular goods or classes of goods only for which it has been registered. Trade marks may be registered for as many classes of goods as may be desired, if no mark so closely resembling them as to be likely to deceive (section 72) is already on the register in respect of any of the goods or classes of goods.

Note.  
Sect. 65.

A trade mark may be registered for part of a class only.

In *re Bury & Co.* (cross-summons to *re Rabone Brothers & Co.*) before the Master of the Rolls, 15th February, 1879, registration was allowed for part of a class, and user was confined to certain colonies; in *re Brook* (26 W. R., 791) registration was allowed for cotton thread only; in *re Jelley, Son & Jones*, before the Master of the Rolls, 18th May, 1878 (51 L. J., Ch. 639 n.; 46 L. T., 381), where the application was to register a trade mark in class 5 as a new mark for wire fencing, in class 12 as a new mark in respect of files and many other articles, in class 13 in respect of screw wrenches and many other articles; and it being opposed, it was, after argument held, upon the evidence, that the applicants were entitled to register it as an old mark in class 13 in respect of all the articles; and as a new mark in class 5 in respect of wire fencing, but not as a new mark in Class 12, as the applicants had not applied the mark to articles in that class, and the mark resembled that of their opponents, who had on the register a trade mark which they had applied to similar articles in class 12, and, therefore, to allow the applicants to register it in that class would be calculated to deceive the public (Mr. Rigby, *arguendo*, 11 Ch. D., 673); see also *ex parte Barrow & Co.* (Weekly Notes, 1877, p. 119; Notes of Cases, L. J., 1877, p. 110). In the case of *re Whiteley's Trade Mark* (43 L. J., 627 n.; 29 W. R., 235 n.) W. applied for the registration of an old trade mark for goods in Classes 11, 12, and 13, having used the mark in connection with the goods comprised in those classes in a particular manner. His application was opposed by a firm, who had for many years used, and had obtained registration of a similar mark, which, however, they used in a different manner from that in which W. used his mark, but upon the same classes of goods; and it was held that registration should be granted to W. on his undertaking (to be noted on the register) not to use his mark in the manner in which the opposing firm used their mark, nor otherwise than in the manner in which he had previously used it.

This case was followed in *re Sykes' Trade Mark* (43 L. T., 626; 29 W. R., 235), the circumstances of which were as follows:—Sykes & Co., of Edgeley, a firm of calico bleachers, having applied for registration as cotton marks, of two marks

**Note.**  
**Sect. 65.**  
—

long used by them, consisting of (1) a shield in outline, containing the figure of a swan, and the letters "S. & Co., E"; it also contained three other letters, subject to variation, indicating the date of packing; and (2), a shield in outline, with the letters "R. S. E.," indicative of the former title of the firm, and varying letters as in the other mark. Bleachers' marks are used in a particular mode, being stamped within the fold of the calico before the parcel is stitched up. The Committee of Experts on Cotton Marks (now abolished) considered those marks were not trade marks within the Act, on the grounds that the letters were not quality marks, that swans were common in the trade, and that borders must be regarded. On application to the Court, it was held that registration of both marks ought to be proceeded with, and that with the registration there should be entered on the register a note of an undertaking by the applicants not to use the marks otherwise than in the limited mode in which they had formerly applied them. *In re Braby & Co.'s application*, decided in 1882 (L. R., 21 Ch. D., 223; 51 L. J., Ch. 637) Mr. Justice North held that a new mark may be registered for some of the goods in a class, even although an old mark of similar kind has been already registered for other goods in the same class, provided that the goods and the trade of the proprietors are sufficiently distinct for no confusion to take place.

Registra-  
tion of a  
series of  
marks.

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

**Note.**—This is a new and useful provision.

It is intended to meet the difficulty which arose *in re Barrow's Trade Marks* (L. R., 5 Ch. D., 353), and in several other cases. Hitherto such varying marks have sometimes been considered separate marks, and resembling each other in their essential particulars, more than one could not be registered

without infringing the rule re-enacted by section 72 of the present Act, that there should not be registered in respect of same description of goods, trade marks so nearly resembling another as to be calculated to deceive. Now such marks can be registered with their non-essential variations mentioned in the above section in a series as one registration, *i.e.*, as one mark with the variations. Note.  
Sect. 66.

Vice-Chancellor Bacon held, in *Ransome v. Graham* (51 L. J., Ch. 897; 47 L. T., 218), that where a manufacturer placed on his goods a series of combinations of letters as trade marks, each of which served to indicate to purchasers (1) that the goods are made by the person using the mark; and (2) the quality of the goods, as compared with the goods respectively bearing the other marks in the series, the marks being exclusively used by the manufacturer—such series of letters were valid trade marks, and might be registered, notwithstanding that they were indicative of the quality of the goods to which they are applied.

The above section adopts and amplified this decision.

Refer to Trade Marks Rules 14 and 28 (pp. 279, 281), as to the registration of a series of marks.

Refer to Schedule of Trade Marks Fees, No. 4 (p. 288), for fees payable.

**67.** A trade mark may be registered in any colour, and such registration shall (subject to the provisions of this Act) confer on the registered owner the exclusive right to use the same in that or any other colour. Trade  
marks may  
be regis-  
tered in  
any colour.

**Note.**—This is a new and important provision. Under the Act of 1875 no notice was taken of colour, and yet colour, in many marks, was a very distinctive feature, such as Messrs. Bass & Co.'s triangular red mark, but no protection could be obtained therefor. This defect in the Act was much discussed in the case of *re Worthington & Co.'s Trade Mark* (L. R., 14 Ch. D., 8), where it was held by the majority of the Court of Appeal, that a triangle, with a double outline, with the words "Beccles Brewery," inscribed within the outline, and having within the triangle the figure of a church, would be so similar to Bass & Co.'s plain red triangle as to be calculated to deceive, because Worthington & Co. would be able to use it in any colour they pleased. But in *re Robinson's Trade Mark* (29 W. R., 31, M. R.), where he applied to register a gold mohur, and D., who was proprietor of a cotton trade mark, consisting of a silver rupee, opposed, it was held that his mark was not calculated to deceive, because in such cases the mark protected is the

**Note.** registered mark, which has been deposited, and of which the  
**Sect. 67.** representation can be seen at the places mentioned in the  
 advertisement. Now the above section enables the proprietor  
 of the trade mark to register it in any colour, but by doing so  
 he obtains the exclusive right to use it in any other colour (*i.e.*,  
 all other colours) as well.

Advertise-  
 ment of  
 applica-  
 tion.

**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.

**Note.**—This section adopts and enacts as law the provisions contained in rule 13 of the rules under the Trade Marks Registration Acts of 1875 and 1877. On that rule there has been the decision of, *in re Meikle* (46 L. J., Ch. 17 ; 24 W. R., 1067). The Registrar of Trade Marks had refused to advertise an application for a trade mark of which the word "Registered" formed a part. On a summons by the applicant it was held that the Court could not order the trade mark to be registered, as there had not been the necessary advertisement, and that it could not interfere with the refusal of the Registrar to advertise.

Refer to Trade Marks Rules 25 to 28 (p. 280) as to the advertisement, and as to power of the Comptroller to require a wood block or electrotype of the mark for the purposes of the advertisement.

Opposi-  
 tion to re-  
 gistration.

**69.** (1.) Any person may within two months of the first advertisement of the application, give notice in duplicate at the Patent Office of opposition to registration of the trade mark, and the Comptroller shall send one copy of such notice to the applicant.

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

(3.) If the applicant sends such counter-statement, the Comptroller shall furnish a copy thereof to the person who gave notice of opposition, and shall require him to give security in such manner and to such amount as the Comptroller may require for such costs as may be awarded

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. Sect. 69.

(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.

**Note.**—This section adopts and enacts as law the provisions contained in rule 16 of the rules under the Trade Marks Registration Acts of 1875 and 1877. The time within which the notice of opposition was to be given, was not provided in that rule. It is now fixed at two months from the first advertisement of the application by the Comptroller. The time within which, after his receipt of the notice of opposition, the applicant was to send him his counter-statement, was three weeks under the old practice. It is now two months, or such further time as the Comptroller may allow. In all other respects, the above section and rule 16, are identical.

For regulations as to, and form of, *Notice of Opposition* see Trade Marks Rules 29 (p. 281), and Trade Marks Form J (p. 292). For fees payable with Notice of Opposition (see Trade Marks Fees No. 5 (p. 288)). The rules are silent as to the method of giving security for costs, but the Comptroller will, in each case, give directions. The ordinary mode of giving security is by bond; any form of bond, satisfactory to the Comptroller, may be adopted. As to entry in register of disallowance of opposition (see Trade Marks Rule 44 p. 284).

No form of counter-statement is provided by the rules, so that any form may be adopted, *e.g.*, “By way of counter-statement I rely upon the following grounds:”—

For mode of bringing the matter before the Court, see rule 29 (p. 281): see *re Simpson, Davies & Son's Trade Mark* (15 Ch. D., 525); *re Johnston's Trade Mark* (43 L. T., 672, Fry, J.).

As to Registrars (Comptroller's costs), *re Rotherham's Trade Mark* (14 Ch. D., 585; 49 L. J., Ch. 511; 43 L. T., 1) where it was held that the Court had no jurisdiction to give costs against him—*Re Orr-Ewing's Trade Mark* (28 W. R., 412, V.-C. H.).

The Court has no jurisdiction to order the payment of costs incurred before the case stands for the determination of the Court, but it has with regard to the costs incurred after; and,

**Note.** in a proper case, will give them to the successful party—*Re Sect. 69.* Brandreth's Trade Mark (L. R., 9 Ch. D., 618 ; 47 L. J., Ch. 816).

Assign-  
ment and  
transmis-  
sion of  
trade  
mark.

**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.

**Note.**—This section re-enacts, in the identical words, a portion of section 2 of the Act of 1875.

For regulations as to the assignment and transmission of trade marks, see Trade Marks Rule 34, *et seq.* (p. 282). In case of death, see rule 31 (p. 282).

For forms applicable thereto, see Trade Marks Forms (p. 290), &c.

In connection with the goodwill of the business see *Cooper v. Hood* (26 Beav., 293); *Churton v. Douglas* (Johns., 174); *Shipwright v. Clements* (19 W. R., 599); *Cotton v. Gillard* (44 L. J., Ch. 90).

*Goodwill* according to Lord Hatherley, then Wood, V.-C., in *Churton v. Douglas* (Johns., 174), means "Every advantage that has been acquired by the old firm in carrying on its business, whether connected with the premises in which the business was previously carried on, or with the name of the late firm, or with any other matter carrying with it the benefit of the business."

Tindal, C. J., in *Hitchcock v. Colker* (6 Ad. & E., at p. 454), said:—"The goodwill of a trade is a subject of value and price. It may be sold, bequeathed, or become assets in the hands of the personal representative of a trader." It may be sold by the trustee of a bankrupt owner—Bankruptcy Act, 1869, sec. 25, par. 6; Bankruptcy Act, 1883, sec. 56, par. 1). And the trade mark passes to a trustee in Bankruptcy and, together with the goodwill of the business, may be dealt with and sold by him—*Hudson v. Osborne* (39 L. J. Ch. 79); *Bury v. Bedford* 33 L. J., Ch. 465).

In the sale of a business, including the goodwill thereof, a trade mark will pass to the purchaser without special mention—*Shipwright v. Clements* (19 W. R., 599).

Rule 25 under the Trade Marks Registration Acts, 1875-77, provided that any transmittee may assign his interest in the mark, notwithstanding that he has not been registered as proprietor thereof. This rule is not, however, repeated by the new rules.

**71.** Where each of several persons claims to be registered as proprietor of the same trade mark, the Comptroller may refuse to register any of them until their rights have been determined according to law, and the Comptroller may himself submit or require the claimants to submit their rights to the Court. Sect. 71.  
—  
Conflict-  
ing claims  
to regis-  
tration.

**Note.**—This section re-enacts the provisions of the second clause of section 5 of the Act of 1875. Refer to Trade Marks Rules 41 to 43 (p. 283), as to procedure, &c., and to Trade Marks Fees (p. 288).

**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. Restrictions on registration.

(2.) The Comptroller shall not register with respect to the same goods or description of goods a trade mark so nearly resembling a trade mark already on the register with respect to such goods or description of goods as to be calculated to deceive.

**Note.**—This section re-enacts in slightly varying phraseology the provisions of the first clause of section 6 of the Act of 1875 and of rule 19 under the Acts of 1875 and 1877. Upon that section and rule, the following decisions have been given:—

The Court would, under this rule 19, direct a trade mark to be registered if satisfied of its dissimilarity to marks already registered, without inquiring whether it be distinguishable from other marks the subjects of pending applications to register—*Re Dugdale's Trade Mark* (49 L. J., Ch. 303; 28 W. R., 436, Vice-Chancellor Hall).

The rule of the Court was to permit registration, under section 6 of the Act of 1875, of identical trade marks up to three, although, if more than three applications are made for similar trade marks, notwithstanding such trade marks are old (in use before 13th August, 1875), registration will be refused on the ground that such mark is common property—*Benbow v. Low* (44 L. T., 875; 29 W. R., 837, Vice-Chancellor Bacon).

In the case of *re Walkden's Aerated Water Co.*, heard on the



**Note.**  
**Sect. 72.**

8th June, 1877, the late Master of the Rolls, Sir Geo. Jessel, said that "the Lord Chancellor was of opinion that the number of times which a *new* device or emblem might be registered as a trade mark for articles of the same class, ought, for the sake of distinctiveness, in no case to exceed three."

In *re* Jelley's application (51 L. J., Ch. 639 n.; 46 L. T., 381 n.), decided in 1878, it was held that old marks, whether cutlers marks or not, may be registered up to the number of *three* by different persons in respect of the same goods, even if identical; but this does not apply to new marks (query, see *re* Walkden, *supra*), and if the same old mark has been used in respect of the same goods by more than three different persons, it is a common mark.

In *re* Hargreave's Trade Mark (L. R., 11 Ch. D., 669; 27 W. R., 450), where there were four trade marks including an anchor, registered in respect of goods in class 42 (substances used as food) the Court refused to give leave to the Registrar to register a new trade mark, including an anchor, in respect of goods in the same class, but different in character from those goods in which the four trade marks had been registered.

In *re* Braby's application, *in re* Shropshire Iron Co.'s Trade mark (L. R., 21 Ch. D., 223; 51 L. J., Ch. 637), it was decided a new mark may be registered in respect of *some of the goods in a class*, although an old mark of a similar kind has been already registered *for other goods in the same class*, provided that the goods and the trades of the proprietors are sufficiently distinct for no confusion to take place. This case followed, and was decided upon the authority of, *in re* Jelley's application, reported as above, which had already decided the same point.

See also the cases of *re* Whiteley's Trade Mark (43 L. T., 627 n.; 29 W. R., 235, n.); and *re* Sykes' Trade Mark (43 L. T., 626; 29 W. R., 235), shortly stated in the note to section 65, *supra*.

See also *ex parte* Barrow & Co. (Weekly Notes, 1877, p. 119), when Sir Geo. Jessel held that the proprietor of an old trade mark might have it registered for part of a class only, and gave leave to a firm applying to register in the class for metal goods to have it registered for tin and terne plates only; see also *in re* Barrow's Trade Mark (L. R., 5 Ch. D., 353).

"*Calculated to deceive.*" The late Master of the Rolls, Sir Geo. Jessel, in the case of *Allsopp v. Walker*, decided upon the 10th April, 1877, refused to register a female hand, printed horizontally, as being too similar to a man's hand held upwards.

The observations of Lord Cranworth, L. C., in giving judgment in the case of *Seixo v. Provezende* (reported L. R., 1 Ch., 196), appear to afford a rule as to what will be considered calculated to deceive. "What degree of resemblance is necessary, from the nature of things, is a matter incapable of definition, *à priori*. . . . It is a mistake to suppose that the resemblance must be such as would deceive people who should see the two marks side by side. The rule so restricted would be of no practical use. If a purchaser looking at the article offered to him would naturally be led, from the mark upon it, to suppose it to be the production of the rival manufacturer, and would purchase it in that belief, the Court considers the use of such a mark to be fraudulent" (therefore calculated to deceive). "But I go further; I do not consider the actual physical resemblance of the two marks to be the sole question for consideration. If the goods of a manufacturer have, from the mark or device he has used, become known in the market by a particular name, I think the adoption of any mark which would cause a rival trader's goods to bear the same name in the market, may be as much an invasion of the rights of the other as an actual copy of his device."

Note.  
Sect. 72.

In the case of *Orr-Ewing & Co. v. Johnston & Co.* (L. R., 13 Ch. D., 434), it was held by the Court of Appeal, that if one trader appropriates a material and substantial part of a trade mark which belongs to another trader, he is bound to use such precautions as to avoid the reasonable probability of error and deception, and the *onus* is upon him to show that purchasers of the goods will not be deceived. And that where the goods of a trader have acquired in the market a name derived from a part of the trade mark which he affixes to them, a rival trader is not entitled to use a ticket which is likely to lead to the application of the same name to his goods, even though that name is not the only name by which the goods of the first trader have been known, or though it has been always used in conjunction with some other words. This decision was affirmed in the House of Lords (L. R., 7 App. Cases, 219), the decision of which is shortly summarised as follows:—No trader has a right to use a trade mark so nearly resembling that of another trader as to be likely to mislead incautious purchasers.

The rules are silent as to the procedure for getting the decision upon the questions arising upon the above section, but the mode will be that pointed out by rule 29 (p. 281), by summons at Chambers, to be adjourned into Court. Refer to rule 44 (p. 284), as to entry in register of order of Court.

## Sect. 73.

Further  
restric-  
tion on re-  
gistration.

**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.

**Note.**—This section re-enacts, in the same words precisely, the last clause of section 6 of the Act of 1875.

As to what may be calculated to deceive see the note to section 72.

“*Be deemed disentitled to protection in a court of justice.*”  
—Any false statement or misrepresentation on the part of the plaintiff of a nature calculated to deceive the public, will, in a Court of Equity (and now all Courts are Courts of Equity), deprive him of his right to protection.

In *Perry v. Truefitt* (6 Beav., 66), the plaintiff sold a substance as “Perry’s Medicated *Mexican Balm*,” and represented in the label “this admirable composition was made from an original recipe of the learned Von Blumenbach, and was presented to the proprietor by a near relative of that illustrious physiologist.” The balm did not come from Mexico, and the statement as to recipe was untrue. Held the plaintiff was not entitled to an injunction against an infringer of his labels or marks on the ground of the misrepresentations therein.

In *Edelstein v. Vick* (11 Hare, 78), it was laid down by the Court—“I am particularly anxious that it should be understood by all persons applying to the Court . . . that they should show that they themselves have not been guilty of any fraud or misrepresentation, and that if they have made any representations to the public, they must shew that such representations have not been made without foundation or with fraudulent intent.”

In *Leather Cloth Co. v. American Leather Cloth Co.* (11 H. L. C., 523), it was decided the Court would not protect plaintiffs, who used a label or advertisement containing false statements about their goods; see also *Pidding v. How* (8 Sim. 477); *Hogg v. Kirby* (8 Ves., 215); and as to the untrue use of the word “patent,” the judgment of Vice-Chancellor Wood, in *Morgan v. McAdam* (36 L. J., Ch. 228), and Lord Justice Mellish, in *Singer Co. v. Wilson* (L. R., 2 Ch. D., 434-56); *Lamplough v. Balmer* (Weekly Notes, 1867, p. 293); see also Chapter III., p. 85, *et seq. supra.*)

The principle does not apply, apparently, to mere puffing advertisements—*Holloway v. Holloway* (13 Beav., 209).

**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 (1)—

**Sect. 74.**  
—  
Saving for power to provide for entry on register of common marks as additions to trade marks.

(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 (2);

(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 (3)—

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.

(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 (4).

**Note.**—This section is new. In effect it gives legislative affirmation to, and carries out the principle of the decision in *re Braby's application*, and *re Jelley, Son and Co.'s application* (see note to section 72); *re Whiteley's Trade Mark*, and *re Sykes' Trade Mark* (see note to section 65), viz., to permit the registration of marks, although already used by others, when it can be done without injuring the latter.

**Note.**  
**Sect. 74.**

(1.) “*An addition to any trade mark;*” *i.e.*, there must be a substantive trade mark, to which the common mark is to be registered as an addition. The common mark is not the trade mark, but only part thereof.

(2.) Compare the definitions in clauses (b) and (c) of section 64.

(3.) Note the distinction in this section as between *old* (in use before 13th May, 1875), and *new* (first used after that date) marks.

(4.) See note to section 72.

### *Effect of Registration.*

Registra-  
tion equi-  
valent to  
public use.

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

**Note.**—This section is taken from and re-enacts the chief provision of section 2 of the Act of 1875. Before that enactment it was necessary to entitle the owner of a trade mark to obtain the protection of the Courts against an infringement of it, that goods, to which it related, should actually have been sold or on sale in the market with it attached, which alone was held to be “public use” thereof. Advertisement with actual sale, or offering for sale, was insufficient, *McAndrew v. Bussett* (33 L. J., Ch. 561), where Lord Chancellor Westbury stated, p. 568, that the article marked with the trade mark being “actually a vendible article in the “market” was essential to property in a trade mark; and *Maxwell v. Hogg* (L. R., 2 Ch. 307), when it was held by Turner and Cairns, L.J.J., that advertisements and expenditure on the part of the plaintiff in announcing a new magazine with the title of “Belgravia,” did not, before the actual issue of such magazine, give him the exclusive right (*i.e.*, trade mark) thereto. But see *Johnson & Co. v. Orr-Ewing & Co.* (L. R., 7 App. Cas., 219), decided in 1882, where the House of Lords held that the use of a trade mark might be restrained by injunction, although no purchaser *had been actually misled*, for the very life of a trade mark depends upon the promptitude with which it is vindicated; see also *Singer Co. v. Looy* (L. R., 8 App. Cas., 15), decided December, 1882, where the House of Lords held that a trader has a right to make and sell machines similar in form and construction to those made and sold by a rival trader, and in describing and advertising his own machines, to refer to his rival’s machines and name, provided he does this in such a way as to obviate any reasonable possibility of misunderstanding or deception.

**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.

**Sect. 76.**  
—  
Right of first proprietor to exclusive use of trade mark.

**Note.**—This section is taken from, and re-enacts section 3 of the Act of 1875. Upon that section there have been the following important decisions—*re* Hyde & Co.'s Trade Mark (L. R., 7 Ch. D., 724; 38 L. T., 777), where it was held, upon an application under section 5 of the Trade Marks Registration Act of 1875 (the powers of which, in this respect, are re-enacted by section 90 of the present Act) to remove from the register a trade mark of H. & Co., who had registered it as a trade mark after duly advertising it as prescribed by the Act, claiming 41 years user; but it appeared that, for the greater part of that time the mark had been a common mark, and for about six years had been so to the knowledge of H. & Co., and that the applicants, who had long used the same trade mark, were not aware of the advertisement, and had not opposed the registration;—that the trade mark must be removed from the register as having been improperly registered, and that there had been no laches on the part of the applicants, and that H. & Co. must pay the costs of the application to remove their mark from the register; and,

*Re* Palmer's application (L. R., 21, Ch. D., 47; 51 L. J., Ch. 673; 46 L. T., 787), in which Palmer had registered under the Act of 1875, the words "Braided fixed stars," as a trade mark for matches. After the expiration of five years another firm of manufacturers (Bryant and May) applied to cancel the registration, on the ground that the words could not be registered as a trade mark, for that "fixed stars" was a name well known in the trade for a particular description of matches before Palmer used the alleged trade mark, and that the words "braided fixed stars" were only a proper description of a kind of matches made by Palmer, under a patent which had recently expired, and which matches were, at the time of the registration, well known in the trade by that name, and differed from the fixed stars formerly known by having a braided stem, which was the subject of the patent. Chitty, J., held that even if section 3 of the Act of 1875 did not make registration after lapse of five years therefrom conclusive evidence that the alleged trade mark was a proper trade mark (which he thought it did), it, at all events, excluded evidence to show that the words which, *prima facie*, appeared to be fancy words,

**Note.**  
**Sect. 76.**

and proper to constitute a trade mark, were not capable of constituting one. He, therefore, declined to hear evidence on the subject, and refused the application. But on appeal, held by Jessell, M. R., and Cotton and Lindley, L.J.J., *that a mark which is not authorised to be registered as a trade mark, cannot acquire the character of a trade mark by being on the register for five years, and may be removed from the register, although that period has elapsed, and the evidence ought therefore to have been admitted which went to show that at the time of the registration the words "braided fixed stars" were merely descriptive of a kind of matches well known in the trade. Although not necessary for their decision, and, therefore, not so deciding, the Court also appeared to be of the opinion (see Judgment of Jessel, M. R., pp. 59, 60; L. R., 21 Ch. D.) that a person sued for infringing a registered trade mark which had been on the register for more than five years, might defend himself successfully by showing that the trade mark, although registered, was not a trade mark within the Act, and, therefore, never ought to have been registered. It is understood that this decision has been appealed from to the House of Lords. Its correctness, however, is not doubted by the profession generally.*

The obvious effect of these two decisions is, (first) that any mark which was not a fit subject for registration, will be removed from the register on the application to the Court; (secondly), whether it has been so registered for less or more than five years, and (three) that, while such mark remains on the register the registration confers no rights upon the person in whose name it has been registered.

Restric-  
tions on  
actions for  
infringe-  
ment, and  
on defence  
to action  
in certain  
cases.

**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 (a), it has been registered in pursuance of this Act, or of an enactment repealed by this Act (b), 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.

**Note.**—This section is taken from, and re-enacts, the similar provision contained in sections 1 and 2 of the Act of 1876 (the

Trade Marks Registration (Amendment) Act (39 and 40 Vic., c. 33). No action can be brought unless the trade mark has been registered, or, in the case of an old mark, registration refused, and certificate of refusal obtained. There may be, and probably are, many cases where a trade mark which does not come within the definition contained in the Act of 1875, or the present Act has, by user before the Trade Marks Register was established, and a restrictive definition of a trade mark legislatively adopted, become exclusively the property of the persons using them. In such cases, since the object of the Act was not retrospective, these marks are not deprived of the protection of the law against infringement; but to secure the registration of all marks coming within the definition, the provision is made that no action be brought until registration has been refused, and, to secure clear evidence of such refusal, the obtaining the certificate of refusal is made imperative. Refer to Trade Marks Rule 57 (p. 286), to Form L (p. 293), and to No. 8 Fees (p. 288) as to certificate of refusal.

Note.  
Sect. 77.

(a.) See definition of a trade mark under this Act, section 64; and of "additions," section 74.

(b.) For definition of trade marks under former Acts, see section 10 of Act of 1875.

### *Register of Trade Marks.*

**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.

Register  
of Trade  
Marks.

**Note.**—The register to be kept under this section will be a continuation of the register established by section 1 of the Act of 1875. Refer to Trade Marks Rules 30 to 43 (p. 282) as to Register of Trade Marks.

**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

Removal  
of trade  
mark after  
fourteen  
years  
unless fee  
paid.



Sect. 79. (naming the date at which the same will expire) the prescribed fee (*a*); 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 (*b*), 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 (*c*), 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 next after the date of such removal, be deemed to be a trade mark which is already registered (*d*).

**Note.**—This section is taken from, and re-enacts in the precise words, rules 30, 31, 32, and 33 of the rules of September, 1876, under the Trade Marks Registration Acts of 1875 and 1877. Fourteen years not having elapsed since the establishment of the Trade Marks Register, in 1876, there are no cases upon the interpretation of this section. The Comptroller will probably read the word *may* as *must*, and will deem it his duty to remove the marks from the register if the renewal fee be not paid within the time limited.

(*a*.) The prescribed fee is £1; see Trade Marks Fees (p. 288).

(*b*.) The additional prescribed fee is 10s.

(*c*.) The prescribed additional fee is £1.

Refer to Trade Marks Rule 45 (p. 284), and 52 (p. 285),

giving power to Comptroller to enlarge the time for doing any act.

Note.  
Sect. 79.

(d.) So as to prevent the registration of a same, or similar mark, during the five years.

### *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.

**Note.**—By the Trade Marks Rule 3 (p. 277), the fees payable are those specified in the first schedule thereto, which is printed at p. 288, *infra*.

### *Sheffield Marks.*

**81.** With respect to the master, wardens, searchers, assistants, and commonalty of the Company of Cutlers in Hallamshire (a), 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:—

Registra-  
tion by  
Cutlers'  
Company  
of Shef-  
field  
marks.

- (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

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—

used before the commencement of this Act, but which have not been entered in the register established under the Trade Marks Registration Act, 1875 ;

- (3.) An application for registration of a trade mark used on cutlery, edge tools, or on raw steel, or on goods made of steel, or of steel and iron combined, whether with or without a cutting edge, shall, if made after the commencement of this Act by a person carrying on business in Hallamshire, or within six miles thereof, be made to the Cutlers' Company ;
- (4.) Every application so made to the Cutlers' Company shall be notified to the Comptroller in the prescribed manner (*b*) ; 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 (*c*) ;
- (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- Sect. 81.  
 section shall not prejudice or affect any life,  
 estate, and interest of a widow (*d*) of the holder  
 of any Sheffield mark which may be in force in  
 respect of such mark at the time when it shall  
 be placed upon the Sheffield register ;

- (8.) Where the Comptroller receives from any person not carrying on business in Hallamshire or within six miles thereof an application for registration of a trade mark used on cutlery, edge tools, or on raw steel, or on goods made of steel, or of steel and iron combined, whether with or without a cutting edge, he shall, in the prescribed manner (*e*), 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 (*f*) ;
- (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

## Sect. 81.

is to say, the fifth section of the Cutlers' Company's Act of 1814 (*g*), 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 (*h*), shall apply to any mark entered in the Sheffield register.

**Note.**—(*a.*) The Company of Cutlers of Hallamshire, in the County of York, was incorporated by statute in the reign of James I. (1624), since which time the Company has exercised the privilege of assigning trade marks to persons engaged in the cutlery manufacture of the district.

An abridgment of the Acts of Parliament relating to the Company is printed at p. 307.

The above section is adopted from, but alters very considerably, the provisions relating to Sheffield marks, contained in section 5 of the Act of 1875, which, it is stated on the Memorandum upon the Bill which has become the present Act, upon its introduction into the House of Commons, were unworkable. The Cutlers' Company are now to establish a new registry for trade marks used in cutlery, edge tools, raw steel, goods made of steel, or steel or iron combined, whether with or without a cutting edge, by persons carrying on business in Hallamshire, or within six miles thereof. All applications for trade marks in respect thereof are to be made to the Cutlers' Company, at Sheffield, and not to the office in London. And, to make the register complete, all trade marks which have been registered under the Act of 1875, relating to such goods, and belonging to persons carrying on business in Hallamshire, or within six miles thereof, are to be entered in the new register. Upon registration by the Cutlers' Company of a new mark, they are to give notice thereof to the Comptroller at the London office, who is to immediately enter the same on the Register of Trade Marks, such registration to bear date the day of application to the Cutlers' Company.

The Trade Marks Rules 53 to 56, regulate the procedure with regard to applications for register to the Cutlers' Company.

(*b.*) By Trade Marks Rule 54.

(*c.*) The rules are silent as to the mode of appealing. The proper method would be by motion that the Company should proceed to register.

(*d.*) By section 23 of the Cutlers' Company Act of 1791, the widow of any freeman of the Cutlers' Company may use the mark of her deceased husband during her life, or may

sell the right to use it. to any person entitled to carry on the trade ; and section 2 of the Cutlers' Company's Act of 1801 enables a freeman to devise his mark by will, subject to the life interest of his widow therein ; and by section 3, if he made no will, the mark is to be the property of such of his family or relatives, as may be entitled to use it. Note.  
Sect. 81.  
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(e.) By Trade Marks Rule 55 (3) p. 286.

(f.) It will be necessary, therefore, that the owners of all Sheffield corporate marks should apply for registration of their marks in the Sheffield register within five years from 1st January, 1884, or they will lose their rights in them.

(g.) £20 for each offence, half to go to the company, and half to the person whose mark was infringed—See Abridgment, p. 307.

(h.) By sections 26 and 27 of the Act of 1791, the penalties can be sued for in any Court of Record, and, by summary proceeding, before justices of the West Riding of Yorkshire or of Derbyshire—See Abridgment, p. 307.

## PART V.

### GENERAL.

#### *Patent Office and Proceedings thereat.*

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

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

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

(4.) Any act or thing directed to be done by or to the Comptroller may, in his absence, be done by or to

**Sect. 82.** any officer for the time being in that behalf authorised by the Board of Trade.

**Note.**—The offices of the Commissioners of Patents are situated at 25, Southampton Buildings, London.

Officers  
and  
Clerks.

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

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

Seal of  
Patent  
Office.

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

Trust not  
to be  
entered in  
registers.

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

**Note.**—This section is adopted from rule 22 of the rules under the Trade Marks Registration Acts of 1875-1877. It makes an alteration in the law as regards patents. There was nothing in section 35 of the repealed Act of 1852 to prevent the entry of any deed assigning or dealing with a patent containing a trust of any kind in the Register of Proprietors of Patents required to be kept by that section.

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.

**Note.**—As for housebreaking implements or machinery for coining false money.

**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 (a). The person for the time being entered in the register of patents, designs, or trade marks, as proprietor of a patent, copyright in a design or trade mark as the case may be, shall, subject to any rights appearing from such register to be vested in any other person, have power absolutely to assign, grant licenses as to, or otherwise deal with, the same, and to give effectual receipts for any consideration for such assignment, license, or dealing (b). 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 (c).

**Sect. 87.**  
Entry of assignments and transmissions in registers.

**Note.**—The Trade Marks Rules, 34 to 43 (p. 282), regulate the procedure for the entry upon the register of any assignment or other transmission of the property in a trade mark. The Trade Marks Forms J, N, and O, in the second schedule to the Trade Marks Rules (p. 290) are the forms prescribed. The Trade Marks Fees, Nos. 6, 7, 15, and 20 (p. 288), are those payable.

(a.) If the Comptroller were not satisfied with proper evidence the Court, under section 90, would order the entry to be made.

(b.) Under section 35 of the Patent Law Amendment Act of 1852 (repealed by this Act) the terms of which were:—  
“ Provided always that such entry (of assignment, or license in the Register of Proprietors) shall have been made, the grantee or grantees of the Letters Patent shall be deemed and taken to be the sole and exclusive proprietor or proprietors of such Letters Patent, and of all the licenses and privileges thereby given and granted,” it was held that an assignee of a patent could not bring an action for an infringement until his assignment had been registered—*Chollett v. Hoffman* (7 E. & B., 686; 26 L. J., Q. B., 249). But that it was no ground of objection to the title of an assignee of a patent that the assignors, the executors of the grantee, omitted to register the probate until after the date of the assignment, although it might be an obstacle to the maintenance of an action by the assignee for an



**Note.** infringement if commenced before the registration of the pro-  
**Sect. 87.** bate—*Ellwood v. Christy* (17 C. B., N. S., 754; 34 L. J.,  
 — C. P., 130).

An assignee of a patent may maintain an action for an infringement, even though he has acquired the right by assignment of two separate moieties, and the party sued is the original grantee. And an action is maintainable, although there has been no infringement since the defendant has received notice that the entire interest in the patent has become vested in the assignee—*Walton v. Lavater* (8 C. B., N. S., 162; 29 L. J., C. P., 275).

An assignee of a separate and distinct portion of a patent may sue alone for an infringement of that part without joining one who has interest in another part; the damages recovered in the action accruing to the former alone—*Dunnicliff v. Mallett* (7 C. B., N. S., 209; 29 L. J., C. P., 70).

The assignee of a patent may maintain a suit against the assignor and subsequent licensees of the assignor, with notice of the assignment, to restrain them from using the patent, although, at the time of the institution of the suit, the assignment had not been registered, and the registration of the assignment dates back to the date of the assignment so as to entitle the assignee to maintain an action to restrain an infringement committed between the dates of the assignment and the registration—*Hassall v. Wright* (L. R., 10 Eq., 509; 40 L. J., Ch. 145).

(c) *Equities may be enforced.* Notice of trusts are not to be entered on the register (section 85), and the person entered on the register as proprietor, who alone can assign or grant licenses, may be a trustee for some other person who is beneficial owner, or in other respects; the patent may be affected with other equities. The clause is to make clear that these provisions are not to do away with those trusts or other equities, but they are to be enforced. For instance, suppose the registered proprietor of a patent is so as trustee for other persons who are beneficial owners, the Court would compel the trustee to grant licenses or to assign the patent for the benefit of his *cestuis qui trust*.

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 such regulations as may be prescribed (a); 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 (b).

**Note.**—This section is taken from sections 34 and 35 of the Patent Act of 1852.

**Note.**  
**Sect. 88.**

(a.) See Trade Marks Rule 49 (p. 285), and Trade Marks Fees (p. 289), Nos. 21 and 22.

(b.) See Trade Marks Rule 49 (p. 285), and Trade Marks Fees (p. 289), Nos. 23 and 24.

**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.

**Note.**—This section is taken from section 4 of 16 and 17 Vic., c. 115, repealed by the present Act.

The grant of Letters Patent by a foreign country is an act of state, within 14 & 15 Vic., c. 99, section 7 (which makes foreign and colonial acts of state provable by certified copies), and is therefore provable by a copy of the Letters Patent purporting to be sealed with the seal of such foreign state, without proof of the seal or signature or judicial character of the person signing the same—*Re Betts' Patent* (1 Moore P. C. C., 49; 7 L. T., N. S., 577).

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

Rectifica-  
tion of  
registers  
by Court.

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

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

**Note.**  
**Sect. 90.**  
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**Note.**—Refer to Trade Marks Rules 43, 46 and 47 (p. 284), and to Form N (p. 294). This section is adopted from 38 of the Patent Law Amendment Act of 1852, and section 4 of the Trade Marks Registration Act, 1875.

The Master of the Rolls by virtue of his office used to exercise a jurisdiction over the entries in the Register of Patents and proprietors of patents, kept under sections 34 and 35 of the Patent Act of 1852. *Re Horsley & Knighton's Patent* (L. R., 8 Eq., 475), but, by the Judicature Acts, 1873 and 1875, such jurisdiction passed to the High Court of Justice—*Re Morgan's Patent* (24 W. R., 245). By section 117 the Court is still the High Court of Justice.

It was held that under section 38 of the Act of 1852, the Court could expunge an entry fraudulently made, and could direct any facts relating to the proprietorship to be entered on the register, but not the legal inferences to be drawn from them. A patentee assigned half a patent to A., and afterwards he assigned the whole to B., by a deed reciting he had already granted a license to work and use it to B. B.'s assignment was first registered. Held that B. had constructive notice of A.'s rights, and an entry was ordered to be made in the register that the license referred to in B.'s assignment was the deed of assignment to A. subsequently noticed—*Re Morey's Patent* (25 Beav., 581).

A patentee in 1853 assigned his patent, but the assignees omitted to register it. Afterwards, in August, 1855, the patentee assigned the patent to another person, who registered it the same day. The first assignees registered their assignment a week afterwards. The Court in 1857, on the motion of the first assignees, ordered the register of the second assignment to be expunged and with costs—*Re Green's Patent* (24 Beav., 145).

The Court will, on the motion of the persons aggrieved, correct an entry in the register of proprietors of patents which purports to affect the rights of persons not parties to the deed affected. One of two joint patentees by deed, assigned his interest in the patent to a third person, and released to him all the rights of action against him of both the patentees. Held that the other joint patentee was entitled to have the entry struck out—*Re Horsley & Knighton's Patent* (39 L. J., Ch. 157).

Power for  
Comptroller to  
correct

**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; Sect. 91.  
—  
clerical errors.
- (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.

**Note.**—See Patents Form P (p. 264) and Trade Marks Form Q (p. 296), and Fees No. 14, as to correction of clerical error, and to Forms O and P (p. 294), and Fees No. 25 as to cancellation of registration.

(b.) The Master of the Rolls had power before the Act to correct clerical errors in the Letters Patent—*Re Nickel's Patent* (4 Beav., 563) but the application to do so was required to be promptly made—*Re Blamond's Patent* (3 L. T., N. S., 800), or in the filed engrossment of a specification—*Re Johnson's Patent* (L. R., 5 Ch. D., 503).

By rule 9 of the patent commissioners, under the Act of 1852, of the 15th Oct., 1852, the law officers had power to amend "clerical errors or omissions made *per incuriam*" in provisional specifications. But the above provisions are a great improvement in the law. Clause (c) appears to be new.

**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. Alteration  
of regis-  
tered  
mark.

(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, caused the register to be altered in conformity with the order of leave.

**Note.**  
**Sect. 92.**

**Note.**—This provision is new, and will prove very useful. For essential particulars see section 64. Refer to Trade Marks Rule 48 (p. 284). The Rules are silent as to the mode of applying to the Court. The best mode will probably be motion and serving a notice thereof on the Comptroller. It might also be made by summons, in analogy to rule 29 (p. 281).

Falsifica-  
tion of  
entries in  
registers.

**93.** If any person made 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.

**Note.**—This section is adopted from section 37 of the Patent Act of 1852.

Exercise  
of discre-  
tionary  
power by  
Comp-  
troller.

**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.

**Note.**—For prescribed time see Patent Rules 11 and 12 (p. 242), Designs Rules 13 and 14 (p. 267), and Trade Marks Rules 17 and 19 (pp. 279 and 280).

Power of  
Comp-  
troller to  
take direc-  
tions of  
law  
officers.

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

**Note.**—The law officers will be bound to give such directions, and apparently, since they will be “directions,” the Comptroller will be bound to obey them. The law officers will thus guide the practice under the Act.

Certificate  
of Comp-  
troller to  
be  
evidence.

**96.** A certificate purporting to be under the hand of the Comptroller as to any entry, matter, or thing which he is authorised by this Act, or any general rules made

thereunder, to make or do, shall be *primâ facie* evidence Sect. 96. of the entry having been made, and of the contents thereof, and of the matter or thing having been done or left undone.

**Note.**—*Primâ facie* evidence is conclusive evidence in the absence of other and stronger evidence rebutting it. For instance, if a certificate purporting to be signed (under the hand) of the Comptroller were produced, the Court, in the absence of any evidence impeaching it, would be bound to act upon it, but would be bound to hear such evidence if tendered, and if such evidence proved that the certificate was not under the hand of the Comptroller, or that the statements therein were erroneous in any respect, the certificate would not be acted upon.

**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. Applica-  
tions and  
notices by  
post.

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

**Note.**—The section is altogether new. To prove the posting of a letter, it is necessary to call the person who actually put it into the post. It is advisable to keep a record of the posting of such letters, and of the persons posting them.

**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 (*a*), 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. Provision  
as to days  
for leaving  
docu-  
ments at  
office.

**Note.**—(*a*.) If the last day fixed is a Saturday, the thing may be done on the Monday following.

## Sect. 99.

Declara-  
tion by  
infant,  
lunatic,  
&c.

**99.** If any person is, by reason of infancy, lunacy, or other inability, incapable of making any declaration or doing anything required or permitted by this Act, or by any rules made under the authority of this Act, then the guardian or committee, if any, of such incapable person, or if there be none, any person appointed by any Court or judge possessing jurisdiction in respect of the property of incapable persons, (a) 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.

**Note.**—This section is taken from rule 67, under the Trade Marks Registration Acts of 1875 and 1877. Under this section a person may be appointed to make an application for a patent, or take other necessary proceedings in the name of an inventor, who, since making his invention, but before applying for, or completing the patent, has become insane. And similarly with regard to designs and trade marks.

(a.) *Any Court or judge possessing jurisdiction in respect of the property of such incapable persons.* The Lord Chancellor is, *ex officio*, the guardian of all insane persons, and his powers are exercised under statute by the Lords Justices of Appeal, or any one of them.

Transmis-  
sion of  
certified  
printed  
copies of  
specifica-  
tions, &c.

**100.** Copies of all specifications, drawings, and amendments left at the Patent Office after the commencement of this Act, printed for and sealed with the seal of the Patent Office, shall be transmitted to the Edinburgh Museum of Science and Art, and to the Enrolments Office of the Chancery Division in Ireland, and to the Rolls Office in the Isle of Man, within twenty-one days after the same shall respectively have been accepted or allowed at the Patent Office; and certified copies of, or extracts from, any such documents shall be given to any person requiring the same on payment of the prescribed fee; and any such copy or extract shall be admitted in evidence in all Courts in Scotland and Ireland, and in

the Isle of Man, without further proof or production of Sect. 100. the originals.

**Note.**—This section is new.

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

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

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

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

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



**Sect. 101.** 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.

**Note.**—Section 3 of the Patent Act of 1852 conferred a similar power upon the Commissioners of Patents to make rules; and upon the Lord Chancellor by section 7 of the Trade Marks Act of 1875. The power of making all rules, whether for patent, trade marks or designs is now conferred by the above section upon the Board of Trade. For the Patents Rules made under the powers conferred by this section see p. 241. A list of fees and the forms to be used will be found in the schedules to those rules. For the Designs Rules, List of Fees and Forms, and Classes of Goods, see p. 266. For the Trade Marks Rules, List of Fees and Forms, and Classes of Goods, see p. 277.

Annual  
reports of  
Comp-  
troller.

**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.

**Note.**—Section 3 of the Patent Act of 1852 required the Commissioners of Patents to report annually to Parliament all proceedings under that Act; and section 51 of the same Act required an account of all salaries, fees, and compensation allowances to be laid before Parliament within fourteen days next after they should have been paid or granted.

*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 in such foreign state.

**Sect. 103.**  
 Inter-  
 national  
 arrange-  
 ments for  
 protection  
 of inven-  
 tions, de-  
 signs, and  
 trade  
 marks.

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 (a);

(4.) The provisions of this section shall apply only in

**Stat. 103** — 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.

**Note.**—(a.) “Any trade mark, the registration of which has been duly applied for in the country of origin, may be registered under this Act.” This apparently means, whether it comes within the definition of a trade mark, contained in section 64, or not. So that any foreign trade mark, registered as such in its country of origin, will be entitled to registration here, on proof of registration in such foreign country without further question, if such foreign country is one to which Her Majesty has, by Order in Council, declared the provisions of the section shall apply.

Provisions  
for colo-  
nies and  
India.

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

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

#### *Offences.*

Penalty on  
falsely  
repre-  
senting  
articles to  
be  
patented.

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

(2.) A person shall be deemed, for the 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," "regis- Sect. 105.  
 "tered," 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.

**Note.**—Section 7 of the repealed Act of 1835 (5 & 6 Will. IV., c. 83), imposed a penalty of £50 for each offence—(1) upon any unauthorised person using the name of a patentee; and (2) upon anyone using the words patent, or any word or words of the like kind, to imitate the patentee, or who should, in any other way, imitate the stamp, mark, or device of the patentee. The section concluded with a proviso, that no person should be subject to a penalty for using the word "patent" in respect to anything for which any patent "before obtained shall have "expired."

The only reported case in which the penalty appears to have been sued for, is *Myers v. Baker* (3 H. & N., 802; 28 L. J., Ex. 90), which decided that it was no defence to an action under this section, that the invention was not new, and the patent, therefore, invalid; but that it was necessary for the plaintiff to prove that the intention of the defendant was to imitate the plaintiff's stamp or mark. The section being now repealed, the protection it gave the patentee is removed, but very little use was ever made of it.

The above section does not apply to a person infringing a patent or copyright by selling goods protected thereby. The remedy for that is by action for infringement. Nor does the section apply to a person using the words mentioned to describe an article, which has been (but is no longer) protected by a patent or a registered copyright, or by a design which has expired.

Section 7 of the Merchandise Marks Act, 1862, imposes a penalty of £5 for every offence, for falsely indicating that any article or the mode of manufacturing the same, or the ornamentation or configuration thereof, is the subject of any existing patent, privilege, or copyright. The continuance of the use of the word patent upon articles after the expiration of a patent if for the purpose of falsely indicating that the article in question is the subject of an existing patent, would come within this provision.

**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 Penalty on unauthorised assumption

**Sect. 106.** 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.

—  
of Royal  
arms.

**Note.**—This provision is new. It has apparently a very sweeping operation, as it renders liable to a fine of £20, to be recovered summarily before a police magistrate or magistrates at Petty Sessions, any person who uses the Royal arms, or any arms in imitation of the Royal arms “*in connection with any trade, business, calling, or profession,*” unless they can prove the authority of Her Majesty or some member of the Royal Family, or of some Government Department, to do so. Probably very few, indeed, out of the numbers of persons who use the Royal arms are in a position to prove such authority. The sweeping operation of the section is probably controlled by the provision that the person charged must do so in such a manner as to be calculated to lead other persons to believe he is carrying on his trade, &c., under such Royal authority. The putting up the Royal arms over a shop is usually understood to mean that the shopkeeper claims to have had the honour of having been patronised by royalty; and if this view be taken by the magistrates they are not likely to hold that such a use of the Royal arms is calculated to make reasonable people believe the business is being carried on by any special Royal authority. In one sense, of course, everyone carries on his lawful calling by “Royal authority,” because he is entitled to the protection of the executive power, which is the “Royal authority” acting through the Ministers of the Crown, to enable him to do so.

*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.

**108.** In Scotland any offence under this Act declared to be punishable on summary conviction may be prosecuted in the sheriff court. Sect. 108.

Summary proceedings 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. Proceedings for revocation of patent in Scotland.

(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.

**Note.**—The provision of sub-section 2 is taken from sections 35 and 43 of the Patent Act of 1852.

**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. Reservation of remedies in Ireland.

**Note.**—This is taken from section 29 of the Patent Act of 1852.

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

(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.

## Sect. 112.

Isle of  
Man.

- 112.** This Act shall extend to the Isle of Man, and—
- (1.) Nothing in this Act shall affect the jurisdiction of the Courts in the Isle of Man, in proceedings for infringement or in any action or proceeding respecting a patent, design, or trade mark competent to those Courts;
  - (2.) The punishment for a 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.

*Repeal, Transitional Provisions, Savings.*

Repeal and  
saving for  
past opera-  
tion of  
repealed  
enact-  
ments, &c.

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

**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 (a). Sect. 114.  
—  
Former registers to be deemed continued.

(2.) The Registers of Designs (b) and of Trade Marks (c) 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.

**Note.**—(a.) The Register of Patents, kept under section 34, and the Register of Proprietors, kept under section 35 of the Patent Act of 1852.

(b.) The Register of Designs, kept under the Designs Act of 1842 (Ornamental, 5 & 6 Vic., c. 100); and 1843 (Useful, 6 & 7 Vic., c. 65).

(c.) The Register of Trade Marks, kept under the Trade Marks Act of 1875 (38 & 39 Vic., c. 91).

**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. Saving for existing rules.

**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. Saving for prerogative.

**Note.**—This re-enacts the first clause of section 16 of the Patent Act of 1852.

Notwithstanding section 27, which enacts that a patent shall have the like effect against the Crown as against a subject, the above section would enable the insertion in a patent of a clause requiring the patentee to permit the Crown the free use of the invention, without payment, or any other restrictive clause.



*General Definitions.*

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

General  
defini-  
tions.

“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.]

## SCHEDULES.

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### THE FIRST SCHEDULE.

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#### FORM OF APPLICATION, &c.

#### FORM A.

##### FORM OF APPLICATION FOR PATENT.

[Superseded by Forms A and A1 in the Schedules to the  
Patent Rules, pp. 257, 258.]

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#### FORMS B & C.

##### FORMS OF PROVISIONAL AND COMPLETE SPECIFICATIONS.

[Superseded by Forms B and C in the Schedules to the Patents  
Rules, pp. 258, 259.]

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#### FORM D.

##### FORM OF PATENT.

VICTORIA, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith: To all to whom these presents shall come greeting:

Whereas *John Smith*, of 29, *Perry Street*, *Birmingham*, in the County of *Warwick*, *Engineer*, hath by his solemn declaration represented unto us that he is in possession of an invention for "*Improvements in Seiving Machines*," that he is the true and first inventor thereof, and that the same is not in use by any other person to the best of his knowledge and belief:

And whereas the said inventor hath humbly prayed that we would be graciously pleased to grant unto him (hereinafter together with his executors, administrators, and assigns, or any

of them, referred to as the said patentee) our Royal Letters Patent for the sole use and advantage of his said invention :

And whereas the said inventor hath, by, and in his complete specification, particularly described the nature of his invention :

And whereas we, being willing to encourage all inventions which may be for the public good, are graciously pleased to condescend to his request :

Know ye, therefore, that we, of our especial grace, certain knowledge, and mere motion, do by these presents, for us, our heirs and successors, give and grant unto the said patentee our especial license, full power, sole privilege, and authority, that the said patentee, by himself, his agents, or licensees, and no others, may at all times hereafter during the term of years herein mentioned, make, use, exercise, and vend the said invention within our United Kingdom of Great Britain and Ireland, and Isle of Man, in such manner as to him or them may seem meet ; and that the said patentee shall have and enjoy the whole profit and advantage from time to time accruing by reason of the said invention, during the term of fourteen years from the date hereunder written of these presents : And to the end that the said patentee may have and enjoy the sole use and exercise and the full benefit of the said invention, we do by these presents, for us, our heirs and successors, strictly command all our subjects whatsoever within our United Kingdom of Great Britain and Ireland, and the Isle of Man, that they do not at any time during the continuance of the said term of fourteen years, either directly or indirectly, make use of or put in practice the said invention, or any part of the same, nor in anywise imitate the same, nor make or cause to be made any addition thereto or subtraction therefrom, whereby to pretend themselves the inventors thereof, without the consent, license, or agreement of the said patentee in writing under his hand and seal, on pain of incurring such penalties as may be justly inflicted on such offenders for their contempt of this our Royal command, and of being answerable to the patentee, according to law, for his damages thereby occasioned : Provided that these, our Letters Patent, are on this condition, that if, at any time during the said term, it may be made to appear to us, our



**FORM E.**

FORM OF APPLICATION FOR REGISTRATION OF DESIGN.

[Superseded by Form E in the Second Schedule to the Designs Rules, p. 273.]

**FORM F.**

FORM OF APPLICATION FOR REGISTRATION OF TRADE MARK.

[Superseded by Form F in the Schedule to the Trade Marks Rules, p. 290.]

**THE SECOND SCHEDULE.**

*Fees on instruments for obtaining Patents, and Renewal.*

[Superseded by the List of Fees in the Schedule to Patent Rules, p. 255.]

**THE THIRD SCHEDULE.**

*Enactments repealed.*

21 James I., c. 3. [1623.]	The Statute of Monopolies. In part; namely,— Sections ten, eleven, and twelve.
5 & 6 Will. IV., c. 62. [1835.] In part.	The Statutory Declarations Act, 1835. In part; namely,— Section eleven.
5 & 6 Will. IV., c. 83. [1835.]	An Act to amend the law touching Letters Patent for inventions.
2 & 3 Vic., c. 67. [1839.]	An Act to amend an Act of the fifth and sixth years of the reign of King William the Fourth, intituled “An “ Act to amend the law touching “ Letters Patent for inventions.”
5 & 6 Vic., c. 100. [1842.]	An Act to consolidate and amend the laws relating to the copyright of

6 & 7 Vic., c. 65. [1843.]	designs for ornamenting articles of manufacture.
7 & 8 Vic., c. 69. (a) [1844.] In part.	An Act to amend the laws relating to the copyright of designs.  An Act for amending an Act passed in the fourth year of the reign of His late Majesty, intituled " An Act for " the better administration of justice " in His Majesty's Privy Council, " and to extend its jurisdiction and " powers." In part; namely,— Sections two to five, both included.
13 & 14 Vic., c. 104. [1850.]	An Act to extend and amend the Acts relating to the copyright of designs.
15 & 16 Vic., c. 83. [1852.]	The Patent Law Amendment Act, 1852.
16 & 17 Vic., c. 5. [1853.]	An Act to substitute stamp duties for fees on passing Letters Patent for inventions, and to provide for the purchase, for the public use, of certain indexes of specifications.
16 & 17 Vic., c. 115. [1853.]	An Act to amend certain provisions of the Patent Law Amendment Act, 1852, in respect of the transmission of certified copies of Letters Patent and specifications to certain offices in Edinburgh and Dublin, and otherwise to amend the said Act.
21 & 22 Vic., c. 70. [1858.]	An Act to amend the Act of the fifth and sixth years of Her present Majesty, to consolidate and amend the laws relating to the copyright of

(a.) NOTE.—Sections 6 and 7 of this Act are repealed by the Statute Law Revision (No. 2) Act, 1874.

	designs for ornamenting articles of manufacture.
22 Vic., c. 13. [1859.]	An Act to amend the law concerning patents for inventions with respect to inventions for improvements in instruments and munitions of war.
24 & 25 Vic., c. 73. [1861.]	An Act to amend the law relating to the copyright of designs.
28 & 29 Vic., c. 3. [1865.]	The Industrial Exhibitions Act, 1865.
33 & 34 Vic., c. 27. [1870.]	The Protection of Inventions Act, 1870.
33 & 34 Vic., c. 97. [1870.]	The Stamp Act, 1870. In part ; namely,— Section sixty-five, and in the Schedule the words and figures. “Certificate of the registration of a “ design . . . £5 0 0. And see “ section 65.”
38 & 39 Vic., c. 91. [1875.]	The Trade Marks Registration Act, 1875.
38 & 39 Vic., c. 93. [1875.]	The Copyright of Designs Act, 1875.
39 & 40 Vic., c. 33. [1876.]	The Trade Marks Registration Amendment Act, 1876.
40 & 41 Vic., c. 37. [1877.]	The Trade Marks Registration Extension Act, 1877.
43 & 44 Vic., c. 10. [1880.]	The Great Seal Act, 1880. In part ; namely,— Section five.
45 & 46 Vic., c. 72. [1882.]	The Revenue, Friendly Societies, and National Debt Act, 1882. In part ; namely,— Section sixteen.

## CHAPTER VI.

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### SECTION I.

#### PATENTS RULES.

By virtue of the provisions of the Patents, Designs and Trade Marks Act, 1883, the Board of Trade do hereby make the following rules:—

1. These rules may be cited as the Patents Rules, 1883. Short title.
2. These rules shall come into operation from, and immediately after, the 31st day of December, 1883. Com-  
mence-  
ment.
3. In the construction of these rules, any words herein used defined by the said Act shall have the meanings thereby assigned to them respectively. Interpre-  
tation.
4. The fees, to be paid under the above-mentioned Act, in addition to the fees mentioned in the second schedule thereto, so far as it relates to patents, shall be those specified in the list of fees in the first schedule to these rules. Fees.

#### *Forms.*

5. The forms A, B, and C in the first schedule to the said Act shall be altered or amended by the substitution thereof respectively of the forms A, A1, B, and C in the second schedule hereto. Forms.  
Alterations.
6. (1.) An application for a patent shall be made either in the form A or the form A1 set forth in the second schedule hereto, as the case may be. Applica-  
tion.
- (2.) The form B in such schedule of provisional specification, and the form C of complete specification, shall respectively be used. Specifica-  
tion.
- (3.) The remaining forms set forth in such schedule as far as they are applicable, be used in any proceedings under these rules. Other  
forms.

#### *General.*

7. The Patent Office shall be open to the public every week-day during the hours of ten and four, except on the days and times following:—

Christmas Day.  
Good Friday.



The day observed as Her Majesty's birthday.

The days observed as days of public fast or thanksgiving, or as holidays at the Bank of England.

Agency.

8. An application for a patent must be signed by the applicant; but all other communications between the applicant and the Comptroller, and all attendances by the applicant upon the Comptroller, may be made by or through an agent duly authorised to the satisfaction of the Comptroller, and, if he so require, resident in the United Kingdom.

Statement of address.

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

Size, &c., of documents.

10. All documents and copies of documents sent to or left at the Patent Office, or otherwise furnished to the Comptroller or to the Board of Trade, shall be written or printed in large and legible characters in the English language, upon strong, wide, ruled paper (on one side only), of a size of 13 inches by 8 inches, leaving a margin of 2 inches on the left-hand part thereof, and the signature of the applicants or agents thereto must be written in a large and legible hand. Duplicate copies shall at any time be left, if required by the Comptroller.

Exercise of discretionary power by Comptroller. Notice of hearing.

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

(See section 94.)

Notice by applicant.

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

Comptroller may require statement, &c.

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

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

Decision to be notified to parties.

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

Definition of 'applicant.'

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

Prior and second applicant may attend hearing.

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

Industrial or International Exhibitions.

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

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

Power of amendment, &c.

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

Documents by post.

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

Affidavits.

20. Affidavits may, except where otherwise prescribed by these rules, be used as evidence in any proceedings thereunder when sworn to in any of the following ways, viz. :—

- (1.) In the United Kingdom before any person authorised to administer oaths in the Supreme Court of Judicature or before a justice of the peace for the county or place where it is sworn or made ;
- (2.) In any place in the British dominions out of the United Kingdom before any court, judge, or justice of the peace, or any person authorised to administer oaths there in any court ;
- (3.) In any place out of the British dominions before a British minister, or person exercising the functions of a British minister, or a British consul, vice-consul, or other person exercising the functions of a British consul, or a notary public, or before a judge or magistrate.

Statutory declarations.

21. Where any statutory declaration prescribed by these rules, or used in any proceedings thereunder, is made out of the United Kingdom, the words, "and by virtue of the " Statutory Declarations Act, 1835," must be omitted, and the declaration shall (unless the context otherwise requires) be made in the manner prescribed in rule 20, sub-section (3).

*Application with Provisional or Complete Specification.*

Order of recording applications.

22. Applications for a patent sent by prepaid letter through the post shall, as far as may be practicable, be opened and numbered in the order in which the letters containing the same have been respectively delivered in the ordinary course of post.

Applications left at the Patent Office otherwise than through the post shall be, in like manner, numbered in the order of their receipt at the Patent Office.

Application for separate patents by way of amendment.

23. Where a person making application for a patent includes therein by mistake, inadvertence, or otherwise, more than one invention, he may, after the refusal of the Comptroller to accept such application, amend the same so as to apply to one invention only, and may make application for separate patents for each such invention accordingly.

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

Application by

24. An application for a patent by the legal representative of a person who has died possessed of an invention shall be

accompanied by an official copy of, or extract from, his will, or the letters of administration granted of his estate and effects, in proof of the applicant's title as such legal representative. representative of deceased inventor.

25. On the acceptance of an application with a provisional or complete specification the Comptroller shall give notice thereof to the applicant, and shall advertise such acceptance in the Official Journal of the Patent Office. Notice and advertisement of acceptance.

26. Upon the publication of such advertisement of acceptance, in the case of an application with a complete specification, the application and specification or specifications, with the drawings, if any, may be inspected at the Patent Office upon payment of the prescribed fee. Inspection on acceptance of complete specification.

*Application on communication from Abroad.*

27. An application for a patent for an invention communicated from abroad shall be made in the form A1 set forth in the second schedule hereto. Communication from abroad.

*Sizes and Methods of Preparing Drawings accompanying Provisional or Complete Specifications.*

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

29. A copy of the drawings will be required upon *rolled* imperial drawing paper, or upon thin Bristol board of the same dimensions as the original drawing or drawings. All the lines must be absolutely black, Indian ink of the best quality to be used, and the same strength or colour of the ink maintained throughout the drawing. Any shading must be in lines clearly and distinctly drawn, and as open as is consistent with the required effect. Section lines should not be too closely drawn. No colour must be used for any purpose upon the copy of the drawings. All letters and figures of reference must be bold and distinct. The border line should be one fine line only. The drawings must not be folded, but must be delivered at the Patent Office either in a perfectly flat state or rolled upon a roller, so as to be free from creases or breaks.\* Copies of drawings.

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

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

*Illustrated Journal.*

Additional drawing to be furnished.

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

*Opposition to Grants of Patents.*

Notice of opposition.

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

Copy for applicant.

33. On receipt of such notice, a copy thereof shall be furnished by the Comptroller to the applicant.

Particulars of prior patent.

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

Opponent's evidence.

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

Applicant's evidence.

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

Evidence in reply.

Copies of the declarations mentioned in this and the last

preceding rule may be obtained either from the Patent Office or from the opposite party.

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

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

39. On the completion of the evidence, the Comptroller shall appoint a time for the hearing of the case, and shall give to the parties seven days' notice at the least of such appointment. Notice of hearing.

40. On the hearing of the case, no opposition shall be allowed in respect of any ground not stated in the notice of opposition, and where the ground, or one of the grounds, is that the invention has been patented in this country on an application of prior date, the opposition shall not be allowed upon such ground unless the title, number, and date of the patent granted on such prior application shall have been duly specified in the notice of opposition. Disallowance of opposition in certain cases.

41. The decision of the Comptroller in the case shall be notified by him to the parties. Decision to be notified to parties.

*Certificates of Payment or Renewal.*

42. If a patentee intends, at the expiration of the fourth or eighth year from the date of his patent, to make the prescribed payment for keeping the same in force, he shall seven days at least before such expiration give notice to the Comptroller of such intention, and shall, before the expiration of such fourth or eighth year, as the case may be, leave at the Patent Office a form of certificate of payment, duly stamped, subject as hereinafter provided, with the prescribed fee of £50 or £100, as the case may be. Payment of fees of £50 and £100 for continuance of patent.

43. In the case of patents granted before the commencement of the said Act, the above rule shall be read as if the words "seventh year" were therein written instead of the words "eighth year." As to patents granted before commencement of Act.

44. If the patentee intends to pay annual fees in lieu of the above-mentioned fees of £50 and £100, he shall, seven days at least before the expiration of the fourth and each succeeding year during the term of the patent, until and inclusive of the thirteenth year thereof, give notice to the Comptroller of such intention, and shall, before the expiration Payment of annual fees in lieu of £50 and £100.

of such respective periods as aforesaid, leave at the Patent Office a form of certificate of payment, duly stamped with the fee prescribed to be paid at such periods respectively.

Certifi-  
cate of  
payment.

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

#### *Enlargement of Time.*

Enlarge-  
ment of  
time for  
payments.

46. An application for an enlargement of the time for making a prescribed payment shall state in detail the circumstances in which the patentee by accident, mistake, or inadvertence, has failed to make such payment, and the Comptroller may require the patentee to substantiate, by such proof as he may think necessary, the allegations contained in the application for enlargement.

In other  
cases.

47. The time prescribed by these rules for doing any act, or taking any proceeding thereunder, may be enlarged by the Comptroller if he think fit, and upon such notice to other parties, and proceedings thereon, and upon such terms, as he may direct.

#### *Amendment of Specification.*

Request  
for leave  
to amend.  
Advertise-  
ment.

48. A request for leave to amend a specification shall be signed by the applicant or patentee and accompanied by a copy of the original specification and drawings, showing in red ink the proposed amendment, and shall be advertised by publication of the request and the nature of the proposed amendment in the Official Journal of the Patent Office, and in such other manner, if any, as the Comptroller may in each case direct.

Notice of  
opposi-  
tion.

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

Copy for  
the appli-  
cant.

50. On receipt of such notice a copy thereof shall be furnished by the Comptroller to the applicant or patentee, as the case may be (hereinafter called the applicant).

Oppo-  
nent's evi-  
dence.

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

52. Upon such declarations being left, and such list being delivered, the provisions of rules 36, 37, 38, and 39 shall apply to the case, and the further proceedings therein shall be regulated in accordance with such provisions as if they were here repeated.

Further proceedings.

53. The decision of the Comptroller in the case shall be notified by him to the parties.

Decision to be notified to parties.

54. Where leave to amend is given the applicant shall, if the Comptroller so require, and within a time to be limited by him, leave at the Patent Office a new specification and drawings as amended, to be prepared in accordance with rules 10, 21, and 29.

Requirements thereon.

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

Leave by Order of Court.

56. Every amendment of a specification shall be forthwith advertised by the Comptroller in the Official Journal of the Patent Office, and in such other manner, if any, as the Comptroller may direct.

Advertisement of amendment.

*Compulsory Licenses.*

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

Petition for compulsory grant of licenses

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

To be left with evidence at Patent Office.

59. Upon perusing the petition and evidence, unless the Board of Trade shall be of opinion that the order should be at once refused, they may require the petitioner to attend before the Comptroller, or other person or persons appointed by them, to receive his or their directions as to further proceedings upon the petition.

Directions as to further proceedings unless petition refused.

60. If and when a *prima facie* case for relief has been made out to the satisfaction of the Board of Trade, the petitioner shall, upon their requisition, and on or before a day to be named by them, deliver to the patentee copies of the

Procedure.



Peti-  
tioner's  
evidence, petition and of the affidavits, or statutory declarations and other documentary evidence, if any, tendered in support thereof.

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

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

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

*Register of Patents.*

Entry of  
grant. 64. Upon the sealing of a patent the Comptroller shall cause to be entered in the Register of Patents the name, address, and description of the patentee as the grantee thereof, and the title of the invention.

Request  
for entry  
of subse-  
quent pro-  
prietor-  
ship. 65. Where a person becomes entitled to a patent or to any share or interest therein, by assignment either throughout the United Kingdom and the Isle of Man, or for any place or places therein, or by transmission or other operation of law, a request for the entry of his name in the register as such complete or partial proprietor of the patent, or of such share or interest therein, as the case may be, shall be addressed to the Comptroller, and left at the Patent Office.

Signature  
of request. 66. Such request shall, in the case of individuals, be made and signed by the person requiring to be registered as proprietor, or by his agent duly authorised to the satisfaction of the Comptroller, and, in the case of a body corporate, by their agent, authorised in like manner.

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

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

Production of documents of title and other proof.

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

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

Copies for Patent Office.

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

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

Body corporate.

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

Entry of Orders of the Privy Council or of the Court.

72. Upon the issue of a certificate of payment under rule 45, the Comptroller shall cause to be entered in the Register of Patents a record of the amount and date of payment of the fee on such certificate.

Entry of payment of fees on issue of certificate.

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

Entry of failure to pay fees.

74. An examined copy of every license granted under a patent shall be left at the Patent Office by the licensee, with a request that a notification thereof may be entered in the register. The licensee shall cause the accuracy of such copy to be certified as the Comptroller may direct, and the original license shall, at the same time, be produced and left at the Patent Office, if required, for further verification.

Entry of licenses.

Hours of inspection of register.

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

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

Certified copies of documents.

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

*Power to Dispense with Evidence, &c.*

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

*Repeal.*

Repeal.

78. All general rules made by the Lord Chancellor, or by any other authority, under the Patent Law Amendment Acts, and in force on the 31st day of December, 1883, shall be and they are hereby repealed as from that date, without prejudice, nevertheless, to any application then pending.

Dated the 21st day of December, 1883.

(Signed) J. CHAMBERLAIN,  
President of the Board of Trade.

RULES REGULATING THE PRACTICE AND PROCEDURE ON  
APPEALS TO THE LAW OFFICERS.

I. When any person intends to appeal to the law officer from a decision of the Comptroller in any case in which such appeal is given by the Act, he shall, within fourteen days from the date of the decision appealed against file in the Patent Office, a notice of such his intention.

II. Such notice shall state the nature of the decision appealed against, and whether the appeal is from the whole, or part only, and if so, what part of such decision.

III. A copy of such notice of intention to appeal shall be sent by the party so intending to appeal to the law officers' clerk at room 549, Royal Courts of Justice, London; and when there has been an opposition before the Comptroller, to the opponent or opponents; and when the Comptroller has refused to seal a patent on the ground that a previous application for a patent for the same invention is pending, to the prior applicant.

IV. Upon notice of appeal being filed, the Comptroller shall forthwith transmit to the law officers' clerk all the papers relating to the matter of the application in respect of which such appeal is made.

V. No appeal shall be entertained of which notice is not given within fourteen days from the date of the decision appealed against, or such further time as the Comptroller may allow, except by special leave upon application to the law officer.

VI. Seven days' notice, at least, of the time and place appointed for the hearing of any appeal, shall be given by the law officers' clerk, unless special leave be given by the law officer that any shorter notice be given.

VII. Such notice shall in all cases be given to the Comptroller and the appellant; and when there has been an opposition before the Comptroller, to the opponent or opponents; and, when the Comptroller has refused to seal a patent on the ground that an application for a patent for the same invention is pending, to the prior applicant.

VIII. The evidence used on appeal to the law officer shall be the same as that used at the hearing before the Comptroller; and no further evidence shall be given, save as to matters which have occurred or come to the knowledge of either party, after the date of the decision appealed against, except with the leave of the law officer upon application for that purpose.

IX. The law officer shall, at the request of either party,

order the attendance at the hearing on appeal, for the purpose of being cross-examined, of any person, who has made a declaration, in the matter to which the appeal relates, unless, in the opinion of the law officer, there is good ground for not making such order.

X. Any person requiring the attendance of a witness for cross-examination shall tender to the witness, whose attendance is required, a reasonable sum for conduct money.

XI. Where the law officer orders that costs shall be paid by any party to another, he may fix the amount of such costs, and if he shall not think fit to fix the amount thereof, he shall direct by whom and in what manner the amount of such costs shall be ascertained.

XII. If any costs so ordered to be paid be not paid within fourteen days after the amount thereof has been so fixed or ascertained, or such shorter period as shall be directed by the law officer, the party to whom such costs are to be paid may apply to the law officer for an order for payment under the provisions of section 5 of the Act.

XIII. All documentary evidence required, or allowed by the law officer to be filed, shall be subject to the same regulations, in all respects, as apply to the procedure before the Comptroller, and shall be filed in the Patent Office, unless the law officer shall order to the contrary.

XIV. Any notice or other document required to be given to the law officers' clerk, under these rules, may be sent by a prepaid letter through the post.

HENRY JAMES, A.G.

FARRER HERSHELL, S.G.

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FIRST SCHEDULE.

LIST OF FEES PAYABLE ON AND IN CONNECTION WITH  
LETTERS PATENT.

*Up to Sealing.*

	£	s.	d.	£	s.	d.
1. On application for provisional protection . . . . .	1	0	0			
2. On filing complete specification . . . . .	3	0	0			
or				4	0	0
3. On filing complete specification with first application . . . . .				4	0	0
4. On appeal from Comptroller to Law Officer. By appellant . . . . .				3	0	0
<hr/>						
5. On notice of opposition to grant of patent. By opponent . . . . .				0	10	0
6. On hearing by Comptroller. By applicant and by opponent respectively . . . . .				1	0	0
<hr/>						
7. On application to amend specification :— Up to sealing. By applicant . . . . .				1	10	0
8. After sealing. By patentee . . . . .				3	0	0
9. On notice of opposition to amendment. By opponent . . . . .				0	10	0
10. On hearing by Comptroller. By applicant and by opponent respectively . . . . .				1	0	0
11. On application to amend specification during action or proceeding. By patentee . . . . .				3	0	0
<hr/>						
12. On application to the Board of Trade for a compulsory license. By person applying . . . . .				5	0	0
13. On opposition to grant of compulsory license. By patentee . . . . .				5	0	0
14. On certificate of renewal :— Before end of 4 years from date of patent . . . . .				50	0	0
15. Before end of 7 years, or in the case of patents granted under the "Patents, Designs, and Trade Marks Act, 1883," before the end of 8 years from date of patent . . . . .				100	0	0
or in lieu of the fees of £50 and £100, the following annual fees :—						
16. Before the expiration of the 4th year from the date of the patent . . . . .				10	0	0
17. Before the expiration of the 5th year from the date of the patent . . . . .				10	0	0

	£	s.	d.
18. Before the expiration of the 6th year from the date of the patent . . . . .	10	0	0
19. Before the expiration of the 7th year from the date of the patent . . . . .	10	0	0
20. Before the expiration of the 8th year from the date of the patent . . . . .	15	0	0
21. Before the expiration of the 9th year from the date of the patent . . . . .	15	0	0
22. Before the expiration of the 10th year from the date of the patent . . . . .	20	0	0
23. Before the expiration of the 11th year from the date of the patent . . . . .	20	0	0
24. Before the expiration of the 12th year from the date of the patent . . . . .	20	0	0
25. Before the expiration of the 13th year from the date of the patent . . . . .	20	0	0
On enlargement of time for payment of renewal fees :—			
26. Not exceeding 1 month . . . . .	3	0	0
27. „ 2 months . . . . .	7	0	0
28. „ 3 months . . . . .	10	0	0
29. For every entry of assignment, transmission, agreement, license or extension of patent .	0	10	0
30. For duplicate of Letters Patent . . . each	2	0	0
31. On notice to Comptroller of intended exhibition of a patent under section 39 . . . . .	0	10	0
32. Search or inspection fee . . . . . each	0	1	0
33. For office copies . . . . . every 100 yards (but never less than one shilling)	0	4	0
34. „ of drawings, cost according to agreement.			
35. For certifying office copies, M.SS. or printed . . . . . each	0	1	0
36. On request to Comptroller to correct a clerical error . . . . .	0	5	0
37. For certificate of Comptroller under section 96 . . . . .	0	5	0
38. For altering address in register . . . . .	0	5	0

(Signed) J. CHAMBERLAIN,

President of the Board of Trade.

21st December, 1883.

Approved : (Signed) CHARLES C. COTES,

HERBERT J. GLADSTONE,

Lords Commissioners of

4th December, 1883.

Her Majesty's Treasury.

THE SECOND SCHEDULE.

FORMS.

Form A.

*Application for Patent.*

(a.) \_\_\_\_\_, do solemnly and sincerely declare that \_\_\_\_\_ in possession of an invention for (b) \_\_\_\_\_ that \_\_\_\_\_ the true and first inventor thereof; and that the same is not in use by any other person or persons to the best of \_\_\_\_\_ knowledge and belief; and humbly pray that a patent may be granted for the said invention.

(a) Here insert name, full address, and calling of applicant or applicants.

(b) Here insert title of invention.

And \_\_\_\_\_ make the above solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Statutory Declarations Act, 1835.-

(c)

(c) Signature of applicant or applicants.

Declared at (d) \_\_\_\_\_ in the \_\_\_\_\_ this \_\_\_\_\_ 18 \_\_\_\_\_ .  
Before me,

(d) If declared by more than one applicant, and at different times or places, insert after "Declared" the words "by the above-named."

[Declared at (d) \_\_\_\_\_ (e) \_\_\_\_\_ in the \_\_\_\_\_ this \_\_\_\_\_ 18 \_\_\_\_\_ .  
Before me,

(e) Signature and title of the person before whom the declaration is made.

(e)

NOTE.—Where the above declaration is made out of the United Kingdom, the words "and by virtue of the Statutory Declarations Act, 1835," must be omitted, and the declaration must be made before a British Consular Officer, or, where it is not reasonably practicable to make it before such officer, then before a public officer duly authorised in that behalf.

(f) If not required as in note (d), strike out part within brackets.



Form A1.

*Application for Patent for inventions communicated from Abroad.*

(a) Here insert name, full address, and calling of applicant. I (a) of \_\_\_\_\_ in the \_\_\_\_\_ County of \_\_\_\_\_ do solemnly and sincerely declare that I am in possession of an invention for (b) which invention has been communicated to me from abroad by (c) that I claim to be the true and first inventor thereof; and that the same is not in use within this realm by any other person or persons to the best of my knowledge and belief; and I humbly pray that a patent may be granted to me for the said invention.

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

(d) Signature of applicant. Declared at \_\_\_\_\_ (d) in the County of \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 18 .

(e) Signature and title of the officer before whom the declaration is made.

Before me, (e) NOTE.—Where the above declaration is made out of the United Kingdom the words “and by virtue of the Statutory Declarations Act, 1835,” must be omitted; and the declaration must be made before a British consular officer, or, where it is not reasonably practicable to make it before such officer, then before a public officer duly authorised in that behalf.

To be issued with Form A or A1.

Form B.

*Provisional Specification (To be furnished in Duplicate).*

(a) Here insert title, as in declaration. (a)

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

(c) Here insert short description of invention.

do hereby declare the nature of said invention for to be as follows (c) :

NOTE.—No stamp is required on this document, which must form the commencement of the Provisional Specification; the continuation to be upon wide-ruled foolscap paper,

(but on one side only) with a margin of two inches on left hand of paper. The provisional specification and the "Duplicate" thereof must be signed by the applicant or his agent on the last sheet, the date being first inserted as follows:—

" Dated this                      day of                      18                      ."

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**Form C.**

*Complete Specification (To be furnished in Duplicate—one unstamped).*

(a)

(a) Here insert title, as in declaration.

(b)

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

do hereby declare

the nature of                      invention for  
and in what manner the same is to be performed, to be particularly described and ascertained in and by the following statement (c):—

(c) Here insert full description of invention, which must end with a distinct statement of claim or claims, in the following form:—

" Having now particularly described and ascertained the nature of my said invention, and in what manner the same is to be performed, I declare that what I claim is—

- (1.)
- (2.)
- (3.)

" Here state distinctly the features of novelty claimed.

NOTE.—This document must form the commencement of the complete specification; the continuation to be upon wide-ruled foolscap paper (but on one side only) with a margin of two inches on left hand of paper. The complete specification and the "duplicate" thereof must be signed by the applicant or his agent on the last sheet, the date being first inserted as follows:—

" Dated this                      day of                      18                      ."

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**Form D.**

*Form of opposition to grant of patent (to be accompanied by an unstamped copy).*

\*1

hereby give notice of my intention to oppose the grant of

\* Here state name and full address.

Letters Patent upon application No. \_\_\_\_\_ of \_\_\_\_\_,  
 applied for by \_\_\_\_\_,  
 upon the ground†

† Here state upon which of the grounds of opposition permitted by section 11 of the Act the grant is opposed.

‡ Here insert signature of opponent or agent.

(Signed)‡

To the Comptroller, Patent Office.

**Form E.**

*Form of Application for hearing by the Comptroller.*

In Cases of Refusal to Accept, Opposition, or Applications for Amendments, &c.

SIR,

(u) Here insert full address.

\_\_\_\_\_ of (u) \_\_\_\_\_  
 hereby apply to be heard in reference to \_\_\_\_\_  
 and request that I may receive due notice of the day fixed for the hearing.

Sir, Your obedient Servant,

To the Comptroller, Patent Office.

**Form F.**

*Form of Application for Amendment of Specification or Drawings.*

\* Here state name and full address of applicant or patentee.

\*

\_\_\_\_\_ seek leave to amend the specification of Letters Patent No. \_\_\_\_\_ of 188 \_\_\_\_\_, as shown in red ink in the copy of the original specification hereunto annexed

My reasons for making this amendment are as follows‡  
 (Signed)

† Here state reasons for seeking amendment; and where the applicant is not the patentee, state what interest he possesses in the Letters Patent.

To the Comptroller, Patent Office.

**Form G.**

*Form of Opposition to Amendment of Specification or Drawings (To be accompanied by an unstamped copy).*

\* Here state name and full address of opponent.

\*

\_\_\_\_\_ hereby give notice of objection to the proposed amendment of the specification or drawings of Letters Patent No. \_\_\_\_\_ of 188 \_\_\_\_\_ for the following reason: ‡

(Signed)

† Here state reason of opposition.

To the Comptroller, Patent Office.

Form H.

*Form of Application for Compulsory Grant of License  
(To be accompanied by an unstamped copy).*

\*

hereby request you to bring to the notice of the Board of Trade the accompanying petition for the grant of a license to me by †

\* Here state name and full address of applicant.

† Here state name and address of patentee, and number and date of his patent.

(Signed)

NOTE.—The petition must clearly set forth the facts of the case and be accompanied by an examined copy thereof. See form below.

To the Comptroller, Patent Office.

Form H1.

*Form of Petition for Compulsory Grant of Licenses.*

To the Lords of the Committee of Privy Council for Trade.

The petition of (a) of , being a person interested in the matter of this petition as herein-after described,

(a) Here insert name, full address, and description.

Sheweth as follows:—

1. A patent dated No. was duly granted to for an invention of (b)

2. The nature of my interest in the matter of this petition is as follows:—(c)

(b) Here insert title of invention.

(c) Here state fully the nature of petitioner's interest.

3. (d)

(d) Here state in detail the circumstances of the case under section 22 of the said Act, and show that it arises by reason of the default of the patentee to grant licenses on reasonable terms. The statement of the case should also show as far as possible that the terms of the proposed order are just and reasonable. The paragraphs should be numbered consecutively.

(c) Here state the ground or grounds on which relief is claimed in the language of section 22, sub-sections (a), (b), or (c), as the case may be.

(f) Here state the purpose and effect of the proposed order and the terms as to the amount of royalties, security for payment, or otherwise upon which the petitioner claims to be entitled to the relief in question.

\* Here state name and full address.

Having regard to the circumstances above stated, the petitioner alleges that by reason of the aforesaid default of the patentee to grant licenses on reasonable terms (c)

Your petitioner therefore prays that an order may be made by the Board of Trade (f) or that the petitioner may have such other relief in the premises as the Board of Trade may deem just.

---

Form I.

*Form of Opposition to Compulsory Grant of License.*

\*

hereby give notice of objection to the application of for the compulsory grant of a license under Patent No. of 188 .

(Signed)

To the Comptroller, Patent Office.

---

Form J.

*Application for Certificate of Payment or Renewal.*

hereby transmit the fee prescribed for the continuation in force of Patent No. , of 18 , for a further period of .

Name\*

Address

To the Comptroller, Patent Office.

\* Here insert name and full address of patentee or his agent.

---

*Certificate of Payment or Renewal.*

Letters Patent No. of 188 .

18 .

This is to certify that did this day of 18 , make the prescribed payment of £ in respect of a period of from , and that by virtue of such payment the rights of remain in force.\*

\* See section 17 of the Patents, Designs, and Trade Marks Act, 1883.

Patent Office, London.

[Seal.]

---

Form K.

*Form of Application for Enlargement of Time for Payment of Renewal Fee.*

SIR,

I hereby apply for an enlargement of time for

month in which to make the payment of  
 £ upon my Patent No. ,  
 of 188 . /

I am,  
 Sir,  
 Your obedient Servant,

(a)  
 To the Comptroller, Patent Office.

(a) Here insert full address, to which receipt is to be sent.

Form L.

*Form of Request to Enter Name upon the Register of Patents,  
 and of Declarations in support thereof.*

I (a),

(a) Or We.  
 Here insert name, full address, and description.

hereby request that you will enter (b) name (c) in  
 the Register of Patents:—

(b) My or our.  
 (c) Or names.

(d) claim to be entitled (e)

(d) I or We.  
 (e) Here insert the nature of the claim.

of the Patent No. of 188 , granted to (f)

(f) Here give name and address, &c., of Patentee or Patentees.

for (g)

(g) Here insert title of the invention.

by virtue of (h)

(h) Here specify the particulars of such document, giving its date, and the parties to the same, and showing how the claim here made is substantiated.

And in proof whereof I transmit the accompanying (i)  
 with an examined copy

(i) Here insert the nature of the document.

thereof (j).

(j) Where any document which is a matter of record is required to be left, a certified or official copy in lieu of an examined copy must be left.

I am, Sir, your obedient Servant,

To the Comptroller, Patent Office.

Form M.

*Form of Request to enter Notification of License in the  
 Register of Patents.*

SIR,

I hereby transmit an examined copy of a license



(a) may be corrected in (b)  
 Signature  
 Full Address  
 To the Comptroller, Patent Office.

(a) Or errors.  
 (b) Here state whether in application, specification, or register.

Form Q.  
 Certificate of Comptroller-General.  
 Patent Office,  
 London, 188 .

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

Form R.

Form of Notice for Alteration of an Address in Register.

SIR,

(a) hereby request that address now upon the Register may be altered as follows:—

(a) Here state name or names and full address of applicant or applicants.  
 (b) Here insert full address.

(b)

Sir,  
 Your obedient Servant,  
 To the Comptroller, Patent Office.

Form S.

Form of Application for Entry of Order of Privy Council in Register.

(a)

hereby transmit an office copy of an order in Council with reference to (b)

(a) Here state name and full address of applicant.  
 (b) Here state the purport of the order.

Sir,  
 Your obedient Servant,  
 To the Comptroller, Patent Office.

Form T.

Form of Appeal to Law Officer.

I, (a) of (a) hereby give notice of my intention to appeal to the Law Officer from (b) of the Comptroller of the day of 188 , whereby he (c) No. (d) of the year 188 (d)

(a) Here insert name and full address of appellant.  
 (b) Here insert "the decision" or "that part of the decision," as the case may be.  
 (c) Here insert "refused [or allowed] application for patent," or "refused [or allowed] application for leave to amend patent," or otherwise, as the case may be.  
 (d) Insert number and year.

Signature  
 Date

N.B.—This notice has to sent to the Comptroller-General at the Patent Office, London, W.C., and a copy of same to the Law Officers' Clerk at Room 549, Royal Courts of Justice, London.



## SECTION II.

## DESIGNS RULES.

By virtue of the provisions of the Patents, Designs, and Trade Marks Act, 1883, the Board of Trade do hereby make the following rules:—

1. These rules may be cited as the Designs Rules, 1883, and shall come into operation from and immediately after the 31st day of December, 1883.

Interpre-  
tation.

2. In the construction of these rules, any words herein used defined by the said Act, shall have the meanings thereby assigned to them respectively.

Fees.

3. The fees to be paid under the said Act, so far as it relates to applications for and registration of designs, shall be the fees specified in the first schedule hereto.

*Forms.*

Forms.

4. An application for the registration of a design shall be made in the Form E in the second schedule hereto. The remaining forms in such schedule may be used in all cases to which they are applicable.

*Classification of Goods.*

Classifi-  
cation of  
goods.

5. For the purposes of the registration of designs and of these rules, goods are classified in the manner appearing in the third schedule hereto.

*Application for Registration.*

Agents.

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

Address of  
Comptroller.

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

(In schedule of fees, see p. 272.)

Size of  
papers.

8. An application for the registration of a design, and all drawings, sketches, photographs, or tracings of a design, and all other documents sent to, or left at, the Patent Office, Designs Branch, or otherwise furnished to the Comptroller or to the Board of Trade, shall be written, printed, copied,

or drawn upon strong wide-ruled foolscap paper (on one side only), of the size of 13 inches by 8 inches, leaving a margin of not less than one inch and a-half on the left-hand part thereof, and the signature of the applicants or agents thereto must be written in a large and legible hand.

The Comptroller may, in any particular case, vary the requirements of this rule as he may think fit.

9. An application for the registration of a design shall be accompanied by a sketch or drawing, or by three exactly similar drawings, photographs, or tracings of the design, or by three specimens of the design, and shall, in describing the nature of the design, state whether it is applicable for the pattern, or for the shape or configuration of the design, and the means by which it is applicable.

Sketches and drawings.  
Nature of design.

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

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

10. On receipt of an application for registration, the Comptroller shall send to the applicant an acknowledgment thereof.

Acknowledgment to applicant.

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

Notice of registration.

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

Applications may be sent by post.

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

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

Hearing by Comptroller.

(See section 94, p. 222.)

14. Within five days from the date when such notice would be delivered in the ordinary course of post, the

Hearing by Comptroller.

applicant shall notify to the Comptroller whether or not he intends to be heard upon the matter.

Notifica-  
tion of  
Comp-  
troller's  
decision.

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

*Appeal to the Board of Trade.*

Notice of  
appeal to  
Board of  
Trade.

16. Where the Comptroller refuses to register a design, and the applicant intends to appeal to the Board of Trade from such refusal, he shall, within one month from the date of the decision appealed against, leave at the Patent Office, Designs Branch, a notice of such his intention.

(See Form F, p. 273.)

Statement  
on appeal.

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

Notice to  
Secretary  
of Board  
of Trade.

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

Direc-  
tions by  
Board of  
Trade.

19. The Board of Trade may thereupon give such directions, if any, as they may think fit for the purpose of the hearing of the appeal of the Board of Trade.

Notice of  
time of  
hearing.

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

*Register of Designs.*

(See section 55, p. 184.)

Register-  
ing design.

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

Subse-  
quent pro-  
prietors.

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

(See section 55, and note thereto.)

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

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

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

(The Form of Request is Design Form K, p. 274.)

26. The claimant shall furnish to the Comptroller such other proof of title as he may require for his satisfaction. Proof of title if required.

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

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

*Power to Dispense with Evidence.*

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

such other evidence and subject to such terms as they may think fit, to dispense with any such act or thing, document, declaration, or evidence.

*Amendments.*

Amendments.

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

*Enlargement of Time.*

Enlargement of time.

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

*Marking Goods.*

Registration mark.

32. Before the delivery on sale of any article to which a registered design has been applied, the proprietor of such design shall, if such article is included in any of the classes one to twelve in the third schedule hereto, cause each such article to be marked with the abbreviation "R<sup>d</sup>" and the number appearing on the certificate of registration, and shall, if such article is included in the classes thirteen or fourteen in the third schedule hereto, cause each such article to be marked with the abbreviation "REG<sup>d</sup>".

(See section 51, p. 182.)

*Inspection.*

Office hours.

33. On such days and during such hours as the Comptroller shall from time to time determine and notify by a placard posted at the Patent Office, any person paying the prescribed fee may, on production of the number of any design of which the copyright has ceased, inspect such design, and any person paying the prescribed fee may take a copy or copies of such design.

(See section 52, sub-section 2. Fee for inspection, 1s. per quarter of an hour, see Design Fees p. 272.)

*Certificate by Comptroller.*

Certificate in legal proceeding.

34. Where a certificate is required for the purpose of any legal proceeding or other special purpose as to any entry, matter, or thing which the Comptroller is authorised by the said Act or these rules to make or do, the Comptroller may, on a request in writing and on payment of the prescribed fee,

give such certificate, which shall also specify on the face of it the purpose for which it has been requested as aforesaid.

(See Schedule of Fees, p. 272.)

*Searches on Production of Sketch of Design.*

35. The Comptroller may, on receipt of the prescribed Search. fee, make searches among the designs registered at the Patent Office after the commencement of the Act, and inform any person requesting him so to do whether a particular design produced by such person, and to be applied to goods in any particular class, is or is not identical with or an obvious imitation of any design applied to such goods and registered since the commencement of the Act.

(See section 52, sub-section 1, p. 183.)

*Industrial and International Exhibitions.*

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

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

(See Form L, p. 257.)

*Repeal.*

37. All general rules and regulations made by any Repeal of authority under the Acts relating to the Copyright of Designs, previous and in force on the 31st December, 1883, shall be, and they rules. are hereby repealed as from that date without prejudice nevertheless to any application then pending.

J. CHAMBERLAIN,  
President of the Board of Trade.

21st December, 1883.

## SCHEDULES.

### FIRST SCHEDULE.

#### FEES.

	£	s.	d.
1. On application to register one design to be applied to single articles in each class except classes 13 and 14 . . . . .	0	10	0
2. On application to register one design to be applied to single articles in classes 13 and 14 . . . . .	0	1	0
3. On application to register one design to be applied to a set of articles for each class of registration . . . . .	1	0	0
4. On notice of appeal to Board of Trade against refusal of Comptroller to register . . . . .	1	0	0
5. Copy of certificate of registration each copy . . . . .	0	1	0
6. On request for Certificate of Comptroller for legal proceedings or other special purpose . . . . .	0	5	0
7. On request to enter name of subsequent proprietor, same as registration fee.			
8. On notice to Comptroller of intended exhibition of an unregistered design . . . . .	0	5	0
9. Inspection of design of which the copyright has expired . . . . for each quarter of an hour . . . . .	0	1	0
10. Copy of one such design cost according to agreement.			
11. On request to correct clerical error . . . . .	0	5	0
12. On request for search under section 53 . . . . .	0	5	0
13. On request to enter new address . . . . .	0	5	0
14. For office copy . . . . . every 100 words (but never less than one shilling)	0	0	4
15. For certifying office copies, M.SS. or printed . . . . .	0	1	0

NOTE.—The term “set” to include any number of articles ordinarily on sale together irrespective of the varieties of size and arrangement in which the particular design may be shown on each separate article.

**J. CHAMBERLAIN,**  
President of the Board of Trade.

Approved :

**CHARLES C. COTES,**  
**HERBERT J. GLADSTONE,**  
Lords Commissioners of  
Her Majesty's Treasury.

4th December, 1883.

## SECOND SCHEDULE.

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 FORMS.
 

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## Form E.

*Application for Registration of Design in Classes*

You are hereby requested to register the accompanying design in class \_\_\_\_\_, in the name of (a) \_\_\_\_\_ of \_\_\_\_\_ who claims to be the proprietor thereof, and to return the same to

Statement of nature of design (b)

(a) Here insert legibly the name, address, and description of the individual or firm.

(b) Such as whether it is applicable for the pattern or for the shape.

(c) To be signed by the applicant.

Dated the \_\_\_\_\_ day of \_\_\_\_\_ 188\_\_\_\_ .  
 To the Comptroller, Patent Office, Designs Branch.

## Form F.

*Appeal to Board of Trade on Refusal of Comptroller to Register a Design (To be accompanied by an unstamped copy).*

SIR,

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

I am, Sir, Your obedient servant,

The Comptroller, Patent Office, Designs Branch.

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

## Form G.

*Certificate of Registration of Design.*

(R<sup>d</sup> No. \_\_\_\_\_ .)

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

This is to certify that the design of which this is a copy was registered this \_\_\_\_\_ day of \_\_\_\_\_ 188\_\_\_\_, in pursuance of the Patents, Designs, and Trade Marks Act, 1883, in respect of the application of such design to articles in class \_\_\_\_\_, for which a copyright of five years is granted.



## Form H.

*Application for Copy of Certificate of Registration of Design.*

SIR,

I hereby request you to furnish me with a copy  
certificate of registration of design No.            in class

(Signed)

Dated the            day of            188 .

To the Comptroller, Patent Office, Designs Branch.

## Form I.

*Request for Certificate for use in Legal Proceedings.*

SIR,

I hereby request you to send me for the purposes of  
use in the suit of (a)

(a) Here state  
the title of the  
legal proceeding  
or the other pur-  
pose for which  
the certificate is  
required.

(b) Here state  
the entry, mat-  
ter, or thing  
which the writer  
wishes certified.

a certificate that the design of which a copy is herein en-  
closed was (b)

(Signed)

day of            188 .

To the Comptroller, Patent Office, Designs Branch.

## Form J.

*Certificate for use in Legal Proceedings.*

In the matter of

No.

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

Witness my hand and seal this            day of  
188 .

Comptroller.

Patent Office, Designs Branch.

## Form K.

*Request to enter Name of Subsequent Proprietor of Design, with Declaration in support thereof.*

I, (a)

[a] Or we.  
Here insert  
name, full ad-  
dress, and de-  
scription.

[b] My or our.  
[c] Or names.

hereby request that you will enter (b)            name (c)  
in the Register of Designs as proprietor            of the Design  
No.            in Class .

[d] I am, or  
We are.

(d)

entitled as to the said design

(e)

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

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

[f] This paragraph is not required when the declaration is made out of the United Kingdom.

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

[g] To be signed here by the person making the declaration.

(g)  
Declared at  
this      day of      188 .  
Before me,

[h] Signature and title of the authority before whom the declaration is made.

(h)

To the Comptroller, Patent Office, Designs Branch.

---

Form L.

*Notice of Intended Exhibition of an Unregistered Design.*

(a) Here state name and address of applicant.

(a)  
hereby give notice of my intention to exhibit a  
of      at the

(b) State "opened" or "is to open."

Exhibition, which (b)  
of      188 , under the provisions of  
the Patents, Designs, and Trade Marks Act of 1883

(c) Insert brief description of design, with drawing.

(c)  
herewith enclose a

(Signed)  
Dated the      day of      188 .  
To the Comptroller, Patent Office, Designs Branch.

---

Form M.

*Request for Correction of Clerical Error or for Entry of New Address.*

SIR,

I hereby request that

(Signed)

Dated the      day of      188 .  
To the Comptroller, Patent Office, Designs Branch.

## THIRD SCHEDULE.

*Classification of Articles of Manufacture and Substances.*

## Classes.

1. Articles composed wholly or partly of metal, not included in class 2.
2. Jewellery.
3. Articles composed wholly or partly of wood, bone, ivory, papier maché, or other solid substances not included in other classes.
4. " " glass, earthenware or porcelain, bricks, tiles, or cement.
5. " " paper (except hangings).
6. " " leather, including binding, of all materials.
7. Paper hangings.
8. Carpets and rugs in all materials, floorcloths, and oilcloths.
9. Lace, hosiery.
10. Millinery and wearing apparel, including boots and shoes.
11. Ornamental needlework on muslin or other textile fabrics.
12. Goods not included in other classes.
13. Printed or woven designs on textile piece goods.
14. " " handkerchiefs and shawls.

21st December, 1883.

J. CHAMBERLAIN,  
President of the Board of Trade.

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## SECTION III.

## TRADE MARKS RULES.

By virtue of the provisions of the Patents, Designs, and Trade Marks Act, 1883, the Board of Trade do hereby make the following rules:—

1. These rules may be cited as the Trade Marks Rules, 1883, and shall come into operation from and immediately after the 31st day of December, 1883.

2. In the construction of these rules any words herein used Interpretation. defined by the said Act shall have the meanings thereby assigned to them respectively.

(Refer to section 117, *supra*, for Definition.)

3. The fees to be paid in pursuance of the said Act, so far Fees. as it relates to trade marks, shall be the fees specified in the first schedule relating hereto.

(*Infra*, p. 288.)

4. The Form F in the first schedule to the said Act shall be Forms. altered or amended by the substitution therefor of the Form F in the second schedule to these rules.

5. (1) An application for registration of a trade mark shall be made in the form F in the second schedule to these rules; (2) The remaining forms in such schedule may be used in all cases to which they are applicable.

(For second schedule, see p. 290, *infra*.)

*Classification of Goods.*

6. For the purposes of trade marks registration and of these Classification. rules goods are classified in the manner appearing in the third schedule hereto. goods.

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

(For third schedule, see p. 299, *infra*.)

*Application for Registration.*

7. An application for registration of a trade mark, if made Application. by any firm or partnership, may be signed by some one or more firm. members of such firm or partnership, as the case may be.

If the application be made by a body corporate, it may be signed by the Secretary or other principal officer of such body corporate.

**Agency.** 8. An application for registration and all other communications between the applicant and the Comptroller may be made by or through an agent duly authorised to the satisfaction of the Comptroller.

(See section 62, p. 190, *supra*.)

**Acknowledgment of application.** 9. On receipt of the application, the Comptroller shall furnish the applicant with an acknowledgment thereof.

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

(See section 64, p. 192, *supra*.)

**Size, &c., of documents.** 11. Subject to any other directions that may be given by the Comptroller, all applications, notices, counter-statements, representations of marks papers having representations affixed, or other documents required by the said Act or by these rules to be left with or sent to the Comptroller or to the Cutlers' Company, shall be upon foolscap paper of a size of 13 inches by 8 inches, and shall have on the left-hand part thereof a margin of not less than one inch and a-half.

**Qualification of metal goods.** 12. In the case of an application for the registration of a trade mark used on any metal goods, other than cutlery, edge tools, and raw steel, the applicant shall state in the specification of goods in the form of application of what metal or metals the goods in respect to which he applies are made.

(See section 81, p. 211, *supra*.)

**Representations of trade mark.** 13. Subject to any other directions that may be given by the Comptroller, three representations of each trade mark, except in the case of marks applied for in classes 23 to 35 inclusive, must be supplied upon paper of the size aforesaid, and must be of a durable nature. One of such representations must be made upon or affixed to the form of application, the others upon separate half-sheets. In the case of trade marks exceeding the limits of the foolscap paper of the size aforesaid, such marks may be pasted and folded upon the sheets of foolscap.

In the case of marks applied for in classes 23 to 35 inclusive, the applicant shall supply four representations of each mark for each class.

Where a drawing or other representation or specimen cannot be given in manner aforesaid, a specimen or copy of the trade

mark may be sent either of full size or on a reduced scale, and in such form as the Comptroller may think most convenient.

The Comptroller may, if dissatisfied with the representation of a trade mark, require a fresh representation, either before he proceeds with the application or before he registers the trade mark.

The Comptroller may also, in exceptional cases, deposit in the Patent Office a specimen or copy of any trade mark which cannot conveniently be shown by a representation, and may refer thereto in the register in such manner as he may think fit.

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

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

16. Any application, statement, notice, or other document authorised or required to be left, made, or given at the Patent Office or to the Comptroller, or to any other person under these rules, may be sent by a prepaid letter through the post, and if so sent shall be deemed to have been left, made, or given respectively at the time when the letter containing the same would be delivered in the ordinary course of post. Mode of sending notices, &c.

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

#### *Exercise of Discretionary Powers.*

17. Before exercising any discretionary power given to the Comptroller by the said Act adversely to the applicant for registration of a trade mark, the Comptroller shall give him ten days' notice of the time when he may be heard personally or by his agent before the Comptroller. Hearing by Comptroller.

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

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

(See section 94, p. 222, *supra*. Rule 40, *infra*.)

*Appeal to the Board of Trade.*

Appeal to  
Board of  
Trade. 20. Where the Comptroller refuses to register a trade mark, and the applicant intends to appeal to the Board of Trade from such refusal, he shall, within one month from the date of the decision appealed against, leave at the Patent Office, Trade Marks Branch, a notice of such his intention.

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

Copy of  
notice to  
Board of  
Trade. 22. The applicant shall forthwith, on leaving such notice send a copy thereof to the Secretary of the Board of Trade, No. 7, Whitehall Gardens, London.

Direc-  
tions by  
Board. 23. The Board of Trade may thereupon give such directions, if any, as they may think fit with respect to evidence, or otherwise, for the purpose of the hearing of the appeal by the Board of Trade, or for the purpose of their referring the appeal to the Court to hear and determine the same.

Notice of  
time of  
hearing. 24. Where the Board of Trade intend to hear the appeal, seven days' notice, or such shorter notice as the Board of Trade may in any particular case direct, of the time and place appointed for the hearing, shall be given to the Comptroller and the applicant.

*Advertisement of Application.*

Advertis-  
ment of  
applica-  
tion. 25. Every application shall be advertised by the Comptroller in the official paper, during such times, and in such manner as the Comptroller may direct.

If no representation of the trade mark be inserted in the official paper in connection with the advertisement of an application, the Comptroller shall refer in such advertisement to the place or places where a specimen or representation of the trade mark is deposited for exhibition.

Definition  
of official  
paper. 26. The official paper for the purposes of these rules shall be some paper published under the direction of the Board of Trade, or such other paper as such Board may from time to time direct.

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

Means of advertising trade mark to be supplied to official paper.

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

Advertisement of series.

#### *Opposition to Registration.*

29. (1.) Where a case stands for the determination of the Court, under the provisions of section 69 of the said Act, the Comptroller shall require the applicant within one month, or such further time as the Comptroller may allow, to issue a summons in the chambers of a judge of Her Majesty's High Court of Justice for an order that notwithstanding the opposition of which notice has been given the registration of the trade mark be proceeded with by the Comptroller, or to take such other proceeding as may be proper and necessary for the determination of the case by the Court.

Manner of bringing case before Court.

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

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

(4.) Such notice to the Comptroller shall be given by delivering at or sending to the Patent Office a copy of the summons or other initiatory proceeding bearing an endorsement

Mode of giving notice that the matter



has been brought before the Court.

of service signed by the applicant or his solicitor, or an endorsement of acceptance of service signed by the opponent or his solicitor.

*Register of Trade Marks.*

Time of registration of trade marks.

30. As soon as may be after the expiration of two months from the date of the first advertisement of the application, the Comptroller shall, subject to any such summons or other proceeding as aforesaid and the determination of the Court thereon, if he is satisfied that the applicant is entitled to registration, and on payment of the prescribed fee, enter the name, address, and description of the applicant in the Register of Trade Marks as the registered proprietor of the trade mark in respect of the particular goods or classes of goods described in his application.

(Section 78, p. 209, *supra*, provides for the register, and section 79, p. 209, for the removal of the mark therefrom.)

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

31. In case of the death of any applicant for a trade mark after the date of his application, and before the trade mark applied for has been entered on the register, the Comptroller, after the expiration of the prescribed period of advertisement, may, on being satisfied of the applicant's death, enter on the register, in place of the name of such deceased applicant, the name, address, and description of the person owning the goodwill of the business, if such ownership be proved to the satisfaction of the Comptroller.

Entries to be made in register.

32. Upon registering any trade mark the Comptroller shall enter in the register the date on which the application for registration was received by the Comptroller (which day shall be deemed to be the date of the registration) and such other particulars as he may think necessary.

Notice of registration.

33. The Comptroller shall send notice to the applicant of the registration of his trade mark, together with a reference to the advertisement of such trade mark in the official paper.

Request by subsequent proprietor.

34. Where a person becomes entitled to a registered trade mark by assignment, transmission, or other operation of law, a request for the entry of his name in the register as proprietor of the trade mark shall be addressed to the Comptroller, and left at the Patent Office.

Signature of request.

35. Such request shall in the case of an individual be made and signed by the person requiring to be registered as proprietor, and in the case of a firm or partnership, or in either case by his or their agent respectively duly authorised to the satisfaction of the Comptroller, and in the case of a body corporate by their agent, authorised in like manner.

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

37. Every such request shall be accompanied by a statutory Declaration to be thereunder written, verifying the several statements therein, and declaring that the particulars above described comprise every material fact and document affecting the proprietorship of the trade mark as claimed by such request. request.

38. The claimant shall furnish to the Comptroller such Further other proof of title and of the existence and ownership of such proof of goodwill as aforesaid as he may require for his satisfaction. title if required.

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

40. The term "applicant" in rules 17, 18, and 19 shall include each of several persons claiming to be registered as proprietor of the same trade mark. Definition of applicant.

41. Whether all of such persons so claiming require to be heard before the Comptroller or not, he may, before exercising the discretion vested in him by section 71 of the said Act, require such persons, or any or either of them, to submit a statement in writing within a time to be notified by him, or to attend before him and make oral explanations with respect to such matters as the Comptroller may require. Comptroller may require statement from rival claimants.

(See section 71, p. 201, *supra*.)

42. Where each of several persons claims to be registered as proprietor of the same trade mark, and the Comptroller refuses to register any of them until their rights have been determined according to law, the manner in which the rights of such claimants may be submitted to the Court by the Comptroller or if the Comptroller so require, by the claimants, shall, unless the Court otherwise order, be by a special case; and such special case shall be filed and proceeded with in like manner as any other special case submitted to the Court, or in such other manner as the Court may direct. Submission to Court of conflicting claims.

Settle-  
ment of  
special  
case.

43. Where the special case is to be submitted to the parties it may be agreed to by them, or, if they differ, may be settled by the Comptroller on payment of the prescribed fees.

44. Where an order has been made by the Court in either of the following cases, viz. :—

(a.) Allowing an appeal under section 62 of the said Act ;

(b.) Disallowing an opposition to registration under section 69 ; or,

(c.) Under the provisions of sections 72, 90, or 92 of the said Act,

the person in whose favour such order has been made, or such one of them, if more than one, as the Comptroller may direct, shall forthwith leave at the Patent Office an office copy of such order. The register shall thereupon be rectified or altered, or the purport of such order shall otherwise be duly entered in the register, as the case may be.

(See section 72, p. 201, *supra*.)

Removal  
of mark  
from re-  
gister.

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

(See section 79, p. 209, *supra*.)

Alteration of address in register.

46. If the registered proprietor of a trade mark send to the Comptroller, together with the prescribed fee, notice of an alteration in his address, the Comptroller shall alter the register accordingly.

Publication of rectification or variation of register.

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

Notice to Comptroller of Order of Court for alteration of trade mark under section 92 of Act.

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

(See section 92, p. 221, *supra*.)

*Inspection of Register.*

49. The Register of Trade Marks shall be open to the Hours of inspection of the public, on payment of the prescribed fee, on inspection every week-day between the hours of ten and four, except on the days and at the times following:—

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

*Power to Dispense with Evidence.*

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

*Amendments.*

51. Any document or drawing or other representation of a trade mark for the amending of which no special provision is made by the said Act may be amended, and any irregularity in procedure which, in the opinion of the Comptroller, may be obviated without detriment to the interests of any person may be corrected, if the Comptroller think fit, and on such terms as he may direct.

*Enlargement of Time.*

52. The time prescribed by these rules for doing any act, or taking any proceeding thereunder, may be enlarged by the Comptroller, if he think fit, and upon such notice to other parties, and proceedings thereon, and upon such terms, as he may direct.

*Cutlers' Company.*

53. All applications to the Cutlers' Company for registration of a trade mark, under section 81 of the said Act, shall be in applica-

tions in duplicate. duplicate, accompanied by the prescribed fees and representations.

Notice to Comptroller. 54. The Cutlers' Company shall, within seven days of the receipt by them of an application to register a trade mark, send the Comptroller one copy of such application, by way of notice thereof, together with two representations of the mark for each class for which the applicant seeks registration.

Time within which Comptroller may object to application made at Sheffield. 55. (1.) The time within which the Comptroller shall give notice to the Cutlers' Company of any objection he may have to the acceptance of an application for registration made to the said Company shall be one month from the date of the receipt by the Comptroller of the notice from the said Company of the making of the application.

Advertisement of application made at Sheffield. (2.) If no such objection is made by the Comptroller, the Cutlers' Company shall require the applicant to send the Comptroller a wood block or electrotype as the Comptroller may direct, and the Comptroller shall, if satisfied with such wood block or electrotype, advertise the application in the same manner as an application made to him at the Patent Office.

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

Similarity of proceedings at London and at Sheffield. 56. The provisions of these rules as to forms, representations, the proceedings on opposition to registration, registration, and all subsequent proceedings shall, as far as the circumstances allow, apply to all applications to register made to the Cutlers' Company, and to all proceedings consequent thereon.

(See section 81, p. 211, *supra*.)

#### *Certificates.*

Certificate by Comptroller. 57. The Comptroller, when required for the purpose of any legal proceeding or other special purpose to give a certificate as to any entry, matter, or thing which he is authorised by the said Act or any of these rules to make or do, may, on receipt of a request in writing, and on payment of the prescribed fee, give such certificate, and shall specify on the face of it the legal proceeding or other purpose for which such certificate is granted.

*Declarations.*

58. The statutory declarations required by the said Act and these rules, or used in any proceedings thereunder, shall be made and subscribed as follows:—

- Manner in which, and persons before whom, declaration is to be taken.
- (a.) In the United Kingdom, before any justice of the peace, or any commissioner or other officer authorised by law in any part of the United Kingdom to administer an oath for the purpose of any legal proceeding;
- (b.) In any other part of Her Majesty's dominions, before any court, judge, justice of the peace, or any officer authorised by law to administer an oath there for the purpose of a legal proceeding; and
- (c.) If made out of Her Majesty's dominions, before a British Minister, or person exercising the functions of a British Minister, or a Consul, Vice-Consul, or other person exercising the functions of a British Consul, or a notary public, or before a judge or magistrate.

59. Any document purporting to have affixed, impressed, or subscribed thereto or thereon the seal or signature of any person hereby authorised to take such declaration in testimony of such declaration having been made and subscribed before him, may be admitted by the Comptroller without proof of the genuineness of any such seal or signature, or of the official character of such person or his authority to take such declaration.

Notice of seal of officer taking declaration to prove itself.

*Repeal.*

60. All general rules as to the registration of trade marks heretofore made by the Lord Chancellor under the Trade Marks Registration Act, 1875, and in force on the 31st day of December, 1883, shall be, and they are hereby repealed, as from that date, without prejudice, nevertheless, to any proceeding which may have been taken under such rules.

Previous rules repealed.

J. CHAMBERLAIN,

President of the Board of Trade.

21st December, 1883.

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## SCHEDULES.

### FIRST SCHEDULE.

	FEES.	£	s.	d.
1. On application to register a trade mark for one or more articles included in one class . . . . .		0	5	0
2. On appeal to Board of Trade, on refusal of Comptroller to register . . . . .		1	0	0
3. For registration of a trade mark for one or more articles included in one class . . . . .		1	0	0
4. For registering a series of trade marks, for every additional representation after the first in each class . . . . .		0	5	0
5. For entering notice of opposition, for each trade mark, whether in one or more classes . . . . .		1	0	0
6. On application to register a subsequent proprietor in cases of assignment or transmission, the first mark . . . . .		1	0	0
7. For every additional mark assigned or transmitted at the same time . . . . .		0	2	0
8. For certificate of refusal to register a trade mark under section 77 . . . . .		1	0	0
9. For certificate of refusal at the same time for more than one trade mark, for each additional trade mark after the first . . . . .		0	10	0
10. For continuance of mark at expiration of 14 years . . . . .		1	0	0
11. Additional fee where fee is paid within three months after expiration of 14 years . . . . .		0	10	0
12. Additional fee for restoration of trade mark where removed for non-payment of fee . . . . .		1	0	0
13. For altering address on the register, for every mark . . . . .		0	5	0
14. For every entry in the register of a rectification thereof or an alteration therein, not otherwise charged . . . . .		0	10	0
15. For cancelling the entry or part of the entry of a trade mark upon the register, on the application of the owner of such trade mark . . . . .		0	5	0
16. On request to Comptroller to correct a clerical error . . . . .		0	5	0
17. For certificate of registration to be used in legal proceedings . . . . .		0	10	0

18. For certificate of registration to be used for the purpose of obtaining registration in foreign countries . . . . .	£	s.	d.
	0	5	0
19. For copy of notification of registration . . . . .	0	2	0
20. Settling a special case by Comptroller . . . . .	2	0	0
21. For inspecting register, for every quarter of an hour . . . . .	0	1	0
22. For making a search amongst the classified representations of trade marks, for every quarter of an hour . . . . .	0	1	0
23. For office copy of documents, for every 100 words (but never less than one shilling). . . . .	0	0	4
24. For certifying office copies, MS. or printed . . . . .	0	1	0
25. For certificate of Comptroller under section 96 . . . . .	0	5	0
26. In cases where a trade mark requires a greater space than two inches of the depth of the page of the Trade Marks Journal, for each additional inch or part of an inch . . . . .	0	2	0
27. Manchester Trade Marks Office . . . . .	Same as above		
28. Sheffield Marks . . . . .	Same as above		
29. On appeal from Cutlers' Company, Sheffield, to Comptroller . . . . .	0	2	0

J. CHAMBERLAIN,

President of the Board of Trade.

Approved :

CHARLES C. COTES,  
HERBERT J. GLADSTONE,

Lords Commissioners of  
Her Majesty's Treasury.

4th December, 1883.



## SECOND SCHEDULE.

## FORMS.

(These are all to be obtained ready stamped at the Patent Office, and it is proposed to sell them at the Chief Post Offices of the great commercial centres.)

## Form F.

*Application for Registration of Trade Mark.*

One representation to be fixed within this space, and two others to be sent on separate sheets of foolscap.

Representations of a larger size may be folded, but must be mounted upon linen and affixed thereto.

You are hereby requested to register the accompanying trade mark in class \_\_\_\_\_, in respect of (a)

(a) Only goods contained in one and the same class should be set out here.

A separate application form is required for each separate class.

(b) Here insert in the name of (b) legibly the full name, address, and business of the individual, firm, or company. In the case of an individual, add trading style (if any).

(c) Alter to "claim to be the proprietors thereof" in the case of a firm or company.

(d) To be signed by the applicant; or, in the case of a firm, by a partner, adding, "A member of the firm"; or, in the case of a company, by the secretary or other principal

who claims to be the proprietor thereof (c)

To the Comptroller, Patent Office,  
Trade Marks Branch.

(Signed)

Dated this

day of

1883.

NOTE.—If the trade mark has been in use in respect of

the goods since before August 13, 1875, state length of such user.

officer, adding, "For the Company."

Or, in any case, an agent may sign, adding "Agent."

**Form G.**

*Additional Representation of Trade Mark to Accompany Application for Registration.*

One representation of the trade mark to be affixed within this space.

It must correspond exactly, in all respects, with the representation affixed to the Application Form.

Any representation of a larger size than foolscap may be folded, but must then be mounted upon linen and affixed hereto.

Two of these ADDITIONAL REPRESENTATIONS of the trade mark must accompany *each* Form of Application.

In the case of a trade mark claimed in one of the CLASSES 23 to 35, THREE of these ADDITIONAL REPRESENTATIONS of the mark must accompany the Form of Application.

**Form H.**

*Form of Appeal to Board of Trade on Refusal of Comptroller to Register a Trade Mark.*

SIR,

I hereby give notice of my intention to appeal against your decision upon my application to register a trade mark No. \_\_\_\_\_ in class \_\_\_\_\_ for \_\_\_\_\_ and I beg to submit my case\* for the decision of the Board of Trade.

I am, Sir, your obedient servant,

To the Comptroller, Patent Office,  
Trade Marks Branch.

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

**Form I.**

*Fee for Registration of a Trade Mark.*

SIR,

In reply to your request I hereby transmit the

prescribed fee for the registration of the trade mark  
No. in class .

I am, Sir, your obedient servant,  
To the Comptroller, Patent Office,  
Trade Marks Branch.

Form J.

*Notice of Opposition to Application for Registration (to  
be accompanied by an unstamped duplicate).*

In the matter of an Application,  
No. by  
of

SIR,

Notice is hereby given that I  
of

oppose the registration of the trade mark advertised under  
the above number for class in the Trade Marks  
Journal of the day of 188 , No , p.

The grounds of opposition are as follows:—

[To be dated and signed at the end  
by the opponent or his solicitor.]

To the Comptroller, Patent Office,  
Trade Marks Branch.

Form K.

*Request to enter Name of Subsequent Proprietor of  
Trade Mark upon the Register, with Declaration  
in support thereof.*

I, (a)

(a) Or We.  
Here insert  
name, full ad-  
dress, and de-  
scription.

(b) My or our. hereby request that you will enter (b) name (c)  
(c) Or names. in the Register of Trade Marks as proprietor of  
the trade mark No. in class .

(d) I am, or We are. (d) entitled to the said trade mark and to the  
goodwill of the business concerned in the goods with respect  
to which the said trade mark is registered.

(e) Here state  
whether trade  
mark transmit-  
ted by death,  
marriage, bank-  
ruptcy, or other  
operation of  
law; and, if en-  
titled by assign-

(e)

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

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

Declared at  
this                  day of                  188          .

(g)  
Before me  
(h)

To the Comptroller, Patent Office,  
Trade Marks Branch.

ment, state the particulars thereof, as, e.g., "by deed dated the day of 188, made between So-and-so of the one part."

(f) This paragraph is not required when the declaration is made out of the United Kingdom.

(g) To be signed here by the person making the declaration.

(h) Signature and title of the authority before whom the declaration is made.

#### Form L.

*Request for Certificate of Refusal to Register a Trade Mark in use before 13th August, 1875.*

In the matter of an Application for registration of an old trade mark, No.                          in Class                          .

SIR,  
I,

of

the applicant in the above matter, hereby request you to furnish me with your Certificate of Refusal to register the said trade mark.

(Signature of applicant.)

Dated this                  day of                  188          .

To the Comptroller, Patent Office,  
Trade Marks Branch.

#### Form M.

*Notice of Application for Alteration of Address on Register of Trade Marks.*

In the matter of the trade mark, No.                          registered in Class                          .

SIR,

Notice is hereby given that I

of  
the registered proprietor of the trade mark numbered as  
above desire that my address on the Register of Trade  
Marks be altered to

Dated this                    day of                    188                    .  
(Signature of proprietor.)

To the Comptroller, Patent Office,  
Trade Marks Branch.

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Form N.

*Notice of Application for Alteration or Rectification of  
Register of Trade Marks.*

In the matter of the trade mark,  
No.                    , registered  
in class                    in the name of

SIR,

Notice is hereby given that by an order of the  
Court made on the                    day of                    188                    , it was  
directed that the entry on the Register of Trade Marks in  
respect of the trade mark numbered as above should be  
rectified in the manner therein specified.

An office copy of the order of the Court is enclosed  
herewith.

Dated this                    day of                    188                    .  
(Signature of applicant.)

To the Comptroller, Patent Office,  
Trade Marks Branch.

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Form O.

*Form of Application by Proprietor of Registered  
Trade Mark to Cancel Entry on Register.*

Trade Mark No.                    , class                    , advertised  
in "Trade Marks Journal," No.                    , p.

Name of registered proprietor or firm  
Place of business

I, the undersigned,  
of

[or, I, the undersigned,  
a member of the firm of

of

on behalf of my said

firm]

apply that the entry upon the Register of the Trade Marks  
in class of the trade mark No. may be  
cancelled.

The day of 188 .

(Signed)

This is the statement marked "O" referred to in the  
declaration of made  
before me the of 188 .

---

Form P.

*Form of Declaration in Support of Application for  
Cancellation of Trade Mark by Owner.*

I, of

I ; [or  
a member of the firm of  
of ]

do hereby solemnly and sincerely declare, to the best of my  
knowledge and belief, as follows:—

(1.) The application signed by me, and dated the  
day of 18 , and marked with the  
letter "O" and shown to me at the time of making this  
declaration, is true.

(2.) I am the person whose name appears on the Re-  
gister of Trade Marks as the proprietor of the trade mark  
referred to in the said application marked with the letter  
"O."

[or my said firm is the firm whose name appears on the  
Register of Trade Marks as the proprietor of the trade mark  
referred to in the said application marked with the letter  
"O."

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

(Signed)

Declared at

this day of  
188 .

Before me,

If the declaration be made before a Commissioner to  
administer oaths, it will require to be stamped with a 2s. 6d.  
impressed Inland Revenue stamp.

N.B.—This appears to be an error. The 2s. 6d. is the  
Commissioner's fee for taking the declaration and exhibit.  
There is no Inland Revenue duty on declarations.—ED.

## Form Q.

*Form of Request for Correction of Clerical Error in  
Regard to a Trade Mark.*

SIR,

I hereby request that  
To the Comptroller, Patent Office,  
Trade Marks Branch.

## Form R.

*Request for Certificate of Registration of Trade Mark  
for use in Obtaining Registration Abroad.*

In the matter of the trade mark,  
No. \_\_\_\_\_, registered in  
class \_\_\_\_\_ in the name of

SIR,

I, \_\_\_\_\_,  
of \_\_\_\_\_,  
the registered proprietor of the above trade mark hereby  
request you to furnish me with your Certificate of Registra-  
tion for use in obtaining registration of the same in [here  
state name of country in which registration is to be  
sought].

(Signature)

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 188 .

To the Comptroller, Patent Office,  
Trade Marks Branch.

## Form S.

*Request for Certificate of Registration of Trade Mark  
for use in Legal Proceedings.*

In the matter of the trade mark  
No. \_\_\_\_\_, registered in  
class \_\_\_\_\_ in the name of

SIR,

I, \_\_\_\_\_,  
of \_\_\_\_\_,  
the registered proprietor of the above trade mark hereby  
request you to furnish me with your Certificate of Registra-  
tion for use in the following legal proceedings [here state  
exact title of legal proceedings].

(Signature)

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 188 .

To the Comptroller, Patent Office,  
Trade Marks Branch.

## Form T.

*Application for Settlement of a Special Case on  
Application to Register a Trade Mark.*

In the matter of the application  
of \_\_\_\_\_ and  
of the application of \_\_\_\_\_

SIR,

Notice is hereby given that I,

of

and I,

are unable to agree upon the facts on which the opinion of the Court is to be taken, and that we request you to fix a day on which we may attend before you and obtain your finding on the matters of fact to be submitted to the Court as settled.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 188 .

(To be signed by both parties.)

To the Comptroller, Patent Office,  
Trade Marks Branch.

## Form U.

*General Certificate of Comptroller-General as to  
Application for or Registration of a Trade Mark.*

Patent Office, Trade Marks Branch,  
London,

188 .

I,

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

## Form V.

*Request for Copy of Official Notification of Registra-  
tion of Trade Mark.*

In the matter of the trade mark,  
No. \_\_\_\_\_, registered  
in class \_\_\_\_\_ .

SIR,

I,

of

the registered proprietor of the trade mark above named



hereby request that you will furnish me with a copy  
of the official notification of the registration of the same.

(Signature)

Dated this                      day of                      188 .  
To the Comptroller, Patent Office,  
Trade Marks Branch.

Form W.

*Form of Appeal from Cutlers' Company at Sheffield  
to Comptroller (to be accompanied by an unstamped  
duplicate).*

SIR,

I hereby give notice of appeal against the decision  
of the Cutlers' Company of Sheffield in regard to my appli-  
cation for registration of a trade mark No.                      in  
class                      for

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

and I beg to submit my case\* for your decision accord-  
ingly.                      †

Dated this                      day of                      188 .  
To the Comptroller, Patent Office,  
Trade Marks Branch.

† Signature.

## THIRD SCHEDULE.

## GENERAL NOTE.

Any wares made of mixed materials (for example, of both cotton and silk) shall be included in such one of the classes appropriated to those materials as the Registrar may desire.

## CLASSIFICATION OF GOODS.

*Illustrations.*

NOTE.—Goods are mentioned in this column by way of illustration, and not as an exhaustive list of the contents of a class.

## CLASS 1.

Chemical substances used in manufactures, photography, or philosophical research, and anti-corrosives.

Such as—

Acids, including vegetable acids.  
Alkalies.  
Artists' colours.  
Pigments.  
Mineral dyes.

## CLASS 2.

Chemical substances used for agricultural, horticultural, veterinary, and sanitary purposes.

Such as—

Artificial manure.  
Cattle Medicines.  
Deodorisers.  
Vermin destroyers.

## CLASS 3.

Chemical substances prepared for use in medicine and pharmacy.

Such as—

Cod liver oil.  
Medicated articles.  
Patent medicines.  
Plasters.  
Rhubarb.

## CLASS 4.

Raw or partly prepared vegetable, animal, and mineral substances used in manufactures, not included in other classes.

Such as—

Resins.  
Oils used in manufactures and not included in other classes.  
Dyes, other than mineral.  
Tanning substances.

Fibrous substances (*e.g.*,  
cotton, hemp, flax, jute).  
Wool.  
Silk.  
Bristles.  
Hair.  
Feathers.  
Cork.  
Seeds.  
Coal.  
Coke.  
Bone.  
Sponge.

**CLASS 5.**  
Unwrought and partly wrought  
metals used in manufacture.

Such as—  
Iron and steel, pig or cast.  
Iron, rough.  
„ bar and rail, including  
rails for railways.  
„ bolt and rod.  
„ sheet, and boiler and  
armour plates.  
„ hoop.  
Lead, pig.  
„ rolled.  
„ sheet.  
Wire.  
Copper.  
Zinc.  
Gold, in ingots.

**CLASS 6.**  
Machinery of all kinds, and  
parts of machinery, ex-  
cept agricultural and hor-  
ticultural machines included  
in Class 7.

Such as—  
Steam engines.  
Boilers.  
Pneumatic machines.  
Hydraulic machines.  
Locomotives.  
Sewing machines.  
Weighing machines.  
Machine tools.  
Mining machinery.  
Fire engines.

**CLASS 7.**  
Agricultural and horticultural  
machinery, and parts of such  
machinery.

Such as—  
Ploughs.  
Drilling machines.

Reaping machines.  
 Thrashing machines.  
 Churns.  
 Cyder presses.  
 Chaff cutters.

**CLASS 8.**

Philosophical instruments, scientific instruments and apparatus for useful purposes. Instruments and apparatus for teaching.

Such as—  
 Mathematical instruments.  
 Gauges.  
 Logs.  
 Spectacles.  
 Educational appliances.

**CLASS 9.**

Musical instruments.

**CLASS 10.**

Horological instruments.

**CLASS 11.**

Instruments, apparatus, and contrivances, not medicated, for surgical or curative purposes, or in relation to the health of men or animals.

Such as—  
 Bandages.  
 Friction gloves.  
 Lancets.  
 Fleams.  
 Enemas.

**CLASS 12.**

Cutlery and edge tools.

Such as—  
 Knives.  
 Forks.  
 Scissors.  
 Shears.  
 Files.  
 Saws.

**CLASS 13.**

Metal goods not included in other classes.

Such as—  
 Anvils.  
 Keys.  
 Basins (metal).  
 Needles.  
 Hoes.  
 Shovels.  
 Corkscrews.

**CLASS 14.**

Goods of precious metals (including aluminium, nickel,

Such as—  
 Plate.

- Britannia metal, &c.) and jewellery, and imitations of such goods and jewellery.
- CLASS 15.**  
Glass.
- Clock cases and pencil cases of such metals.  
Sheffield and other plated goods.  
Gilt and ormolu work.
- Such as—  
Window and plate glass.  
Painted glass.  
Glass mosaic.  
Glass beads.
- CLASS 16.**  
Porcelain and earthenware.
- Such as—  
China.  
Stoneware.  
Terra Cotta.  
Statuary porcelain.  
Tiles.  
Bricks.
- CLASS 17.**  
Manufactures from mineral and other substances for building or decoration.
- Such as—  
Cement.  
Plaster.  
Imitation marble.  
Asphalt.
- CLASS 18.**  
Engineering, architectural and building contrivances.
- Such as—  
Diving apparatus.  
Warming apparatus.  
Ventilating apparatus.  
Filtering apparatus.  
Lighting contrivances.  
Drainage contrivances.  
Electric and pneumatic bells.
- CLASS 19.**  
Arms, ammunition, and stores not included in Class 20.
- Such as—  
Cannon.  
Small-arms.  
Fowling pieces.  
Swords.  
Shot and other projectiles.  
Camp equipage.  
Equipments.
- CLASS 20.**  
Explosive substances.
- Such as—  
Gunpowder.

Gun-cotton.  
 Dynamite.  
 Fog-signals.  
 Percussion caps.  
 Fireworks.  
 Cartridges.

CLASS 21.

Naval architectural contrivances and naval equipments not included in Classes 19 and 20.

Such as—  
 Boats.  
 Anchors.  
 Chain cables.  
 Rigging.

CLASS 22.

Carriages.

Such as—  
 Railway carriages.  
 Waggon.  
 Railway trucks.  
 Bicycles.  
 Bath chairs.

CLASS 23.

Cotton yarn and thread.

Such as—  
 Sewing cotton on spools or reels.  
 Sewing cotton not on spools or reels.  
 Dyed cotton yarns.

CLASS 24.

Cotton piece goods of all kinds.

Such as—  
 Cotton shirtings.  
 Long cloth.

CLASS 25.

Cotton goods not included in Classes 23, 24, or 38.

Such as—  
 Cotton lace.  
 Cotton braids.  
 Cotton tapes.

CLASS 26.

Linen and hemp yarn and thread.

CLASS 27.

Linen and hemp piece goods.

CLASS 28.

Linen and hemp goods not included in Classes 26, 27, and 50.

## CLASS 29.

Jute yarns and tissues, and other articles made of jute not included in Class 50.

## CLASS 30.

Silk, spun, thrown, or sewing.

## CLASS 31.

Silk piece goods.

## CLASS 32.

Other silk goods not included in Classes 30 and 31.

## CLASS 33.

Yarns of wool, worsted, or hair.

## CLASS 34.

Cloths and stuffs of wool worsted, or hair.

## CLASS 35.

Woollen and worsted and hair goods not included in Classes 33 and 34.

## CLASS 36.

Carpets, floor-cloth, and oil-cloth.

Such as—  
Drugget.  
Mats and matting.  
Rugs.

## CLASS 37.

Leather, skins unwrought and wrought, and articles made of leather not included in other classes.

Such as—  
Saddlery.  
Harness.  
Whips.  
Portmanteaus.  
Furs.

## CLASS 38.

Articles of clothing.

Such as—  
Hats of all kinds.  
Caps and bonnets.  
Hosiery.  
Gloves.

- Boots and shoes.  
Other ready-made clothing.
- CLASS 39.**  
Paper (except paper-hangings), stationery, and bookbinding. Such as—  
Envelopes.  
Sealing wax.  
Pens (except gold pens).  
Ink.  
Playing cards.  
Blotting cases.  
Copying presses.
- CLASS 40.**  
Goods manufactured from india-rubber and gutta-percha not included in other classes.
- CLASS 41.**  
Furniture and upholstery. Such as—  
Paper hangings.  
Papier-mâché.  
Mirrors.  
Mattresses.
- CLASS 42.**  
Substances used as food, or as ingredients in food. Such as—  
Cereals.  
Pulses.  
Olive oil.  
Hops.  
Malt.  
Dried fruits.  
Tea.  
Sago.  
Salt.  
Sugar.  
Preserved meats.  
Confectionery.  
Oil cakes.  
Pickles.  
Vinegar.  
Beer clarifiers.
- CLASS 43.**  
Fermented liquors and spirits. Such as—  
Beer.  
Cyder.  
Wine.  
Whiskey.  
Liqueurs.



## CLASS 44.

Mineral and aërated waters,  
natural and artificial, includ-  
ing ginger-beer.

## CLASS 45.

Tobacco, whether manufactured  
or unmanufactured.

## CLASS 46.

Seeds for agricultural and hor-  
ticultural purposes.

## CLASS 47.

Candles, common soap, deter-  
gents, illuminating, heating,  
or lubricating oils, matches,  
and starch, blue, and other  
preparations for laundry pur-  
poses.

Such as—

Washing powders.  
Benzine collas.

## CLASS 48.

Perfumery (including toilet ar-  
ticles, preparations for the  
teeth and hair, and perfumed  
soap).

## CLASS 49.

Games of all kinds and sporting  
articles not included in other  
classes.

Such as—

Billiard tables.  
Roller skates.  
Fishing nets and lines.  
Toys.

## CLASS 50.

Miscellaneous, including—

- (1.) Goods manufactured  
from ivory, bone or wood,  
not included in other  
classes.
- (2.) Goods manufactured  
from straw or grass, not  
included in other classes.
- (3.) Goods manufactured  
from animal and vegetable  
substances, not included  
in other classes.

Such as—

Coopers' wares.

- (4.) Tobacco pipes.
- (5.) Umbrellas, walking sticks, brushes and combs.
- (6.) Furniture cream, plate powder.
- (7.) Tarpaulins, tents, rick-cloths, rope, twine.
- (8.) Buttons of all kinds, other than of precious metal or imitations thereof.
- (9.) Packing and hose of all kinds.
- (10.) Goods not included in the foregoing classes.

J. CHAMBERLAIN,

President of the Board of Trade.

21st December, 1883.

#### SECTION IV.

#### THE CUTLERS' COMPANY ACTS.

##### *Abridgment of their Provisions.*

The Cutler's Company, or, to give the title in full, The Cutlers' Company Act of 1623. "The Company of Cutlers in Hallamshire, in the County of York," was incorporated by the Act of Parliament 21 Jac. I., c. 31 (A.D. 1623), which recites that it was necessary to provide for the government of persons exercising the art of cutlers, or making knives, blades, scissors, shears, sickles, cutlery wares, and other wares made of wrought iron and steel within Hallamshire and six miles thereof. Powers for such government were vested in the Company; and no person, not being a freeman thereof, was allowed to carry on the art of cutlers within that district, and no person was permitted to use more than one mark upon his goods, and that was to be such a mark as should be assigned to him by the master and

other officers of the Cutler's Company, under the penalty of forfeiting the goods and a fine of 40s. for each offence. The Company were to elect a master, two wardens, six searchers, and twenty-four assistants, to carry out the provisions of the Act, who had power given them to make bye-laws for regulating the trade of cutlers, and to impose fines for breaches thereof. The penalties and fines were to be recovered by the Company in any Court of Record.

The Cutlers' Company Act of 1791.

The Act of Parliament 31 Geo. III., c. 58 (A.D. 1791), repealed this Act except so much thereof as related to the incorporation of the Company. The master manufacturers exercising the arts or trades of makers of knives, sickles, shears, scissors, razors, files and forks within the District of Hallamshire and six miles' compass of the same were to meet annually and to nominate twenty-five persons exercising the said arts, from whom the master, wardens, searchers, and assistants of the Company were to select twelve to act as assistants for the year ensuing, who, with the remaining twelve of the assistants, and the master, wardens, and searchers to be elected under the former Act, were to be the master, wardens, searchers, and assistants for the year ensuing. Persons voting at such nomination who had not been master manufacturers in some of the said trades for the preceding twelve months were to forfeit the sum of £5. The persons nominated were to take upon them their offices under a penalty of £30. After the 26th June, 1791, every person who had served an apprenticeship for the term of seven years to any member of the Company exercising any of the said trades within the district was entitled, after attaining the age of twenty-one years, to the freedom of the Company, and to have a mark assigned to him to be struck, engraved, or used by him upon such goods as he was entitled to make. The sons of freemen who had worked under their fathers

were to be considered as apprentices, although not formally bound as such.

Every person entitled to the freedom was to apply for a mark, which the master and other officers were to assign to him before taking an apprentice, and was to pay a yearly sum of 6*d.* as mark rent. No mark was to be assigned which consisted in part or wholly of a surname. Any person counterfeiting a mark assigned by the Company was to forfeit a sum not exceeding £20, nor less than £4, one-half to go to the person whose mark was counterfeited.

If two or more persons who might have carried on different branches of some of the said trades, and who might have had the same mark assigned to them, began another branch of trade different to that for which the mark had been assigned to them, they were obliged to apply for another mark before being allowed to carry on such new trade.

Section 19 of the Act regulated the fees to be taken: on enrolling indenture of apprenticeship of son of member of Company, 2*s.* 6*d.*; on the binding of any other apprentice, 11*s.* 6*d.*; for searching and assigning a mark, 8*s.* 2*d.*

By section 20, no person whomsoever was to "set up, exercise, or carry on for himself, or in partnership, or work as journeyman in any of the arts or trades of makers of knives, sickles, shears, scissors, razors, files, and forks, within the liberty of Hallamshire, or six miles' compass of the same," without being first admitted to the freedom of the Company, and continuing a member thereof, under a penalty not exceeding £10, or less than 10*s.*, for every month of exercising such trade. By section 21 this restriction was not to apply to the exercise of new inventions, upon a license for that purpose being obtained from the Company.

By section 23 the widow of any freeman might carry on the trade of her deceased husband during her life, or

might sell the right of using her deceased husband's mark to any person entitled to carry on the trade. By section 24 non-freemen were to have marks assigned to them upon paying £20 over and above ordinary fees.

By sections 26 and 27 the penalties could be sued for in any Court of Record, and a summary jurisdiction over offences under this Act was given to the justices for the West Riding of the County of York, or for the County of Derby.

The Cut-  
lers' Com-  
pany Act  
of 1801.

The Act of Parliament 41 Geo. III., c. 97, enabled (section 2) a freeman of the Company to give or devise his mark by will, subject to the life interest of his widow therein; if he made no will, the mark (section 3) was to be the property of such of his family or relatives as might be entitled to use it. By section 4, if persons acquiring marks in this way did not pay mark rent for five years, the mark was to be considered surrendered to the Company.

The Cut-  
lers' Com-  
pany Act  
of 1814.

By the Act of Parliament 54 Geo. III., c. 119 (A.D. 1814), it was recited that, whereas by the restrictions contained in the before-mentioned Acts the manufactures of the district were made wholly dependent for the supply of journeymen and workmen upon the freemen of the said Corporation, and the number of journeymen was consequently always very limited; And whereas it was expedient that the freemen should be exonerated from other restrictions and annual payments imposed upon them; the Act accordingly repealed the various provisions of the preceding Acts above set forth, and enacted instead of them :—

Section 1. That any person might carry on business in any of the arts or trades of makers of knives, sickles, shears, scissors, razors, files, and forks, within Hallamshire, or six miles' compass thereof, although he should not have obtained the freedom of the Company, or have continued a member thereof, and might have any number

of apprentices, and for any terms of years he might think proper.

Section 2. Any person, whether freeman of the Company or not, exercising any of the said trades within the district might have a mark assigned to him on payment of 40s. But this mark might not—

1. Be the property of any other person within the district;

2. Nor consist of a surname.

If the mark was one previously assigned and afterwards surrendered to the Company, an extra fee of £3 was to be paid.

Section 5. If any person carrying on any of the said trades within the district “struck, engraved, impressed, “or used, or caused to be stricken, engraved, impressed, “or used upon his goods, wares, or manufactures, any “mark, device, stamp, or impression, with intent to “counterfeit or imitate any mark assigned” to any other person of the Company, such person, for every such offence, should forfeit any sum not exceeding £20, one-half to go to the Company, and one-half to the person whose mark had been counterfeited. The provisions in the Act 31 Geo. III., c. 58, as to the recovery of the penalties set out above were to remain in force.

Section 6. Every mark assigned by the Company might be devised, or, in case of no devise, should be enjoyed by the widow and family of any person dying possessed of any such mark, but no such mark was to be used by more than one person of such family at the same time.

The last Act of Parliament is the 23 Vict., c. 43 (A.D. 1860), which enacts:—

Section 1. That the several provisions of the above Acts in force relating to persons manufacturing knives, sickles, shears, scissors, razors, files, and forks within Hallamshire, or six miles' compass thereof, should hence-

The Cut-  
lers' Com-  
pany Act  
of 1860.

forth extend to persons exercising the arts or trades of *manufacturers of steel and makers of saws and edge tools, and other articles of steel, or of steel and iron combined, having a cutting edge.*

Section 2. Any persons carrying on any of the arts or trades mentioned in the last section within Hallamshire, or six miles' compass of the same, shall be admitted to the freedom of the Company, and have a mark assigned to them, upon paying £20 over and above the other fees.

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TIME TABLE.

I. PATENTS.

<p><b>Amendment of application or specification required by Comptroller.</b></p>	<p>Comptroller must give <i>ten</i> days' notice to applicant of appointment for hearing upon question.</p>	<p>Pat. Rules 11, p. 242.</p>
	<p>Within <i>five</i> days, or longer time stated by Comptroller, applicant must notify whether he requires to be heard.</p>	<p>Pat. Rules 12, p. 242.</p>
<p><b>Appeals from Comptroller to law officer.</b></p>	<p>Within <i>fourteen</i> days of decision appealed against, notice of appeal to be filed in Patent Office.</p>	<p>Law Officers' Rule 1, p. 253; Form T, p. 265.</p>
	<p>Comptroller and Law Officer may allow further time.</p>	<p>Law Officers' Rule 5, p. 253.</p>
	<p>Comptroller to transmit to Law Officers' clerk all papers.</p>	<p>Law Officers' Rule 4, p. 253.</p>
	<p><i>Seven</i> days' notice of appointment for hearing to be given by Law Officer.</p>	<p>Law Officers' Rule 6, p. 253.</p>
<p><b>Application for patent.</b></p>	<p>To be made before publication of invention.</p>	<p>Sec. 5, p. 118; Form A, p. 257.</p>
	<p>To become void unless complete specification accepted within <i>twelve months</i> from application, unless delayed by appeal.</p>	<p>Sec. 9, p. 128.</p>
<p><b>Application for patent by representative of deceased inventor.</b></p>	<p>To be made within <i>six</i> months from date of decease.</p>	<p>Sec. 34 (2), p. 167; Pat. Rule 24, p. 244.</p>
<p><b>Assignment of patent.</b></p>	<p>May be entered on register at any time, but title to patent not secure until registered.</p>	<p>Pat. Rule 65, p. 250.</p>
<p><b>Completion of patent by representative of deceased inventor.</b></p>	<p>If applicant dies within <i>fifteen</i> months of application patent may be sealed to his legal representative within <i>twelve</i> months from date of applicant's decease.</p>	<p>Sec. 12 (3), p. 133.</p>



<p><b>Compulsory Licenses.</b></p>	<p>Petition for grant of, may be filed at any time after grant of patent.          To be left at Patent Office with evidence.          Board of Trade will require petitioner to attend Comptroller, &amp;c., on day appointed to receive directions.          Petitioner to deliver patentee copies of petition and evidence before day appointed by Board of Trade.          Patentee, within <i>fourteen</i> days from such delivery, to file evidence in reply and serve petitioner with copy thereof.          Petitioner, within <i>fourteen</i> days, to file evidence in reply and serve patentee with copy thereof.          Parties to be heard on appointment made by Board of Trade.</p>	<p>Sec. 22, p. 142.           Pat. Rules 57 and 58, p. 249.          Pat. Rule 59, p. 249.           Pat. Rule 61, p. 250.           Pat. Rule 61, p. 250.           Pat. Rule 62, p. 250.           Pat. Rule 63, p. 250.</p>
<p><b>Disclaimer or Amendment of specification.</b></p>	<p>Leave to amend specification may be applied for at any time after complete specification accepted. The request to be advertised in Official Journal and as Comptroller may direct.          Notice of opposition to amendment to be given within <i>one</i> month from first advertisement.          Within <i>fourteen</i> days after expiration of month opponent to file his evidence and serve applicant with list thereof; and then same proceedings and times as in opposition to the grant of patent.          If disclaimer allowed applicant to leave new specification and drawings at Patent Office if required within time appointed by Comptroller.</p>	<p>Sec. 18, p. 138.          Pat. Rule 48, p. 248.           Pat. Rule 48, p. 248.           Sec. 18 (2), p. 138.           Pat. Rule 51, p. 248.           Pat. Rule 52, p. 249.           Pat. Rule 54, p. 249.</p>
<p><b>Duration of patent.</b></p>	<p>Fourteen years from date of application if renewed by the payments required.</p>	<p>Sec. 17 (1), p. 136.          Pat. Rules 46 and 47, p. 248.</p>
<p><b>Enlargement of time for payment of renewal fees.</b></p>	<p>Within <i>one</i> month of prescribed time.          Within <i>two</i> months of prescribed time.          Within <i>three</i> months of prescribed time.</p>	<p>Schedule of Pat. Fees, Nos. 26, 27, and 28, p. 256.</p>

<p><b>Exhibition—industrial or international.</b></p>	<p>Before exhibiting unpatented invention at, inventor must obtain certificate from Board of Trade;                  And give Comptroller <i>seven</i> days' notice of his intention to exhibit.                  Must file description of invention at Patent Office.                  Patent must be applied for within <i>six</i> months from opening of exhibition.</p>	<p>Sec. 39, p. 169.                  Pat. Rule 17, p. 243.</p>
<p><b>Extension of patent.</b></p>	<p>Petition to Privy Council for, to be filed at least <i>six</i> months before patent expires.</p>	<p>Sec. 39, p. 170.</p>
<p><b>Holidays . . .</b></p>	<p>Christmas Day, Good Friday, any day kept as, by Bank of England, or any public fast or thanksgiving, when last day, thing may be done on day next following such, or days if more than one occur consecutively.</p>	<p>Sec. 25, p. 146.</p>
<p><b>Infringement . .</b></p>	<p>No proceedings can be taken for infringement committed before publication of complete specification.</p>	<p>Sec. 98, p. 223.</p>
<p><b>International patents.</b></p>	<p>To be applied for within <i>seven</i> months from date of application in foreign country.</p>	<p>Sec. 13, p. 133.</p>
<p><b>Opposition to grant of patent.</b></p>	<p>Notice to be given within <i>two</i> months from date of advertisement of acceptance of complete specification.                  Within <i>fourteen</i> days from end of the <i>two</i> months, opponent must file his evidence and serve applicant with list thereof.                  Within <i>fourteen</i> days from service of list of opponent's evidence, applicant to file his evidence in answer, and serve opponent with list thereof.                  Applicant to file evidence in reply and serve list within <i>seven</i> days.                  On completion of evidence, Comptroller to give <i>seven</i> days' notice of appointment for hearing.</p>	<p>Sec. 103, p. 227.</p>
		<p>Sec. 11, p. 130.</p>
		<p>Pat. Rule 35, p. 246.</p>
		<p>Pat. Rule 36, p. 246.</p>
		<p>Pat. Rule 36, p. 246.</p>
		<p>Pat. Rule 39, p. 247.</p>

<b>Particulars of breaches.</b>	To be delivered with statement of claim, and afterwards if ordered by Court or judge.	Sec. 29 (1), p. 154.
<b>Particulars of objection.</b>	To be delivered with statement of defence, and afterwards if ordered by Court or judge.	Sec. 29 (2), p. 154.
<b>Patent . . . .</b>	<p>To be sealed if no opposition at expiration of <i>two</i> months from advertisement of acceptance of complete specification;</p> <p>And before expiration of <i>fifteen</i> months from date of application.</p> <p>To be dated and sealed as of day of application.</p>	<p>Sec. 12 (1), p. 132.</p> <p>Sec. 12 (3), p. 133.</p> <p>Sec. 13, p. 133.</p>
<b>Protection by complete specification.</b>	To exist from acceptance of complete specification until sealing.	Sec. 15, p. 135.
<b>Provisional protection.</b>	To exist from date of application until sealing of patent if application accepted.	Sec. 14, p. 134.
<b>Renewal fees . . .</b>	<p><i>Seven</i> days before expiration of fourth year, patentee to give notice to Comptroller of his intention to keep up patent.</p> <p>Before end of fourth year, patentee to stamp certificate of payment with £50 stamp, and leave at Patent Office.</p> <p>Same at end of seventh year for patents dated before 1st Jan., 1884, and at end of eighth year for patents granted on and after 1st Jan., 1884, with £100 stamp.</p> <p>Same with £10 and increasing fees if annual payments be adopted.</p>	<p>Pat. Rule 42, p. 247.</p> <p>Pat. Form J, p. 262.</p> <p>Pat. Form J, p. 262. Schedule of Patent Fees, p. 255.</p> <p>Pat. Rule 44, p. 247</p>
<b>Seal . . . .</b>	Patent to be sealed within <i>fifteen</i> months from application except appeal be pending or applicant has died.	Sec. 12, p. 133.
<b>Specification, provisional.</b>	To be left with application.	Sec. 5 (2), p. 118.

<b>Specification, complete</b>	<p>To be left with application, or within <i>nine</i> months from application.</p> <p>Must be accepted within <i>twelve</i> months from application.</p> <p>To be advertised upon acceptance.</p>	<p>Sec. 8, p. 127.</p> <p>Sec. 9 (4), p. 128.</p> <p>Sec. 10, p. 129.</p>
<b>Sunday . . .</b>	<p>Where last day falls upon, thing may be done on day following.</p>	<p>Sec. 98, p. 223.</p>
<b>Saturday . . .</b>	<p>Where Saturday last day, thing may be done on Monday following.</p>	<p>Sec. 98, p. 223.</p>

## II. DESIGNS.

<b>Application to register.</b>	<p>May be made at any time before publication of the design.</p> <p>On receipt of, Comptroller to send applicant acknowledgment.</p> <p>If Comptroller determines to register, he is to send certificate of registration.</p> <p>If Comptroller objects to register, he is to give applicant <i>ten</i> days' notice of appointment to be heard upon question.</p> <p>Within <i>five</i> days the applicant to notify Comptroller whether he intends to be heard.</p> <p>Decision of Comptroller to be notified to applicant.</p>	<p>Sec. 47, p. 178 ; Design Rule 4, p. 266 ; Form E, p. 273.</p> <p>Designs Rule 10, p. 267.</p> <p>Designs Rule 11, p. 267.</p> <p>Designs Rule 13, p. 267.</p> <p>Designs Rule 14, p. 267.</p> <p>Designs Rule 15, p. 268.</p>
<b>Appeal from Comptroller to Board of Trade.</b>	<p>Within <i>one</i> month of decision appealed from, applicant to leave at Patent Office notice of intention to appeal ;</p> <p>With statement of ground of appeal, and his case ;</p> <p>And to send copy of notice to the Secretary to the Board of Trade.</p> <p>Board of Trade to give directions for hearing of appeal.</p> <p>Board of Trade to give <i>seven</i> days', or shorter notice, as they direct, of appointment for hearing appeal.</p>	<p>Designs Rule 16, p. 268.</p> <p>Designs Rule 17, p. 268.</p> <p>Designs Rule 18, p. 268.</p> <p>Designs Rule 19, p. 268</p> <p>Designs Rule 20, p. 268</p>

<b>Assignment of copyright.</b>	May be made at any time, but should be registered as soon as completed.	Designs Rule 22, p. 268.
<b>Copyright.</b>	The owner of a registered design has copyright therein for <i>five</i> years from date of registration.	Sec. 50, p. 182.
<b>Delivery on sale.</b>	Before delivering for sale any article with registered design applied, each article must be marked with the prescribed mark.	Sec. 51, p. 182. Designs Rule 32, p. 270.
<b>Duration of copyright in a registered design.</b>	Five years from date of registration.	Sec. 50, p. 182.
<b>Exhibition, international or industrial.</b>	Before exhibiting unregistered design, or publishing same during period of exhibition, the owner must obtain certificate from Board of Trade, and give Comptroller <i>seven</i> days' notice of intention to do so. And must furnish description and sketch of design to Comptroller. Registration of design so exhibited must be effected within <i>six</i> months from date of opening exhibition.	Designs Rule 36, p. 271.  Sec. 57, p. 185.
<b>Foreign country.</b>	If registered design be used in foreign country, and not in this country, within <i>six</i> months after registration here, copyright to cease.	Sec. 54, p. 184. Sec. 103, p. 227.
<b>Holidays.</b>	See Time Table Patents.	Sec. 98, p. 223.
<b>Inspection.</b>	Design open to, when copyright has expired.	Sec. 52 (2), p. 183.
<b>Saturday and Sunday.</b>	See Time Table Patents.	Sec. 98, p. 223.

### III. TRADE MARKS.

<b>Additions to and alterations of Registered Trade Mark.</b>	<i>Fourteen</i> days' notice of application to Court to be given to the Comptroller. If application granted by Court notice thereof to be at once given to Comptroller and	Sec. 92, p. 221 ; Trade Marks Rule 48, p. 284. Trade Marks Rule 48, p. 284.
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**Appeal from Comptroller to Board of Trade.**

such number of altered representations of marks to be supplied him as he may desire.

Within *one* month from decision appealed from appellant to leave notice of appeal at Patent Office;

With statement of case;  
And to send copy to the Secretary of the Board of Trade.

Board of Trade to give directions as to evidence and as to hearing the appeal;

And *seven* days' notice of hearing.

Sec. 62 (4), p. 190 ;  
Trade Marks Rule 20,  
p. 280 ; Trade Marks  
Form H, p. 291 ;  
Trade Marks Fees 2,  
p. 288.

Trade Marks Rule 21,  
p. 280 ;

Trade Marks Rule 22,  
p. 280.

Trade Marks Rule 23,  
p. 280.

Trade Marks Rule 24,  
p. 280.

**Application to register.**

May be made at any time  
Should be made as early as possible.

Sec. 62, p. 190.

Trade Marks Rules 7  
to 16, pp. 277, 278 ;  
Trade Marks Forms  
F, G, and H, pp. 290,  
291 ; Trade Marks  
Fees 1 and 3, p. 288.

Sec. 68, p. 198 ; Trade  
Marks Rules 25 to  
28, pp. 280, 281.

Sec. 94, p. 222.

Trade Marks Rule 17,  
p. 279.

Trade Marks Rule 18,  
p. 279.

Trade Marks Rule 19,  
p. 280.

**Cutlers' Company.**

At expiration of *five* years, from 1st Jan., 1884, Cutler's Co. to close Cutlers' Register of Corporate Trade Marks ; and all marks therein unless entered in Sheffield Register to be deemed abandoned.

Sec. 81 (9), p. 213.

**Conflicting applications to register.**

Comptroller may refuse to register at all, until rights have been legally determined, and may submit or require the claimants to submit the question to the Court.

Sec. 71, p. 201.

Comptroller may require claimants to submit written

Trade Marks Rule 41,  
p. 283.

<p><b>Conflicting applications to register.</b> —continued.</p>	<p>statements by a time to be named by him or to attend before him at an appointment fixed by him.</p>	<p>Trade Marks Rule 42, p. 283.</p>
<p><b>Cutlers' Company, application to, to register.</b></p>	<p>Mode of submitting question to Court by Comptroller or by claimants—Special case.</p>	<p>Trade Marks Rule 43, p. 284; Trade Marks Form T, p. 297; Trade Marks Fee 20, p. 289.</p>
	<p>Special case to be settled by parties, or, if they disagree, by Comptroller.</p>	<p>Sec. 81, p. 211; Trade Marks Rule 53, p. 285; Trade Marks Fee 1, p. 288.</p>
	<p>All applications to, to register, to be in duplicate, and to be in the same form as application to Patent Office.</p>	<p>Trade Marks Rule 54, p. 286.</p>
	<p>Cutlers' Co. to send notice of application to Comptroller within seven days of application.</p>	
	<p>Comptroller to give notice of objection to, within one month from receipt of notice from Comptroller.</p>	<p>Trade Marks Rule 55, p. 286.</p>
	<p>If no objection by Comptroller, Cutlers' Co. to require applicant to send wood block to Comptroller.</p>	<p>Trade Marks Rule 55, p. 286.</p>
	<p>Comptroller to send Cutlers' Co. a copy of Official Paper, containing applications to register in respect of steel and cutlery goods.</p>	<p>Sec. 81 (8), p. 213.</p>
<p><b>Enlargement of time.</b></p>	<p>Comptroller has general power to enlarge the time of doing any act.</p>	<p>Trade Marks Rule 52, p. 285.</p>
<p><b>Foreign country .</b></p>	<p>Owner of international trade mark to apply in this country within <i>four</i> months from his application to register abroad.</p>	<p>Sec. 103, p. 227.</p>
<p><b>Holidays . . .</b></p>	<p>See Patents Time Table.</p>	<p><i>Ante.</i></p>
<p><b>International trade marks.</b></p>	<p>Applicant to apply for registration in this country within <i>four</i> months from his application in foreign country.</p>	<p>Sec. 103, p. 227.</p>
<p><b>New mark . . .</b></p>	<p>One first used since 13th August, 1875.</p>	
<p><b>Old mark . . .</b></p>	<p>One first used before 13th August, 1875.</p>	

**Opposition to Registration.**

Notice of, must be given within *two* months from first advertisement of application.

Sec. 69, p. 198.

Comptroller to send copy of notice of opposition to applicant.

Sec. 69, p. 198.

Within *two* months of receipt of such notice, or such further time as Comptroller shall allow, applicant to send counter statement in duplicate to Comptroller.

Sec. 69, p. 198.

Comptroller to send copy of counter statement to opponent, and to require him to give security.

Sec. 69, p. 198.

Security for costs must be given by opponent within *fourteen* days from the requisition thereof by the Comptroller, or within such further time as he shall allow.

Sec. 69, p. 198.

When the security is given the Comptroller is to inform the applicant.

Sec. 69, p. 198.

Comptroller to require the applicant within *one* month, or such further time as he shall allow, to issue a summons at Chambers of Judge of High Court of Justice for an order that the registration be proceeded with.

Trade Marks Rule 29, p. 281.

Applicant to issue the summons within *one* month after receipt of requisition of the Comptroller, or within time named by him.

Trade Marks Rule 29, p. 281.

Copy of the summons to be served upon the Comptroller upon its issue.

Trade Marks Rule 29 p. 281.

**Register, mark removed therefrom for non-payment of renewal fees or otherwise.**

To be deemed a registered trade mark for *five* years from removal for the purposes of fresh applications to register.

Sec. 79 (5), p. 210.

**Registration becomes conclusive.**

After *five* years from date of registration.

Sec. 76, p. 207; but see Note thereto.

**Renewal of Registration.**

Not less than *two* and not more than *three* months before end of every fourteen years from date of registration; and, after the expiration of every succeeding fourteen years, the Comptroller is to send notice

Sec. 79, p. 209.



<b>Renewal of Registration</b> <i>—continued.</i>	to applicant requiring renewal of registration, and at end of <i>one</i> month from first notice to send a <i>second</i> notice. Proprietor to pay fee before end of fourteen years. If renewal fee be not paid before the end of fourteen years, Comptroller, at end of <i>three</i> months, to remove mark from register. If before end of <i>three</i> months from end of fourteen years proprietor pays renewal fee and additional fee, Comptroller may accept same, and restore mark to the register. Comptroller has power to restore the mark to the register on payment of additional fees.	Sec. 79, p. 209 ; Trade Marks Fee 10, p. 288. Sec. 79, p. 209.
<b>Saturday . . . .</b>	See Patents Time Table.	<i>Ante.</i>
<b>Sheffield Register .</b>	All marks in Cutlers' Register to be entered in Sheffield Register within <i>five</i> years from 1st January, 1884.	Sec. 81 (9), p. 213.
<b>Sunday . . . .</b>	See Patents Time Table.	<i>Ante.</i>

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