

a "fraudulent" imitation.

be guided by the eye." And again the same learned judge remarks, "It may not be easy, I do not say it is impossible, to define in words exactly what is meant by a *fraudulent* imitation. I think the word was introduced for the very purpose of meeting the case of an imitation, not an *obvious* imitation, but an imitation varied for the purpose really of perpetrating what is a legal fraud. For instance, having before your mind and before your eye the design of another, and introducing into your design some differences, in order if possible to avoid coming within the Act of Parliament."

In the case last quoted the same learned judge came to the conclusion that the defendants' design, although not an "obvious," was on the other hand a "fraudulent" imitation.

Course to be adopted by innocent retailer of goods wrongfully bearing registered design.

It will be seen from Section 58, Sub-section *b*, that an innocent retailer of the infringing goods is not treated in the same manner as an infringer having full knowledge of what he is doing. Such innocent retailer may prove—

- (a) That he sold without knowledge that the design was registered, or
- (b) Without knowledge that it had been applied without the consent of the registered proprietor.

Bristowe, V.C., on the innocent retailer.

An innocent infringer who *manufactures* goods without the knowledge that he is trespassing upon a registered design may be made to pay the costs of a motion for an injunction to restrain him from continuing the infringement, even although he has had no prior notice from the plaintiff warning him that he is infringing. But with the innocent *retailer* of infringing goods the case is different. As Vice-Chancellor Bristowe said in *Smith v. Lewis Roberts & Co.* (5 P. O. R. 611), "I think that the intention of the Act, Section 58, Sub-section *b*, is to protect a retail dealer, or dealer selling goods and not being himself the manufacturer of them, from pains and penalties in respect of that which he does not himself know; and if the retail dealer is selling goods as to which he has no knowledge that there is any registration, he is doing that which is no wrong: the wrong is in doing it after having knowledge brought home to him that protection by registration has been given to the goods

which he is seeking to sell." In this action it was held that the defendants had not sold with knowledge that the designs were registered, and that there was no intention to sell after acquiring such knowledge. The action was accordingly dismissed, with costs against the plaintiff.

In the case of *Sherwood v. Decorative Tile Co. (supra)*, where the sale of one hundred infringing tiles was proved, a penalty of £50 was imposed, although under the Act as it then stood a penalty of £5,000 might have been adjudged. In view of this and similar cases, to prevent the possibility of ruinous penalties being imposed, in the Amending Act of 1888 the total amount of penalties to be forfeited in respect of any one design was limited to a maximum of £100.

Limitation of penalty.

It is an offence under the Act (Section 105) to describe an article as "registered" where no registration has been effected. A person is deemed to represent a design as registered if he sells the article bearing any word or mark expressing or implying that registration has been obtained. The penalty for such misrepresentation is that the offender is liable for each offence on summary conviction to a fine not exceeding £5.

Wrongfully marking goods as registered.

Penalty.

DURATION OF COPYRIGHT.

The Duration of Copyright is limited to five years from the date of registration, and there is no provision for extension of this time. An unusual clause for the fostering of native industry occurs in Section 54 of the Act, which provides that 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 here, the copyright in the design shall cease. This clause is akin to the condition of "working" attached to the grant of many foreign patents.

Registration lasts five years.

Foreign owner of registered design not using same in this country forfeits copyright.

It might be thought needless to say that the protection accorded to designs by the Patents, Designs, and Trade Marks Acts, 1883 to 1888, does not extend beyond the limits of the United Kingdom.

Copyright extends only to United Kingdom.

Reference, however, may be made to a case (*Potter & Co. v. Braco de Prata Co.*, 8 P. O. R. 218), in which the

plaintiffs, who were a British firm, sought to make the defendants (also British subjects) liable for the infringement of certain calico-printers' designs. It was admitted that the designs of the plaintiffs were being copied and sold, but the defendants pleaded that the goods bearing the designs were manufactured and sold in Portugal and Brazil—countries which were not subject to the operations of the Act. The judgment of the Lord President was to the effect that an infringement of a design registered under the Act consists in the production of goods in this country, where they are protected, and nowhere else. No right is secured to a registered design in a foreign country by registration here, except the right under the International Convention.

Isle of Man. The Acts of 1883 to 1888 extend to the Isle of Man, but nothing in the Acts is to affect the jurisdiction of the Courts in the Isle in proceedings for infringement or in any action or proceeding respecting a design competent in those Courts (see Section 112 of the Act).

PERSONS ENTITLED TO REGISTER.

Person entitled to register may be either designer or purchaser.

Design copyright is personal property.

The author of a new and original design is entitled to register himself as the "proprietor." But if he has executed the work on behalf of another person for a consideration, then his employer or the purchaser of his work shall be entitled to have himself registered as the proprietor. A body corporate, or a firm, or a company incorporated under the Companies Acts, may be the registered proprietors of a design. Aliens are also entitled to registration. A copyright in a design is personal property, and may be bequeathed, assigned, and dealt with at the owner's pleasure. The proprietor may license another to use the design. It may devolve by intestacy or by operation of law upon the proprietor's personal representative or trustee in bankruptcy.

CHAPTER II.

PROCEDURE IN REGISTERING DESIGNS.

THE procedure in registering designs is simplicity itself, and the scope of this chapter will be limited to bringing together, condensing, and classifying the information scattered throughout the Act, the Board of Trade Rules, and the Comptroller's instructions.

Stamped forms of application to register, price 10s. in Classes 1 to 12 (except for lace), and 1s. in classes 13 and 14, and also for lace designs, can be obtained at the chief post-offices of most important towns. Examples of these forms are to be found in the Appendix. By following the marginal instructions on the application form, "E," no mistake need be made by the applicant in filling in the particulars. The only part of the form that calls for the exercise of judgment is that where the applicant is directed to state the nature of the design, and "whether it is applicable for the pattern or for the shape." The latest instructions issued by the Patent Office require that the statement of the nature of the design shall particularise whether it is applicable for "the pattern" or for "the shape or configuration" or for "the ornament," these more extended terms being drawn from Section 60 of the Act. It may be taken that the terms "pattern" and "ornament" are practically synonymous. If any difference is to be recognised, "pattern" may be taken to refer to a simple repeat design, such as checks, stripes, or combinations of that description; while "ornament" would more fitly apply to the ornate floral or other devices which are usually employed to decorate window-curtains, calicoes, carpets, and the like. Lace designs (in Class 9) are classified as "patterns," and the lace design application forms, E¹ and O¹, which appear in the set of Rules which came into operation on the 30th

Application forms.

Statement of nature of design.

November, 1893, contain a statement that "the nature of the design is the pattern." It may be noted that these latest application forms for lace request the Comptroller to register the accompanying design "without search." "Shape or configuration" evidently refers more particularly to manufactured objects and articles in the round, and relates to general outline rather than to surface decoration. The term would properly describe a design for a tombstone, or a chair, or a lamp-stand, and each of these might combine ornament with it, as set forth in Section 60.

When thought to be necessary, a short technical description of the article may be added, with the part or parts which are claimed as new or original specifically defined. The form is signed by the applicant or his authorised agent and dated, and is then ready for filing. The application form should be accompanied by three exactly similar drawings, photographs, or specimens of the design. The drawings, photographs, tracings, or specimens should be mounted on foolscap sheets of paper of the same size as Form E (13 in. by 8 in.). Rough sketches or unfixed pencil drawings will not be accepted. When the design refers to the shape or configuration, two views of the object may be given, if such should be necessary, to convey a correct impression of the design. Both views should be on the same half-sheet of foolscap. Each drawing or specimen of a design in Classes 13 and 14 should show the complete pattern and a portion of the repeat, and ought not to be of less size than 7 in. by 3 in. When specimen cuttings of the design are furnished instead of drawings, they must be of a nature that will permit of their being pasted into books. The drawings or mounted specimens should be signed by the applicant or his agent.

When the papers have been thus completed they should be delivered or sent by post to—

The Comptroller,
Patent Office (Designs Branch),
25 Southampton Buildings,
Chancery Lane,
London, W.C.

Drawings,
photo-
graphs, or
specimens.

The goods to which designs are applicable are divided into fourteen classes. The following is a list of the classes:—

Classes of goods.

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

By Section 58 of the Act, the protection afforded to a registered design is restricted to the particular class or classes of goods in which the design is registered.

The same design may be registered in more than one class, but for each class a separate application, each with its annexed three representations, will be required.

Design may be registered in more than one class.

When the design is to be applied to a set, each of the drawings accompanying the application should show all the various arrangements in which it is proposed to apply the design to the articles included in the set.

Registration in "sets."

There is a special form, "O," for applications of this nature, and the stamp is £1. For sets of lace designs in Class 9 a special form, O¹, is provided.

Caveat
applica-
tions.

Should an applicant be desirous of losing no time in making his application, he may send up the application forms, accompanied by a single sketch, instead of the three careful drawings or photographs required. This fixes the date of the application, and the finished drawings may then be made at greater leisure, and afterwards filed. The sketch and the drawings must, however, agree in showing the nature of the design.

Acceptance.

On receipt of an application, the Comptroller considers the design, and if he decides to register it he sends a certificate of registration to the applicant, sealed with the seal of the Patent Office.

Objection.

The Comptroller might, however, decline to register, and in that case, before exercising the discretionary power given to him by the Acts, adversely to the applicant, the Comptroller shall, if so required by the applicant, within one month from the date of the Comptroller's objection, give the applicant an opportunity of being heard personally or by his agent, by sending the applicant ten days' notice of a time when he may be so heard. Within five days from the receipt of this notice, the applicant must notify the Comptroller whether or not he intends to be heard.

Hearing.

The decision of the Comptroller consequent upon the hearing is then notified to the applicant.

Refusal.

Appeal to
Board of
Trade.

If this decision is a refusal to register, the applicant may still appeal to the Board of Trade. If he intends to do so, he should, within one month from the adverse decision, leave at the Patent Office a notice of his intention to appeal. The form of this notice (Form F) will be found in the Appendix. The notice is to be accompanied by a statement of the grounds of appeal and of the applicant's case in support thereof. A copy of the notice should at the same time be sent to the Secretary of the Board of Trade, 7 Whitehall Gardens, London. The Board of Trade will then appoint a hearing, and a notice of the time and place of hearing is sent to the Comptroller and to the applicant. After the hearing, the Board of Trade gives its decision, and this is final.

Final
decision.

When registration of a design is refused on the ground of identity with a design already registered, the applicant

for registration shall be entitled to inspect the design so registered. During the existence of the copyright in a design, the design shall not be open to inspection except by the proprietor, or by a person authorised by him, or by the Comptroller, or by the Court, and then only in presence of the Comptroller or his representative, and upon payment of the prescribed fee. The person making the inspection is not allowed to make any copy of the design.

Inspection
of regis-
tered
designs.

When the copyright in the design has ceased, the design is open to inspection by anyone paying the prescribed fee, and copies may be freely made.

SEARCHES.

Any person wishing to know whether the registration of a particular design marked as "registered" is still in force, and when and by whom it was registered, may obtain the information he requires by producing or sending the design, with its mark and number, to the Comptroller, and paying the prescribed fee. The request for search should be made on Form "N," stamped with five shillings.

Searches
by Comp-
troller.

A still more valuable provision in the Rules empowers the Comptroller, on payment of the same fee, to make a search among the registered designs for the purpose of finding whether a design produced by the person requesting the search is identical with, or an obvious imitation of, any registered design still in force.

This is a precautionary measure that might be recommended to manufacturers who contemplate the production of a design concerning which they may have any doubt. It must, however, be said that if, even after receiving the Comptroller's certificate that it is *not* an obvious imitation, the owner of a registered design should take action on the ground that it is an obvious imitation, the Comptroller's certificate is not admitted as evidence on the defendant's behalf, and has no weight with the Court.

Comp-
troller's
certificate
not
evidence.

REGISTER OF DESIGNS.

Upon the issue of the certificate of registration, the name, address, and description of the proprietor of the

Proprietor
entered on
Register.

design, together with the date and number of registration, are entered in the Register of Designs by the Comptroller.

Assignee or licensee entered on Register.

When 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, or as having acquired such right, should be addressed to the Comptroller, and left at the Patent Office, Designs Branch. This request, which is made on Form "K" (see Appendix), is stamped with ten shillings in the case of designs in Classes 1 to 12, and with one shilling in the case of designs in Classes 13 and 14.

The request should state the name, address, and description of the claimant, and give particulars, with dates and names of the assignment, transmission, or licence, by virtue of which the request is made.

The request concludes with a statutory declaration, signed by the claimant, verifying and declaring the truth of the several statements made and particulars given in the request. The Comptroller will then alter the Register in accordance with the request.

When the request is made on behalf of a firm or partnership, it should be signed by some one or more members of the firm or partnership, or by his or their duly authorised agent. A body corporate can be registered as proprietors by its corporate name, and the request may be signed by a director or by the secretary, or by the duly authorised agent of the body corporate.

Rectification of Register by Court.

When an order has been made by the Court to rectify the Register, the person in whose favour the order has been made should forthwith leave at the Patent Office an office copy of such order, whereupon the Register will be rectified, or the purport of the order duly entered in the Register, as the case may be. Four clear days' notice of every application to the Court for rectification of the Register should be given to the Comptroller.

Register of Designs prima facie evidence.

The Register of Designs shall be *prima facie* evidence of any matters directed or ordered by the Act to be entered therein.

A certificate of any entry on the Register of Designs, for use in legal proceedings, may be had from the Comptroller by making a request on Form "I," which is stamped with five shillings.

INDUSTRIAL AND INTERNATIONAL EXHIBITIONS.

Any person desirous of exhibiting an unregistered design at an industrial or international exhibition, certified so to be by the Board of Trade or by an Order in Council made in pursuance of Section 57 of the Act, should give the Comptroller seven days' notice of his intention to exhibit, and such notice must be given upon form "L," stamped with five shillings. This notice preserves his prior right to make application for registration of the design during six months from the opening of the exhibition. The notice to the Comptroller should include a brief description of the design, and be accompanied by a sketch or specimen.

Exhibition of unregistered designs.

CHAPTER III.

LEGAL PROCEEDINGS FOR INFRINGEMENT OF REGISTERED DESIGNS.

THERE is no common-law right in unregistered designs, such as may exist in unregistered common-law trade marks or trading names. The right to sue for the infringement of a design rests only in the registered proprietor of the copyright. Apart from the remedy given under Section 58 of the Act, in virtue of which a registered proprietor may recover penalties for the infringement of his design, the proprietor, if he elects not to proceed for a penalty, may bring an action in the Queen's Bench Division for the recovery of damages, or in the Chancery Division for damages or an account of profits, and for an injunction to restrain further infringement. There are cases under patent practice which give some authority for believing that an exclusive licensee may in certain circumstances sue alone and in his own name for the infringement

No common-law right in unregistered designs.

Proprietor of design only person entitled to sue.

Remedies.

Licensee cannot sue.

of a patent of which he has an exclusive licence, but the case of *Woolley v. Broad* (9 P. O. R. 208) shows good grounds for stating authoritatively that the exclusive licensee of a registered design has not by himself any such right of action.

Criminal
prosecution.

When an infringement of a registered design comes to the knowledge of the proprietor, and he decides to take action, he has a choice of remedy. In the case of an aggravated infringement, where the offence is very glaring, and can be proved to have been committed with full knowledge of registration, it would not be improper to select the police court as the proper tribunal before which to bring the offender. The promptness and cheapness of the remedy is a consideration to the prosecutor, while the stigma of conviction, and the infliction of penalties, might act as more stringent deterrents than would be the case if the infringer were merely made a defendant in a civil action.

Queen's
Bench
Division.

As a rule, however, the superior courts are chosen, and action may be taken either in the Queen's Bench or in the Chancery Division. If the penalty is sued for under Section 58 of the Act, or if the plaintiff seeks damages, as he is entitled to do under Section 59, the action should be entered in the Queen's Bench Division. But if, in addition to or apart from damages or an account of profits, an injunction is sought to restrain the defendant from infringing, the action will go to the Chancery Division. This convenient means of restraining an infringer by injunction, apart from other advantages, has rendered the Chancery Division the most popular Court for settling design copyright disputes.

Chancery
Division.

In cases of copyright in the Chancery Division, the action is usually brought in respect of an alleged infringement of the copyright, with claims for an injunction, and either damages or an account of profits, as may be selected by the plaintiff.

Statement
of Claim.

The statement of claim should be drawn with careful reference to the sections under which the claims are made. For example, if for a penalty, the wording of Section 58 should be carefully studied; if for damages, the terms of Section 59 must be adopted.

Although the Designs portion of the Act is much less

minute in its directions as to the preparation of pleadings than is the portion referring to Patent litigation, nevertheless, it was held by Mr. Justice North, in *Morris, Wilson & Co. v. Coventry Machine Co.* (8 P. O. R. 353), that it is convenient to follow the practice in patent actions. Therefore, particulars of breaches may be delivered by the plaintiff, and particulars of objections by the defendant, and those particulars may be made subject to amendment, upon the usual terms, just as in pleadings under patent practice.

Patent practice followed.

The statement of claim should, together with the usual essentials, aver that the plaintiff is the registered proprietor of the design; that the design was new and original at the date of registration; that the defendant had applied (or caused to be applied), during the existence of the copyright, the said design, or an obvious or fraudulent imitation thereof, in the class of goods for which the design was registered, for purposes of sale, and without the licence or written consent of the registered proprietor.

Features of Statement of Claim.

If action is taken against the retailer, the statement of claim should be modified to allege that the article to which the design has been applied has been published or exposed for sale by the defendant, knowing that the design has been applied without the consent of the registered proprietor.

Action against retailer.

In the case of a retailer of infringing goods, whether innocent or not, it is preferable to give him notice of the infringement before taking action.

Notice to retailer.

In an action under Section 58, the sum recoverable being in the form of a penalty, the plaintiff is not entitled to administer interrogatories to the defendant (*Saunders v. Weil, supra*).

In action for penalty interrogatories not allowed.

For the purpose of comparison, the infringing articles should, if possible, be produced in court, and, if not admitted, the proofs should be clear that they have actually been made or sold by the defendant. This being established, the Court or jury will then be able to decide whether the design applied to the defendant's goods is or is not a piracy of the plaintiff's registered design.

Comparison and proofs.

Although the conducting of design cases has been held to be governed, where permissible, by the practice in patent actions, the judge nevertheless has complete discretion as

Judge has complete discretion.

Terms of
amend-
ment of
pleadings.

to the amendment of the pleadings and as to costs. Where fresh evidence is discovered, for example by the defendant, and leave is sought to amend particulars so as to include such evidence, permission would no doubt be granted as is ordinarily the case in patent actions, but upon the usual terms—viz., that the plaintiff may discontinue if he pleases, defendant bearing the costs subsequent to the delivery of his first particulars (*Morris, Wilson & Co. v. Coventry Machine Co.*, 8 P. O. R. 353).

Onus on
defendant
who ques-
tions title.

If a defendant calls in question (as he is entitled to do) the right of the plaintiff to be on the Register, the *onus probandi* is on the party questioning the title of the registered proprietor.

Apportion-
ment of
costs.

Again, agreeing with the practice in patent and trade mark actions, the costs in designs cases are often split up and apportioned to the different issues. The practice of thus apportioning costs was originally intended to discourage the introduction into the pleadings of anything except the issues vitally material to the matter. Therefore when either of the parties raises an unnecessary issue, or one in which he is unsuccessful, the other side will, subject to the discretion of the judge, have the costs of that issue. In patent cases the principle of apportionment of costs has been applied not only where a plaintiff has established the validity of his patent, while failing to prove infringement (*Needham v. Johnson*, 1 P. O. R. 49), but also where a defendant, while failing on the issue of infringement, has succeeded on the question of validity (*Hocking v. Fraser*, 3 P. O. R. 7), and it may safely be presumed that the same principles would apply in actions for infringement of design copyright. Thus, in *Sherwood v. Decorative Art Tile Co.* (4 P. O. R. 207), the plaintiffs put in evidence which the Court considered unnecessary, and as a result, although successful in their action, the plaintiffs were awarded two-thirds only of their costs.

Threats.

There is no provision in the Designs portion of the Act giving a remedy in the case of threats of legal proceedings issued by the proprietor of a registered design, such as exists in the Patents portion relative to threats emanating from the proprietor of Letters Patent.

PART IV.

FOREIGN AND COLONIAL PATENTS.

GENERAL REMARKS.

It frequently happens that an inventor who has protected or patented his invention in this country desires also to obtain patents abroad. It is necessary, therefore, to point out that certain foreign countries will not grant a valid patent in the face of prior publication in this, or in the particular country in which protection is sought. As a rule publication may be said to take place when a complete and full description and illustration of the invention has been placed before readers here or in such foreign countries.

Prior publication a bar to obtaining patents in some countries.

Therefore, an invention which has been fully described during the period of provisional protection in some widely circulated technical paper, such, for example, as *The Engineer* or *Engineering*, which papers are as a rule posted immediately upon publication to subscribers in various foreign countries, would be considered as published here and in such countries.

If, however, no such publication should have been allowed to take place during provisional protection, the publication of the British Complete Specification, which would follow in due course after filing and acceptance, would amount to the same thing. It may be taken for granted that the Patent Office copies of the Complete Specifications are to be seen in most foreign countries of any industrial importance within a week or two after publication in London. The British Government presents complete sets of the Patent Office publications to certain

English
Specifica-
tions sent
abroad as
soon as
published.

British Colonies and Foreign States, including Austria, Belgium, France, Germany, Italy, Japan, Russia, Spain, Sweden, and the United States of America. The agents in London, through whom the published Specifications are transmitted to the respective countries, call for fresh consignments weekly as a rule, in one or two cases monthly, and the parcel for Austria is despatched on an average about once in six weeks. It appears, therefore, that publication of the Complete Specification here is followed so swiftly by publication abroad that, although of course such publication always remains a matter of proof, it would be, generally speaking, unsafe to delay filing the application in those foreign countries which are affected by publication.

The chief Continental States in which valid patents cannot be obtained after the invention has thus been published are Austria, France, Germany, and Switzerland.

In Austria and France, and generally in Switzerland, a patent would be issued to the applicant without objection, even after such publication; but of course, if publication has actually taken place, such a patent would only remain good so long as it was unattacked. In Germany, however, patents are rigidly refused if it can be shown that the British Specification was published in London even a day before the date of application in Germany.

It will, therefore, be evident that if valid patents are desired in those countries, application should be made if possible before publication of the invention takes place here, and certainly before any publication within the States named. As a rule it is sufficient to make application before publication of the Complete Specification in this country. France and Switzerland are both adherents to the International Convention, and in their case, if any doubt exists, it is advisable to make application in those countries under the Convention. The provisions of the Convention are, that if a subject of any one of the subscribing countries who has made application for a patent at home should make application in any of the other countries within six months (and in countries beyond the sea within seven months) of his original application, then the foreign application will

receive the same date as the original home application. But Austria and Germany are not members of the Convention, and with them there is therefore no such mutual arrangement. France and Switzerland are members, so that the above arrangements would apply to them. As a matter of fact, the privileges of the Convention are very little taken advantage of, and for every hundred applications for foreign patents by British subjects, scarcely five are made under the terms of the Convention.

Austria and Germany not members of the International Convention.

In certain foreign countries, as for example in Germany, the United States of America, Switzerland, &c., applications for patents are subjected to a stringent examination both as to novelty and patentability, and the results of these examinations, especially in Germany, are sometimes surprising, and not always satisfactory to the inventor.

The duration of foreign patents varies with the different countries, but in very few cases is the foreign patent allowed to run for a longer term than the full period of the original home grant. Thus the term of a United States patent is seventeen years, but when founded upon a prior British patent, for example, it will expire at the end of the British term of fourteen years. At one time it was thought that the premature lapsing of the mother patent in Great Britain, by the non-payment of the renewal fees for example, also voided the United States patent for the same invention. But the decision of Judge Wallace in *Paillard v. Bruno* (38 O. G. 900), affirmed by the more recent finding of Justice Bradley, of the United States Supreme Court, in *The Bate Refrigerating Co. v. Gillett et al.*, establishes the conclusion that such premature failure of the mother patent does not involve the expiry of the United States patent for the same invention.

Duration of foreign patents.

As a natural corollary to what has been said, it follows that no United States patent can be granted to the inventor upon a previous foreign patent which has expired, from whatever cause, even when such cause has been the mere non-payment of the taxes. This was established in the United States Supreme Court in 1892 in the case of *Hubner v. Nelson*, the Court deciding that the delay in applying

for the United States patent until after the foreign patent had expired amounted to an abandonment of the right to a United States patent.

Difficulty of obtaining full term of patent right in all countries.

The differences of duration of patents in different countries suggest that an inventor who had thoroughly made up his mind concerning the world-wide value of his invention, and who was desirous of obtaining the full term of patent right in each country, might elect to secure his patent first in the countries which grant the longest term of all, and next and successively in the countries which grant shorter terms. For example, the first patents might be taken out in Belgium and Spain, which grant twenty years; the next in the United States, which grants seventeen; the next in France, Germany, Italy, &c., which grant fifteen; the next in Great Britain and the Colonies, granting fourteen; the next in Russia, where the grant might be for ten; and after these in countries where the duration of grant would be uncertain. It would not be impossible to carry out such a plan, but it is submitted that the suggestion is more theoretically interesting than practically useful, as unavoidable delays in obtaining the issues of the respective patents might either wreck the whole scheme or exhaust the patience of the applicant.

Annual taxes.

In most important foreign countries, with the notable exception of the United States, annual taxes are payable upon existing patents, and certain countries require the patent to be "worked" at intervals or continuously. These and other requirements are, however, so various that it will be safer for the reader to refer to each particular country in the alphabetically arranged pages which follow.

Algeria.

ALGERIA.

This is a French colony, and is covered by the French patent law.

America (United States).

AMERICA (United States).

(REVISED STATUTE, 1874: TITLE XI.)

Patentee.

Patentee.—Anyone, of any age, sex, or nationality, who is the true and first inventor, or the executor or administrator

of a deceased inventor, can obtain a patent. A patent may be issued to the inventor, or to and in the name of an assignee of the inventor, or jointly to the inventor and his assignee, but in all cases the *actual inventor* must make the application and sign the papers. When it is desired to issue the patent to the inventor's assignee, or to the inventor jointly with the assignee, an assignment should be filed *before the issue of the patent*, containing a request to that effect. A mere importer who is not the inventor, but who has introduced the invention for the first time from another country, is not entitled to apply for a patent. No official of the Patent Office can obtain a patent.

America
(United
States).

Duration of Patent.—United States patents are granted for seventeen years, but in the case of British and other foreign patentees, the United States patent is limited by the full term for which the prior mother patent was granted. Premature lapse of the mother patent by non-payment of taxes, &c., does not affect the United States patent, which runs for the full term for which the mother patent was granted. To have a limiting effect, the foreign patent must have been in force or published as a patent before the issue of the American patent. It has been decided by the United States Courts that a patent applied for in the United States *after* the date of a British Provisional application, and issued in America *before* the filing of the British Complete, is not limited by the duration of the subsequently issued British patent, notwithstanding that the British patent is dated as of the date of the Provisional application. The term of a United States patent cannot be extended except by a special Act of Congress. Such extensions are costly, and are very seldom granted.

Duration of
Patent.

What is Patentable.—The subject-matter of patents in the United States of America is of the same nature as the subject-matter of British patents. Section 4,886 specifies "any new and useful art, machine, manufacture, or composition of matter, or any new and useful improvements thereon." This includes chemical and mechanical processes, combinations in machinery, and other features common to British practice.

What is
Patentable.

**America
(United
States).****Novelty of
Invention:
Effect of
Prior
Patent or
Publication.**

Novelty of Invention: Effect of Prior Patent or Publication.—Although the Act says that, to obtain a valid patent, the invention should not have been publicly known to or used by others in the United States before its *discovery* by the inventor, the real test of novelty lies in the further provision that the invention shall not have been in public use or on sale for more than two years prior to the date of *application* for a patent. An invention which has been patented in another country may be patented in America at any time during the existence of the foreign patent, if the inventor has not introduced it into public use in the United States for more than two years prior to the application there.

Taxes.

Taxes.—There are no taxes or renewal fees payable after the issue of the patent.

Working.

Working.—It is not necessary to “work” the invention in the United States.

Procedure.

Procedure.—The application must be accompanied by a Complete Specification and drawings. There is no such thing as provisional protection, and the nearest approach, which consists in filing a *caveat*, is available only to citizens of the United States, or residents about to become citizens. The examination of applications is conducted by a staff of thirty-two principal examiners, and about one hundred and seventy assistant examiners, divided into first, second, third, and fourth grades, with a host of clerks and copyists. The applications are arranged in order as received, each being taken in its turn. The time during which an application may be awaiting examination varies from one to six months. Inventions are classified into two hundred and three general classes, which are again split up into more than four thousand sub-classes. The examination is very careful and thorough, and the applicant is allowed to reply to all references and objections advanced by the examiner. If the result of the examination proves the applicant to be entitled to a patent, the allowance is granted. The final fee may then be paid, and the patent is printed and issued. All patents are issued upon the

third Tuesday after the first Thursday following the day upon which the final fee is received at the Patent Office. In the event of a patent being refused, the applicant may appeal to the examiners-in-chief; from them to the Commissioner of Patents; and from the Commissioner to the Supreme Court of Columbia.

America
(United
States).

Models.—It was formerly the custom to require a model or sample of the invention in all cases, but these are now only rarely required. The Commissioner, however, retains the power to call for a working model, if the specifications and drawings fail to make the invention clear, or if the examiner thinks the invention would be practically inoperative.

Models.

Assignments and Licences.—An invention may be assigned wholly or in part, and the assignment recorded at any time, either simultaneously with or after application for a patent is made or the patent granted. The assignment may be for the whole or for any specified part of the States. All assignments should be recorded in the Patent Office within three months from date: otherwise they will be void against a subsequent purchaser or mortgagee without notice. The assignment may be drawn in any convenient form so long as the patent or application is identified by description, number, and date. *Licences* relating to patents may be granted, and such licences may be exclusive, general, or restricted. Licences need not be recorded.

Assign-
ments and
Licences.

Marking Patented Articles.—According to the Act, patented articles should be distinctly marked "Patented," together with the date. Where action is taken for the infringement of an invention not so marked "Patented," the plaintiff cannot recover damages except upon proof that the defendant knew he was infringing a patent, or continued to infringe after having been notified of the existence of a patent.

Marking
Patented
Articles.

Importation of Patented Articles.—The patented articles may be imported into the United States without affecting the patent.

Importation
of Patented
Articles.

Government Fees.—The fee on application for a patent is fifteen dollars, and on allowance twenty dollars.

Govern-
ment Fees.

**Argentine
Republic.****ARGENTINE REPUBLIC.**

(LAW OF 11TH OCTOBER, 1864.)

Patentee.

Patentee.—The actual inventor or his assignee, or a foreign patentee (if the inventor) or his assignee, may obtain a patent in the Argentine Republic.

**Description
and Dura-
tion of
Patents.**

Description and Duration of Patents.—Patents are granted for five, ten, or fifteen years, according to the merit of the invention or the wish of the applicant. A fifteen years' patent can be obtained only for an invention which has not been previously patented elsewhere. When a patent has been previously obtained in another country, the duration of the Argentine patent is limited to the duration of the foreign patent, but is restricted to ten years at most. Patents of addition may from time to time be obtained, and these expire with the original patent. Inventions may be protected by provisional patents, which are kept secret, and may be extended from year to year. They act as a species of caveat. There is an official examination as to novelty and patentability. The term of a patent once granted cannot be extended.

**Unpatent-
able Inven-
tions.**

Unpatentable Inventions.—Pharmaceutical compositions, financial schemes, principles or inventions of a theoretical nature, or contrary to law and morals.

**Novelty of
Invention:
Effect
of Prior
Patent or
Publication.**

Novelty of Invention: Effect of Prior Patent or Publication.—To obtain a valid patent the invention should be novel, and should not have received such wide and full publicity in Argentina, or in other countries, as to place the public in full possession of the invention. A foreign patentee may apply for and obtain an Argentinian patent at any time during the existence of his foreign patent. A rigid interpretation of Article 4 of the Act would suggest that it would be safer for a foreign patentee to file his application in the Argentine Republic before the publication of his Specification abroad.

Taxes.

Taxes.—There are no annual taxes to pay after the issue of the patent, but one half of the application fees is

usually paid in successive yearly instalments after the grant of the patent. **Argentine Republic.**

Working.—To keep the patent in force, the invention must be worked in the Republic within two years from the date of issue of grant, nor must the working be thereafter interrupted for a longer period than two years, unless under excusable circumstances, which should be reported to the Patent Office. It is advisable, although not obligatory, to obtain a legalised certificate of each working as it is effected. **Working.**

Marking and Importation.—There are no provisions regulating the marking or importation of patented articles, but anyone falsely marking his goods "Patented," or otherwise fraudulently representing himself to be a patentee, is liable to a penalty. **Marking and Importation.**

Assignments and Licences.—Assignments can only be made by notarial act, and after payment of the full amount of fees still due on the patent. An assignment should be registered in the Patent Office to preserve the assignee's rights against third parties. Licences may also be issued under the patent. **Assignments and Licences.**

Government Fees.—The fees on a new patent are 80, 200, or 350 piastres, according as the patent is taken for five, ten, or fifteen years. Patents of importation are assessed on a similar scale, according to the term granted. A provisional patent for one year is rated at 50 piastres. **Government Fees.**

AUSTRALIA.

The Australasian Colonies of New South Wales, Queensland, South Australia, Tasmania, Victoria, Western Australia, and New Zealand, have in each case separate patent laws, and these will be found under their separate headings. **Australia.**

Austria.**AUSTRIA.**

(Including Bohemia, Bosnia, Herzegovina, and Lichtenstein.)

LAW OF 15TH AUGUST, 1852; TREATY OF COMMERCE, 24TH DECEMBER, 1867, EXTENDING PATENT TO HUNGARY; LAW OF 27TH DECEMBER, 1893, SEPARATING AUSTRIAN AND HUNGARIAN PATENTS.)

Under Article 14 of the reciprocal Treaty of Commerce of 1867 between Austria and Hungary, a common Austro-Hungarian patent was formerly granted covering both countries. Now, however, according to the new law of 27th December, 1893, which came into operation on the 1st January, 1894, separate and independent patents are granted in Austria and Hungary.

Patentee.

Patentee.—The inventor or his assignee, or the first importer (except where the invention has already been patented abroad). Where a prior patent exists in another country, an Austrian patent for the same invention can only be obtained validly by the foreign patentee or his legal representative or assignee. A firm or corporation may be the grantee of a patent.

Duration of Patent.

Duration of Patent.—Patents are granted for fifteen years, but if based upon a prior patent in another country, the Austrian patent is limited by the term of such prior patent.

Novelty : Effect of Prior Patent or Publication.

Novelty : Effect of Prior Patent or Publication.—Prior to the date of application in Austria, the invention must not have been described in a printed publication in Austria, nor must it have been publicly worked in the Empire. British inventors who have applied for a patent at home, and who wish to obtain an Austrian patent, would do well to refrain from giving premature descriptions of their inventions in the leading English technical papers, and to make the Austrian application before the publication of the British Complete Specification. Presentation copies

of all published Specifications are sent from the Patent Office in London to Austria at short intervals of time, so that publication in Austria may always be relied upon to take place very shortly after publication in this country. Nevertheless, the fact of publication in Austria is always a matter for proof. As far as copies of German Patent Office prints are concerned, valid patents may be obtained in Austria, irrespective of publication there, if applied for within three months from the issue of the German print. Austria.

Taxes.—Although the aggregate of taxes for the whole term may be paid in a lump sum, patentees as a rule prefer to pay the taxes in annual instalments—*i.e.* 20 florins per annum for the first five years, and for the remaining ten years, 30, 35, 40, 45, 50, 60, 70, 80, 90, and 100 florins. Taxes.

Working.—The invention must be worked within a year from the date of grant, and the working must not be discontinued for any two years during the term of patent right. The working should be *bonâ fide*. Proof of each working should be entered upon the Patent Register. Working.

Assignments.—When made in England the assignments (prepared in German) should be executed by the assignee before a notary public, whose signature in turn requires to be legalised by an Austrian consul. The assignment must be registered in Austria, and to effect this the assignee should sign a notarial power, also legalised by the consul, authorising an attorney in Austria to effect the registration of the assignment. Assignments.

BAHAMA ISLANDS.

(COLONIAL ACT 52 VICT., CAP. 23: 23RD MAY, 1889.)

Patentee.—Strictly the true and first inventor, but practically the first importer also, may obtain a valid patent. Patentee.

Duration of Patent.—Patents are granted for seven years, but extensions can be easily obtained up to a maximum period of twenty-one years. Duration of Patent.

**Bahama
Islands.****Novelty:
Effect of
Prior
Patent.**

Novelty: Effect of Prior Patent.—The invention must not have been publicly known or used within the Bahama Islands. The fact of prior patents having been obtained in other countries will not affect the granting of a perfectly valid patent in the Bahamas, so long as the invention is not public property there at the time of application being made.

Taxes.

Taxes.—No taxes are due after issue of seven years' patents. But in the event of extensions being sought, the Government fee is £10 for the second term of seven years, and £20 for the third term of seven years.

Working.

Working.—Under the original Act it was necessary to work the patent in the Bahamas within three years from date. Now, however, under Section 6 of 53 Vict., Cap. 2, an Amending Act (assented to in March, 1890) repealed the working clause, so that there is now no obligation to work the invention within the colony during the term of patent right.

**Assign-
ments and
Licences.**

Assignments and Licences.—Assignments require to be in duplicate and in the English language. Any form will serve, and, although not obligatory under present practice, it is desirable to have assignments acknowledged before a notary public whenever possible. Assignments must be recorded in the office of the Registrar of Records. Licences can be granted as in other countries.

General.

General.—When a prior British patent exists, a certified copy of such patent should accompany the application papers. A printed copy of the Specification, certified by the Comptroller, will do. No formal "Letters Patent" are at present issued by the authorities in the Bahamas, the only documents confirming title being the Registrar's certificate of filing and the Official Gazette containing a notice of the application. A certified copy of the patent can, however, be obtained for about £6. There are no provisions as to importing or marking patented articles.

**Govern-
ment Fees.**

Government Fees.—£3 on original grant; £10 for first extension of seven years; £20 for second extension of seven years.

BARBADOES.

Barbadoes.

(ACT OF 12TH DECEMBER, 1883.)

Patentee.—The true and first inventor or the first importer may obtain a valid patent. Patentee.

Duration of Patent.—The duration and description of patents are the same as in the Bahamas. Patents are granted for seven years, but they may be extended for two successive terms of seven years each. Duration of Patent.

Novelty: Effect of Prior Patent or Publication.—The invention must be new in Barbadoes—i.e. must not have been published nor be in general use before the date of application. The fact of the invention having been patented or published elsewhere will not prevent the grant of a valid patent in Barbadoes. Novelty: Effect of Prior Patent or Publication.

Taxes.—There are no taxes on the seven years' patent. If the patent is extended for the further second and third terms of seven years, the fees on such extensions are £10 and £20 respectively. Taxes.

Working.—The invention must be worked in Barbadoes within three years from the date of the patent. In practice, the working requirement can be validly met by importing and offering the patented articles for sale in the colony. A patent for a process should, however, actually be put in operation. working.

Assignments and Licences.—Assignments should be prepared in duplicate in the English language, attested before a notary, and legalised. Licences may be granted. There are no provisions for the registration of either assignments or licences. Assignments and Licences.

General.—No formal Letters Patent are issued, and the patentee must be content with the certificate of filing and the notice in the Official Gazette, unless he cares to pay an extra fee of from £5 to £10 for a certified copy of the patent. The patented goods may be imported in General.

Barbados. any quantity, and there are no provisions to compel the marking of the goods with the word "Patented."

Government Fees.

Government Fees.—On original grant three pounds six shillings and eightpence; on first extension for seven years ten pounds; on second extension for seven years twenty pounds.

Belgium.

BELGIUM.

(LAW OF 24TH MAY, 1854.)

Patentee.

Patentee.—The true and first inventor, or his assignee, or anyone authorised by the inventor, or the first importer, or a firm or a corporation, may obtain a valid patent so long as no fraud has been exercised in procuring the patent.

Duration and Description of Patents.

Duration and Description of Patents.—Belgian Patents are of two kinds—viz., Patents of Invention and Patents of Importation. *Patents of Invention* are granted to applicants who apply for a patent in Belgium before a patent has been issued to them for the same invention in another country. This patent is granted for twenty years. *Patents of Importation* are granted to an importer, or to an inventor who has already obtained a patent or patents in other countries. Such patents are limited to expire with the prior foreign patent having the longest term, so long as this does not exceed twenty years. *Patents of Addition* for improvements on the original invention may from time to time be tacked on to the original patent, whether of Invention or Importation, and become part of the original patent, and expire with it.

Novelty: Effect of Prior Patent or Publication.

Novelty: Effect of Prior Patent or Publication.—As far as *Patents of Invention* are concerned, the invention must not have been published or openly used in Belgium, nor must a patent for the same have been actually obtained in any other country before the date of the Belgian application. Therefore, a patent applied for in Belgium after the date of the British provisional protection, but before actual issue of the British Letters Patent, or at least before the

filing of the British Complete, would be lawfully a patent Belgium. of invention lasting for twenty years. *Patents of Importation* can be applied for at any time during the term of the foreign patent, granted that it has not meanwhile come into public and commercial use in Belgium, and also granted that it has not been described in a printed or published work in that country. The official publication of the Complete Specification in those countries where such publication takes place does not affect the validity of Patents of Importation in Belgium.

Taxes.—Belgian patents are subject to increasing annual taxes. The first tax of ten francs is paid with the application; the second annuity is increased to twenty francs; and so on, the tax increasing ten francs annually. If, by inadvertence, the tax should not be paid at the proper time, one month's grace is allowed without fine, and six months' grace may be obtained by payment of a fine of ten francs in addition to the tax. Taxes.

Working.—The invention must be worked in Belgium Working. within one year from the date of the patent, or within one year of its having been practically or commercially worked in any other country, and so long as the working in any other country continues to be carried on, the working in Belgium must not cease for an entire year at a time. Where the Belgian patent has been taken out *after* the invention has been practically worked abroad, the invention should be worked in Belgium within one year from the date of the patent. The working should be *bonâ fide*. If the invention relates to a marketable article, the article should be made and offered for sale in reasonable quantity; if to a process, the process should be carried out in some manufactory in Belgium. In all cases a certificate of working should be obtained from the proper authorities. The question of "working" patented inventions in Belgium and in one or two other European States is full of uncertainty, expense, and annoyance. The usual course that inventors take is to effect some kind of nominal or perfunctory working of their inventions at the lowest cost possible, and then, having received the certificate,

Belgium. they feel at ease. But this compliance with the letter of the law and evasion of the spirit, although it may serve to keep the patent in force, yet leaves it seriously open to attack. The Belgian Courts have declined to pronounce on such matters, and leave it to the Government to annul or maintain a patent according as it may think a patent has or has not been sufficiently worked. However, in the few cases which the Government authorities have taken into consideration, the opinion has been expressed that working cannot be effected by importation, although importation is not prohibited; also that a strictly legal working consists in manufacturing the patented articles in Belgium, in sufficient quantity to meet the commercial demand. The Government, however, seldom or never interferes to annul a patent or question its validity on account of insufficient working, unless called upon to do so by an interested party, and even then reasons for insufficient working might exist which would be held to form a good and sufficient excuse.

Assignments and Licences.

Assignments and Licences.—Assignments must be in French, executed in duplicate before a notary public, whose signature, when out of Belgium, must be legalised by a Belgian consul. Assignments must be registered. Licences can also be granted to work the patent in Belgium.

Government Fees.

Government Fees.—First tax on application ten francs; second year, twenty francs; and so on to the twentieth year, for which the tax is two hundred francs. Patents of Addition become incorporated with the original patent, and no taxes are payable in respect of them except the fees on application. This, however, only applies to patents of addition granted to the original patentee.

Bolivia.

BOLIVIA.

(LAW OF 8TH MAY, 1858.)

Patentee.

Patentee.—The actual inventor or the true and first importer from abroad.

Duration and Description of Patent.

Duration and Description of Patent.—There are two kinds of Patents—viz., *Patents of Invention* (that is, when

the original patent is obtained in Bolivia), and *Patents of Bolivia. Importation* granted to a foreign patentee or to an importer. Patents of Invention are granted for not less than ten nor more than fifteen years. The term of Patents of Importation is subject to a curious qualification. If the establishment of the industry would involve an outlay of 20,000 pesos, the patent is granted for three years; if the outlay would amount to 50,000 pesos, the term is six years; if to 100,000 pesos, the patent right is for ten years.

Novelty: Effect of Prior Patent or Publication.—The invention must not have been widely or generally published in the press, or have come into general use, either in Bolivia or elsewhere. An invention already patented in another country may be validly patented in Bolivia, even after the publication of the foreign Specification.

Novelty:
Effect of
Prior
Patent or
Publication.

Taxes.—None after issue of the patent.

Taxes.

Working.—Patents must be worked in Bolivia within a year and a day from date. A certificate of the working should be obtained from the proper authorities.

Working.

Assignments and Licences.—Assignments must be in duplicate, in the Spanish language, legalised by a Bolivian consul when executed out of Bolivia. A power of attorney, also legalised by the consul, is required to authorise the recording of the assignment, a step which is absolutely necessary to avoid forfeiture. Licences can be issued.

Assign-
ments and
Licences.

BRAZIL.

Brazil.

(LAW OF 14TH OCTOBER, 1892.)

Patentee.—The true and first inventor may obtain a patent, or a foreign patentee may have his rights confirmed in Brazil. Joint inventors may obtain a joint patent.

Patentee.

Duration of Patent.—Patents are granted for fifteen years, but they expire with a prior foreign patent for the same invention, if such has been obtained. Patents of addition to the original patent may be obtained during

Duration of
Patent.

Brazil.

the first year by the original patentee or his legal representative only; after that time patents of addition may be obtained by other inventors.

**Novelty:
Effect of
Prior
Patent or
Publication.**

Novelty: Effect of Prior Patent or Publication.—The invention must not be known or publicly used in Brazil at the time of application. An inventor who has already obtained a patent elsewhere is protected from the consequences of publication, or use or attempted appropriation of the invention by another applicant in Brazil, if he makes his application within seven months from the date of his foreign patent. If an inventor wishes to use or exhibit his invention in Brazil before applying for a patent there, he may do so with safety on obtaining an official permit to that effect.

Taxes.

Taxes.—Patents are subject to annual and increasing taxes, commencing with twenty dollars for the first year, increasing to thirty dollars for the second, forty dollars for the third, and so on, at the rate of ten dollars per annum until the full term is reached. No extension of the time for payment is allowed.

Working.

Working.—The working of the invention must be effected, proved, and a certificate obtained, before the end of the third year, and such working must not be at any time suspended for a greater period than one year. If the working should be prevented by any circumstances over which the patentee has no control, the Government will condone the omission on proper proof being shown. Importation of the patented goods is not prohibited. The fraudulent marking of patented articles is punishable by a fine of from one hundred to five hundred dollars.

**Assign-
ments and
Licences.**

Assignments and Licences may be prepared in any convenient form, and must be in the Spanish language. No assignment will take effect until registered in the Bureau of Agriculture, Commerce, and Public Works.

**Govern-
ment Fees.**

Government Fees.—The actual Government fees, apart from other unfixed expenses, are represented by the amounts under the head of "Taxes."

BRITISH GUIANA.**British
Guiana.**

(ORDNANCE NO. 13 OF 1861.)

Patentee.—Patents are granted to the true and first inventor, which term includes the first importer of the invention to the colony. Patentee.

Duration of Patent.—Patents are granted for fourteen years, subject to the limiting effect of any prior foreign patent. It is, however, not difficult to obtain the extension of a patent for a further term of seven years. Duration of
Patent.

Novelty: Effect of Prior Patent or Publication.—To obtain a valid patent the invention must not, prior to the date of application, have been publicly known or used in the colony. A prior patent in another country, even when published there, will not affect the validity of a subsequent patent in British Guiana, so long as the invention is not publicly known or used there at the date of application. Novelty:
Effect of
Prior
Patent or
Publication.

Taxes.—A renewal fee of one hundred dollars is due before the expiry of the seventh year of the patent right. No extension of the time for payment is obtainable. Taxes.

Working.—There is no compulsory working of the invention, and the patented articles may be imported to the colony. The marking of the goods is left to the discretion of the patentee. Working.

Assignments and Licences.—These should be in the English language, and assignments should be made in duplicate in any suitable form. When made in a foreign country they should be legalised by a British consul. Both assignments and licences must be entered in the Register of Patents. Assign-
ments and
Licences.

BRITISH HONDURAS.**British
Honduras.**

(LAW OF 10TH SEPTEMBER, 1862.)

Patentee.—The true and first inventor, or the first importer, may obtain a valid patent. Patentee.

Duration of Patent.

Duration of Patent.—Fourteen years, subject to the limit of any prior patent for the same invention obtained elsewhere. Extensions may sometimes be obtained.

Novelty: Effect of Prior Patent or Publication.

Novelty: Effect of Prior Patent or Publication.—The invention must not be published or publicly known, or used in the colony, before the date of application. The existence of a prior home or foreign patent, so long as it is not publicly known in British Honduras, will not affect the validity of a patent there.

Taxes.

Taxes.—A tax of fifty dollars is due before the end of the third year of the patent, and a further tax of one hundred dollars is due before the expiry of the seventh year. The time for making these payments cannot be extended.

Assignments and Licences.

Assignments and Licences.—These should be in the English language, and should be entered in the Register of Patents to have effect against third parties.

British North Borneo.

BRITISH NORTH BORNEO.

(PROCLAMATION No. 1 OF 1887.) See **Straits Settlements.**

Burmah.

BURMAH.

Burmah is a province of British India, and is covered by the Indian patent.

Canada.

CANADA.

(COLONIAL ACT OF 1886, CAP. 61.)

Patentee.

Patentee.—A patent may be obtained by the true and first inventor or inventors, or by his or their assigns or legal representatives. As in the United States, the actual inventor, or, if deceased, his legal representative, must in all cases sign the papers and make the application, but the patent may issue to the inventor alone, or jointly to the

inventor and his assignee, or to the assignee alone, a proper Canada. assignment and request being filed before the issue.

Duration of Patent.—Patents are granted for eighteen years, subject to the conditions as to payment of taxes and working, but where a prior patent exists in another country, the Canadian patent will expire with the said prior patent. A special legislative Act is required to obtain an extension. A caveat, which is a species of provisional application, may be filed by an intending applicant so as to secure a date, and such a caveat will remain good for a year, but cannot be renewed. Duration of Patent.

Novelty: Effect of Prior Patent or Publication.—For the purposes of a valid patent, an invention is considered new in Canada if the invention has not been in public use or on sale in the Dominion for more than one year, without the consent of the inventor. It will be remembered that similar latitude, extending to two years, exists in the United States. If a home or foreign patent exists for the same invention, the Canadian application must be made before the expiry of twelve months from the date of such prior patent. Novelty: Effect of Prior Patent or Publication.

Taxes.—The taxes for the full term of eighteen years may be paid before the issue of the patent. This, however, is very rarely done. The better plan is to pay the amount of twenty dollars for the first six years only at the time of making application, then to pay the renewal tax of twenty dollars before the end of the sixth year, and twenty dollars before the end of the twelfth year. There are no means of prolonging the time for making these payments. Taxes.

Working.—The invention must be worked or commenced to be worked in Canada within two years from the date of the patent. The working must not be of a perfunctory nature, but must be sufficiently real and extensive to place goods on the market and supply any demand that may exist for the patented article. If two years should prove too short a period in which to effect this, an enlargement of the time of from six to twelve months may be obtained by presenting a petition for such enlarge- Working.

Canada.

ment. This petition must not be made more than three months before the expiry of the term of two years. After working has been commenced, it must not be discontinued. In order to work an invention continuously, so as to comply with the law, it is a common practice with patentees to arrange with some manufacturer to make or to be ready to make the patented articles, and then to advertise that the goods may be had from this manufacturer or agent. Such an arrangement is held by authorities in Canada to constitute a perfectly legal working of the invention within the provisions of the Act.

Assignments and Licences.

Assignments and Licences may be prepared in any manner acceptable to English practice. Every assignment must be registered in the office of the Commissioner of Patents.

Marking Patented Articles.

Marking Patented Articles.—All patented articles must be marked "Patented," together with the date of the patent. Penalties are exacted from those who fraudulently mark their goods "Patented" where no patent exists.

Importation of Patented Goods.

Importation of Patented Goods.—No patented goods must be imported by the patentee, or with his knowledge or consent, into Canada, at any time after twelve months from the date of the patent. The effect of such importation would be to make the patent void. An extension of the term within which importing may be carried on may usually be had by filing a petition to that effect.

Models.

Models.—Before the Canadian patent is issued, it is usual to demand a model, which should to some extent be a working model of the invention. The size should not exceed twelve inches on the longest side. Compositions (except explosive compounds) should be explained by the production of samples of their ingredients.

Canary Islands.

CANARY ISLANDS.

(COVERED BY SPANISH PATENT.)

CAPE OF GOOD HOPE.

Cape of Good Hope.

(Act No. 17 of 1860.)

Patentee.—Patents are granted to the true and first inventor, or to the person who first imports an invention into the colony. Patentee.

Duration of Patent.—Patents are granted for fourteen years, but where a prior home or foreign patent exists the term expires with such prior patent. Duration of Patent.

Novelty of Invention : Effect of Prior Patent.—To obtain a valid patent in the Cape, the only requirement is that application should be made before publication or public use of the invention has taken place within the colony. The existence of a prior patent, or the fact of the invention having been published in another country, does not injure the validity of the grant in the Cape. Novelty of Invention : Effect of Prior Patent.

Taxes.—Ten pounds is due to be paid before the end of the third year of the term of the patent right, and a further sum of ten pounds before the expiry of the seventh year. Taxes.

Working.—There is no obligation to work the invention in the colony. Working.

Assignments and Licences.—These may be prepared in any suitable form, and must be entered in the Register of Proprietors. Assignments and Licences.

CEYLON.

Ceylon.

(Act No. 16 of 1892.)

Patentee.—Patents are issued to the actual inventor or to his legal representative or assign. A first importer is not entitled to a patent. Patentee.

Duration of Patent.—Patents are granted for fourteen years, and are capable of extension if sufficiently good grounds can be shown. When prior patents exist, the Duration of Patent.

Ceylon. patent in Ceylon is limited by the term of the mother patent.

Novelty of
Invention:
Effect of
Prior
Patent.

Novelty of Invention: Effect of Prior Patent.—When the original application is made in Ceylon, the invention must be new and unpublished in Ceylon or in the United Kingdom. If a British patent has been obtained, application in Ceylon should be made within twelve months from the date of the *actual sealing* of the British Letters Patent, and a valid patent will be issued for Ceylon, granted that the invention has not become publicly known in the colony before the date of application. Where application only has been made for a British patent, the applicant may take out a patent in Ceylon if he makes application there within twelve months from the date of his British application, and the validity of such a patent will not be affected by the fact that the invention has, within such period of twelve months, become publicly known in the United Kingdom and in Ceylon. The Specification can, from time to time, be amended as in Great Britain.

Taxes.

Taxes.—An annual tax of fifty rupees is payable before the expiry of the fourth, fifth, sixth, seventh, and eighth years; and a tax of one hundred rupees before the expiry of the ninth, tenth, eleventh, twelfth, and thirteenth years.

Working.

Working.—There is no requirement as to working the invention, and no prohibition upon importation.

Assign-
ments.

Assignments.—These may be prepared in any suitable form, and should be entered in the Register of Inventions. The new proprietor's name should also be entered in the address book kept in the office of the Colonial Secretary for the purposes of service.

**Channel
Islands.**

CHANNEL ISLANDS.

These islands are no longer covered by the British patent, but a species of protection may be obtained by enrolling a certified copy of the British patent in the Rolls of the Royal Court in Jersey and Guernsey.

CHILI.Chili.

(LAW OF 9TH SEPTEMBER, 1840; AMENDED 20TH JANUARY, 1883).

Patentee.—The actual author, or inventor, or first importer. Patentee.

Duration of Patent.—The duration of patents was fixed by the law of 1840 at ten years, but by the Amending Act of 1883 power was given to the President to extend this term up to twenty years, and, as a matter of fact, in practice, this latter term is usually granted. The term of a patent commences at the expiry of the term fixed within which it must be worked. Duration of Patent.

Novelty: Effect of Prior Patent or Publication.—The invention must be new to, or not known or published in, Chili at the date of application. With this proviso, inventions already patented and published abroad may be validly patented in Chili. A regulation exists, whereby, in the case of an invention which has been patented abroad, the Chilian application is advertised in the Official Gazette, so as to give any person who has begun to practise the invention in Chili an opportunity of opposing the grant. Novelty: Effect of Prior Patent or Publication.

Examination.—The application is subject to examination as to novelty and utility by a committee of experts. Examination.

Taxes.—None. Taxes.

Working.—In granting the patent the Government fixes and endorses on the grant a period of time within which the invention must be put to work in Chili. The manufacture should be actually established or taken in hand by that time, and it is submitted that a mere perfunctory working would scarcely avail. The term of the patent commences on the expiry of the time allotted for working it. The working must not at any time be discontinued for more than one year. Working.

Assignments, &c.—These should be in the Spanish language, executed in duplicate, and legalised, when signed Assignments &c.

Chili.

abroad, by a Chilean consul. The Minister of the Interior should be advised of the completion of an assignment, and, if he is satisfied that it is a *bonâ fide* transaction, he will enter the assignment on the transfer book.

Government Fees.

Government Fees.—A fee of fifty dollars is payable upon application.

CHINA.China.

The Empire of China has no law for the protection of inventions. It is, however, possible to obtain protection by securing a special grant or monopoly from the national authorities, the average cost of which has been estimated at about £500. Another method is to register certified copies of the Specification in the Chinese Foreign Office, and also at the consulate of the country to which the applicant belongs, and thereafter to advertise full particulars of the invention, together with a notification of the inventor's right of property, in the principal Chinese official newspapers. This latter method is said to confer quite as much protection as the first, and is greatly less expensive, as it may be done for about £50.

COCHIN CHINA.

(INCLUDED UNDER THE FRENCH PATENT.)

Cochin China.Columbia.**COLUMBIA.**

(LAW NO. 35, 13TH MAY, 1869.)

Patentee.

Patentee.—The true inventor, first importer, or the owner of a prior foreign patent, may obtain a valid patent in Columbia.

Duration of Patent.

Duration of Patent.—Patents are granted for five, ten, fifteen, or twenty years, at the option of the applicant. A Columbian patent will expire with a prior foreign patent.

Novelty:
Effect of
Prior
Publication.

Novelty: Effect of Prior Publication.—To be validly patentable the invention should not be known or published

in Columbia. Inventions patented abroad may be patented in Columbia at any time during the existence of the prior patent, but not if the invention has in the meantime become known in Columbia. Columbia.

Examination.—There is no preliminary examination. Examina-
tion.

Taxes.—None after the issue of the patent. Taxes.

Working.—The patent must be worked within a year from date, and must not be discontinued during the entire year. There is nothing to prohibit importation. Working.

Assignments &c. should be prepared in Spanish and be made in duplicate. They should be legalised by a Columbian consul. There being no provision in the law for the assignment of patent rights, it is not the practice to register them; but, as a patent is now everywhere recognised as constituting property, it would be quite a proper step to seek registration for documents which deal with such rights. Assign-
ments &c.

Government Fees.—Ten dollars on application. On grant of a patent a fee is paid, which is arrived at by assessing from five to ten dollars for each year of the term for which the patent is issued. Govern-
ment Fees.

CONGO FREE STATES.

Congo Free
States.

(LAW OF 29TH OCTOBER, 1886; DECREE OF
30TH OCTOBER, 1886.)

Patentee.—Anyone may obtain a patent in Congo, whether the inventor or not. Patentee.

Duration and Description of Patent.—Patents are classified as “Patents of Invention” and “Patents of Importation.” Patents of Invention are granted for twenty years. A Patent of Importation expires with the prior foreign patent upon which it is usually founded. Patents of Addition are also granted, which become a part of and expire with the original patent. Duration
and De-
scription of
Patent.

Novelty: Effect of Prior Patent or Publication.—The law Novelty:

Congo Free States.Effect of
Prior
Patent or
Publication.

says nothing as to the effect of prior use or publication upon patents in Congo. The practice is, however, grounded upon that of Belgium, so that it may be taken that inventions which are known or published in Congo at the date of application are not patentable there unless the invention is patented abroad, and even then only upon the conditions annexed to the Belgian law.

Examina-
tion.

Examination.—There is no examination.

Taxes.

Taxes.—None after issue of patent.

Working.

Working.—Working is not compulsory. Patented articles may be imported, and there is no obligation to mark them as such.

Assign-
ments.

Assignments.—These must be notified to the Department of Foreign Affairs, and the assignment is advertised in the *Bulletin Officiel* in the same manner as patent grants.

Govern-
ment Fees.

Government Fees.—One hundred francs on application.

Corsica.**CORSICA.**

(INCLUDED IN FRENCH PATENT.)

Costa Rica.**COSTA RICA.**

There is no patent law in this country, but protection for inventions which are likely to prove of advantage to the country is granted by special Act of the Constitutional Congress. The average cost is from £60 to £70.

Cuba.**CUBA.**

Official registration for this and other Spanish colonies can be effected in virtue of the Spanish patent.

Cyprus.**CYPRUS.**

(NO PATENT LAW.)

DENMARK.

Denmark.

(LAW OF 28TH MARCH, 1894.)

Prior to the 28th March, 1894, no statutory provision existed in Denmark for the protection of inventors. The Ministry of the Interior had powers to grant equivalent privileges, which were perhaps sufficiently adequate for national industries, but which adopted a harsh attitude towards foreign inventors. Now, however, Danish patents are granted by virtue of an Act passed by the Danish Parliament on the above date, and taking effect from July, 1894. The chief provisions are as follows:—

Patentee.—Any person, whether native or alien, may obtain a patent, provided he is the true inventor or the legal assignee of the true inventor. Patentee.

Duration of Patent.—Patents are granted for fifteen years from the date of application, and are not subject to limitation by prior patents for the same invention in other countries. Patents of Addition are granted for improvements on the original invention, and these expire with the original patent. The grant of a patent may be opposed by an interested or aggrieved person. Duration of Patent.

Novelty: Effect of Prior Patent or Publication.—At the date of application the invention must be new and unpublished in Denmark; but the fact of publication in another country—for example, the publication of the British Complete Specification—will not cause the refusal of the Danish application, provided such publication has not been circulated in Denmark. All applications are subject to examination as to novelty and patentability. Novelty: Effect of Prior Patent or Publication.

Taxes.—Patents, to be kept in force, must be sustained by the payment of annual taxes, amounting for the first, second, and third years respectively to £1 8s. 2d. in English money, and thereafter doubling in amount every third year until the end of the twelfth year, when the tax is £16 18s. for each of the last three years. An extension of time of three months within which to pay any overlooked Taxes.

- Denmark.** tax may be had on payment of a fine amounting to one-fifth of the tax due.
- Working.** *Working.*—The invention protected by the patent must be worked in Denmark within three years from date of patent. Under special circumstances, the term for working the patent may be prolonged, or exemption from working may be obtained. At this date it is impossible to say what will be held a legal working of the invention. It seems that the importation of the patented goods into Denmark is prohibited.
- Assignments and Licences.** *Assignments and Licences.*—These may be prepared in any suitable terms, and should be registered.
- Government Fees.** *Government Fees.*—Represented in English money, these amount to £3 3s. on application, and consist of the application fee, 20 crowns; the issuing fee, 10 crowns; and the first annual tax, 25 crowns. The succeeding annual taxes have already been detailed.

Ecuador.**ECUADOR.**

(LAW OF 18TH OCTOBER, 1890.)

- Patentee.** *Patentee.*—The true inventor or the first importer.
- Duration and Description of Patent.** *Duration and Description of Patent.*—There are two kinds of patents—viz., *Patents of Invention*, that is when the original patent is obtained in Ecuador; and *Patents of Importation*, granted to a foreign patentee or to an importer. Patents of Invention are granted for not less than ten or more than fifteen years. If the establishment of the industry constituting the subject-matter of a Patent of Importation involves an outlay of twenty thousand pesos, the patent is granted for three years; if the outlay would amount to fifty thousand pesos, the term is six years; if to one hundred thousand pesos, the patent right is for ten years.
- Novelty:** *Novelty: Effect of Prior Patent or Publication.*—The invention must not have been widely or generally published

in the press in Ecuador or elsewhere before the date of application. An invention patented in another country may be validly patented in Ecuador even after publication of the Specification abroad.

Ecuador.
Effect of
Prior
Patent or
Publication.

Taxes.—None after issue of patent.

Taxes.

Working.—Patents must be worked in Ecuador within a year and a day from date. An official certificate of the working should be obtained.

Working.

Assignments and Licences.—Assignments should be in duplicate, in the Spanish language. When executed out of Ecuador they should be legalised by a consul of Ecuador. The assignment should be recorded, or it will be of no effect. Licences and assignments can be prepared in any convenient form.

Assign-
ments and
Licences.

EGYPT.

Egypt.

The Egyptian Government has a patent law under consideration, but at present nothing of the sort exists except the nominal and wholly ineffectual protection supposed to be given in Egypt under the Turkish patent.

FIJI ISLANDS.

Fiji
Islands.

(ORDNANCE No. 3 OF 1889.)

Patentee.—Patents are granted to the true and first inventor or importer.

Patentee.

Duration of Patent.—Patents are granted for fourteen years, limited to expire with any prior patent in another country.

Duration of
Patent.

Novelty: Effect of Prior Patent or Publication.—The fact of the invention having been already patented or published in other countries will not prejudice the validity of a patent obtained in Fiji, if unknown there at the date of application.

Novelty:
Effect of
Prior
Patent or
Publication.

Fiji Islands.*Taxes.*—None.

Working.

Working.—None.

Government Fees.

Government Fees.—On application, £5 5s.; on issue of patent, £10 10s.Finland.**FINLAND.**

(DECREE OF 30TH MARCH, 1876.)

Patentee.

Patentee.—The inventor only can obtain a valid patent.

Duration of Patent.

Duration of Patent.—The duration is fixed by the Government at from three to twelve years, limited by any prior foreign patent for the same invention.Novelty :
Effect of
Prior
Patent or
Publication.*Novelty : Effect of Prior Patent or Publication.*—The owner of a prior foreign patent, even when this has been published and used, may also obtain a valid patent in Finland. When the Finnish application is the original, the invention must be unknown in Finland.

Taxes.

Taxes.—None after issue.

Working.

Working.—The invention should be worked in Finland within two years from date of the patent, and thereafter from year to year. The practice is loose, and it is considered a valid working to import a machine (if this is the invention) and operate it in Finland. A process must, however, be put in use. Proof of the working should be obtained, and delivered to the Government.

Assignments and Licences.

Assignments and Licences.—Patents may be transferred and dealt with as in most other countries. The documents must be legalised by a Russian consul, and these, as well as the fact of working, be notified to the *Manufacturers' Direction*.France (and Colonies).**FRANCE (and Colonies).**

(LAW OF 5TH JULY, 1844; DECREE OF 21ST OCTOBER, 1848.)

Patentee.

Patentee.—Although, strictly speaking, only the true inventor or his assignee is legally entitled to a patent,

practically anyone, whether the inventor or not, or the first importer, or a firm, or a corporation, may obtain a patent in France. In any case where the patentee is not the inventor, his title to the patent is unquestionable, if he can show that he made the application in his own name with the consent of the inventor.

France
(and
Colonies).

Duration of Patent.—Patents are granted for five, ten, or fifteen years at the option of the applicant. In almost all cases the fifteen years' term is asked for. Patents of Importation for inventions already patented abroad expire with the prior foreign patent which is the first to lapse. Patents of Addition are granted, and become part of the original patent, and expire with it.

Duration of
Patent.

Unpatentable Inventions.—Pharmaceutical compositions and medicines of all kinds, and also financial schemes, cannot be patented in France.

Unpatent-
able Inven-
tions.

Novelty: Effect of Prior Patent or Publication.—The invention must be novel, and Article 31 of the French Law says, "No discovery, invention, or application shall be considered as new which in France or abroad, and before the date of the deposit of the application, has received sufficient publicity to enable the same to be worked." It is clear, therefore, that to enable a British applicant to obtain a valid French patent he must make his application in France before the publication of his Specification in this country. It must be understood that the French authorities make no examination into the novelty of an invention, and a patent for anything will be granted to any applicant; but of course a patent which did not possess the legal essentials would be of but little value to its owner. The mere fact of a prior foreign patent being in existence for the same invention will not invalidate the French patent so long as the invention has not been published, or used, or otherwise made publicly known, before application for a patent in France.

Novelty:
Effect of
Prior
Patent or
Publication.

Taxes.—French patents are subject to the payment of an annual tax of one hundred francs. No extension of time for the payment of the tax can be obtained.

Taxes.

France
(and
Colonies).
Working.

Working.—A French patent must be worked within two years from the date of the *actual signature or issue of the Letters Patent*, and must not cease during any two consecutive years thereafter. Failure to fulfil this condition will render the patent liable to be declared void, unless such failure was caused by circumstances which were beyond the patentee's control. Sickness, poverty, political disturbance, the difficulty of getting the invention taken up by reason of the limited field of use, all of these have been held good as excuses to prevent forfeiture. There are several cases which show that the French Courts are becoming more and more unwilling to accept the mere pretence of working which is common in the case of most patents. It has been held, for example, that a single act of manufacture of the invention is not enough. No doubt the expense of working is a severe tax upon patentees, but if the patent is at all likely to be of value, proper working should not be neglected. The mere sending of the parts of a machine into France and fitting them together there would not, according to the Courts, be a sufficient working. The whole or a portion of the parts should be made in France, and the readiness of the patentee to supply a demand should be advertised in a French newspaper of standing. The patentee might sometimes find a manufacturer or agent to undertake the working of the invention on reasonable terms. It is advisable in all cases when the working is effected, to obtain a certificate to that effect from the proper authorities. So long, however, as it is possible to prove afterwards *that the invention actually was worked*, the mere omission to obtain a certificate will not matter.

Assign-
ments.

Assignments.—According to the French law (Section 4, Article 20) no assignment can be recorded until all the future annual taxes are paid for the full term of the patent. This immediate expense can, however, be avoided by preparing an irrevocable power of attorney, authorising a notary to effect the assignment, and the name of the notary may be left blank. This power is signed by the vendor, legalised by a French consul, and may then be kept by

the purchaser. If circumstances should require registration, he has only to fill in a notary's name, who will then be empowered to have the assignment made and recorded.

**France
(and
Colonies).**

Marking and Importing Patented Articles.—In France a patentee is not obliged to mark patented articles as such; but if he do so, he must add the words "*Sans Garantie du Gouvernement,*" or the initial letters of the phrase, "S. G. D. G." The penalty for omitting this is from 50 to 1,000 francs. France being a member of the International Convention, the patented articles may be imported freely from other countries which are also members of the Union, as is, for example, the case with Great Britain. But the denizens of other countries which are not members of the Union are not allowed this privilege, and importation by a citizen of such a country would involve the forfeiture of his patent.

**Marking
and
Importing
Patented
Articles.**

Government Fees.—These are represented by the annual taxes already set forth.

**Govern-
ment Fees.**

(N.B. *The French patent covers the colonies of Algeria, Cambodia, Cochin China, French Guiana, Guadaloupe, La Ré-Union, Loyalty Islands, Marquesas Islands, Martinique, Micquelon, New Caledonia, St. Pierre, Senegambia, and Tahiti.*)

FRENCH INDO-CHINA.

(DECREE OF 24TH JUNE, 1893.)

**French
Indo-
China.**

Under this Decree patents are issued in Indo-China upon conditions similar to those set forth in the French law.

GAMBIA (British).

**Gambia
(British).**

This colony has no patent law, but protection for a meritorious invention can easily be obtained by special Legislative Act, at a cost of about £50.

German Empire.**GERMAN EMPIRE.**

(LAW OF 1st JULY, 1877.)

Patentee.

Patentee.—Whoever first applies for a patent is entitled to the grant. Patents are granted to a single applicant, to joint applicants, to a firm, or to a corporation. But if a person who is not the inventor has his application opposed by the true inventor, and the latter succeeds in showing that the applicant obtained the invention from him, the patent will be refused to the fraudulent applicant and granted to the true inventor.

Duration of Patent.

Duration of Patent.—Patents are granted for fifteen years from the day following the date of application, and the lapse of a prior foreign patent does not affect the German patent. Patents of Addition are granted, which expire with the original patent.

Unpatentable Inventions.

Unpatentable Inventions.—Articles of food, pharmaceutical compositions, and the products of chemical processes. But chemical processes apart from the products are patentable.

Novelty: Effect of Prior Patent or Publication.

Novelty: Effect of Prior Patent or Publication.—The German law is very severe in respect to novelty. An application for a patent must be filed before the invention has been described in any printed publication, either in Germany or elsewhere. For example, German applications by British inventors, even when made before the publication of the British Complete Specification, have been refused, because of short descriptions of the invention which have been incautiously published in some English technical paper. Therefore, whoever wishes to secure a German patent must see to it that no publication of his invention shall be allowed to take place until after the deposit of his German application.

Examination.

Examination.—All applications are subject to a very strict and thorough examination as to novelty, utility, and patentability. The patent records and technical publications of every country are examined carefully, and any

anticipatory matter which can be found is quickly brought to the notice of the applicant. Patentability is also a feature which the examiners take upon themselves to decide. Although not so drastic in their decisions as they formerly were, the conclusions of the German examiners are not always of a satisfactory nature. An appeal may be had from the decision of the first examiner to the Board of Examiners-in-Chief.

German
Empire.

Taxes.—Annual progressive taxes are payable on German patents. The first annuity amounts to thirty marks, the second to fifty marks, and thereafter the tax increases at the rate of fifty marks per annum.

Taxes.

Working.—Patents must be put to work within three years from the date of the grant of the patent. If this working is not effected in due time, the Act says, not that the patent therefore *becomes void*, but that *it may be declared void*. There are, therefore, many cases where failure to work within the appointed time has not been followed by any annulment of the patent. But this depends upon the circumstances. For example, the patentee of a new manufacture of armour-plate was excused because of the difficulty and cost of working such an invention, and in view of the fact that he had offered to license certain makers in Germany. But the patentee of an automatic pencil was deprived of his patent because the Court held that the invention could have been easily worked in Germany. Besides, it was shown that a large demand existed in Germany for the pencil, which was proved by the fact that the patentee had imported enormous quantities of the pencils into Germany. The decisions all show that the provision for working is intended to be met by a real manufacture of the invention being carried on in Germany; that the working should be actual and thorough; and that a mere scamped pretence of working would not satisfy requirements. Therefore, when a patentee cannot himself establish such a manufacture, he should try to arrange with a German manufacturer or agent to make or put himself in a position to make the patented article, and to advertise

Working.

German Empire.

that fact in the public press. Importation of the patented goods is not prohibited, and there is no obligation to mark the articles as "Patented," although this should always be done.

Models.

Models.—Models and samples are required in the following classes of invention:—Firearms, spools, spindles and shuttles (in the case of spindles a sectional model should also be supplied), skates, chemicals (except explosives), and dyes.

Assignments and Licences.

Assignments and Licences.—To enable an assignment of a German patent to be properly registered at the Patent Office, the assignment should be in German, signed by the assignor before a notary, whose signature should be attested by a German consul. No consideration need be expressed. The assignment should be accompanied by a power of attorney, signed by the assignee, and authorising an agent or attorney in Berlin to register the assignment on behalf of the assignee. This power should also be attested by a notary and consul, as in the case of the assignment. Licences may also be granted in respect of German patents, and there is a provision in the German law whereby a patentee who refuses to grant licences on reasonable terms, when such licences seem to be demanded in the public interest, may be deprived of his patent.

USEFUL DESIGN PATENTS.**Useful Design Patents.**

An Act for the protection of useful designs in Germany came into effect on the 1st of October, 1891. Such design patents are granted without any examination. For many articles and novelties which would not warrant the expense of a patent, or which do not possess the elements of patentability, the Designs Act will suit admirably. The full period of protection is six years. Where a Patent of Invention is wished for, but where the chance of obtaining it seems slight, applicants sometimes file an application for a patent and an application under the Designs Act *simultaneously*, including under the latter application a request that the office will grant the design protection only in case of the rejection of the patent

application. If the patent is refused, all is not lost, as the applicant has the design application to fall back upon. If the patent is granted, then the design application can be withdrawn. There is no obligation to work a patented design in Germany, as must be done in the case of ordinary patents. The design must be new in Germany.

German
Empire.

(Baden, Bavaria, Prussia, Saxony, and Wurtemberg are covered by the German patent.)

GIBRALTAR.

Gibraltar.

Gibraltar has no patent law, but British patentees may have their patents extended to cover the dependency for the unexpired term of the British patent.

GOLD COAST COLONY.

Gold Coast
Colony.

This colony has no patent law, but protection may be obtained by way of special Legislative Act at a cost of about fifty pounds.

GREECE.

Greece.

Greece has no patent law, but a private Act can be obtained for the protection of a meritorious invention.

GUADELOUPE.

Guade-
loupe.

Covered by French patent.

Guatemala.**GUATEMALA.**

(LAW OF 21ST MAY, 1886.)

Patentee. *Patentee.*—Under present conditions the applicant for a patent must be—

- (a) A citizen of Guatemala;
- (b) A foreigner domiciled there; or
- (c) A person who has already applied for a patent in a country which is a party to the International Convention.

An applicant not coming under one of these descriptions must authorise a native attorney to obtain a patent on his behalf.

Duration of Patent. *Duration of Patent.*—From five to fifteen years, limited by the term of a prior foreign patent when such exists.

Novelty: Effect of Prior Patent or Publication. *Novelty: Effect of Prior Patent or Publication.*—The invention must not be publicly known or used in Guatemala. Publication or use elsewhere does not matter.

Taxes. *Taxes.*—The taxes are variable at the pleasure of the Government, but are fixed at the time of issuing the patent. The tax varies from five to fifty pesos, payable annually in advance. In practice the larger amounts are seldom imposed.

Working. *Working.*—The invention should be worked within one year from the date of the patent, and should not cease for a year. Importation, against which there is no prohibition, usually suffices for working.

Assignments. *Assignments.*—These should be in the Spanish language, prepared in duplicate, and legalised by a Guatemalan consul when the documents are signed abroad.

Hawaii.**HAWAII.**

(LAW OF 29TH AUGUST, 1884.)

Patentee. *Patentee.*—Only the true and first inventor is entitled to a patent.

Duration of Patent.—Ten years from date of issue, but limited by the term of any existing prior foreign patent.

Hawaii.
Duration of
Patent.

Novelty: Effect of Prior Patent or Publication.—The invention should not have been publicly used or published either in Hawaii or elsewhere. But where an invention has been patented elsewhere, a valid patent can be obtained in Hawaii for the invention, granted that it has not been in public use in Hawaii for more than one year.

Novelty:
Effect of
Prior
Patent or
Publication.

Taxes.—None after issue of patent.

Taxes.

Working.—The patentee is not obliged to work the invention in Hawaii.

Working.

Assignments.—Assignments should be acknowledged before a notary public, and must be recorded within three months from date of execution.

Assign-
ments.

Government Fees.—On application five dollars are payable. The Commissioner of Patents is paid a fee of twenty dollars for examination, and a tax of five dollars is payable on the issue of the patent. No further payments are required.

Govern-
ment Fees.

HOLLAND.

Holland.

Holland has no patent law; but it is probable that in the near future a law will be passed.

HONDURAS (Republic).

Honduras
(Republic).

Honduras has no patent law; but the Government will protect inventions of special utility by introducing and carrying a Bill to that effect. The cost of such a grant necessarily varies, but the average expense is about £80.

HONG KONG.

Hong Kong.

(ORDNANCE OF 1892.)

Patentee.—The patentee, inventor, or proprietor, by assignment or otherwise, of an invention which has already

Patentee.

Hong Kong. been patented in Great Britain, is alone entitled to obtain a patent for the same invention in Hong Kong.

Duration of Patent.

Duration of Patent.—The term is limited to expire with that of the British patent. If the British patent is extended, the Hong Kong patent may be similarly extended.

Novelty: Prior Publication.

Novelty: Prior Publication. -- The form of petition (Schedule A) requires the applicant to declare that the invention is not now and has not been publicly used in the colony, but the Act says nothing about novelty, and it may be taken that, whether so used or not, the proprietor of a British patent has a right to a patent in Hong Kong.

Taxes.

Taxes.—None after issue.

Working.

Working.—No requirements.

Hungary.

HUNGARY.

As already explained under the heading "Austria," the arrangement whereby an Austro-Hungarian patent was granted, covering both States, came to an end on the 31st of December, 1893. A separate patent is now granted for Hungary, the law and practice being precisely the same as in Austria. In fact, the Act under which Hungarian patents are granted is the Austrian Act of 1852. Readers are, therefore, referred to the heading "Austria."

Iceland.

ICELAND.

Iceland (which is a Danish possession) has no patent law, but patents are granted in the same manner and upon the same terms and conditions as in Denmark. (See "Denmark.")

India.

INDIA.

(Act No. 5 of 1888.)

Patentee.

Patentee.—Patents are granted only to the true inventor, his assignee, or legal representative. The term "inventor" does not include the first importer.

Duration of Patent.

Duration of Patent.—Patents are granted for fourteen years, and are limited by the duration of any prior foreign

patent. Thus an Indian patent founded on a prior British India. patent will expire with the British patent.

Novelty: Effect of Prior Patent or Publication.—When a British patent has already been applied for or obtained, an application by the inventor for an Indian patent may be filed at any time within one year from the *actual sealing* of the British Letters Patent. But in such a case the invention must not have been known or publicly used *in India* before the date of the British application. Use or publication in India between the date of the British application and the expiry of one year from the sealing of the British patent will not prejudice the Indian patent, whether such use or publication takes place in India or in the United Kingdom. But in the case of an original Indian application the invention must be absolutely new and unknown in India; and in the case of an application by a foreign patentee, *i.e.* a patentee other than British, his application in India must be made within one year from the *actual date* of his prior foreign patent, and before any use or publication of the invention in India.

Novelty:
Effect of
Prior
Patent or
Publication.

Taxes.—As is the case in Great Britain, the Indian patent remains untaxed until the end of the fourth year of its existence, when annual taxes of fifty rupees from the fourth to the eighth year, and one hundred rupees from the eighth to the thirteenth year, fall due to be paid. Taxes.

Working.—There are no requirements as to working, nor as to importation or marking. Working.

Assignments.—Assignments may be drawn in any usual form, and must be registered at the office of the Secretary of the Government of India. Compulsory licences may in certain cases be applied for and enforced. Assignments.

ITALY.

Italy.

(LAW OF 31ST JANUARY, 1864, WHEREBY THE SARDINIAN LAW OF 30TH OCTOBER, 1859, WAS EXTENDED TO THE WHOLE KINGDOM.)

Patentee.—In original applications by subjects, the applicant must be the true and first inventor. In the Patentee.

Italy.

case of inventions already patented abroad, the true inventor or his assignee (which term includes an individual, a firm, or a corporation) may obtain a valid patent.

Duration of Patent.

Duration of Patent.—Patents are granted for from one to fifteen years, as desired by the applicant. In most cases it is advisable to apply in the first instance for a six years' patent, because in that case *two* years are granted within which to work the invention, whereas for a less term *one* year only is allowed. The six years' patent can afterwards be prolonged to the full term of fifteen years, either annually or by terms of years as desired. An Italian patent for an invention which has been already patented abroad expires with the foreign prior patent which has been granted for the longest term. Patents of Addition are granted, to expire with the original patent, of which they form a part.

Novelty: Effect of Prior Patent or Publication.

Novelty: Effect of Prior Patent or Publication.—When a foreign patent has been already applied for or obtained, a valid patent may be had in Italy for the same invention at any time during the existence of the said foreign patent, even when published and in general use. But in that case the Italian application should be made before the invention has become publicly known or been put to public use in Italy by persons *other than the inventor or patentee*. When an original application is made in Italy, the invention must not have been known or publicly used in the kingdom before the date of application.

Taxes.

Taxes.—When the patent is applied for and the term of grant fixed, a proportional tax on the number of years agreed upon is calculated and paid, at the rate of 10 lire per annum. In addition to this there are annual taxes of 40 lire for each of the first three years; 65 lire for each of the following three years; 90 lire for the next three years; 115 lire for the tenth, eleventh, and twelfth years; and 140 lire for each of the three last years. Three months' grace without fine is allowed within which to pay these taxes. Patents of Addition are subject only to the payment in advance of a fee of 20 lire.

Working.—If the term of patent right is less than six Italy. years, the patent must be worked in Italy before the Working. expiry of one year from the date of the patent, and must not cease during any one year thereafter. If the term of the patent is for six years or more, then two years are allowed within which to work the patent, and the working must not cease during any two years thereafter. Where the working has been omitted, owing to causes which were beyond the patentee's control, his failure to work may be condoned so as not to entail forfeiture of his patent rights. As a rule the Italian Courts have shown themselves inclined to favour patentees, but it may be said that lack of means has not been held to constitute a good excuse. When the patent is for a machine, the best plan is to import the machine, preferably in parts, and put it together and operate it in Italy. But a process patent should be worked by going through the process there. In all cases a properly attested certificate of the working should be obtained and filed by the patentee. Importation is allowed, and there are no provisions as to marking patented articles.

Assignments.—When a patent is assigned *in toto* the assignee becomes bound to pay the taxes or renewal fees. Assignments. When only partly assigned, or when assigned in distinct shares or to separate individuals, not having common interests, registration can only be effected upon payment of the whole of the taxes still due in the future upon the remainder of the term of the patent right. It will be remembered that a provision similar to the latter, but applicable to all forms of assignment, exists in the French law.

JAMAICA.

Jamaica.

(LAW NO. 15 OF 27TH MAY, 1891.)

Patentee.—The intention of the Act is evidently to Patentee. confine the grant of letters patent to the true and first inventor or his authorised attorney. But, with the widening of the meaning of the term “inventor,” it is the

Jamaica. custom for assignees and first importers to apply for patents of which they are in no sense the authors. There is, however, no decision to the effect that letters patent so granted are invalid.

Duration of Patent. *Duration of Patent.*—Patents are granted for fourteen years, and when prior foreign patents exist the patent in Jamaica expires with the foreign patent having the shortest term. As is the case in the United States and in most other countries, a valid patent cannot be obtained for an invention the foreign patent for which has expired. Patents of Addition are granted, which expire with the original patent.

Novelty: Effect of Prior Patent or Publication. *Novelty: Effect of Prior Patent or Publication.*—The invention should not, at the date of application, have been introduced into public and common use in Jamaica. With this proviso, inventions patented and published in other countries may be validly patented in Jamaica at any time during the term of the foreign mother patent.

Taxes. *Taxes.*—No taxes are due after issue.

Working. *Working.*—The invention must be worked within two years from the date of the patent. Importation and operation of a patented apparatus have been held sufficient to fulfil the requirements of working in Jamaica. The goods need not be marked.

Assignments. *Assignments.*—These should be registered in the office of the Colonial Secretary.

Japan.

JAPAN.

The new Japanese Patent Law, which was passed in December, 1888, and which came into operation on 1st February, 1889, provides for the granting of patents to *natives* of Japan only. Foreigners do not, therefore, participate in the benefits of this law. All that can be done at present is to make application for a special grant, the response to which is uncertain, while the cost is considerable.

LEEWARD ISLANDS.

Leeward Islands.

(Antigua, Anguilla, Dominica, Montserrat, Nevis, St. Christopher, and Virgin Islands.)

(ACT NO. 12 OF 1876, AND NO. 16 OF 1878.)

Patentee.—The true and first inventor or first importer. Patentee.

Duration of Patent.—Patents are granted for fourteen years, expiring with any prior foreign patents. Extensions may sometimes be obtained. Duration of Patent.

Novelty: Effect of Prior Patent or Publication.—Prior publication or patents in another country will not prevent the grant of a valid patent in the Leewards, if the invention is not known or used in the colonies at the time of application being made. Novelty: Effect of Prior Patent or Publication.

Taxes.—Before the end of the third year a tax of £10 is payable, and before the end of the seventh year a further tax of £20. No prolongation of time is obtainable if these taxes should be missed. Taxes.

Working.—No working is necessary. Working.

Assignments.—These may be in any suitable form, and should be recorded in the Register of Proprietors. Assignments.

Government Fees.—In addition to the taxes already mentioned, the fees payable on application and issue of the patent amount to £15, and those to the Attorney-General to about £20. Government Fees.

LIBERIA.

Liberia.

(ACT OF 23RD DECEMBER, 1864.)

Patentee.—The true and first inventor, his legal representatives or assigns. Patentee.

Duration of Patent.—Twenty years. Duration of Patent.

Novelty: Effect of Prior Patent or Publication.—The invention, whether sought to be protected by a citizen of Novelty: Effect of Prior

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| Liberia. Patent or Publication. | Liberia or a foreigner, must not be known or published within the limits of the Republic at the date of application. A prior patent in another country will not prevent the same inventor from obtaining a valid patent in Liberia. |
| Taxes. | <i>Taxes.</i> —None after issue. |
| Working. | <i>Working.</i> —Patents granted to aliens must be worked within three years of date. |
| Assign- ments. | <i>Assignments.</i> —By Section 8 patents are assignable in law. |
| Govern- ment Fees. | <i>Government Fees.</i> —Fifty dollars are payable on applica- tion. |

**Luxem-
burg.****LUXEMBURG.**

(LAW OF 30TH JUNE, 1880.)

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| Patentee. | <i>Patentee.</i> —The first applicant or applicants. A firm or corporation may be the grantee of a patent. A patent may, however, be revoked if it can be proved that the grantee has procured the patent in fraud of another person. |
| Duration of Patent. | <i>Duration of Patent.</i> —Patents are granted for fifteen years. Patents of Addition are also granted, which expire with the original patent. |
| Novelty : Effect of Prior Patent or Publication. | <i>Novelty : Effect of Prior Patent or Publication.</i> —The patent must not be known or publicly used in Luxemburg at the date of application. Neither must it have been published or openly worked in any one of the States of the German Customs Union. If these conditions as to novelty hold good, the existence of prior foreign patents will not prejudice the Luxemburg grant. |
| Taxes. | <i>Taxes.</i> —There are annual taxes of ten francs for the first year, twenty francs for the second year, and so on, increasing ten francs per annum during the term of the patent. Three months' grace is allowed for making payment. |

Working.—The patent should be worked within three years from date. Importation and operation of a patented machine will satisfy requirements. **Luxemburg.**
Working.

N.B.—The patent lapses if a patent for the same invention has not been applied for, or is not within three months applied for, in the States with which the Grand Duchy may be connected by treaties of Customs Union; and if such collateral patent expires from any cause, the Luxemburg patent also expires. At present the German patent is the only one answering to the indicated description, so that unless the inventor possesses or intends to apply for a German patent the Luxemburg grant would be of no use to him.

MADEIRA ISLANDS.

**Madeira
Islands.**

(COVERED BY PORTUGUESE PATENT.)

MALTA.

Malta.

(ORDNANCE No. 13 OF 1889.)

Patentee.—The true and first inventor or his authorised attorney. **Patentee.**

Duration of Patent.—Patents are granted for fourteen years, limited by the term of any prior patent in another country. **Duration of
Patent.**

Novelty: Effect of Prior Patent or Publication.—The invention must not have been published or openly used either in Malta or elsewhere. A patent in another country will not prejudice the Maltese grant if the invention has not been made publicly known. The publication of the British, American, or German Specification would prevent the obtaining of a valid Maltese patent. **Novelty:
Effect of
Prior
Patent or
Publication.**

Taxes.—There is a tax of £1 payable every two years during the term of the patent right, and, in addition to **Taxes.**

Malta. the said fixed tax, the patentee is required to pay five per cent. of the profits he may have made from the manufacture under the patent in Malta.

Working. *Working.*—If the invention is not worked in Malta within twelve months, or if the working is thereafter suspended for a continuous period of twelve months, the patentee may be required to assign his rights, or grant the use of the patent to some competent manufacturer, for a consideration to be determined by a Civil Court. Inquiry from those competent to give an opinion points to the conclusion that importation and sale of the patented articles would satisfy working requirements.

Assignments. *Assignments.*—There are no provisions as to assignments, but it may be assumed that these may be prepared in the usual form in the English language.

Government Fees. *Government Fees.*—£1 is payable on application, in addition to the taxes and percentage of profits as set forth.

Martinique.

MARTINIQUE.

(COVERED BY FRENCH PATENT.)

Mauritius.

MAURITIUS.

(ORDNANCE No. 16 OF 1875.)

Patentee. *Patentee.*—Patents are granted to the actual inventor, whether native or alien, and to the representative or assigns of the actual inventor. A mere importer cannot obtain a valid patent.

Duration of Patent.

Duration of Patent.—Patents are granted for a term of fifteen years, but this term is limited by the duration of any prior patent, whether British or foreign. Extension of the term may be obtained if the Governor in Council thinks that such extension is called for.

Novelty: Effect of Prior Patent or Publication.—An inventor who has obtained a British patent may take out a patent in Mauritius within one year from the date of the British patent, although the invention is publicly known and used in Mauritius at the date of application there. But such publication in Mauritius must not have taken place prior to the date of the British patent. There is no examination.

Mauritius.
Novelty:
Effect of
Prior
Patent or
Publication.

Taxes.—None after issue of patent.

Taxes.

Working.—There are no requirements as to working, and no provisions as to importation and marking.

Working.

Assignments may be in any usual form, and must be registered and transcribed at the Mortgage Office.

Assignments.

Government Fees.—Ten pounds on issue of the Procureur Général's certificate of protection, and two pounds on the sealing of the patent.

Government Fees.

MEXICO.

Mexico.

(LAW OF 7TH JUNE, 1890.)

Patentee.—Patents are granted to inventors, or to the improvers of any manufacture or branch of industry, or to their lawful representatives.

Patentee.

Duration of Patent.—Patents are granted for twenty years, but where prior foreign patents exist, the Mexican patent expires with the first or mother patent of the series. Extensions for five years are sometimes granted if the executive thinks fit. Existing ten years' patents, under the old Act, may be extended to the new term of twenty years.

Duration of
Patent.

Novelty: Effect of Prior Patent or Publication.—The application must be made before the invention has been publicly worked in Mexico or elsewhere. Publication of the Specifications of prior patents by foreign patent offices, or publicity given by international or other exhibitions, is not considered to constitute publication. Apart from this

Novelty:
Effect of
Prior
Patent or
Publication.

Mexico. requirement as to novelty, the existence of prior foreign patents is no bar to the granting of a valid Mexican patent. Patents are granted without examination.

Taxes. *Taxes.*—None after issue.

Working. *Working.*—The patent dates from its *issue*, and the patentee must prove that within five years from this date the patented articles are made and used in the Republic: otherwise the patent becomes forfeited. The wording of the Article seems to point to importation and sale as being sufficient to satisfy the requirements. Patented articles must bear the date and number of the patent.

Assignments. *Assignments.*—A Mexican patent may be assigned at any time and place and in any language, although preferable in Spanish. The documents should be executed before a notary, legalised by a Mexican consul, and must be registered in the Mexican Patent Office.

Morocco.

MOROCCO.

(MOROCCO HAS NO PATENT LAW.)

Natal.

NATAL.

(LAWS NO. 4 OF 1870, NO. 5 OF 1871, AND NO. 32 OF 1884.)

Patentee. *Patentee.*—Patents are granted to the true and first inventor. The Act provides that the word “inventor” shall bear the same interpretation which is put upon it in British practice. Therefore it is submitted that the true and first inventor includes the true and first importer to the colony.

Duration of Patent.

Duration of Patent.—Patents are granted for fourteen years from the date of application. If prior foreign patents exist, the patent in Natal will expire with that foreign patent which first expires. Extensions of patents may, in some cases, be obtained.

Novelty: Effect of Prior Patent or Publication.—The sole essential is that the invention should not be publicly known or publicly used in Natal at the date of application. Prior patenting, or publication, or use elsewhere, will have no prejudicial effect upon the validity of the Natal patent. There is no preliminary examination.

Natal.
Novelty ;
Effect of
Prior
Patent or
Publication.

Taxes.—Before the expiry of the third year of the patent, a tax of £5 is due; and before the expiry of the seventh year, a tax of £10.

Taxes.

Working.—There is no obligation to work the patent in the colony, and no provision as to importation or marking.

Working.

Assignments.—These may be prepared in any usual form, in duplicate, and must be entered in the Register of Proprietors.

Assign-
ments.

NEWFOUNDLAND.

Newfound-
land.

(CONSOLIDATED STATUTES, TITLE XV., CAP. 54, SEC. 1.)

Patentee.—The true inventor or the representative or assignee of the inventor.

Patentee.

Duration of Patent.—Patents run for fourteen years, but are limited by the term of any prior foreign patent.

Duration of
Patent.

Novelty: Effect of Prior Patent or Publication.—A patent may be obtained in Newfoundland for an invention already patented and published abroad, but it must not be publicly known or used in the island. There is no examination as to novelty.

Novelty ;
Effect of
Prior
Patent or
Publication.

Taxes.—There are no taxes payable after issue.

Taxes.

Working.—The invention should be brought into operation in Newfoundland within two years from date of patent. It is understood that importation and sale of the patented goods will constitute a valid working. There is no obligation to mark the goods.

Working.

Models and Specimens.—When the invention relates to a machine, the patent authorities are empowered to demand a model; and in compositions of matter (except explosives)

Models and
Specimens.

Newfound-land. specimens of the ingredients and of the composition may be required. In practice neither models nor specimens are often asked for.

NEW SOUTH WALES.

(ACT 24 OF 6TH DECEMBER, 1852; ACT 3 OF 8TH JULY, 1887.)

Patentee. *Patentee.*—The inventor, or his assignee, or nominee, or agent, or the first importer, or a firm or corporation.

Duration of Patent. *Duration of Patent.*—Patents are granted for fourteen years from the date of the filing of the application.

Novelty: Effect of Prior Patent or Publication. *Novelty: Effect of Prior Patent or Publication.*—The invention should not at the time of application have been published, made, sold, or used in New South Wales. Publication abroad, or the issue of prior foreign patents, will not prevent the obtaining of a valid patent in New South Wales. A preliminary examination is not usual, but it is provided in the Act that it may be ordered.

Taxes. *Taxes.*—There are no taxes after the issue of the patent.

Working. *Working.*—There are no requirements as to working, importation, or marking.

Assignments and Licences. *Assignments and Licences.*—These must be registered in the office of the Examiner of Patents: otherwise they are null and void. The periods within which registration must be effected are as follows:—When executed within the colony, fourteen days; within any of the other Australian colonies, thirty days; other places, ninety days. The documents are prepared in the English language, in any suitable form, and must be in duplicate.

NEW ZEALAND.

(ACT No. 12 OF 1889.)

New Zealand. *Patentee.*—Patents are granted to the true inventor, or his nominee or assignee, or to the authorised first importer.

A company or corporation may be the assignees, but cannot be the grantees of letters patent.

New Zealand.

Duration of Patent.—Patents are granted for fourteen years from the date of the acceptance of the specification. The Act makes provision for the extension of a patent for seven, and in exceptional cases, for fourteen years.

Duration of Patent.

Novelty : Effect of Prior Patent or Publication.—To obtain a valid patent the invention must not have been published or made publicly known or openly used in New Zealand before the date of application. Subject to this condition, the existence and publication of British or foreign patents will not militate against the validity of the New Zealand patent. The application is not subject to any examination as to novelty or utility.

Novelty ;
Effect of
Prior
Patent or
Publication.

Taxes.—A tax of five pounds is payable before the expiration of the fourth year of patent right, and a further sum of ten pounds is payable before the expiry of the seventh year. An extension of time for three months for the payment of these taxes may be had on payment of a fine of four pounds.

Taxes.

Working.—There are now, since January 1st, 1890, no requirements as to working, and none as to importation and marking.

Working.

Assignments.—These may be drawn in the same form as British assignments. The documents are prepared in duplicate, and should be accompanied by a request for entry in the Register of Patents, signed by the assignee.

Assign-
ments.

NICARAGUA.

Nicaragua.

There is no patent law in Nicaragua, but inventions are protected by special legislative grant if they promise to be of practical utility to the country. The cost of such grant averages from £50 to £60. The terms usually granted are ten years for a patent of invention; seven years for a patent of improvement; and five years for a patent of importation.

Norway.**NORWAY.**

(LAW OF 16TH JUNE, 1885.)

Patentee.

Patentee.—Patents are granted to the actual inventor only, or to some one directly deriving his rights from the inventor. Patents of Addition are granted up to within two years from the date of the original grant, and then only to the original patentee.

Duration of Patent.

Duration of Patent.—Patents are granted for fifteen years. Such Patents of Addition as may be granted expire with the original patent.

Novelty: Effect of Prior Patent or Publication.

Novelty: Effect of Prior Patent or Publication.—A valid patent cannot be obtained for an invention sufficiently well known in Norway to be put in practice by other persons. But publication in print, or the exhibition of the invention in Norway, will not prevent the grant of a valid patent, if the application is made within six months of such publication or exhibition. But notice of such publication or exhibition should be given to the Patent Office. The existence of a foreign patent will be no bar to the grant of a Norwegian patent. There is no preliminary examination as to novelty.

Taxes.

Taxes.—Annual taxes are payable of 10 kroner for the second year, 15 kroner for the third, and so on, increasing 5 kroner per annum. Three months' grace may be obtained to make these payments, but under a fine of one-fifth of the tax sought to be paid.

Working.

Working.—Inventions are required to be worked in Norway within three years from date of patent, and must not at any time thereafter be discontinued for an entire year. No proof of working is required by the authorities, but it is advisable to obtain a certificate of working on each occasion. In practice, importation and exposure for sale are considered to meet requirements.

Assignments.

Assignments may be prepared in accordance with the law of the country where the contracting parties are domiciled. They should be legalised by a Norwegian consul, and must be registered at the Patent Office in Norway.

ORANGE FREE STATE.**Orange
Free State.**

(ORDNANCE NO. 10 OF 1888.)

Patentee.—Patents are granted to the actual inventors, whether citizens or foreigners, or to their authorised representatives or assignees. With the inventor there may be associated another or other applicants who are not inventors, or a firm or corporation may be associated with the inventor. In all cases, however, the inventor must join in the application, and must be indicated as such in the application form. Depending upon the liberal interpretation of the word “inventor,” patents have in many cases been granted to first importers, but in the absence of any judicial decision on this point it is impossible to say whether such grants would be valid or not, although Article 43 does not read very favourably to the supposititious rights of a mere importer. Patentee.

Duration of Patents.—Patents are granted for fourteen years, but this term is limited by the duration of any prior foreign patent having the shortest term. Duration of
Patent.

Novelty : Effect of Prior Patent or Publication.—The grant of prior foreign patents, or the publication of the invention in other countries, will not prevent the obtaining of a valid patent in the Orange Free State, provided the invention is still new and unpublished in the State at the time of application. By Article 45 of the Ordinance, the exhibition, or publication, or use of the invention in or in connection with an international or industrial exhibition in the State, will not constitute publication in the eye of the law, granted that before such exhibition or publication the inventor has given written notice of his intention to exhibit, to the Attorney-General, and makes application for a patent within six months after the opening of the exhibition. There is no examination as to utility or novelty. Novelty :
Effect of
Prior
Patent or
Publication.

Taxes.—On or before the expiration of the third year of the patent a renewal tax of £5 is due to be paid, and a similar tax of £10 on or before the expiry of the seventh year. An enlargement of the time for making this payment Taxes.

**Orange
Free State.**

may be had for three months, subject to a fine of £5 in addition to the tax.

Working.

Working.—No requirements. There are also no provisions as to importation or marking.

**Assign-
ments and
Licences.**

Assignments and Licences.—Assignments should be in duplicate, signed by the assignor and legalised by a consul of the Orange Free State. For the purposes of registration, the assignment should be accompanied by a power of attorney, signed by the *assignee* and legalised by the consul, empowering the attorney to record the assignment and pay the fees. Licences may be granted and recorded in a similar manner, and by Article 21, on the petition of any party who has been refused a licence and who is able to show that (a) the patent is not being used in the State, or that (b) the reasonable requirements of the public are not being served, or that (c) a person is being prevented from using another invention to the best advantage, then the authorities may compel the patentee to grant licences on reasonable terms.

**Govern-
ment Fees.**

Government Fees.—On depositing application, £1 1s. On certificate of allowance, £1 1s. On sealing letters patent the President fixes a sealing fee, which shall not be less than £10 nor more than £50. In practice this sealing fee is almost invariably fixed at £25. The schedule says that the amount is fixed “according to the importance of the grant.”

Paraguay.**PARAGUAY.**

Paraguay has no patent law, but inventions may be protected by special Act, the cost of which is usually about from £80 to £100. The documents are in form similar to those employed for Chili.

Peru.**PERU.**

(LAW OF 28TH JANUARY, 1869.)

Patentee.

Patentee.—The actual inventor only.

**Duration of
Patent.**

Duration of Patent.—Patents are granted for ten years.

Novelty

Novelty: Effect of Prior Patent.—The invention must be

new and unpublished, not only in Peru, but in any other country. It is submitted that publication abroad of a foreign Specification would destroy the validity of a subsequent Peruvian application. **Peru.**
Effect of Prior Patent.

Taxes.—An annual tax of 100 dollars is payable on a patent. **Taxes.**

Working.—The patent must be worked in a serious and commercial fashion within two years from grant; otherwise it becomes void. The importation of the patented articles is absolutely prohibited. Infraction of this rule will render the patent void. Marking the patented goods is not obligatory. **Working.**

Assignments &c.—Assignments and licences of Peruvian patents may be validly made. They should be executed before a notary public, and legalised by a Peruvian consul. No provision is made for registration. **Assignments &c.**

PHILIPPINE ISLANDS and PORTO RICO.

Philippine Islands and Porto Rico.

Both of these colonies are covered by the Spanish patent. Registration for the colonies and provinces beyond the seas is usually effected at the time of obtaining the Spanish patent; but if not, such registration can be effected at a small cost at any time during the existence of the Spanish patent. Such registration is necessary before legal proceedings, or transfer, or licence under the patent could be carried out in Porto Rico or the Philippines.

PORTUGAL.

Portugal.

(CIVIL CODE, CHAPTER 3, SECTIONS 1 TO 7; LAW RE PORTUGUESE DEPENDENCIES, 21st MAY, 1892.)

Patentee.—The law says that patents are granted to “anyone who invents, perfects, or improves any manufacture, product, or article”; but in practice patents are granted to anyone who may make the application. Nevertheless, an applicant who gets a patent in fraud of the **Patentee.**

Portugal. real inventor could not maintain such a patent. Grants of patents are issued to firms or corporations.

Duration of Patent.

Duration of Patent.—Portuguese patents date from the issue, and are granted for from one to fifteen years at the option of the applicant. When granted for a shorter term than fifteen years, a patent may be prolonged from year to year or for any term of years within the maximum period. Where a prior patent exists in another country, the Portuguese patent will cease with the expiry of such prior patent. Patents of Addition to the original patent may be had.

Novelty: Effect of Prior Patent or Publication.

Novelty: Effect of Prior Patent or Publication.—To obtain a valid patent the invention should be novel and not in public use in Portugal. Section 5 says that the invention should not be “known to the public practically or theoretically through any technical description divulged in home or foreign documents, or by any other means.” It would seem, therefore, that publication abroad will not prejudice the obtaining of a valid patent in Portugal, so long as such publication has not circulated in Portugal. There is no examination as to novelty or utility.

Taxes.

Taxes.—None after issue of patent.

Working.

Working.—The invention must be worked in Portugal within two years from the date of issue, and must not be discontinued for any consecutive two years thereafter. At each working a properly legalised certificate should be obtained. It is the custom to consider the mere importation and operation of patented apparatus as constituting working. An advertisement of the working, coupled with an offer of sale, should also be inserted in the public press, as an evidence of the wish of the patentee to introduce the invention. The goods may be imported in any quantity, and need not be marked.

Colonies and Dependencies.

Colonies and Dependencies.—The Portuguese patent only extends to the Azores, but, to encourage the extension of inventions among the Portuguese colonies and provinces beyond the sea, such as Angola, Cape Verde, Guinea, Mozambique, Macao and Timor, Portuguese Indies, and

St. Thomas and Prince, a special Act was passed on the 21st May, 1892, allowing patents of invention for twenty years, and patents of importation for twelve years, to be independently taken out in such colonies and dependencies. Provisions as to working, taxes, &c., are embodied in regulations formulated in consequence of the law. Portugal.

Assignments.—Transfer of patents is specially provided for in the Portuguese law. It should be effected by notarial deed. Where two foreigners are concerned, the proper plan is for assignor and assignee respectively to authorise two attorneys in Lisbon—the one, on the part of the assignor, to sell, and the other, on the part of the assignee, to accept the sale of the patent. This formality is gone through before a notary public in Lisbon, who notes the deeds, and gives two attested copies to the parties—one for the assignee, the other for filing in the Patent Office. The Letters Patent are at the same time handed in and endorsed with an abstract of the deed of purchase. Licences not affecting the proprietorship of the patent need not be notified to the Patent Office. Assignments.

Government Fees.—For the full term, a fee of about £26 is payable on the grant of the patent. Government Fees.

QUEENSLAND.

Queensland.

(ACT NO. 13 OF 13TH OCTOBER, 1884; ACT NO. 5 OF 4TH SEPTEMBER, 1886.)

Patentee.—The “Patentee” is defined as the person for the time being entitled to the benefit of a patent. Accordingly, in practice, patents are granted to the inventor alone or in conjunction with a capitalist, or to the inventor’s assignee, or to the legal representative of a deceased inventor, provided the application is made within six months from the death of the inventor. Patentee.

Duration of Patent.—Patents are granted for fourteen years. Preliminary provisional protection for twelve Duration of Patent.

Queensland.

months (limited to nine months for the time for filing the Complete) may be had in Queensland as in Great Britain.

Novelty:
Effect of
Prior
Patent and
Publication.

Novelty: Effect of Prior Patent and Publication.—The invention should not, prior to the date of application, have been published or openly used in Queensland. With this proviso, the patenting or publication of the invention in another country will not bar the grant of a patent in Queensland. There is a preliminary examination. Publication of an unpatented invention in an industrial exhibition held in the colony will have no hurtful effect, provided that notice is given to the Registrar of the intention to exhibit, and application for a patent is made within six months from the opening of the exhibition.

Taxes.

Taxes.—A tax of £5 is due before the expiry of the fourth year of the patent, and £10 before the expiry of the eighth year. In lieu of these amounts, the taxes may be paid annually as follows:—£1 before the expiry of the fourth, fifth, sixth, and seventh years; £1 10s. before the expiry of the eighth and ninth years; £2 before the expiry of the tenth, eleventh, twelfth, and thirteenth years.

Working.

Working.—There is no obligation to work the patent.

Assignments.

Assignments.—These may be prepared in any usual form, and should be registered in the Patent Office. The Registrar will not record the assignment until the letters patent are produced, so that he may endorse the assignment on the back thereof.

Russia.**RUSSIA.**

(CODE OF LAWS, VOL. II., PART 2, SECTION 3.)

Patentee.

Patentee.—The inventor, or his assignee, or a firm or corporation may obtain a valid patent in Russia. A first importer who is not the inventor is entitled to a "Patent of Importation."

Duration
and
Description
of Patent.

Duration and Description of Patent.—There are two kinds of patents—viz., Patents of Invention and Patents of

Importation. A Patent of Invention is granted to the actual inventor or his assignee for a term of three, five, or ten years at the option of the applicant. When the patent has been once issued the term fixed upon cannot be extended. But if an application to extend the shorter period originally applied for is made before the actual issue of the patent, or within six months after the filing of the application, such extension will be granted upon payment of the difference in the amount of taxes. A Patent of Importation is granted to an importer for any desired term from one up to six years, subject to expiry by the lapse of any prior foreign patent. Caveats may be filed, but the application for a patent must follow within three months.

Russia.

Novelty: Effect of Prior Patent or Publication.—The application should be made before the invention has been made publicly known or worked in Russia. A valid patent can be obtained where the invention has already been patented and published in other countries, so long as it has not been practised in Russia. There is no examination as to novelty and utility, and if a refusal takes place the Government returns the bulk of the application fees. The Russian Patent Office is unique in this particular.

Novelty :
Effect of
Prior
Patent or
Publication.

Taxes.—There are no annual or other taxes payable after issue of the patent.

Taxes.

Working and Importation.—The patentee is bound to put the invention into practice during the first quarter of the duration of the patent, and, within six months after, to present to the department of the Ministry from which the patent is issued a certificate of working from the local authorities. No extension of time is allowed within which to work the patent. One working within the allotted time suffices to keep the patent in force during the whole of its term. Importation is allowed, and does not affect the validity of the patent.

Working
and Im-
portation.

Assignments and Licences.—In assigning a patent, if both parties are resident abroad, the transfer may be made by deed in the country of residence, and in the language of that country. The deed should be legalised after execution by a Russian consul, who will certify that

Assign-
ments and
Licences.

Russia.

the transfer has been made in accordance with the laws of the country in which it was executed. The deed should then be sent, together with a power of attorney, to some agent in St. Petersburg, authorising him to effect record in Russia. If the transfer is executed before the issue of the patent, the latter may be issued to and in the name of the assignee. No patentee is allowed to form a joint-stock company in Russia to exploit his patent, and he cannot sell his patent to such a company without special permission from the Government. Licences are granted by deed in the same way as transfers.

Govern-
ment Fees.

Government Fees.—On “Patents of Invention,” for three years, 90 silver roubles; for five years, 150 silver roubles; for ten years, 450 silver roubles. On “Patents of Importation,” for one year, 60 silver roubles; for two years, 120 silver roubles; for three years, 180 silver roubles; for four years, 240 silver roubles; for five years, 300 silver roubles; for six years, 360 silver roubles.

(*N.B.*—*Medicines are not patentable in Russia. Patents are also refused for heavy munitions of war; but small firearms and hand weapons are patentable, on condition that the military and naval forces of the Czar may have free use of such inventions.*)

St. Helena.

ST. HELENA.

(ORDNANCE NO. 3 OF 1872.)

Patentee.

Patentee.—The grantee of a British patent, his executors, administrators, and assigns, may obtain letters of registration in St. Helena at any time during the existence of the British patent.

Duration of
Patent.

Duration of Patent.—The patent expires with the British patent, or with any extension thereof that may be granted.

Novelty:
Effect of
Prior
Patent or
Publication.

Novelty: Effect of Prior Patent or Publication.—So long as a British patent has been obtained, a patent in St. Helena is granted as a matter of course, and without regard to publication or public use.

Taxes.

Taxes.—None.

Working.—No requirements.

Assignments are made in the usual English form.

Government Fees.—One guinea is payable to the Registrar on filing the Specification.

St. Helena.
Working.
Assignments.
Government Fees.

**ST. LUCIA, ST. VINCENT, SAMOA, SAN DOMINGO,
and SAN SALVADOR.**

These countries have no patent law, but in all of them protection for an invention can be obtained by special Legislative Act, the expense varying from £25 to £200.

St. Lucia,
St. Vincent,
Samoa,
San
Domingo,
and San
Salvador.

SERVIA.

Although Servia is a member of the International Union, she has no patent law. It is expected, however, that a law will be passed shortly, as the Legislature is at present engaged on the preparation of a Bill.

Servia.

SIAM.

There is no available mode of protecting inventions in Siam.

Siam.

SIERRA LEONE.

Sierra Leone has no patent law, but inventions may be protected under special grant.

Sierra
Leone.

SOUTH AFRICAN REPUBLIC (Transvaal).

(LAW OF 1ST JUNE, 1887.)

The patent law of this Republic is very similar to that of the Orange Free State.

South
African
Republic
(Trans-
vaal).

South
African
Republic
(Trans-
vaal).

Patentee.

Patentee.—Patents are granted to the true inventor or to joint inventors, either alone or in conjunction with another not responsible for the invention. The inventor may join in an application with a firm or corporation, but in any case the inventor must be a party, and must be pointed out as such in the application documents.

Duration of
Patent.

Duration of Patent.—Patents are granted for fourteen years; but where foreign patents exist, the South African patent will expire with the original or mother patent. Provisional protection for six months is obtainable, but is seldom applied for, except by residents. The legal representative of a deceased inventor may obtain a patent if application be made within six months from the death of the inventor.

Novelty:
Effect of
Prior
Patent or
Publication.

Novelty: Effect of Prior Patent or Publication.—The invention must not have been published or publicly used in the South African Republic prior to the application. The fact of a prior patent having been obtained, and the invention having been published in another country, will not prevent the obtaining of a valid patent in the Republic. Disclosure of the invention in an industrial exhibition will not amount to legal publication if prior notice of the intention to exhibit is served on the Attorney-General, and application for a patent made within six months from the opening of the exhibition.

Taxes.

Taxes.—A tax of £5 is due before the expiry of the third year, and £10 before the expiry of the seventh year. The time for payment of these taxes may be extended for three months upon payment of a fine of £5 in addition to the tax.

Working.

Working.—There is no obligation to work the patent within the Republic.

ASSIGN-
MENTS.

Assignments.—These may be prepared in any convenient form. They must be made in duplicate and legalised by a consul of the South African Republic. Under certain circumstances compulsory licences may be ordered to be granted by the Government.

SOUTH AUSTRALIA.

South
Australia.

(ACT NO. 78 OF 21ST DECEMBER, 1877; ACT NO. 201 OF 1881; PATENTS AMENDMENT ACT, 1887.)

Patentee.—The true and first inventor or his representative. There is no decision as to whether “true and first inventor” includes the true and first importer, but in accordance with British practice many patents are taken out by first importers. Patentee.

Duration of Patent.—Patents are granted for fourteen years, limited to expire with the original or mother patent, in those cases where prior patents for the same invention exist in other countries. Provisional protection for twelve months may be obtained, and caveats may be filed by intending applicants, such caveats remaining in force for one year. Duration of
Patent.

Novelty: Prior Patent or Publication.—To ensure a valid patent, the invention should not at the time of application be known or publicly used in South Australia. Inventions already patented abroad or in the mother country, but not publicly known in the Colony, may be validly patented there. Novelty:
Prior
Patent or
Publication.

Taxes.—Before the end of the third year a tax of £2 10s. falls due, and before the end of the seventh year a further tax of £2 10s. No prolongation for making these payments is obtainable. Taxes.

Working.—Under Clause 43 of the principal Act, patents are liable, upon the application of an interested party, to be revoked by the Governor, if the invention has not been worked before the expiry of three years from date. In practice the working of South Australian patents is generally disregarded, and so far no case exists in which the power of revocation has been exercised upon this ground. Nevertheless, in the case of valuable inventions it would be wiser for the inventor to comply with the clause. Working.

Assignments.—These may be in any convenient form, and must be filed in duplicate. Stamp duty is payable on Assign-
ments.

South
Australia.

the amount of the consideration money at the rate of five shillings per £100. Assignments must be endorsed as "certified as correct for the purposes of the Patent Acts of 1877 to 1887." This may be signed by one of the parties or by the local attorney or agent acting for the parties. A nominal consideration is professedly not allowed. The actual consideration should be stated, but a nominal consideration of £10 is not questioned. The assignment is registered in the Register of Proprietors.

Spain.**SPAIN.**

(LAW OF 30TH JULY, 1878.)

Patentee.

Patentee.—Patents are granted to any individual, firm, or corporation making application, whether originators of the invention or not.

Duration
and
Description
of Patent.

Duration and Description of Patent.—Patents are of two kinds—*i.e.* "Patents of Invention" and "Patents of Importation." Original applicants in Spain can obtain a patent for twenty years. If the invention has been already patented abroad, the patent in Spain is granted for ten years, but application must be made in Spain within two years from the date of the first foreign patent. If the applicant is merely an importer, the patent term is for five years only. Patents of Addition are granted, which expire with the original patent.

Novelty:
Prior
Patent or
Publication.

Novelty: Prior Patent or Publication.—The Spanish application should be made before the invention has come into public use in the Spanish dominions. The existence, publication or working of patents for the same invention in other countries is no hindrance to the obtaining of a perfectly valid patent in Spain, so long as it is new there. The Spanish patent is, however, limited by the duration of the prior foreign mother patent.

Taxes.

Taxes.—Patents are subject to the payment of annual taxes amounting to ten pesetas for the first year, twenty

pesetas for the second, thirty pesetas for the third, and so on, increasing at the rate of ten pesetas per annum. The peseta is equivalent to tenpence of English money. Spain.

Working.—The invention must be worked in Spain within two years from the issue of the patent, and must not be discontinued for a year and a day thereafter. The owners of patents are required to prove the working before the Director of the Conservatory of Arts. A merely perfunctory pretence of working, such as might serve in certain other countries, will not suffice in Spain. The patented articles should be actually made in Spain. Mere importation and working will not do. The working in Spain covers the working in her colonies, and the properly proved working in one of the colonies would cover the working in Spain. The goods may be imported for sale in Spain in any quantity. Working.

Assignments.—All assignments made out of Spain must be executed before a notary public, whose signature must be legalised by a Spanish consul. Assignments are registered in the Spanish Patent Office. Assignments.

Colonial Registration.—Article 8 of the Law says that all patents shall be considered as granted not only for the Peninsula and adjacent islands, but also for the provinces beyond the sea. Under this Article the Spanish patent theoretically covers all of the colonies, including Cuba, Porto Rico, the Philippines, the Balearic and Canary Islands, Marianas Islands, Caroline Islands, Palaos, Fernando Po, Annabom, Corises, and the Settlement of Rio de Oro on the West Coast of Africa. But practically the patent requires to be registered for the colonies in the Colonial Department in Madrid, which can be done at a slight expense. Most attorneys do this without specific instructions, but patentees should make sure that it has been done, because without such registration no legal proceedings could be taken in the colonies or dependencies under the patent, nor can the patent be assigned or licensed there. Colonial Registration.

**Straits
Settle-
ments.****STRAITS SETTLEMENTS.**

(ORDNANCE No. 12 OF 1871.)

Patentee.

Patentee.—Patents are granted to the actual inventor or his assignee, to the first importer, or to the patentee or proprietor of a British patent or invention patented in any British possession.

Duration of
Patent.

Duration of Patent.—Fourteen years is the term for which patents are granted, but this term is limited by the duration of any prior patent in another country.

Novelty:
Prior
Patent or
Publication.

Novelty: Prior Patent or Publication.—The invention is deemed to be new and patentable if not “publicly used” in the United Kingdom or in any British possession prior to the date of application in the colony. The use of the term “public use” would seem to point to the conclusion that publication of the specification in Great Britain, or publication in a newspaper or book, would not vitiate the claim of the patentee to a patent in the Straits Settlements, provided no public use had taken place. There is no examination as to novelty or utility.

Taxes.

Taxes.—None after issue of patent.

Working.

Working.—None required.

Assign-
ments.

Assignments.—Assignments must be prepared in duplicate and registered in the Register of Proprietors.

Sweden.**SWEDEN.**

(LAW OF 16TH MAY, 1884.)

Patentee.

Patentee.—Inventors only or the legal representatives of inventors are entitled to obtain patents.

Duration of
Patent.

Duration of Patent.—Patents are granted for fifteen years. Patents of Addition to existing Swedish patents may be obtained, such Patents of Addition expiring with the original patent.

Novelty: Effect of Prior Patent or Publication.—The publication of a prior foreign specification, for example of the British specification, or the showing of the invention in an exhibition, will not prevent the obtaining of a valid Swedish patent, provided the application is made within six months from the said publication, or within six months from the opening of the exhibition. In the case of an original Swedish application, the invention must not be known or publicly used in Sweden. Applications are subject to a preliminary examination as to novelty.

Sweden.

Novelty:
Effect of
Prior
Patent or
Publication.

Taxes.—An annual tax of twenty-five crowns is payable on the first, second, third, fourth, and fifth years; fifty crowns on the sixth, seventh, eighth, ninth, and tenth years; and seventy-five crowns for each of the five following years. Three months' extension of time within which to pay these taxes may be had, subject to a fine amounting to one-fifth of the amount of the tax due.

Taxes.

Working.—The invention should be worked within three years from date of patent, and thereafter the working must not be entirely discontinued for a year. The rules regulating the working are not very stringent. The time may sometimes be extended to four years in difficult cases. In practice it is considered sufficient to import and operate a machine or patented article, at the same time advertising and inviting inquiries for it. It is better, however, not to rely too much upon this laxity.

Working.

Assignments.—These should be executed in duplicate and legalised by a Swedish consul. The registration is effected on the request of the assignee.

Assignments.

SWITZERLAND.

**Switzer-
land.**

(LAW OF 15TH NOVEMBER, 1888.)

Patentee.—Patents are granted to the inventor or to his legal successors or assigns only.

Patentee.

Duration and Description of Patent.—The Swiss Patent Office makes it a rule that it will grant no patents for

**Duration
and
Description
of Patent.**

Switzer-
land.

inventions which do not in themselves represent a visible and tangible marketable article. It follows from this short-sighted policy that patents cannot be obtained for mere new processes or methods of manufacture, although new products of new processes may be protected. To give time for the production of a specimen, or proof of the actual existence of the newly invented thing or machine, the custom is to make provisional application for a patent in the first instance, which application must contain a full description and illustration of the invention, but need not be accompanied by specimens or proofs of actual existence. This provisional patent lasts for three years. During this term, or at the end of the three years, a definitive patent is granted upon the payment of the tax and on the production of the specimen of the invention, or, in the case of large objects, of photographs of the invention. The specimen might either be the actual thing itself, or it might assume the form of a scale model of the invention. In the case of large apparatus or articles not easy of transport, and where a model would be difficult or expensive to make, photographs of the invention will suffice. These photographs must show, as far as practicable, the parts which are claimed. For example, if the invention is a boiler, or a gas-making apparatus, containing arrangements of tubes, partitions, and parts which are essential to the invention, a mere outside view of the boiler or the apparatus will not do. The claimed arrangements of the tubes or parts should be apparent in the photograph, or it will not be accepted as a proof of existence. Models must be deposited of all inventions relating to the cases or movements of watches, all inventions relating to portable firearms, and for all patented articles composed of combinations of substances which it is difficult to determine. Swiss patents are granted for fifteen years from the date of application.

Novelty:
Effect of
Prior
Patent or
Publication.

Novelty: Effect of Prior Patent or Publication.—The invention must be new and unpublished in Switzerland at the time of application. Proof of the published British specification having been at the disposal of the public in

Switzerland would probably act as a bar to novelty. Switzerland is, however, a member of the International Convention, so that even after publication of a British specification the Swiss application would be valid if made within six months from the date of the application in England. An examination as to novelty and utility is held upon all applications for patents.

Switzerland.

Taxes.—Patents are subject to the payment of annual taxes of twenty francs for the first year, thirty francs for the second, forty francs for the third, and so on, increasing at the rate of ten francs per annum as in Belgium.

Taxes.

Working.—The invention must be worked within three years from the date of application. The amount of working which will satisfy requirements has not been fixed by any judicial decision, but it would be unsafe to count upon anything less than a real and commercial carrying into effect of the invention. Importation of the patented goods is not prohibited, but if importation alone is carried on, the patentee cannot refuse licences on reasonable terms to Swiss manufacturers: otherwise his patent is forfeited. All articles protected by a Swiss patent and sold in Switzerland must be marked with the Federal Cross and the number of the patent.

Working.

Assignments and Licences.—If a patent is sold wholly or partly, or if a licence is granted after the filing of the application or after the grant of the patent, such assignment or licence must be registered at the Federal Office of Industrial Property.

Assignments and Licences.

TASMANIA.

Tasmania.

(ACT No. 6 OF 1893.)

Patentee.—The true and first inventor, which is assumed to include the first importer. Patents are granted to the inventor in conjunction with others who are not inventors. The legal representative of a deceased inventor may obtain

Patentee.

Tasmania. a patent if application is made within six months of the inventor's decease.

Duration of Patent. *Duration of Patent.*—Patents are granted for fourteen years from the date of acceptance of the application.

Novelty: Effect of Prior Patent or Publication. *Novelty: Effect of Prior Patent or Publication.*—The invention must not at the time of application have been “publicly manufactured, used, or sold within Tasmania.” Therefore prior publication or use of an invention abroad, and apparently even prior publication alone in Tasmania, will not prevent the grant of a valid patent. Subject to notice given to the Registrar, exhibition of an invention at an “industrial exhibition” within or beyond the Colony will not amount to public use, if the application for a patent be made within six months from the opening of the exhibition.

Taxes. *Taxes.*—At or before the expiration of the third year from date, a tax of £15 falls due, and a tax of £20 at or before the expiration of the seventh year. Three months extension of time for paying these taxes may be had, subject to payment of £1 on the application form, and £3 on the grant of extension.

Working. *Working.*—No requirements.

Assignments.—Assignments and licences may be granted for the whole or a part of the colony. These should be entered on the register.

Tobago.

TOBAGO.

(COVERED BY PATENT IN TRINIDAD.)

Tonquin.

TONQUIN.

(COVERED BY FRENCH PATENT.)

TRINIDAD.**Trinidad.**

(ORDNANCE NO. 25, 2ND SEPTEMBER, 1867.)

Patentee.—The true and first inventor or his representative or assignee, or the first importer, may obtain a valid patent. Patentee.

Duration of Patent.—Patents are granted for fourteen years. Duration of Patent.

Novelty: Effect of Prior Patent or Publication.—The essential is that the invention should be new and not in public use in Trinidad at the time of application. A prior patent or prior publication abroad will not prejudice the validity of a patent subsequently obtained in Trinidad if the invention is unknown there. Novelty: Effect of Prior Patent or Publication.

Taxes.—None after issue of patent. Taxes.

Working.—There are no conditions as to working. Working.

Assignments.—These should be in duplicate, and should be registered. Assignments.

TUNIS.**Tunis.**

(LAW OF 22ND RABIA-ET-TANI, 1306: 26TH DECEMBER, 1888.)

Patentee.—Patents are granted to whomsoever may apply, or to a firm or corporation. Patentee.

Duration of Patent.—Five, ten, or fifteen years, at the option of the applicant. Duration of Patent.

Novelty: Effect of Prior Patent or Publication.—An application for a Tunisian patent should be filed before the invention is generally known or in public use either in the Regency or elsewhere. Novelty: Effect of Prior Patent or Publication.

Taxes.—Patents are subject to an annual tax of one hundred piastres. No enlargement of time for paying this annuity can be obtained. Taxes.

Working.—The invention should be put in practice before the expiry of two years from the date of the patent, and the working must not thereafter be interrupted. Working.

Tunis.

for any two years in succession. Tunis being a member of the International Convention, the prohibition against importation of the patented goods is inoperative against patentees who are citizens of States also in the Union, such as Great Britain for example. All patented goods should be marked with the number of the patent and the words "Sans Garantie du Gouvernement."

Assignments.

Assignments.—As is the case in France, an assignment can only be recorded by paying the full amount of taxes for the complete term of patent right. This immediate expense may, however, be obviated by adopting the plan advised with reference to the French assignment—viz., leaving the assignment unregistered *pro tem.*, and causing the parties to the assignment to execute a blank power authorising a notary (whose name can afterwards be filled in) to effect the registration and pay the fees. This power should be legalised by a French consul, and can afterwards be used by the assignee if required.

Turkey.**TURKEY.**

(LAW OF 18TH FEBRUARY, 1879.)

Patentee.

Patentee.—Patents are granted to the first inventor or first importer. A firm or corporation may be the grantee of a patent.

Duration of Patent.

Duration of Patent.—The term of grant is for five, ten, or fifteen years, as the applicant may elect.

Novelty: Effect of Prior Patent or Publication.

Novelty: Effect of Prior Patent or Publication.—The invention, to form the subject-matter of a valid patent, should not have been published or worked in Turkey, and, strictly speaking, should not have been made public abroad. It is, however, the usually accepted opinion that the mere official publication of the specification of a prior foreign patent would not injure the validity of a subsequent Turkish patent.

Taxes.

Taxes.—Patents are subject to an annual tax of two Turkish pounds.

Working.—The invention must be worked in Turkey **Turkey.** within two years from the date of issue, and the working **Working.** must not thereafter cease for any two successive years, on pain of forfeiture of the patent rights. Importation of patented goods is strictly prohibited, under penalty of forfeiture of the patent. Even the introduction of models of the invention or samples of the goods for exhibition, trial, or other purposes, must take place only under permission from the Government.

Assignments.—When a Turkish patent is assigned, all the taxes due on the unexpired term of patent right require to be paid in advance before the assignment can be recorded. This necessity is sometimes evaded by the plan frequently resorted to in the case of French assignments. (See "France.") Assignments should be by notarial deed, and must, when made abroad, be legalised by a Turkish consul. **Assignments.**

URUGUAY.

Uruguay.

(LAW OF 12TH NOVEMBER, 1885.)

Patentee.—Patents are granted to the inventor, or to his attorney or assignee. **Patentee.**

Duration of Patent.—Patents are issued for terms of three, six, or nine years, at the option of the applicant. **Duration of Patent.**

Novelty: Effect of Prior Patent or Publication.—To constitute a valid patent, the subject-matter should not be publicly known in Uruguay or elsewhere. When prior foreign patents have been obtained, the owner may, irrespective of publication or public use, obtain a valid patent in Uruguay if he files his application within one year from the date of the first prior foreign patent. Patents of Addition may be obtained. **Novelty: Effect of Prior Patent or Publication.**

Taxes.—Patents are subject to an annual tax of twenty-five pesos. Patents of Addition are subject to an annual tax of one-third of this amount. **Taxes.**

Working.—On the grant of the patent, the authorities **Working.**

Uruguay. specify what is, in their estimation, a reasonable time within which the invention must be worked. This may vary from one to three years, according to the nature of the invention. Once commenced, the working must not be interrupted for any one year at a time.

Assignments.

Assignments.—These must be in duplicate in the Spanish language, and must be legalised by a Uruguayan consul.

Venezuela.

VENEZUELA.

(LAW OF 25TH MAY, 1882.)

Patentee.

Patentee.—Patents are granted to the actual inventor, or to a patentee who has already patented the invention in a foreign country.

Duration of Patent.

Duration of Patent.—Patents are granted for five, ten, or fifteen years, at the option of the applicant, and when a foreign patent exists, then for the unexpired term of the foreign patent.

Novelty: Effect of Prior Patent or Publication.

Novelty: Effect of Prior Patent or Publication.—A valid patent may be had only in cases where the invention is not publicly known or used in Venezuela, or has not been patented in another country to an inventor other than the applicant. But in the case of an inventor and owner of a foreign patent, he may at any time during the existence of the foreign patent protect his invention in Venezuela for a period coterminous with that of the foreign patent.

Taxes.

Taxes.—There are no taxes payable after issue.

Working.

Working.—A five years' patent must be worked within six months of grant; a ten years' patent within one year; and a fifteen years' patent within two years of grant. In the case of patented apparatus it is usual to consider the importation and operation of a machine as sufficient to constitute working; but this is only presumed, and is not based upon any judicial decision.

Assignments.

Assignments.—Patents may be assigned. The documents should be in Spanish and legalised by a Venezuelan Consul. Licences may be in any form, so long as the existence of the permit is apparent.

VICTORIA.

Victoria.

(ACT No. 1034 OF 25TH NOVEMBER, 1889.)

Patentee.—Patents are granted to the actual inventor, or to his assignee, or to an importer who has had the invention communicated to him from abroad by the inventor. A corporation may be the grantee of a patent for an invention communicated to them by the inventor. The legal representative of a deceased inventor may obtain a patent, if application is made within twelve months from the death of the inventor. Patentee.

Duration of Patent.—Patents are granted for fourteen years. Inventions may be provisionally protected as in Great Britain, the provisional being followed up in nine months by a Complete Specification. Duration of Patent.

Novelty: Effect of Prior Patent or Publication.—The invention must not be a matter of public knowledge in the Colony. But in the case of an applicant who is the owner of a foreign patent, publication or public use prior to application in Victoria will not matter, if the Victorian application is made within one year from the date of the prior foreign patent. Novelty: Effect of Prior Patent or Publication.

Taxes.—Before the expiry of the third year a tax of £2 10s. is payable, and a further tax of £2 10s. before the expiry of the seventh year. An extension of time for making these payments (in no case exceeding six months) may be had on showing sufficient cause and on payment of a fine of £1 in addition to the tax. Taxes.

Working.—Patentees are not required to work their inventions in the Colony, and may import the patented goods at pleasure. Working.

Assignments.—These are prepared in the form customary in England, and should be entered upon the Register of Patents. Assignments.

WESTERN AUSTRALIA.

Western Australia.

(ACT No. 5 OF 26TH NOVEMBER, 1888; ACT No. 15 OF 1892.)

Patentee.—Patents are granted to the true and first inventor or inventors, either alone or in conjunction with Patentee.

**Western
Australia.**

another, or with others not inventors. *Letters of Registration*, having the same force as letters patent, are issued to the *bonâ fide* holder or assignee of letters patent granted in Great Britain or elsewhere.

**Description
and
Duration of
Patent.**

Description and Duration of Patent.—Patents issued to actual inventors are granted for fourteen years. *Letters of Registration*, issued to owners of prior patents elsewhere, expire with the original foreign or other patent upon which the Letters of Registration are based.

**Novelty;
Effect of
Prior
Patent or
Publication.**

Novelty: Effect of Prior Patent or Publication.—To obtain valid *Letters Patent* the application should be filed before any publication or public use of the invention has taken place in the Colony. As in most other British Colonies, the showing of an invention in an industrial exhibition does not for six months constitute publication, if notice has previously been given the Registrar. *Letters of Registration* can be obtained at any time during the continuance of the prior foreign or other patent upon which the Letters of Registration are based.

Taxes.

Taxes.—There are no taxes payable upon Letters of Registration. Letters Patent are subject to a tax of £4 before the expiry of the fourth year, and a further tax of £4 before the expiry of the seventh year.

Working.

Working.—There are no provisions as to working, importing, or marking the patented goods in Western Australia.

**Assign-
ments and
Licences.**

Assignments and Licences.—These are prepared as in England, and should be entered in the Register of Patents.

FOREIGN TRADE MARKS AND DESIGNS.

Trade marks, and in some instances designs also, can be protected in many of the foregoing countries and colonies. In most cases registration or protection is effected under existing statutes, but where these do not exist special Legislative Acts may be furthered to obtain the same results.

THE PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1883 to 1888 (Consolidated).



THE ACTS CONTAIN 117 SECTIONS WITH SCHEDULES,
AND THE RESPECTIVE SECTIONS ARE TO THE
FOLLOWING EFFECT :—

PART I.—PRELIMINARY.

Section

1. Short title.
2. Division of Act into parts.
3. Commencement of Acts.

PART II.—PATENTS.

Application for and Grant of Patent.

4. Persons entitled to apply for patent.
Power to grant patents to several persons jointly.
5. Application and specification.
6. Reference of application to examiner.
7. Power for comptroller to refuse application or require amendment.
8. Time for leaving complete specification.
9. Comparison of provisional and complete specification.
10. Advertisement on acceptance of complete specification.
11. Opposition to grant of patent.
12. Sealing of patent.
13. Date of patent.
Specifications &c. not to be published unless application accepted.

Provisional Protection.

14. Provisional protection.

PART II.—PATENTS (*continued*).*Protection by Complete Specification.*

Section

15. Effect of acceptance of complete specification.

Patent.

16. Extent of patent.

17. Term of patent.

Amendment of Specification.

18. Amendment of specification.

19. Power to disclaim part of invention during action, &c.

20. Restriction on recovery of damages.

21. Advertisement of amendment.

Compulsory Licences.

22. Power for Board of Trade to order grant of licences.

Register of Patents.

23. Register of patents.

Fees.

24. Fees in schedule.

Extension of Term of Patent.

25. Extension of term of patent on petition to Queen in Council.

Revocation.

26. Revocation of patent.

Crown.

27. Patent to bind Crown.

Legal Proceedings.

28. Hearing with assessor.

29. Delivery of particulars.

30. Order for inspection &c. in action.

31. Certificate of validity questioned, and costs thereon.

32. Remedy in case of groundless threats of legal proceedings.

Miscellaneous.

33. Patent for one invention only.

34. Patent on application of representative of deceased inventor.

PART II.—PATENTS (*continued*).

Section

35. Patent to first inventor not invalidated by application in fraud of him.
 36. Assignment for particular places.
 37. Loss or destruction of patent.
 38. Proceedings and costs before law officer.
 39. Exhibition at industrial or international exhibition not to prejudice patent rights.
 40. Publication of illustrated journal, indexes, &c.
 41. Patent Museum.
 42. Power to require models on payment.
 43. Foreign vessels in British waters.
 44. Assignment to Secretary for War of certain inventions.

Existing Patents.

45. Provisions respecting existing patents.

Definitions.

46. Definitions of patent, patentee, and invention.

PART III.—DESIGNS.

Registration of Designs.

47. Application for registration of designs.
 48. Drawings &c. to be furnished on application.
 49. Certificate of registration.

Copyright in Registered Designs.

50. Copyright on registration.
 51. Marking registered designs.
 52. Inspection of registered designs.
 53. Information as to existence of copyright.
 54. Cesser of copyright in certain events.

Register of Designs.

55. Register of designs.

Fees.

56. Fees on registration, &c.

Industrial and International Exhibitions.

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

PART III.—DESIGNS (*continued*).*Legal Proceedings.*

Section

58. Penalty on piracy of registered design.
59. Action for damages.

Definitions.

60. Definition of "design," "copyright."
61. Definition of "proprietor."

PART IV.—TRADE MARKS.

Registration of Trade Marks.

62. Application for registration.
63. Limit of time for proceeding with application.
64. Conditions of registration of trade mark.
65. Connection of trade mark with goods.
66. Registration of a series of marks.
67. Trade marks may be registered in any colour.
68. Advertisement of application.
69. Opposition to registration.
70. Assignment and transmission of trade mark.
71. Conflicting claims to registration.
72. Restrictions on registration.
73. Further restriction on registration.
74. Saving for power to provide for entry on register of common marks as additions to trade marks.

Effect of Registration.

75. Registration equivalent to public use.
76. Right of first proprietor to exclusive use of trade mark.
77. Restrictions on actions for infringement, and on defence to action in certain cases.
77a. Certificate as to exclusive use and costs thereon.

Register of Trade Marks.

78. Register of trade marks.
79. Removal of trade mark after fourteen years unless fee paid.

Fees.

80. Fees for registration, &c.

Sheffield Marks.

81. Registration by Cutlers' Company of Sheffield marks.

PART V.—GENERAL.

Patent Office and Proceedings thereat.

Section

- 82. Patent Office.
- 83. Officers and clerks.
- 84. Seal of Patent Office.
- 85. Trust not to be entered in registers.
- 86. Refusal to grant patent &c. in certain cases.
- 87. Entry of assignments and transmissions in registers.
- 88. Inspection of and extracts from registers.
- 89. Sealed copies to be received in evidence.
- 90. Rectification of registers by court.
- 91. Power for comptroller to correct clerical errors.
- 92. Alteration of registered mark.
- 93. Falsification of entries in registers.
- 94. Exercise of discretionary power by comptroller.
- 95. Power of comptroller to take directions of law officers.
- 96. Certificate of comptroller to be evidence.
- 97. Applications and notices by post.
- 98. Provision as to days for leaving documents at office.
- 99. Declaration by infant, lunatic, &c.
- 100. Transmission of certified printed copies of specifications, &c.
- 101. Power for Board of Trade to make general rules for classifying goods and regulating business of Patent Office.
- 102. Annual reports of comptroller.
- 102a. Proceedings of Board of Trade.**

International and Colonial Arrangements.

- 103. International arrangements for protection of inventions, designs, and trade marks.
- 104. Provisions for colonies and India.

Offences.

- 105. Penalty on falsely representing articles to be patented.
- 106. Penalty on unauthorised assumption of Royal Arms.

Scotland, Ireland, &c.

- 107. Saving for courts in Scotland.
- 108. Summary proceedings in Scotland.
- 109. Proceedings for revocation of patent in Scotland.
- 110. Reservation of remedies in Ireland.
- 111. General saving for jurisdiction of courts.
- 112. Isle of Man.
- 112a. Jurisdiction of Lancashire Palatine Court.**

PART V.—GENERAL (*continued*).*Repeal; Transitional Provisions; Savings.*

Section

- 113. Repeal and saving for past operation of repealed enactments, &c.
- 114. Former registers to be deemed continued.
- 115. Saving for existing rules.
- 116. Saving for prerogative.

General Definitions.

- 117. General Definitions.

*Register of Patent Agents.***Register of Patent Agents.**

The FIRST SCHEDULE.—Forms of Application, &c.

The SECOND SCHEDULE.—Fees on instruments for obtaining Patents, and renewal.

The THIRD SCHEDULE.—Enactments repealed.

The Patents, Designs, and Trade Marks Acts, 1883 to 1888 (Consolidated).

[THE REPEALED PORTIONS OF THE ACT OF 1883 ARE PRINTED IN *italics*. THE AMENDMENTS EFFECTED BY THE SUCCEEDING ACTS ARE IN **heavy type**. THE AMENDING ACT AND SECTIONS ARE CITED IN THE MARGIN.]

(46 & 47 VICTORIA, CHAPTER 57.)

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

[25th August, 1883.]

48 & 49 Vict. c. 63.—An Act to amend the Patents, Designs, and Trade Marks Act, 1883.

[14th August, 1885.]

49 & 50 Vict. c. 37.—An Act to remove certain doubts respecting the construction of the Patents, Designs, and Trade Marks Act, 1883, so far as respects the drawings by which specifications are required to be accompanied, and as respects exhibitions.

[25th June, 1886.]

51 & 52 Vict. c. 50.—An Act to amend the Patents, Designs, and Trade Marks Act, 1883.

[24th December, 1888.]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual

and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

PART I.

PRELIMINARY.

Short title.

1. This Act may be cited as The Patents, Designs, and Trade Marks Act, 1883.

Division of Act into parts.

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

Part I.—PRELIMINARY.

II.—PATENTS.

III.—DESIGNS.

IV.—TRADE MARKS.

V.—GENERAL.

Commencement of Act.

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

Act 1888,
s. 28.

The Act of 1888 shall, except so far as is thereby otherwise specially provided, commence and come into operation on the First day of January, One thousand eight hundred and eighty-nine.

PART II.

PATENTS.

Application for and Grant of Patent.

Persons entitled to apply for Patent.

4. (1) Any person, whether a British subject or not, may make an application for a patent.

(2) Two or more persons may make a joint application for a patent, and a patent may be granted to them jointly.

Act 1885,
s. 5.
Power to

Whereas doubts have arisen whether under the principal Act a patent may lawfully be granted to

several persons jointly, some or one of whom only are or is the true and first inventors or inventor; be it therefore enacted and declared that it has been and is lawful under the principal Act to grant such a patent.

grant Patents to several persons jointly.

5. (1) An application for a patent must be made in the form set forth in the First Schedule to this Act, or in such other form as may be from time to time prescribed; and must be left at, or sent by post to, the Patent Office in the prescribed manner.

Application and Specification.

(2) An application must contain a declaration to the effect that the applicant is in possession of an invention, whereof he, or in the case of a joint application, one or more of the applicants, claims or claim to be the true and first inventor or inventors, and for which he or they desires or desire to obtain a patent; and must be accompanied by either a provisional or complete specification.

The declaration may be either a statutory declaration under the Statutory Declarations Act, 1835, or not, as may be from time to time prescribed.

Act 1885, s. 2. 5 & 6 Will. 4, c. 62.

(3) A provisional specification must describe the nature of the invention, and be accompanied by drawings, if required.

(4) A complete specification, whether left on application or subsequently, must particularly describe and ascertain the nature of the invention, and in what manner it is to be performed, and must be accompanied by drawings, if required.

The requirement of this sub-section as to drawings shall not be deemed to be insufficiently complied with by reason only that instead of being accompanied by drawings the complete specification refers to the drawings which accompanied the provisional specification. And no patent heretofore sealed shall be invalid by reason only that the complete specification was not accompanied by drawings, but referred to those which accompanied the provisional specification.

The same drawings may accompany both Specifications. Act 1886, s. 2.

(5) A specification, whether provisional or complete, must commence with the title, and in the case of a complete

specification must end with a distinct statement of the invention claimed.

Reference
of applica-
tion to
Examiner.

6. The comptroller shall refer every application to an examiner, who shall ascertain and report to the comptroller whether the nature of the invention has been fairly described, and the application, specification, and drawings (if any) have been prepared in the prescribed manner, and the title sufficiently indicates the subject-matter of the invention.

Power for
Comptroller
to refuse
application
or require
amend-
ment.

[7. (1) *If the examiner reports that the nature of the invention is not fairly described, or that the application, specification, or drawings has not or have not been prepared in the prescribed manner, or that the title does not sufficiently indicate the subject-matter of the invention, the comptroller may require that the application, specification, or drawings be amended before he proceeds with the application.*

Repealed by
Act 1888,
s. 2.

(2) *Where the comptroller requires an amendment, the applicant may appeal from his decision to the law officer.*

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

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

(5) *If after an application has been made, but before a patent has been sealed, an application is made, accompanied by a specification bearing the same or a similar title, it shall be the duty of the examiner to report to the comptroller whether the specification appears to him to comprise the same invention; and, if he reports in the affirmative, the comptroller shall give notice to the applicant that he has so reported.*

(6) *Where the examiner reports in the affirmative, the comptroller may determine, subject to an appeal to the law officer, whether the invention comprised in both applications is the same, and if so he may refuse to seal a patent on the application of the second applicant.]*

Act 1888,
s. 2.
Power of

7. (1) *If the examiner reports that the nature of the invention is not fairly described, or that the*

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

comptroller to refuse application or require amendment.

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

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

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

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

8. (1) If the applicant does not leave a complete specification with his application, he may leave it at any subsequent time within nine months from the date of application.

Time for leaving complete specification.

A complete specification may be left within such extended time, not exceeding one month after the said nine months, as the comptroller may on payment of the prescribed fee allow.

Act 1885, s. 3.

(2) Unless a complete specification is left within that time, the application shall be deemed to be abandoned.

Comparison
of pro-
visional and
complete
specifica-
tion.

9. (1) Where a complete specification is left after a provisional specification, the comptroller shall refer both specifications to an examiner for the purpose of ascertaining whether the complete specification has been prepared in the prescribed manner, and whether the invention particularly described in the complete specification is substantially the same as that which is described in the provisional specification.

(2) If the examiner reports that the conditions hereinbefore contained have not been complied with, the comptroller may refuse to accept the complete specification unless and until the same shall have been amended to his satisfaction; but any such refusal shall be subject to appeal to the law officer.

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

(4) Unless a complete specification is accepted within twelve months from the date of application, then (save in the case of an appeal having been lodged against the refusal to accept) the application shall, at the expiration of those twelve months, become void.

A complete specification may be accepted within such extended time, not exceeding three months after the said twelve months, as the comptroller may on payment of the prescribed fee allow.

(5) Reports of examiners shall not in any case be published or be open to public inspection, and shall not be liable to production or inspection in any legal proceeding [other than an appeal to the law officer under this Act], unless the Court or officer having power to order discovery in such legal proceeding shall certify that such production or inspection is desirable in the interests of justice, and ought to be allowed.

10. On the acceptance of the complete specification the comptroller shall advertise the acceptance; and the application and specification or specifications with the drawings (if any) shall be open to public inspection.

Act 1885,
s. 3.

Repealed by
Act 1888,
s. 3.

Advertise-
ment on
acceptance
of complete
specifica-
tion.

11. (1) Any person may at any time within two months from the date of the advertisement of the acceptance of a complete specification give notice at the Patent Office of opposition to the grant of the patent on the ground of the applicant having obtained the invention from him, or from a person of whom he is the legal representative, or on the ground that the invention has been patented in this country on an application of prior date [or on the ground of an examiner having reported to the comptroller that the specification appears to him to comprise the same invention as is comprised in a specification bearing the same or a similar title, and accompanying a previous application], or on the ground that the complete specification describes or claims an invention other than that described in the provisional specification, and that such other invention forms the subject of an application made by the opponent in the interval between the leaving of the provisional specification and the leaving of the complete specification, but on no other ground.

Opposition to grant of patent.

Repealed by Act 1888, s. 4.

Act 1888, s. 4.

(2) Where such notice is given the comptroller shall give notice of the opposition to the applicant, and shall, on the expiration of those two months, after hearing the applicant and the person so giving notice, if desirous of being heard, decide on the case, but subject to appeal to the law officer.

(3) The law officer shall, if required, hear the applicant and any person so giving notice and being, in the opinion of the law officer, entitled to be heard in opposition to the grant, and shall determine whether the grant ought or ought not to be made.

(4) The law officer may, if he thinks fit, obtain the assistance of an expert, who shall be paid such remuneration as the law officer, with the consent of the Treasury, shall appoint.

12. (1) If there is no opposition, or, in case of opposition, if the determination is in favour of the grant of a patent, the comptroller shall cause a patent to be sealed with the seal of the Patent Office.

Sealing of patent.

(2) A patent so sealed shall have the same effect as if it were sealed with the great seal of the United Kingdom.

(3) A patent shall be sealed as soon as may be, and not after the expiration of fifteen months from the date of application, except in the cases hereinafter mentioned, that is to say—

(a) Where the sealing is delayed by an appeal to the law officer, or by opposition to the grant of the patent, the patent may be sealed at such time as the law officer may direct.

(b) If the person making the application dies before the expiration of the fifteen months aforesaid, the patent may be granted to his legal representative, and sealed at any time within twelve months after the death of the applicant.

Act 1885,
s. 3.

A complete specification may be left and accepted within such extended times, not exceeding one month and three months respectively after the said nine and twelve months respectively as the comptroller may on payment of the prescribed fee allow, and where such extension of time has been allowed, a further extension of four months after the said fifteen months shall be allowed for the sealing of the patent; and the principal Act shall have effect as if any time so allowed were added to the said periods specified in the principal Act.

Date of
patent.

13. Every patent shall be dated and sealed as of the day of the application: Provided that no proceedings shall be taken in respect of an infringement committed before the publication of the complete specification: Provided also, that in case of more than one application for a patent for the same invention, the sealing of a patent on one of those applications shall not prevent the sealing of a patent on an earlier application.

Specifica-
tions &c.
not to be
published
unless

Where an application for a patent has been abandoned, or become void, the specification or specifications and drawings (if any) accompanying or left in con-

nection with such application, shall not at any time be open to public inspection or be published by the comptroller.

application accepted, Act 1885, s. 4.

Provisional Protection.

14. Where an application for a patent in respect of an invention has been accepted, the invention may during the period between the date of the application and the date of sealing such patent be used and published without prejudice to the patent to be granted for the same; and such protection from the consequences of use and publication is in this Act referred to as provisional protection.

Provisional protection.

Protection by Complete Specification.

15. After the acceptance of a complete specification and until the date of sealing a patent in respect thereof, or the expiration of the time for sealing, the applicant shall have the like privileges and rights as if a patent for the invention had been sealed on the date of the acceptance of the complete specification: Provided that an applicant shall not be entitled to institute any proceeding for infringement unless and until a patent for the invention has been granted to him.

Effect of acceptance of complete specification.

Patent.

16. Every patent when sealed shall have effect throughout the United Kingdom and the Isle of Man.

Extent of patent.

17. (1) The term limited in every patent for the duration thereof shall be fourteen years from its date.

Term of patent.

(2) But every patent shall, notwithstanding anything therein or in this Act, cease if the patentee fails to make the prescribed payments within the prescribed times.

(3) If, nevertheless, in any case, by accident, mistake, or inadvertence, a patentee fails to make any prescribed payment within the prescribed time, he may apply to the comptroller for an enlargement of the time for making that payment.

(4) Thereupon the comptroller shall, if satisfied that the failure has arisen from any of the above-mentioned causes, on receipt of the prescribed fee for enlargement, not exceeding ten pounds, enlarge the time accordingly, subject to the following conditions:—

- (a) The time for making any payment shall not in any case be enlarged for more than three months.
- (b) If any proceeding shall be taken in respect of an infringement of the patent committed after a failure to make any payment within the prescribed time, and before the enlargement thereof, the Court before which the proceeding is proposed to be taken may, if it shall think fit, refuse to award or give any damages in respect of such infringement.

Amendment of Specification.

Amend-
ment of
specifica-
tion.

18. (1) An applicant or a patentee may, from time to time, by request in writing left at the Patent Office, seek leave to amend his specification, including drawings forming part thereof, by way of disclaimer, correction, or explanation, stating the nature of such amendment and his reasons for the same.

(2) The request and the nature of such proposed amendment shall be advertised in the prescribed manner, and at any time within one month from its first advertisement any person may give notice at the Patent Office of opposition to the amendment.

(3) Where such notice is given the comptroller shall give notice of the opposition to the person making the request, and shall hear and decide the case subject to an appeal to the law officer.

(4) The law officer shall, if required, hear the person making the request and the person so giving notice, and being in the opinion of the law officer entitled to be heard in opposition to the request, and shall determine whether and subject to what conditions, if any, the amendment ought to be allowed.

(5) Where no notice of opposition is given, or the

person so giving notice does not appear, the comptroller shall determine whether and subject to what conditions, if any, the amendment ought to be allowed.

(6) When leave to amend is refused by the comptroller, the person making the request may appeal from his decision to the law officer.

(7) The law officer shall, if required, hear the person making the request and the comptroller, and may make an order determining whether, and subject to what conditions, if any, the amendment ought to be allowed.

(8) No amendment shall be allowed that would make the specification, as amended, claim an invention substantially larger than or substantially different from the invention claimed by the specification as it stood before amendment.

(9) Leave to amend shall be conclusive as to the right of the party to make the amendment allowed, except in case of fraud; and the amendment shall in all courts and for all purposes be deemed to form part of the specification.

[(10) The foregoing provisions of this section do not apply when and so long as any action for infringement or other legal proceeding in relation to a patent is pending.]

Repealed by
Act 1888,
s. 8.

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

Act 1885,
s. 8.

19. In an action for infringement of a patent, and in a proceeding for revocation of a patent, the Court or a judge may at any time order that the patentee shall, subject to such terms as to costs and otherwise as the Court or a judge may impose, be at liberty to apply at the Patent Office for leave to amend his specification by way of disclaimer, and may direct that in the meantime the trial or hearing of the action shall be postponed.

Power to
disclaim
part of
invention
during
action &c.

20. Where an amendment by way of disclaimer, correction, or explanation, has been allowed under this Act, no damages shall be given in any action in respect of the use of the invention before the disclaimer, correction, or explanation, unless the patentee establishes to the satis-

Restriction
on recovery
of damages.

faction of the Court that his original claim was framed in good faith and with reasonable skill and knowledge.

21. Every amendment of a specification shall be advertised in the prescribed manner.

Advertisement of amendment.

Compulsory Licences.

Power for Board to order grant of licences.

22. If on the petition of any person interested it is proved to the Board of Trade that by reason of the default of a patentee to grant licences on reasonable terms—

- (a) The patent is not being worked in the United Kingdom; or
- (b) The reasonable requirements of the public with respect to the invention cannot be supplied; or
- (c) Any person is prevented from working or using to the best advantage an invention of which he is possessed,

the Board may order the patentee to grant licences on such terms as to the amount of royalties, security for payment or otherwise, as the Board, having regard to the nature of the invention and the circumstances of the case, may deem just, and any such order may be enforced by mandamus.

Register of Patents.

Register of Patents.

23. (1) There shall be kept at the Patent Office a book called the Register of Patents, wherein shall be entered the names and addresses of grantees of patents, notifications of assignments and of transmissions of patents, of licences under patents, and of amendments, extensions, and revocations of patents, and such other matters affecting the validity or proprietorship of patents as may from time to time be prescribed.

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

(3) Copies of deeds, licences, and any other documents affecting the proprietorship in any letters patents or in any licence thereunder, must be supplied to the comptroller in the prescribed manner for filing in the Patent Office.

Fees.

24. (1) There shall be paid in respect of the several instruments described in the Second Schedule to this Act the fees in that schedule mentioned, and there shall likewise be paid, in respect of other matters under this part of the 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 in
Schedule.

(2) The Board of Trade may from time to time, if they think fit, with the consent of the Treasury, reduce any of those fees.

Extension of Term of Patent.

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

Extension
of term of
patent on
petition to
Queen in
Council.

(2) Any person may enter a caveat, addressed to the registrar of the Council at the Council Office, against the extension.

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

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

(5) If the Judicial Committee report that the patentee has been inadequately remunerated by his patent, it shall be lawful for her Majesty in Council to extend the term of the patent for a further term not exceeding seven, or in

exceptional cases fourteen, years; or to order the grant of a new patent for the term therein mentioned, and containing any restrictions, conditions, and provisions that the Judicial Committee may think fit.

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

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

Revocation.

Revocation
of patent.

26. (1) The proceeding by *scire facias* to repeal a patent is hereby abolished.

(2) Revocation of a patent may be obtained on petition to the Court.

(3) Every ground on which a patent might, at the commencement of this Act, be repealed by *scire facias* shall be available by way of defence to an action of infringement, and shall also be a ground of revocation.

(4) A petition for revocation of a patent may be presented by—

(a) The Attorney-General in England or Ireland, or the Lord Advocate in Scotland:

(b) Any person authorised by the Attorney-General in England or Ireland, or the Lord Advocate in Scotland:

(c) Any person alleging that the patent was obtained in fraud of his rights, or of the rights of any person under or through whom he claims:

(d) Any person alleging that he, or any person under or through whom he claims, was the true inventor of any invention included in the claim of the patentee:

(e) Any person alleging that he, or any person under or through whom he claims an interest in any trade, business, or manufacture, had publicly manufactured, used, or sold, within this realm, before the date of the patent, anything claimed by the patentee as his invention.

(5) The plaintiff must deliver with his petition particulars of the objections on which he means to rely, and no evidence shall, except by leave of the Court or a judge, be admitted in proof of any objection of which particulars are not so delivered.

(6) Particulars delivered may be from time to time amended by leave of the Court or a judge.

(7) The defendant shall be entitled to begin, and give evidence in support of the patent, and if the plaintiff gives evidence impeaching the validity of the patent the defendant shall be entitled to reply.

(8) Where a patent has been revoked on the ground of fraud, the comptroller may, on the application of the true inventor made in accordance with the provisions of this Act, grant to him a patent in lieu of and bearing the same date as the date of revocation of the patent so revoked, but the patent so granted shall cease on the expiration of the term for which the revoked patent was granted.

Crown.

27. (1) A patent shall have to all intents the like effect as against her Majesty the Queen, her heirs and successors, as it has against a subject.

Patent to
bind Crown.

(2) But the officers or authorities administering any department of the service of the Crown may, by themselves, their agents, contractors, or others, at any time after the application, use the invention for the services of the Crown on terms to be before or after the use thereof agreed on, with the approval of the Treasury, between those officers or authorities and the patentee, or, in default of such agreement, on such terms as may be settled by the Treasury after hearing all parties interested.

Legal Proceedings.

Hearing
with
assessor.

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

(2) The Court of Appeal or the Judicial Committee of the Privy Council may, if they see fit, in any proceeding before them respectively, call in the aid of an assessor as aforesaid.

(3) The remuneration, if any, to be paid to an assessor under this section shall be determined by the Court or the Court of Appeal or Judicial Committee, as the case may be, and be paid in the same manner as the other expenses of the execution of this Act.

Delivery of
particulars.

29. (1) In an action for infringement of a patent the plaintiff must deliver with his statement of claim, or by order of the Court or the judge, at any subsequent time, particulars of the breaches complained of.

(2) The defendant must deliver with his statement of defence, or, by order of the Court or a judge, at any subsequent time, particulars of any objections on which he relies in support thereof.

(3) If the defendant disputes the validity of the patent, the particulars delivered by him must state on what grounds he disputes it, and if one of those grounds is want of novelty, must state the time and place of the previous publication or user alleged by him.

(4) At the hearing no evidence shall, except by leave of the Court or a judge, be admitted in proof of any alleged infringement or objection of which particulars are not so delivered.

(5) Particulars delivered may be from time to time amended, by leave of the Court or a judge.

(6) On taxation of costs regard shall be had to the particulars delivered by the plaintiff and by the defendant;

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

30. In an action for infringement of a patent, the Court or a judge may on the application of either party make such order for an injunction, inspection or account, and impose such terms and give such directions respecting the same and the proceedings thereon as the Court or a judge may see fit.

Order for inspection &c. in action.

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

Certificate of validity questioned, and costs thereon.

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

Remedy in case of groundless threats of legal proceedings.

Miscellaneous.

33. Every patent may be in the form in the First Schedule to this Act, and shall be granted for one invention

Patent for one invention only.

only, but may contain more than one claim; but it shall not be competent for any person in an action or other proceeding to take any objection to a patent on the ground that it comprises more than one invention.

Patent on application of representative of deceased inventor.

34. (1) If a person possessed of an invention dies without making application for a patent for the invention, application may be made by, and a patent for the invention granted to, his legal representative.

(2) Every such application must be made within six months of the decease of such person, and must contain a declaration by the legal representative that he believes such person to be the true and first inventor of the invention.

Patent to first inventor not invalidated by application in fraud of him.

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

Assignment for particular places.

36. A patentee may assign his patent for any place in or part of the United Kingdom, or Isle of Man, as effectually as if the patent were originally granted to extend to that place or part only.

Loss or destruction of patent.

37. If a patent is lost or destroyed, or its non-production is accounted for to the satisfaction of the comptroller, the comptroller may at any time cause a duplicate thereof to be sealed.

Proceedings and costs before law officer.

38. The law officers may examine witnesses on oath and administer oaths for that purpose under this part of this Act, and may from time to time make, alter, and rescind rules regulating references and appeals to the law officers and the practice and procedure before them under this part of this Act; and in any proceeding before either of the law officers under this part of this Act, the law officer may order costs to be paid by either party, and any such order may be made a rule of the Court.

39. The exhibition of an invention at an industrial or international exhibition, certified as such by the Board of Trade, or the publication of any description of the invention during the period of the holding of the exhibition, or the use of the invention for the purpose of the exhibition in the place where the exhibition is held, or the use of the invention during the period of the holding of the exhibition by any person elsewhere, without the privity or consent of the inventor, shall not prejudice the right of the inventor or his legal personal representative to apply for and obtain provisional protection and a patent in respect of the invention or the validity of any patent granted on the application, provided that both the following conditions are complied with, namely,—

Exhibition at industrial or international exhibition not to prejudice patent rights.

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

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

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

Protection of Patents and Designs exhibited at international exhibitions. Act 1886, s. 3.

40. (1) The comptroller shall cause to be issued periodically an illustrated journal of patented inventions, as well as reports of patent cases decided by courts of law, and

Publication of illustrated journal, indexes &c.

any other information that the comptroller may deem generally useful or important.

(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.

(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.

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.

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.

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.

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.

Assignment
to Secretary
for War of
certain
inventions.

(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 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 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 person or persons authorised by him to investigate the same or the merits thereof,

shall not, nor shall anything done for the purposes of the investigation, be deemed use or publication of such invention so as to prejudice the grant or validity of any patent for the same.

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 licences.

(3) In all other respects (including the amount and time of payment 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 after the commencement of this Act in the Patent Office.

Definitions.

46. In and for the purposes of this Act—

“Patent” means letters patent for an invention:

“Patentee” 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 (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.

In Scotland “injunction” means “interdict.”

Definitions
of “patent,”
“patentee,”
and
“inven-
tion.”

PART III.

DESIGNS.

Registration of Designs.

Application
for registra-
tion of
designs.

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

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

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

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

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

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

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

Drawings
&c. to be
furnished
on applica-
tion.

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

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

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

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

Copyright in Registered Designs.

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

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

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

52. (1) During the existence of copyright in a design, the design shall not be open to inspection except by the proprietor, or a person authorised in writing by the proprietor, or a person authorised by the comptroller or by the Court, and furnishing such information as may enable the comptroller to identify the design, nor except in the Inspection of registered designs.

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.

Act 1888,
s. 6.

Provided that where registration of a design is refused on the ground of identity with a design already registered, the applicant for registration shall be entitled to inspect the design so registered.

(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.

Information
as to exist-
ence of
copyright.

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

Cesser of
copyright
in certain
events.

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

Register of Designs.

Register of
Designs.

55. (1) There shall be kept at the Patent Office a book called the Register of Designs, 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 prima facie evidence of any matters by this Act directed or authorised to be entered therein.

Fees.

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

Fees on registration &c.

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 industrial or international exhibition not to prevent or invalidate registration.

(a) The exhibitor must, before exhibiting the design or article, or publishing a description of the design, give the comptroller the prescribed notice of his intention to do so; and

(b) The application for registration must be made before or within six months from the date of the opening of the exhibition.

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

It shall be lawful for her Majesty, by Order in Council, from time to time to declare that sections thirty-nine and fifty-seven of the Patents, Designs, and Trade Marks Act, 1883, or either of those sections, shall apply to any exhibition mentioned in the Order in like manner as if it were an industrial or international exhibition certified by the Board of

Protection of patents and designs exhibited at international exhibitions. Act 1886, s. 3.

Trade, and to provide that the exhibitor shall be relieved from the conditions, specified in the said sections, of giving notice to the comptroller of his intention to exhibit, and shall be so relieved either absolutely or upon such terms and conditions as to her Majesty in Council may seem fit.

Legal Proceedings.

Penalty on piracy of registered design.
Act 1888,
s. 7.

58. During the existence of copyright in any design—
- (a) It shall not be lawful for any person without the license or written consent of the registered proprietor to apply **or cause to be applied** such design or any fraudulent or obvious imitation thereof, in the class or classes of goods in which such design is registered, for purposes of sale to any article of manufacture or to any substance artificial or natural or partly artificial and partly natural; and
- (b) It shall not be lawful for any person to publish or expose for sale any article of manufacture or any substance to which such design or any fraudulent or obvious imitation thereof shall have been so applied, knowing that the same has been so applied without the consent of the registered proprietor.

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

Act 1888,
s. 7.

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.

Definitions.

60. In and for the purposes of this Act—

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

Definition of
“design,”
“copy-
right.”

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

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

Definition
of “pro-
prietor.”

PART IV.

TRADE MARKS.

Registration of Trade Marks.

Application
for regis-
tration.

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.

Act 1888,
s. 8.

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

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

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

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

Act 1888,
s. 8.

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

Limit of
time for
proceeding

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*], the comptroller shall give notice of the non-completion to the agent employed on behalf of the applicant, and, if at the expiration of fourteen days from that notice the registration is not completed, shall give the like notice to the applicant, and if at the expiration of the latter fourteen days, or such further time as the comptroller may in special cases permit, the registration is not completed, the application shall be deemed to be abandoned.

with application.

Act 1883,
s. 9.

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

Conditions of registration of trade mark.

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

Repealed by Act 1888, s. 10.

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

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

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

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

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

Conditions of registration of trade mark. Act 1888, s. 10.

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

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

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

(3) Provided as follows:

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

Connection of trade mark with goods.

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

Registration 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.

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

Trade marks may be registered in any colour.
Act 1888,
s. 11.

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

Advertisement of application.
Act 1888,
s. 12.

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

Opposition to registration.
Act 1888,
s. 13, sub-s. 1, 2.

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

Act 1888,
s. 13,
sub-s. 3.

[(3) *If the applicant sends such counter statement, the comptroller shall furnish a copy thereof to the person who gave notice of opposition, and shall require him to give security in such manner and to such amount as the comptroller may require for such costs as may be awarded in respect of such opposition; and if such security is not given within fourteen*

Repealed by
Act 1888,
s. 13,
sub-s. 4.

days after such requirement was made or such further time as the comptroller may allow, the opposition shall be deemed to be withdrawn.

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

Act 1888,
s. 13,
sub-s. 4.

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

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

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

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

Assignment
and trans-
mission 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.

Conflicting
claims to
registra-
tion.

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.

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 registra-
tion.

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

Act 1888,
s. 14.

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.

Further
restriction
on registra-
tion.

Act 1888,
s. 15.

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

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;

(b) In the case of an application for registration of a trade mark not used before the Thirteenth day of

August, One thousand eight hundred and seventy-five—

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

Repealed by
Act 1888,
s. 16.

[(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.]

Act 1888,
s. 16.

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

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

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

Effect of Registration.

Registra-
tion equiva-
lent to
public use.
Act 1888,
s. 17.

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

Application for registration of a trade mark shall be deemed to be equivalent to public use of the trade mark, and the date of the application shall for the purposes of this Act be deemed to be, and as from the First day of January, One thousand eight

hundred and seventy-six to have been, the date of the registration.

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

Right of first proprietor to exclusive use of trade mark.

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

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

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

Certificate as to exclusive use, and costs thereon. Act 1888, s. 18.

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.

Removal of trade mark after fourteen years unless fee paid.

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

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

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

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

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

Act 1888,
s. 19,
sub-s. 1.

Act 1888,
s. 19,
sub-s. 2.

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.

Sheffield Marks.

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

Registra-
tion by
Cutlers'
Company of
Sheffield
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 used before the commencement of this Act, but which have not been entered in the register established under the Trade Marks Registration Act, 1875 :]*

Repealed by
Act 1888,
s. 20,
sub-s. 1.

(2) The Cutlers' Company shall enter in the Sheffield register, in respect of metal goods as defined in this section, all the trade marks entered

Act 1888,
s. 20,
sub-s. 1.

38 & 39 Vict.
c. 91.

before the First day of January, One thousand eight hundred and eighty-nine, in respect of metal goods either in the register established under the Trade Marks Registration Act, 1875, or in the register of trade marks under this Act, belonging to persons carrying on business in Hallamshire or within six miles thereof. The Cutlers' Company shall also, on request made in the prescribed manner, enter in the Sheffield register, in respect of metal goods, all the trade marks which shall have been assigned by the Cutlers' Company and actually used before the First day of January, One thousand eight hundred and eighty-four, but which have not been entered in either of the said other registers :

Act 1888,
s. 20,
sub-s. 2.

- (3) An application for registration of a trade mark used [*on cutlery, edge tools, or on raw steel, or on goods made of steel, or of steel and iron combined, whether with or without a cutting edge*] **on metal goods** shall, if made after the commencement of this Act by a person carrying on business in Hallamshire, or within six miles thereof, be made to the Cutlers' Company :
- (4) Every application so made to the Cutlers' Company shall be notified to the comptroller in the prescribed manner, and unless the comptroller within the prescribed time gives notice to the Cutlers' Company that he objects to the acceptance of the application, it shall be proceeded with by the Cutlers' Company in the prescribed manner :
- (5) If the comptroller gives notice of objection as aforesaid, the application shall not be proceeded with by the Cutlers' Company, but any person aggrieved may appeal to the Court :
- (6) Upon the registration of a trade mark in the Sheffield register the Cutlers' Company shall give notice thereof to the comptroller, who shall thereupon enter the mark in the register of trade

marks; and such registration shall bear date as of the day of application to the Cutlers' Company, and have the same effect as if the application had been made to the comptroller on that day:

- [**(7)** *The provisions of this Act, and of any general rules made under this Act, with respect to application for registration in the register of trade marks, the effect of such registration, and the assignment and transmission of rights in a registered trade mark shall apply in the case of applications and registration in the Sheffield register; and notice of every entry made in the Sheffield register must be given to the comptroller by the Cutlers' Company, save and except that the provisions of this sub-section shall not prejudice or affect any life estate and interest of a widow of the holder of any Sheffield mark which may be in force in respect of such mark at the time when it shall be placed upon the Sheffield register:.*]

Repealed by
Act 1888,
c. 20,
sub-s. 2.

- (7)** **The provisions of this Act and of any general rules made under this Act with respect to the registration of trade marks, and all matters relating thereto, shall, subject to the provisions of this section, apply to the registration of trade marks on metal goods by the Cutlers' Company, and to all matters relating thereto; and this Act and any such general rules shall, so far as applicable, be construed accordingly, with the substitution of the Cutlers' Company, the office of the Cutlers' Company, and the Sheffield register, for the comptroller, the Patent Office, and the Register of Trade Marks respectively; and notice of every entry, cancellation, or correction made in the Sheffield register shall be given to the comptroller by the Cutlers' Company: provided that this section shall not affect any life estate and interest of a widow of the holder of any Sheffield mark which may be in force in respect of such mark at the time when it shall be placed upon the Sheffield register:**

Act 1888,
c. 20,
sub-s. 2.

Act 1888,
s. 20,
sub-s. 2.

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

- (14) For the purposes of this section the expression "metal goods" means all metals, whether wrought, unwrought, or partly wrought, and all goods composed wholly or partly of any metal: Act 1888,
S. 20,
sub-s. 4.
- (15) For the purpose of legal proceedings in relation to trade marks entered in the Sheffield register a certificate under the hand of the master of the Cutlers' Company shall have the same effect as the certificate of the comptroller.

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

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 Officers and
clerks.

of patents, designs, and trade marks, and so many examiners and other officers and clerks with such designations and duties as the Board of Trade think fit, and may from time to time remove any of those officers and clerks.

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

Seal of
Patent
Office.

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

Trust not
to be entered
in registers.

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

Refusal to
grant
patent &c.
in certain
cases.

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

Entry of
assign-
ments and
transmis-
sions in
registers.

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

Act 1888,
s. 21.

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

Inspection
of and ex-
tracts from
registers.
Act 1883,
s. 22.

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

Sealed
copies to be
received in
evidence.

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

Rectifica-
tion of
registers by
Court.
Act 1883,
s. 23.

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

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

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

- (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

Power for
comptroller
to correct
clerical
errors.

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

Act 1888,
n. 24.

Alteration
of regis-
tered mark.

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

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

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

Falsifica-
tion of
entries in
registers.

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

Exercise of
discre-
tionary

94. Where any discretionary power is by this Act given to the comptroller, he shall not exercise that power

adversely to the applicant for a patent, or for amendment of a specification, or for registration of a trade mark or design, without (if so required within the prescribed time by the applicant) giving the applicant an opportunity of being heard personally or by his agent.

power by
comp-
troller.

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

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

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

Certificate
of comp-
troller to be
evidence.

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.

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

Provision as
to days for
leaving
documents
at office.

Declaration
by infant,
lunatic &c.

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

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 the originals.

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

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

- (a) For regulating the practice of registration under this Act:
- (b) For classifying goods for the purposes of designs and trade marks:

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

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

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

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

(5) If either House of Parliament, within the next forty days after any rules have been so laid before such House, resolve that such rules or any of them ought to be annulled, the same shall after the date of such resolution be of no

effect, without prejudice to the validity of anything done in the meantime under such rules or rule or to the making of any new rules or rule.

Annual reports of comptroller.

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

Proceedings of Board of Trade. Act 1888, s. 25.

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

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

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

International and Colonial Arrangements.

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

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

priority to other applicants; and such patent or registration shall have the same date as the [*date of the protection obtained*] **date of the application** in such foreign state.

Act 1885,
s. 6.

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

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

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

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

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

104. (1) Where it is made to appear to her Majesty that the legislature of any British possession has made

Provision
for colonies
and India.

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 re-
presenting
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," "registered," or any word or words expressing or implying that a patent or registration has been obtained for the article stamped, engraved, or impressed on, or otherwise applied to, the article.

Penalty on
unau-
thorised
assumption
of Royal
arms.

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

Scotland, Ireland, &c.

107. 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.

Saving for Courts in Scotland.

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.

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.

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.

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

General saving for jurisdiction of Courts.

Court of Justice in Ireland and Her Majesty's Court of Appeal in Ireland.

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

Isle of Man.

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

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

(2) The punishment for a 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.

Jurisdiction
of Lancashire
Palatine Court.
Act 1888,
s. 26.

112a. The Court of Chancery of the County Palatine of Lancaster shall, with respect to any action or other proceeding in relation to trade marks the registration whereof is applied for in the Manchester Office, have the like jurisdiction under this Act as Her Majesty's High Court of Justice in England, and the expression "the Court" in this Act shall be construed and have effect accordingly.

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

Repeal; Transitional Provisions; Savings.

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

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

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

114. (1) 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.

Former registers to be deemed continued.

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

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

Saving for existing rules.

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

Saving for prerogative.

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

General Definitions.

General definitions.

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

“Person” includes a body corporate:

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

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

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

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

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

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

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

In the application of this Act to Ireland, “summary conviction” means a conviction under the Summary Jurisdiction Acts, that is to say, with reference to the Dublin

Metropolitan Police District the Acts regulating the duties of justices of the peace and of the police for such district, and elsewhere in Ireland the Petty Sessions (Ireland) Act, 1851, and any Act amending it.

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

Register of
Patent
Agents.
Act 1888,
s. 1.

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

(3) Provided that every person who proves to the satisfaction of the Board of Trade that prior to the passing of this Act he had been bona fide practising as a patent agent shall be entitled to be registered as a patent agent in pursuance of this Act.

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

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

SCHEDULES.

THE FIRST SCHEDULE.

FORMS OF APPLICATION, &c.

Section 5.

FORM A.

[£1 Stamp.] FORM OF APPLICATION FOR PATENT.

See *Forms A and A1, Patents Rules, 1885.*

FORM B.

FORM OF PROVISIONAL SPECIFICATION.

See *Form B, Patents Rules, 1885.*

FORM C.

[£3 Stamp.] FORM OF COMPLETE SPECIFICATION.

See *Form C, Patents Rules, 1885.*

Section 33.

FORM D.

FORM OF PATENT.

Form of
Letters
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 Sewing 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:

Form of
Letters
Patent.

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 licence, 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

Form of
Letters
Patent.

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, licence, 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 be made to appear to us, our heirs or successors, or any six or more of our Privy Council, that this our grant is contrary to law, or prejudicial or inconvenient to our subjects in general, or that the said invention is not a new invention as to the public use and exercise thereof within our United Kingdom of Great Britain and Ireland, and Isle of Man, or that the said patentee is not the first and true inventor thereof within this realm as aforesaid, these our letters patent shall forthwith determine, and be void to all intents and purposes, notwithstanding anything hereinbefore contained: Provided also, that if the said patentee shall not pay all fees by law required to be paid in respect of the grant of these letters patent, or in respect of any matter relating thereto, at the time or times, and in manner for the time being by law provided; and also if the said patentee shall not supply or cause to be supplied, for our service, all such articles of the said invention as may be required by the officers or commissioners administering any department of our service in such manner, at such times, and at and upon such reasonable prices and terms as shall be settled in manner for the time being by law provided, then, and in any of the said cases, these our letters patent, and all privileges and advantages whatever hereby granted shall determine and become void notwithstanding anything hereinbefore contained: Provided also that nothing herein contained shall prevent the granting of licences in such manner and for such considerations as they may by law be granted: And, lastly, we do by these presents, for us,

our heirs and successors, grant unto the said patentee that these our letters patent shall be construed in the most beneficial sense for the advantage of the said patentee. In witness whereof we have caused these our letters to be made patent this One thousand eight hundred
 and and to be sealed as of the
 One thousand eight hundred and

Form of
Letters
Patent.



FORM E.

Section 47.

FORM OF APPLICATION FOR REGISTRATION OF DESIGN.

See *Form E, Designs Rules, 1883.*

FORM F.

Section 62.

FORM OF APPLICATION FOR REGISTRATION OF TRADE MARK.

See *Form F, Trade Marks Rules, 1883.*

THE SECOND SCHEDULE.

FEES ON INSTRUMENTS FOR OBTAINING PATENTS AND RENEWAL.

[ALTERED IN ACCORDANCE WITH THE PATENTS RULES, 1892,
SECOND SET.]

(a) *Up to Sealing.*

| | £ | s. | d. | | £ | s. | d. |
|---|---|----|----|--|---|----|----|
| On application for provisional protection ... | 1 | 0 | 0 | | | | |
| On filing complete specification ... | 3 | 0 | 0 | | | | |
| | | | | | 4 | 0 | 0 |
| | | | | | 4 | 0 | 0 |

Or

On filing complete specification at first application ... 4 0 0

(b) *Further Annual Renewal Fees, beginning before End of Four Years
from Date of Patent.*

| | £ | s. | d. |
|---|----|----|----|
| Before the expiry of the fourth year from the date of the patent, and in respect of the fifth year ... | 5 | 0 | 0 |
| Before the expiry of the fifth year from the date of the patent, and in respect of the sixth year ... | 6 | 0 | 0 |
| Before the expiry of the sixth year from the date of the patent, and in respect of the seventh year ... | 7 | 0 | 0 |
| Before the expiry of the seventh year from the date of the patent, and in respect of the eighth year ... | 8 | 0 | 0 |
| Before the expiry of the eighth year from the date of the patent, and in respect of the ninth year ... | 9 | 0 | 0 |
| Before the expiry of the ninth year from the date of the patent, and in respect of the tenth year ... | 10 | 0 | 0 |
| Before the expiry of the tenth year from the date of the patent, and in respect of the eleventh year ... | 11 | 0 | 0 |
| Before the expiry of the eleventh year from the date of the patent, and in respect of the twelfth year ... | 12 | 0 | 0 |
| Before the expiry of the twelfth year from the date of the patent, and in respect of the thirteenth year... | 13 | 0 | 0 |
| Before the expiry of the thirteenth year from the date of the patent, and in respect of the fourteenth year | 14 | 0 | 0 |

THE THIRD SCHEDULE.

Enactments Repealed. (See Section 113.)

| | |
|--|--|
| 21 James 1, c. 3. [1623.] | The Statute of Monopolies. In part; namely,— Sections ten, eleven, and twelve. |
| 5 & 6 Will. 4, c. 62. [1835.] In part. | The Statutory Declarations Act, 1835. In part; namely,— Section eleven. |
| 5 & 6 Will. 4, c. 83. [1835.] | An Act to amend the law touching letters patent for inventions. |
| 2 & 3 Vict. 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 Vict. c. 100. [1842.] | An Act to consolidate and amend the laws relating to the copyright of designs for ornamenting articles of manufacture. |
| 6 & 7 Vict. c. 65. [1843.] | An Act to amend the laws relating to the copyright of designs. |
| 7 & 8 Vict. c. 69 (a) [1844.] In part. | 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 Vict. c. 104 [1850.] | An Act to extend and amend the Acts relating to the copyright of designs. |
| 15 & 16 Vict. c. 83. [1852.] | The Patent Law Amendment Act, 1852. |
| 16 & 17 Vict. 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. |

(a) *Note.*—Sections Six and Seven of this Act are repealed by the Statute Law Revision (No. 2) Act, 1874.

- 16 & 17 Vict. 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 Vict. c. 70.
[1858.] An Act to amend the Act of the fifth and sixth years of her present Majesty, to consolidate and amend the laws relating to the copyright of designs for ornamenting articles of manufacture.
- 22 Vict. 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 Vict. c. 73.
[1861.] An Act to amend the law relating to the copyright of designs.
- 28 & 29 Vict. c. 3.
[1865.] The Industrial Exhibitions Act, 1865.
- 33 & 34 Vict. c. 27.
[1870.] The Protection of Inventions Act, 1870.
- 33 & 34 Vict. c. 97.
[1870.] The Stamp Act, 1870.
In part; namely,—
Section sixty-five, and in the Schedule the words and figures
“Certificate of the registration of a design...£5 0 0
And see section 65.”
- 38 & 39 Vict. c. 91.
[1875.] The Trade Marks Registration Act, 1875.
- 38 & 39 Vict. c. 93.
[1875.] The Copyright of Designs Act, 1875.
- 39 & 40 Vict. c. 33.
[1876.] The Trade Marks Registration Amendment Act, 1876.
- 40 & 41 Vict. c. 37.
[1877.] The Trade Marks Registration Extension Act, 1877.
- 43 & 44 Vict. c. 10.
[1880.] The Great Seal Act, 1880.
In part; namely,—
Section five.
- 45 & 46 Vict. c. 72.
[1882.] The Revenue, Friendly Societies, and National Debt Act, 1882.
In part; namely,—
Section sixteen.

PATENTS RULES, 1890 TO 1892

(CONSOLIDATED).

NOTE.—THE RULES REPEALED ARE PRINTED IN ITALICS.
THE SUBSTITUTED MATTER FROM THE RULES OF
1892 IS IN HEAVIER TYPE.

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

SHORT TITLE.

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

Note.—The Rules of 1892, incorporated herewith, are to be cited as the Patents Rules, 1892 (Second Set).

COMMENCEMENT.

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

Note.—The Rules of 1892 came into operation from the 30th September, 1892.

INTERPRETATION.

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

FEES.

Fees.

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

Note.—Meaning now the fees in the Schedule substituted by the Rules of 1892.

FORMS.

Forms.
Alterations.

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

Applica-
tion.

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

Specifica-
tion.

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

Other
forms.

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

GENERAL.

Hours of
business.

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

Christmas Day.

Good Friday.

The day observed as her Majesty's birthday.

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

Agency.

8. 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.

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.

Statement
of address.

10. All documents and copies of documents, except statutory declarations and affidavits, sent to or left at the Patent Office or otherwise furnished to the Comptroller or to the Board of Trade shall be written or printed in large and legible characters, and unless otherwise directed in the English language, upon strong wide-ruled paper (on one side only), of a size of 13 inches by 8 inches, leaving a margin of 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 documents shall at any time be left, if required by the Comptroller.

Size &c. of
documents.

11. Before exercising any discretionary power given to the Comptroller by the said Acts adversely to the applicant for a patent or for amendment of a specification, the Comptroller shall give ten days' notice, or such longer notice as he may think fit, to the applicant, of the time when he may be heard personally or by his agent before the Comptroller. Statutory declarations and affidavits shall be in the form for the time being in use in the High Court of Justice.

Exercise of
discretionary
power by
Comptroller.
Notice of
hearing.

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

Notice by
applicant.

13. Whether the applicant desires to be heard or not, the Comptroller may at any time require him to submit a

Comptroller may
require
statement
&c.

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.

Decision to be notified to parties.

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.

Industrial or international exhibitions.

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

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.

Power of amendment &c.

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

16A. Any application, notice, or other document authorised or required to be left, made, or given at the Patent Office, or to the Comptroller, or to any other person under these Rules, may be sent by a prepaid letter through the post, and if so sent shall be deemed to have been left, made, or given at the time when the letter containing the same would be delivered in the ordinary course of post. In proving such service or sending, it shall be sufficient to prove that the letter was properly addressed and put into the post.

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

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.

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

Note.—All statutory declarations under the Patents Acts now require a 2/6 impressed Revenue stamp.

APPLICATION WITH PROVISIONAL OR COMPLETE SPECIFICATION.

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

Order of recording applications.

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

19. Where a person making application for a patent includes therein, by mistake, inadvertence, or otherwise, more than one invention, he may, after the refusal of the

Application for separate patents by way of

amend-
ment.

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

Application
by repre-
sentative of
deceased
inventor.

20. An application for a patent by the legal representative of a person who has died possessed of an invention shall be accompanied by an official copy of or extract from his will, or the letters of administration granted of his estate and effects, in proof of the applicant's title as such legal representative, and must be supported by such further evidence as the Comptroller may require.

Notice and
advertise-
ment of
acceptance.

21. On the acceptance of a provisional or complete specification the Comptroller shall give notice thereof to the applicant, and shall advertise such acceptance in the official journal of the Patent Office.

Inspection
on accept-
ance of
complete
specifica-
tion.

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

APPLICATION OR COMMUNICATION FROM ABROAD.

Communi-
cation from
abroad.

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

INTERNATIONAL AND COLONIAL ARRANGEMENTS.

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

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

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

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

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

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

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

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

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

Drawings
for speci-
fications.

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

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

Require-
ments as to
paper &c.

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

Size of
drawings.

They must be on sheets of one of the two following sizes (the smaller being preferable), 13 inches at the sides by 8 inches at the top and bottom, or 13 inches at the sides by 16 inches at the top and bottom, including margin, which must be half an inch wide. If there are more figures than can be shown on one of the smaller

sized sheets, two or more of these sheets should be used in preference to employing the larger size. When an exceptionally large drawing is required, it should be *continued* on subsequent sheets. There is no limit to the number of sheets that may be sent in.

To ensure their satisfactory reproduction, the drawings must be executed with absolutely black Indian ink; the same strength and colour of fine and shade lines to be maintained throughout. Section lines, and lines for effect, or shading lines, must not be closely drawn. Reference figures and letters must be bold, distinct, not less than one-eighth of an inch in height, and the same letters should be used in different views of the same parts. In cases of complicated drawings, the reference letters must be shown outside the figure, and connected with the part referred to by a fine line.

Quality of ink.

The scale adopted should be large enough to show clearly wherein the invention consists, and only so much of the apparatus, machine, &c., need be shown as effects this purpose. When the scale is shown on the drawing it should be denoted not by words, but by a drawn scale.

Scale of drawings.

Drawings must bear the name of the applicant (and in the case of drawings left with a complete specification after a provisional specification, the number and year of the application) in the left-hand top-corner; the number of sheets of drawings sent, and the number of each sheet in the right-hand top corner; and the signature of the applicant or his agent in the right-hand bottom corner.

Drawings to bear name of applicant &c.

No written description of the invention should appear on the drawings.

Wood engravings, or representations of the invention, other than the drawings prepared as above described, will not be received, unless of such a character as to be suitable for reproduction by the process of photo-lithography.

Restrictions as to wood engravings.

32. A facsimile of the original drawings, but without colour or Indian ink washes, and prepared strictly in accordance with the regulations prescribed in Rule 31, must accompany the originals, and be marked "true copy."

Copies of drawings.

Provisional drawings used for complete specification.

33. If an applicant desires to adopt the drawings lodged with his provisional specification as the drawings for his complete specification, he should refer to them as those "left with the provisional specification."

OPPOSITION TO GRANTS OF PATENTS.

Notice of opposition.

34. A notice of opposition to the grant of a patent shall be on Form D, and shall state the ground or grounds on which the person giving such notice (hereinafter in Rules 37, 38, 41, and 43 called the opponent) intends to oppose the grant, and must be signed by him. Such notice shall state his address for service in the United Kingdom, and shall be accompanied by an unstamped copy.

Copy for applicant.

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

Particulars of prior patent.

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

Opponent's evidence.

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

Applicant's evidence.

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

Evidence in reply.

Copies of the declarations mentioned in this and the last preceding Rule may be obtained either from the Patent Office or from the opposite party.

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

Closing of evidence.

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

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

Notice of hearing.

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

Disallow-
ance of op-
position in
certain
cases.

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

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

Decision to
be notified
to parties.

Repealed.

[Certificates of Payment or Renewal.]

45. *If a patentee intends at the expiration of the fourth or eighth year from the date of his patent to keep the same in force, he shall, before the expiration of such fourth or eighth year, as the case may be, subject as hereinafter provided, pay the prescribed fee of £50 or £100, as the case may be.*

46. *In the case of patents granted before the commencement of the said Acts, the above Rule shall be read as if the words "seventh year" were therein written instead of the words "eighth year."*

47. *If the patentee intends to pay annual fees in lieu of the above-mentioned fees of £50 and £100, he shall, before the expiration of the fourth and each succeeding year during the term of the patent, until and inclusive of the thirteenth year thereof, pay the prescribed fee.*

The Form J in the Second Schedule, duly stamped, should be used for the purpose of this and the payment referred to in Rule 45.]

PAYMENT OF ANNUAL FEES FOR CONTINUANCE OF PATENT.

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

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

FEES.

For the fees specified in the First Schedule to the Patents Rules, 1890, shall be substituted the fees specified in the Schedule hereto.

48. *On due compliance with these Rules, and as soon as may be after such respective periods as aforesaid, or any enlargement thereof respectively duly granted, the Comptroller shall issue a certificate that the prescribed payment has been duly made.*

Patents
Rules 1892.
(Second
Set).
Rules 4
and 5.

Certificate
of payment.

ENLARGEMENT OF TIME.

49. 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 inadvertance 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.

Enlargement of time for payments.

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

Extension of time for leaving and accepting complete specification.

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

In other cases.

AMENDMENT OF SPECIFICATION.

52. A request for leave to amend a specification must be signed by the applicant or patentee (hereinafter, in Rules 54, 55, and 58, called the applicant), and accompanied by a duly certified printed copy of the original specification and drawings, showing in red ink the proposed amendment, and shall be advertised by publication of the request and the nature of the proposed amendment in the official journal of the Patent Office, and in such other manner (if any) as the Comptroller may in each case direct.

Request for leave to amend.

Advertisement.

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

Notice of opposition.