

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.

Act 1885,  
s. 3.

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.

Repealed by  
Act 1888,  
s. 3.

(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 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.

Advertisement on  
acceptance  
of Complete  
Specification.

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.

Opposition  
to grant of  
patent.

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 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. 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  
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.

Act 1902,  
s. 1, s.s. 8.

A Complete Specification may be left and accepted within such extended times, not exceeding one month and three months respectively after the said ~~six~~ 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  
application  
accepted.  
Act 1885,  
s. 3.

Where an application for a patent has been abandoned or become void, the specification or specifications and drawings (if any) accompanying or left in connection with such application shall not at any time be open to public inspection or be published by the Comptroller.

#### *Provisional Protection.*

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.



*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 fees 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) When 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 given 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 proceeding for revocation of a patent is pending. Act, 1888,  
s. 5.

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 satisfaction of the Court that his original claim was framed in good faith and with reasonable skill and knowledge. Restriction  
on recovery  
of damages.

21. Every amendment of a specification shall be advertised in the prescribed manner. Advertise-  
ment of  
amend-  
ment.

#### *Compulsory Licences.*

22. Section 22 of the Principal Act (relating to the grant of Compulsory Licences by the Board of Trade) is hereby repealed, and the following provisions shall be substituted therefor:— Amend-  
ment of  
Law  
relating  
to Com-  
pulsory  
Licences.  
Act 1902,  
s. 3.

(1) Any person interested may present a petition to the Board of Trade alleging that the reasonable requirements of the public with respect to a patented invention



have not been satisfied, and praying for the grant of a compulsory licence, or, in the alternative, for the revocation of the patent.

- (2) The Board of Trade shall consider the petition, and if the parties do not come to an arrangement between themselves, the Board of Trade, if satisfied that a *prima facie* case has been made out, shall refer the petition to the Judicial Committee of the Privy Council, and, if the Board are not so satisfied, they may dismiss the petition.
- (3) Where any such petition is referred by the Board of Trade to the Judicial Committee, and it is proved to the satisfaction of the Judicial Committee that the reasonable requirements of the public with reference to the patented invention have not been satisfied, the patentee may be ordered by an Order in Council to grant licences on such terms as the said Committee may think just, or, if the Judicial Committee are of opinion that the reasonable requirements of the public will not be satisfied by the grant of licences, the patent may be revoked by Order in Council.

Provided that no Order of revocation shall be made before the expiration of three years from the date of the patent, or if the patentee gives satisfactory reasons for his default.
- (4) On the hearing of any petition under this section the patentee and any person claiming an interest in the patent as exclusive licensee or otherwise, shall be made parties to the proceeding, and the Law Officer or such other counsel as he may appoint shall be entitled to appear and be heard.
- (5) If it is proved to the satisfaction of the Judicial Committee that the patent is worked or that the patented article is manufactured exclusively or mainly outside the United Kingdom, then, unless the patentee can show that the reasonable requirements of the public have been satisfied, the petitioner shall be entitled either to an Order for a compulsory licence or, subject to the above proviso, to an Order for the revocation of the patent.

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

*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

Register  
of Patents.



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 patent or in any licence thereunder, must be supplied to the Comptroller in the prescribed manner for filing in the Patent Office.

#### *Fees.*

Fees in  
Schedule.

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.

(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.*

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

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.

(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.*

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

(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.*

**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. Hearing with assessor.

(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.

Limitation as to anticipation. Act 1902, s. 2.

(4) An invention covered by any patent granted on an application to which Section 1 of this Act applies shall not be deemed to have been anticipated by reason only of its publication in a specification deposited pursuant to an application made in the United Kingdom not less than fifty years before the date of the application for a patent therefor, or of its publication in a Provisional Specification of any date not followed by a Complete Specification.

(5) 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.

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

(7) 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 seem 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 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 for one invention only.



Patent on application of representative of deceased inventor.

**34.** (1) If a person possessed or 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.

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

**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 rights of the inventor or his legal personal representative to apply for and obtain provisional protection and a patent in respect of the invention or the validity of any patent granted on the application provided that both the following conditions are complied with: namely—

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

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 inter-  
national  
exhibi-  
tions.  
Act 1886,  
s. 3.

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

Publication  
of illus-  
trated  
journal,  
indexes, &c.

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

(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.

Assignment  
to Secretary  
for War of  
certain  
invention.

**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.

(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 6 of the Statute of Monopolies (that is, the Act of the Twenty-first year of the reign of King James the First, Chapter 3, 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 “inventions.”



## 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 Inspection of registered designs.

the Comptroller to identify the design, nor except in the presence of the Comptroller, or of an officer acting under him, nor except on payment of the prescribed fee; and the person making the inspection shall not be entitled to take any copy of the design, or of any part thereof.

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.

Informa-  
tion as to  
existence 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.*

**86.** 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.*

**87.** 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 Trade, and to provide that the exhibitor shall be relieved from

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

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:

Act 1888,  
s. 7.

Provided that the total sum forfeited in respect of any one design shall not exceed one hundred pounds.

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 56):

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.

[In view of the continuing importance of the repealed portions of the Trade Marks division of the Act, these repealed portions are shown in italics in their original position.]

*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 connection with which the applicant desires the trade mark to be registered.

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

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

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.

**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.

Limit of time for proceeding with application.

Act 1888, 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*
- (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.*

Repealed by Act 1888, s. 10.

(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.]*

Conditions  
of regis-  
tration of  
trade  
mark.  
Act 1888,  
s. 10.

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

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

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

(3) Provided as follows:

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

Connection  
of trade  
mark with  
goods.

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



**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 comprising a series shall be deemed and treated as registered separately.

Registration of a series of marks.

**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 refuses 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,  
s.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, s.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*

Repeated by  
Act 1888,  
s. 13, s.s. 4.

*such manner and to such amount as the Comptroller may require for such costs as may be awarded in respect of such opposition; and if such security is not given within fourteen days after such requirement was made or such further time as the Comptroller may allow the opposition shall be deemed to be withdrawn.*

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

Act 1888,  
s. 13, s.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 proprietors 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 *prima facie* evidence of his right to the exclusive use of the trade mark, and shall, after the expiration of five years from the date of the registration, be conclusive evidence of his right to the exclusive use of the trade mark, subject to the provisions of this Act.

Right of first proprietor to exclusive use of trade mark.

77. A person shall not be entitled to institute any proceedings 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 day 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 four-  
teen 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 nonpayment 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 nonpayment 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 nonpayment of the fee arises from the death or bankruptcy of the registered proprietor, or from his having ceased to carry on business, and that no person claiming under that proprietor or under his bankruptcy is using the trade mark.

Act 1888,  
s. 19, s.s. 1.

Act 1888,  
s. 19, s.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:—

Registration 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 subsection, 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, s.s. 1.

(2) The Cutlers' Company shall enter in the Sheffield Register, in respect of metal goods as defined in

Act 1888, s. 20, s.s. 1.

38 & 39  
Vict. c. 91.

this section, all the trade marks entered before the First day of January, One thousand eight hundred and eighty-nine, in respect of metal goods either in the Register established under The Trade Marks Registration Act, 1875, or in the Register of Trade Marks under this Act, belonging to persons carrying on business in Hallamshire or within six miles thereof. The Cutlers' Company shall also, on request made in the prescribed manner, enter in the Sheffield Register, in respect of metal goods, all the trade marks which 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, s.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:* ]
- (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.**

*Repealed by  
Act 1888,  
s. 20, s.s. 3.*

**Act 1888,  
s. 20, s.s. 3.**



Act 1888,  
s. 20, s.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 metal: Act 1888,  
s. 20, s.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 be done by or to any officer for the time being in that behalf authorised by the Board of Trade.

Officers and  
clerks.

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

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

Seal of  
Patent  
Office.

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

Trust not  
to be  
entered in  
Register.

**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

Act 1888.  
s. 21.



appearing from such Register to be vested in any other person, have power absolutely to assign, grant licences as to, or otherwise deal with, the same, and to give effectual receipts for any consideration for such assignment, licence, or dealing. Provided that any equities in respect of such patent, design, or trade mark may be enforced in like manner as in respect of any other personal property.

**88.** Every Register kept under this Act shall at all convenient times be open to the inspection of the public, subject to 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 1888,  
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 and  
certified  
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 1888,  
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.

Power for  
Comptroller  
to correct  
clerical  
errors.

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

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

Act 1888,  
s. 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.

**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.

Falsification of entries in Registers.

**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.

Exercise of discretionary power by Comptroller.

**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 Comptroller to take directions 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 Comptroller 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.

Applications and notices by post.

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



Provision as to days for leaving documents at Office.

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

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.

Transmission of certified printed copies of specifications &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.

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

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

- (a) For regulating the practice of registration under this Act :
- (b) For classifying goods for the purposes of designs and trade marks :
- (c) For making or requiring duplicates of specifications, amendments, drawings, or other documents :
- (d) For securing and regulating the publishing and selling of copies, and 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 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.

Pro-  
ceedings 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.*

**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 application in such Foreign State.

Inter-  
national  
arrange-  
ments for  
protection  
of inven-  
tions,  
designs,  
and trade  
marks.

Act 1885,  
s. 6.

Provided that his application is made, in the case of a patent within twelve 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.

Act 1901,  
s. 1, s.s. 1.

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

Act 1901,  
s. 1, s.s. 2.

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.

Provision  
for colonies  
and India.

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

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

#### *Offences.*

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

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

Penalty  
on un-  
authorised  
assumption  
of Royal  
Arms.

*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.



Proceedings  
for revoca-  
tion of  
patent in  
Scotland.

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

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

Reservation  
of remedies  
in Ireland.

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

General  
saving for  
jurisdiction  
of Courts.

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

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

Isle of Man.

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

(1) Nothing in this Act shall affect the jurisdiction of the Courts in the Isle of Man, in proceedings

for infringement or in any action or proceeding respecting a patent, design, or trade mark competent to those Courts.

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

112a. The Court of Chancery of the County Palatine of Lancaster shall, with respect to any action or other proceeding in relation to trade marks the registration whereof is applied for in the Manchester Office, have the like jurisdiction under this Act as Her Majesty's High Court of Justice in England, and the expression "the Court" in this Act shall be construed and have effect accordingly.

Jurisdiction of Lancaster Palatine Court.  
Act 1888, s. 26.

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.

Former  
Registers to  
be deemed  
continued.

**114.** (1) The Registers of Patents and of Proprietors kept under any enactment repealed by this Act shall respectively be deemed parts of the same book as the Register of Patents kept under this Act.

(2) The Registers of Designs and of Trade Marks kept under any enactment repealed by this Act shall respectively be deemed parts of the same book as the Register of Designs and the Register of Trade Marks kept under this Act.

Saving for  
existing  
Rules.

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

Saving for  
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.*

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

Register of  
Patent  
Agents.  
Act 1888,  
s. 1.

117a. (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.

(2) The Board of Trade shall, as soon as may be after the passing of this Act, and may from time to time, make such general rules as are in the opinion of the Board required for giving effect to this section, and the provisions of Section One hundred and one of the principal Act shall apply to all rules so made as if they were made in pursuance of that section.

(3) Provided that every person who proves to the satisfaction of the Board of Trade that prior to the passing of this Act he had been bonâ fide practising as a patent agent shall be entitled to be registered as a patent agent in pursuance of this Act.

(4) If any person knowingly describes himself as a patent agent in contravention of this section he shall be liable on summary conviction to a fine not exceeding twenty pounds.

(5) In this section "patent agent" means exclusively an agent for obtaining patents in the United Kingdom.

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# INDEXES.

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**NOTE.**—The following Indexes are arranged separately under the three different headings of Subject-Matter: viz.—Patents, Trade Marks, and Designs.

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## PART I.—PATENTS.

### ABANDONMENT

- Of application for patent, 19, 67; Section 8 (Sub-section 2), 493.
- Of Provisional does not prevent after-production in Court, 79.
- Of petition for prolongation of patent, 195.
- Of prior user not conclusive that it was experimental only, 65, 66.
- Of part of invention contained in Provisional, 78.

### ABRIDGMENTS OF SPECIFICATIONS

- Published by Patent Office, 71.
- Useful in making searches, 71.
- Section 40 (Sub-section 3), 510.

### ACCEPTANCE

- Of application for patent, 13.
- Of Complete Specification, 15, 17.
- Extension of time for, 21.
- Of Complete gives applicant rights of patentee, 219.
- Section 7A (application), 491.
- „ 9 (Complete), 494.

### ACCIDENT:

- Invention might be the result of, 56.
- “Accident, mistake, or inadvertence” in nonpayment of annual tax, 129.

### ACCOUNT OF PROFITS:

- Court or Judge may order, 165, 166; Section 30, 507.
- Claimed in statement of claim, 153.
- Endorsed on writ, 150.
- Damages usually preferred to, 166.
- Undertaking by defendant to keep an account on application for interlocutory injunction, 152, 153.
- Section 30, 507.
- See also ACTION FOR INFRINGEMENT.



**ACCOUNTS OF PATENTEE PETITIONING FOR EXTENSION :**

Accounts in petition for prolongation, 188, 189.

Balance sheet must be filed by petitioner, 189.

Accounts should show profits on foreign patents, 192, 193.

Law costs in connection with patent not to be deducted from profits, 193.

**ACQUIESCENCE**

May cause refusal of interlocutory relief, 152.

Except where special cause is shown, 152.

*See also* LACHES.

**ACTION AGAINST PATENTEE FOR THREATS :**

Redress for threats under Statute of Monopolies, 181.

Prior to 1883 no statutory provision against threats, 181.

Redress for threats under Patent Act, 1883, 181.

Threats must now be backed by action, 182.

Threats not to be made on mere suspicion, 182.

General warning not a threat, 182.

But may be made so by circumstances, 182, 183.

One threat will justify action, 183.

Threats by letter, 183.

, solicitor's letter, 183.

„ word of mouth, 183.

„ to customers, 183.

„ by reply to enquiries, 183.

Remedy of threatened persons, 183.

Threatened person may challenge validity of patent, 183.

Particulars of threats must be given, 184.

Verbal threats akin to slander, 184.

If patent attacked, particulars of objection required, 184.

Defence in action for threats, 184.

Counterclaim by defendant, 184.

Action for threats combined with action for infringement, 184.

“Due diligence” in taking action by party threatening, 185, 186.

Separate actions discouraged, 185.

Procedure advisable in threats action, 185, 186.

“Prosecuted with due diligence,” 186.

Action taken *bono fide*, 186.

Person actually threatening must be the plaintiff, 187.

Interim injunctions in threats actions, 187.

Damages in threats actions, 187.

*See also* THREATS OF LEGAL PROCEEDINGS BY PATENTEE.

**ACTION AGAINST LICENSEES (*see* LICENSEE).****ACTION FOR INFRINGEMENT :**

General—

Sections 28 to 31, 505, 507.

Right to use inventions limited to patentee, his licensees and representatives, 146.

**ACTION FOR INFRINGEMENT—continued.****General—continued.**

No proceedings for infringements committed before publication of Complete, 151.

Any person using invention without authorisation is an infringer, 146.

Importation from abroad, 146.

Contract made in United Kingdom, but consummated abroad, not infringement, 146.

Experimental use not usually infringement, 146.

Mere use apart from manufacture is infringement, 146.

Necessary use in foreign vessel, 146.

Offering for sale, sale, or advertisement, 146, 147.

Mere possession with view to sale is infringement, 147.

Exhibiting without intention to sell is infringement, 148.

Sale of component parts, 147.

Repair which renews essential parts is infringement, 148.

Implied licence to purchaser, 148.

Licensed apparatus taken in distress, 148.

Use of patented invention subject to conditions, 148.

Infringement by workman in disobedience to employer, 148.

Indirect infringement by utilising patented materials in manufacturing imported product, 148, 149.

Mere carriers may be infringers, 149.

Remedy of patentee, 149.

Threats, 149.

Patentee should reassure himself of validity of patent, 149.

Patentee should preferably approach infringer, 149.

Writ in Chancery, 149.

Jurisdiction of County Palatine Court of Lancaster, 149.

No jurisdiction in County Court, 149.

**Parties to: Plaintiffs—**

Patentee cannot take action till patent sealed, 17, 151.

And only in respect of infringements committed after publication of Complete, 17, 151; Section 13, 496.

Suggested claims to be endorsed on writ, 149, 150.

Persons qualified to take action for infringement, 150, 151.

Patentee, assignee, mortgagor, mortgagee, 150.

Co-owner or co-patentee, 150.

Licensees alone cannot be plaintiffs, 150.

Query as to exclusive licensee, 150.

Trustee of bankrupt patentee, 150.

Assignor of patent in respect of infringements committed during his proprietorship, 150.

Unregistered assignee may sue, 151.

Equitable assignee cannot, 151.

**Parties to: Defendants—**

Defendant may be manufacturer, user, purchaser, or seller, 146 to 149.

Importer or carrier may be sued, 146, 149.

**ACTION FOR INFRINGEMENT—continued.****Parties to: Defendants—continued.**

Customs' agents not liable, 149.

Advertiser or person offering for sale, 146, 147.

Possessor with view to sale, 147.

Repairer may be sued if essential parts renewed, 148.

User in contravention of conditions brought to his notice, 148.

Person in unlicensed possession of licensed invention, 148.

Innocent infringer may be sued, 146.

Indirect infringer, 148, 149.

Servants of infringer, 148.

Exhibitor without intention to sell, 148.

**Writ—**

Suggested endorsement of, 149, 150.

Costs where plaintiff possesses certificate of validity, 150.

Service out of jurisdiction, 150.

Appearance of defendant to, 151.

**Interlocutory injunction—**

Application for interlocutory injunction, 151.

Such injunction seldom granted, 151.

Never granted if defendant can show reasonable defence, 151, 152.

Not granted if defendant has discontinued, 151.

Sometimes granted where patent is old and has not been previously challenged, 151.

Where plaintiff's patent has been already upheld, 152.

But in any case *prima facie* infringement must be shown, 152.

Delay will cause refusal of interlocutory relief, 152.

Not usually granted where defendant undertakes to keep account, 152.

Or where granting injunction would stop large works or cause defendant irreparable damage, 152.

Order generally places plaintiff on undertaking, 152.

Discretion of Court in consent orders, 152.

**Pleadings: Statement of Claim—**

Delivery of statement of claim, 153.

Suggested statement of claim, 153.

Claim for costs as between solicitor and client if plaintiff possesses certificate of validity, 153.

Certificate of validity to be pleaded, 153.

Particulars of breaches to accompany statement of claim, 153, 154.

**Pleadings: Defence—**

Suggested defence, 154.

To be accompanied by particulars of objections, 154.

**Particulars of breaches**

To be delivered by plaintiff with statement of claim, 153.

Should contain all known instances of infringement, 153.

Names, dates, and places to be specified, 153.

Purpose of particulars of breaches, 153.



**ACTION FOR INFRINGEMENT—continued.****Particulars of breaches—continued.**

Allegations of infringement should be unqualified, 153, 154.

Claims alleged to be infringed should be indicated, 154.

Plaintiff limited by particulars of breaches, 154.

Amendment of particulars of breaches, 158, 159.

**Particulars of objections**

To be delivered by defendant with his defence, 154.

Must give full particulars of all grounds upon which validity of patent is disputed, 154.

If prior publication alleged, specifications, books, &c., to be specified, 154.

Not always requisite to give pages, lines, and figures, 154.

In Scotch practice pages and lines not required, 154.

Limitations of objections under Act of 1902, 154.

Claims assailed in plaintiff's patent should be indicated, 155.

Present practice as to ordering further and better particulars, 155 to 158.

If prior user alleged, particulars of time, place, and user must be given, 155.

Particulars of "common knowledge" not required, 155.

Particulars of disconformity must be given, 156.

Particulars of insufficiency and non-utility may be required, 156.

True and first inventor, 156.

Defence of prior grant, 156 to 158.

Query whether particulars of prior grant will be ordered, 157, 158.

Amendment of particulars of objection, 158.

Terms of amendment, 158 to 160.

**Inspection—**

Inspection order may be made, 160.

Procedure to obtain order, 160.

Evidence necessary to obtain order, 160.

Mere suspicion not a reason, 160.

Grounds for resisting such order, 160.

Trade secret practised by defendant, 160.

Inspection may be referred to expert, 160.

Samples may be taken, 160.

Not usual to make orders on *ex parte* applications, 160, 161.

**Interrogatories**

May be administered by either party, 161.

Leave required to interrogate, 161.

Security to be given for costs, 161.

Must be exhibited on application, 161.

Not allowed as supplementary to particulars, 161.

Object of interrogatories, 161.

What interrogatories may and may not be answered, 161, 162.

Replies to interrogatories, 162, 163.

**ACTION FOR INFRINGEMENT—continued.****Discovery—**

Discovery may be had by order of Court, 163.

Patent agent's communications not privileged, 163.

Relevant documents in former action may be ordered to be produced, 163.

Notice of trial, 160.

**Trial of action—**

Plaintiff should prove his ownership of patent, 163.

Trial without a jury, 163.

Assessor may be appointed to assist, 163.

Proof of infringement, 163.

Expert witnesses, 163, 164.

Functions of experts, 164.

Not to construe specification, 164.

Evidence by skilled workmen, 164.

Surprise, 164.

Adjournment on surprise, 164.

Action may be remitted to referee, 164.

Estoppel of defendant, 164, 165.

Decision of Court, 165.

Successful party should apply for certification of particulars, 167.

General principles upon which certificates are granted, 167 to 169.

Certificate of validity to successful plaintiff, 169, 170.

Discretion of Judge, 170.

"Subsequent action," 169.

**Injunction—**

Court will grant an injunction in favour of successful plaintiff, 165.

Injunction dissolves with termination of patent right, 165.

Goods manufactured but not sold during injunction, 165.

Defendant acting in breach of injunction may be committed, 165.

In case of body corporate goods may be sequestrated and directors committed for breach of injunction, 165.

**Damages—**

Measure of damages, 166.

Not merely loss of profit, 166.

Usually ordinary rule of law holds good, 166.

**Account of profits—**

Disadvantages of taking, 166.

Damages usually preferred, 166.

**Delivery up of infringing goods—**

Goods delivered up do not become plaintiff's property, 165, 166.

But defendant cannot set off their value, 165.

The infringing part only need be given up, 166.

**Costs—**

Costs usually follow event, 166.

Taxed costs, 166.

**ACTION FOR INFRINGEMENT—continued.****Costs—continued.**

- Shorthand notes, 166, 167.
  - Shorthand notes of judgment in Appeal Court, 166.
  - Agreement of solicitors as to shorthand notes, 166, 167.
  - Of inspection, 167.
  - Three counsel, 167.
  - Costs of particulars to be certified by Judge, 167 to 169.
  - General principles upon which certificates of particulars are granted, 168, 169.
  - Certificate of validity entitles plaintiff in subsequent action to solicitor and client costs, 169 to 171.
  - But this is subject to the discretion of Judge, 169, 170.
  - Costs on higher scale, 171.
  - Costs under Public Authorities Protection Act, 171.
  - Appeal against costs on higher scale, 171.
  - Stay of execution in view of Appeal—
    - Not usually granted of injunction, 171, 172.
    - Undertaking by plaintiff, 171.
    - Grounds on which stay may be granted, 172.
    - Stay as to costs, 172.
    - Stay of enquiry as to damages, 172.
    - Appeal for stay to Court of Appeal, 172.
  - Appeal to Court of Appeal—
    - Appeal a rehearing, 172.
    - Brought by notice of motion, 172.
    - Appeal from whole or part of judgment, 172.
    - Interlocutory orders appealable when concerning injunctions, 172.
    - Time for appeal from interlocutory order, fourteen days, 172.
    - Final judgment, three months, 172.
    - Duties of Court of Appeal, 172, 173.
    - Papers for Court of Appeal, 173.
    - Fresh evidence in Court of Appeal, 173.
  - Appeal to House of Lords
    - Should be made within one year, 173.
- See also* INFRINGEMENT.

**ACTION OF REDUCTION:**

- Revocation in Scotland takes form of, 176.
- Lord Advocate's concurrence in, 174, 176.
- Section 109 (Sub-section 1), 544.

**ADDRESS:**

- Applicant for patent must give, 13.
- Opponent of grant must give, 107.
- Of prior users in particulars of objections, 155.
- In particulars of breaches, 153.
- Opponents of amendment must give, 140.



**ADJOURNMENT**

- Of petition for prolongation of patent, 195.
- Of trial where party surprised, 164.
- Of stay of threats action to try infringement action, 186.

**ADVERTISEMENT**

- Of application for patent, 13.
- Of acceptance of Complete, 15.
- Of request for amendment, 139, 140.
- Of threats, 182.
- Of petition for prolongation, 189.
- Privy Council Rules as to, 189, 190.

**AFFIDAVIT**

- On answering interrogatories, 162.
- On petition for compulsory licence (Rules 70 and 71), 207.

**AGENT :**

- Employment of agents by applicants, 19, 20.
- Application for patent by, as communication, 13.
- Liability of principal for acts of infringement by, 148.
- Threats by, 183, 184.
- See also* PATENT AGENTS.

**AGGRIEVED PERSON :**

- Persons aggrieved by threats of patentee, 181 to 184.
- Under Statute of Monopolies, 181.
- By improper omissions or entries in Register, 216.

**AGREEMENTS :**

- Preliminary or executory, 212.
- Between inventor and capitalist, 212, 458.
- Pre-application agreements, 213, 461.
- Between joint applicants, 212, 463.
- As to severance of joint ownership, 212, 213, 463.
- For share of patent, 213, 461, 469.
- Registrability of, 213.
- For sale of patent to trustees of company, 466, 471.

**ALIEN :**

- Alien enemy as British patentee, 23.
- May apply for or own patents, 23.

**ALTERATION**

- In Patent Register, 216 to 218.
- In specification, 15, 16, 134.

**AMBIGUITY**

- In claim may be amended, 136.
- In specification is fatal to patent, 84, 85.

**AMENDMENT OF SPECIFICATION :**

Of application to avoid references, 15, 16.

Amendment generally, 134 to 145.

A statutory privilege, 134.

To meet Comptroller's requirements--

Under Sections 7 and 9, 15, 16, 134.

Invention not properly described, 14, 15.

Drawings inadequate, 14, 134.

Disconformity of Complete with Provisional, 14, 134.

On opposition to grant (*see* OPPOSITION).

By patentee when no action pending--

Reasons for amending, 134, 135, 138.

Provision for, by Section 18 (Sub-section 1), 134.

Must be by disclaimer, correction, or explanation, 134, 135.

When claim too wide, 135.

Mistakes in drawings, 135.

New drawings, 135.

Persons entitled to amend, 135.

Patentee, assignee, &c., 135.

Specification may be amended from time to time, 135.

Nature of permissible amendments, 135, 136.

Insufficient description not generally curable, 135.

Extension of application of invention not permissible, 136.

Cutting up general claim into subordinate integers, 136.

Introduction of particular means or apparatus, 136.

Ambiguous claim, 136.

Mistranslation of foreign communication, 136.

Evident and obvious error, 136.

Mistake as to essential of claim, 136.

Consolidation of claims, 137.

Old patent more difficult to amend, 137.

Amendment not to impute disadvantages to opponent's patent, 137.

Amendment not now contestable in subsequent action, 137, 138.

Correction of request to amend, 138.

Conditions on amendment, 138, 139.

Conditions on amendment of patents under old Act, 138.

Existing power of Law Officer to impose conditions, 138.

Existing power of Court to impose conditions, 139.

Procedure on amending, 139, 140.

Persons entitled to oppose amendment, 140.

Limit of time for opposing, 140.

Procedure on opposition, 140.

By patentee when action or revocation petition is pending—

Amendment during legal proceedings, 140 to 145.

Reasons for such amendments, 141.

Leave of Court must be obtained, 141.

**AMENDMENT OF SPECIFICATION—continued.**

- By patentee when action or revocation petition is pending—*continued.*
- Statutory provision for such amendment, 141.
- Limited to disclaimer only, 141.
- Discretion of Judge as to giving leave, 141, 142.
- Conditions vary according to circumstances, 141, 142, 144.
- Usual conditions imposed, 144.
- Costs on amendment, 142, 143.
- Amendment of pleadings usually appendant to leave, 143.
- Exceptional conditions sometimes imposed, 143.
- Query, if Law Officer has jurisdiction to impose conditions, 143.
- Damages for infringements before amendment, 144.
- Court will not settle amendments, 144.
- Procedure in applying at Patent Office to amend, 144.
- Defendant in infringement action may oppose amendment, 144, 145.
- Law Officer will not impose larger terms than the Court, 145.

**AMENDMENT OF PLEADINGS :**

- Of particulars of breaches by plaintiff, 158.
- Leave of Court must be obtained, 158.
- Conditions of leave in Judge's discretion, 158, 159.
- Usual conditions of amendment, 159, 160.
- Of particulars of objections by defendant, 158, 159.
- Leave of Court must be obtained, 158.
- Conditions of leave in Judge's discretion, 158, 159.
- Usual conditions imposed, 159, 160.
- Form of order in repeated amendments of particulars of objections, 159.
- Courses open to plaintiff on amendment of defendant's particulars, 159.

**AMENDMENT OF DOCUMENTS BY COMPTROLLER: Power of Comptroller under Rule 76 to amend informalities, 107.****AMERICA (United States): Member of Convention, 226.**

- Patent for apparatus and process combined, 228.

**AMOUNT OF INVENTION :**

- No smallness or simplicity prevents patent from being valid, 56.
- Dicta* of Lord Halsbury and Bramwell, L. J., on amount of invention, 56, 57.
- See also* **INGENUITY and INVENTION.**

**AMOUNT OF UTILITY: Per Grove, J., "the slightest amount of utility" will maintain a patent, 73.****ANALOGOUS USER :**

- Obvious as compared with non-obvious analogous user, 41 to 43.
- See also* **NOVELTY OF INVENTION and SUBJECT-MATTER OF PATENTS.**

**ANCIENT PATENT PROCEDURE :**

- Circumlocutive proceedings in, 5, 6.
- Fees under old practice, 6.



**ANTICIPATION OF INVENTION**

By prior publication (*see* CHAPTER VIII., Pages 68 to 71).

By prior grant (*see* CHAPTER XVII., Pages 156, 157).

By prior user (*see* CHAPTER VII., Pages 64 to 67).

By common knowledge, 155.

*See also* NOVELTY OF INVENTION, PRIOR GRANT, PRIOR PUBLICATION, and PRIOR USER.

**APPEAL FROM COMPTROLLER TO LAW OFFICER**

Against reference imposed in application, 17.

Rule giving right of appeal, 234.

Against decision of Comptroller in opposition to grant, 111.

Rules regulating appeal, 111 to 113.

Appeal to be made within fourteen days from decision, 111.

Effect of acceptance of Comptroller's decision prior to, 113.

Additional evidence before Law Officer, 114.

Proceedings before Law Officer, 114.

Seven days' notice to parties, 114.

Counter appeal, 114.

No addition allowed to grounds of opposition, 114.

Appeal a rehearing, 113.

Decision of Law Officer final, 127.

Case might be reopened on ground of fraud or serious mistake, 127.

**APPEAL TO COURT OF APPEAL**

From interlocutory order within fourteen days, 172.

From final order within three months, 172.

Appeal a rehearing, 172, 173.

Lord Halsbury on the duties of the Court of Appeal, 172, 173.

Papers for the Court of Appeal, 173.

Shorthand notes of evidence for, 173.

Fresh evidence may be admitted, 173.

**APPEAL TO HOUSE OF LORDS** from Court of Appeal may be made within one year of decision, 173.

**APPLICATION FOR HEARING TO COMPTROLLER**

In cases of opposition to grant, 110.

„ „ amendment of specification (Rule 41), 242.

**APPLICANT FOR LETTERS PATENT:**

Persons entitled to apply, 22.

Bodies corporate, 22.

Exceptions to general rule, 22.

Alien enemy, 23.

Co-applicants, 23, 24, 489.

Importers of inventions, 23.

Resident agent of foreign principal, 25.

Foreign inventors under Convention, 9, 10, 22, 450, 541.

Deceased inventor's representatives, 25.

**APPLICATION FOR LETTERS PATENT:**

Forms of, 13.

„ where obtainable, 13, 14.

May be abandoned, 18.

And afterwards renewed, 18, 67.

Advantages of accompanying application with Provisional Specification or Complete compared, 17, 18.

To be made for one invention only, 15; (Rule 9), 231; (Section 33), 507.

Under Act of 1852, 7, 8.

Under Acts of 1883 to 1902, 8, 9, 10.

Who may make (*see* APPLICANT FOR LETTERS PATENT).

Joint applications, 23, 24, 489.

May be opposed (*see* OPPOSITION).

With Provisional or Complete Specification, 17, 18.

Referred to examiners, 14, 15.

Acceptance of, notified to applicant and advertised, 15.

Provisional considered abandoned if Complete not filed (Section 8), 493.

By representative of deceased inventor, 25.

Form of, 13.

„ on communication from abroad, 13.

„ under international and colonial agreements 13 (*see* INTERNATIONAL CONVENTION).

Rules regulating procedure on (Patents Rules, 1893-5 Consolidated), 229.

Drawings with, 14.

Amendment of, 15, 16.

Examination as to novelty, 15.

Procedure in meeting objections, 15, 16.

Form of reference, 16.

Appeal to Law Officer from Comptroller, 17.

Under International Convention, 9, 10, 13, 22.

Address of applicant, 13.

Declaration on, 13.

Title of, 13, 75.

No reference to concurrent, in opposition to grant, 123.

Examiner's duties with reference to, 15, 16.

Advertisement of, 13.

**APPRENTICES:**

Proviso in old grants as to taking, 5.

Duration of patent fixed from period of apprenticeship, 5.

**ARBITRATION ACT:** Action for infringement might be remitted to referee under, 164.

**ASSESSOR:** Court may call in scientific assessor or referee, 163, 164.

**ASSIGNEE**

May oppose grant, 115.

May amend specification, 135.

May take action for infringement, 150.

**ASSIGNEE—continued.**

- May apply for prolongation of patent, 188.
- Position of assignees in Prolongation Petitions, 188, 193.
- Of part of patent, 196.
- Unregistered assignee may sue for infringement, 151.
- Equitable, cannot sue infringers, 151, 196.
- Of bankrupt patentee, 197.
- “ “ “ cannot set up estoppel, 165.
- Should register assignment, 199.
- May stipulate for further improvements, 197.
- Is independent of his co-patenters, 198.
- May be a body corporate, 199.
- Equitable assignee entitled to entry of notice on Register, 199.

**ASSIGNOR :**

- No implied covenant for validity of patent by, 197.
- Covenant for title by, 197.
- Should convey by deed, 196.
- Afterwards estopped from denying validity, 165.
- To trustee in bankruptcy not estopped from disputing validity, 165.

**ASSIGNMENTS OF LETTERS PATENT :**

- Authorised by terms of grant, 196.
- May be of whole or part, 196.
- For districts or divisions, 196.
- Should be under seal, 196.
- Agreement to assign, 196, 213.
- Equitable, 196.
- Executory, 196.
- To trustee in bankruptcy, 197.
- May be in any form, 197.
- Form of, 468.
- Covenants for title in, 197.
- No implied covenant for validity, 197.
- Payments of annuities in part assignments, 197.
- Limitation of mutual rights in, 198.
- To trustees, 198, 471.
- To corporate bodies, 199.
- Should be entered in Register, 199.
- May include future improvements, 197.
- Agreement to assign enforceable, 213.

**ATTORNEY-GENERAL :**

- Petition for revocation may be presented by, 174.
- Fiat of, in petitions for revocation, 174, 175.
- Procedure in obtaining fiat, 175.
- May oppose prolongation of patent, 191.
- Need not give notice of grounds of opposition, 192.



**BANKRUPTCY OF PATENTEE:** Patent passes to trustee in bankruptcy, 129.

**BANK HOLIDAYS:** Day following for leaving documents or paying fees at Patent Office (Section 98), 538.

**BOARD OF TRADE:**

Appointment of Comptroller and Patent Office Staff (Section 83), 534.

Power to certify international &c. exhibition (Sections 39, 57), 508, 517.

Power to make Rules (Section 101), 539.

Register of Patent Agents' Rules, 222.

Functions of Board in applications for compulsory licences, 205, 206.

Rules of procedure before the Board, 206 to 208.

Reference by Board to Judicial Committee, 207.

**BODY CORPORATE:**

For breach of injunction, directors may be committed and goods sequestrated, 165.

May be joint applicant for letters patent, 22.

May apply alone under Convention, 22.

May be sole beneficiary for communicated invention, 22.

Is a "person" within statute, 22.

May be registered as proprietor, 217.

**BONÂ FIDES**

Of defendant no answer to infringement, 146.

Action in pursuance of threats must be taken, 181, 182.

Essential in petition for prolongation, 189.

**BOOK (PRIOR PUBLICATION):**

In any book accessible to public constitutes anticipation, 68.

Might be in foreign language, 69.

**BREACH OF INJUNCTION**

Subjects defendant to risk of committal, 165.

By corporation, subjects directors to committal and company to sequestration of goods, 165.

**BREACHES**

Must be set out fully with names, dates, and places, 153, 154.

*See also* PARTICULARS OF BREACHES.

**BRITISH SUBJECT:** Applicant for patent need not be, 22.

**CARRIER** might be infringer, 149.

**CATALOGUE** containing name of book in library (*see* PRIOR PUBLICATION), 69.

**CAVEAT**

May be filed by intending opponent to prolongation, 190, 191.

Crown need not enter, 192.

**CERTIFICATE:****Comptroller's Certificates**

Of filing Provisional application, 13.

„ Complete Specification, 14.

„ acceptance of Provisional application, 13.

„ „ Complete Specification, 14.

**Of validity of patent having been in issue:**

Application by plaintiff for, 169, 170.

Effect of, on costs in subsequent action, 169.

What is a “subsequent action,” 169.

Should be pleaded, 169.

May be granted though validity not contested at trial, 170.

Where defendants do not appear, 170.

Query, whether may be granted in respect of good claims of otherwise invalid patent, 170.

No appeal in respect of granting or withholding, 170.

Grant is in Judge's discretion, 170.

**As to proof of reasonableness of particulars in action:**

Should be applied for on judgment, 167.

May be granted in undefended action, 168.

Usually granted only in respect of particulars referred to, 168, 169.

When plaintiffs withdraw, 168.

But might be made a condition on discontinuance, 168.

Where plaintiffs give way, examination might be continued to enable grant of, 168.

General principles upon which such certificates are granted, 168, 169.

Where plaintiff submits to dismissal of action, question of costs and certificate may be reserved, 169.

**CERTIFIED COPIES OF SPECIFICATIONS AND DOCUMENTS**

To be admitted in evidence without further proof (Section 89), 535.

Certified extracts from the Register supplied if required (Section 88), 535.

**CHANCERY DIVISION:**

Patent actions usually entered in, 149.

Machinery of, better suited for patent actions, 149.

**CHANNEL ISLANDS** not now included in grant, 21.**CHARTERED INSTITUTE OF PATENT AGENTS:**

Incorporated by Royal Charter, 1891, 222.

Fellows are styled “Chartered Patent Agents,” 222.

Transactions of, 222.

**CHEMICAL EQUIVALENTS** not so apparent as in other manufactures, 43.**CHEMICAL PROCESS** (*see* PROCESS).**CHRISTMAS DAY:** Day following, for leaving documents or paying fees at Patent Office (Section 98), 538.

**CIRCULAR:**

Threats may be by (Section 32), 181, 182, 507.  
 Examples of threats by, 182.

**CLAIMS:**

Importance of framing proper claims, 93.  
 Not obligatory before 1883, 93.  
 Now specification must end with distinct claim, 93.  
 Power of Comptroller to require, 93.  
 Opinion of Herschell, S.-G., on form of claim, 94.  
 Must refer to invention specified, 94.  
*Per Halsbury, L. C.*, the provision is merely directory, 94.  
 Object of claim to define invention, 94.  
 Danger of vague claims, 94, 95.  
 Claims found too wide, 95 to 97.  
 Failure of utility vitiates claim, 96.  
 Failure of utility in alternative arrangement claim, vitiates patent, 96, 97.  
 True meaning of claim may be construed by evidence, 61, 62, 97.  
 Grove, J., on the word "substantially" in claims, 98.  
 Lord Alverstone on equivalents to subject-matter of claims, 98.  
 Claims for principles, 48 to 53, 104.  
 Claims for principles coupled with means for carrying into effect, 48 to 53.  
 Claim for every mode of carrying principle into effect is a claim for the principle, 99.  
 A claim not a disclaimer, 99.  
 Apparently bad subsidiary claim not necessarily fatal, 61, 62, 100, 101.  
 Claim not to be read as isolated sentence, 100.  
 Claim obviously bad and obviously meant to be independent is fatal to patent, 100.  
 Subsidiary claim apparently in gross but really appendant may be favourably construed by the Court, 101.  
 General principles applicable to apparently bad subsidiary claims, 101, 102.  
 Only what is specifically claimed can be given effect to, 101, 102.  
 Presumption that no two claims are co-extensive, 102.  
 Surplus claim is of no effect, 102.  
 Claim for part of combination incomplete and useless *per se* is bad, 103.  
 Combination of materials evolving new product, 103.  
 Combinations containing essential, new and useful for specific purpose, 103.  
 General rules for the preparation of claims, 103, 104.  
 Claims for combinations of old parts construed narrowly, 33, 34, 37.  
*See also COMPLETE SPECIFICATION.*

**CLERGYMAN (BENEFICED):** Query, if can be patentee, 23.

**CLERICAL ERROR:** Comptroller may correct, on request (Section 91)  
 134, 536.

**COLONIAL ARRANGEMENTS** (*see* Sections 103, 104), 9, 10, 19, 450, 541, 542.



**COLONIES:** British patent does not cover, 21.

**COLOURABLE VARIATIONS:**

Infringement by, prohibited in terms of grant (*see* FORM OF PATENT), 255.  
 Lord Alverstone on, 98.  
 Observations on, 98.

**COMBINATION PATENTS:**

Combination must show invention, 31.  
 Mere judicious arrangement not patentable combination, 31, 32.  
 Mere putting together two well-known things not patentable combination, 31.  
     But contra, if invention required to connect, 32.  
 No patentable combination of concretion and abstraction, 32, 33.  
 Combination of old and known parts, 31.  
 Claims for such combination are narrow in scope, 33.  
 Obvious combination not subject-matter, 31.  
 Combination of old parts separately used for similar object bad unless  
     new function is performed, 34.  
 Combination of old parts involving ingenuity and increased utility sustain-  
     able, 34.  
     Especially where new element is introduced, 34, 37.  
 Rigby, L. J., on combinations, 35.  
 Where invention small, commercial success may help to support, 35.  
 Halsbury, L. C., on combinations, 36.  
 Instances of very slight advance in combinations, 36.  
 Combinations of old parts, or old combinations containing new and material  
     feature, 37, 38.  
 New and old parts in a combination should be differentiated, 89 to 91.  
     But differentiation of old from new may be a matter for evidence, 38.  
 If the essential and material feature of a combination—*i.e.* “the pith and  
     marrow”—is taken, even apart from the combination, it constitutes  
     infringement, 38, 39, 103.  
 But if the combination is taken without the essential, no infringement, 39.  
*See also* SUBJECT-MATTER OF PATENTS.

**COMMERCIAL SUCCESS** not *per se* proof of utility of invention, 58.

**COMMITTAL:**

Defendant acting in breach of injunction may be committed, 165.  
 Corporation acting in breach of injunction, directors may be committed, 165.  
     Goods may be sequestrated, 165.  
*See also* INJUNCTION (FINAL).

**COMMON KNOWLEDGE:**

Defendant relying on common knowledge need not give particulars, 155.  
 Common knowledge destroys validity of patent, 64.  
 Must be general trade knowledge to prevail, 155:  
 Prior specifications are part of, 156.

**COMMUNICATED INVENTIONS :**

- Form A1 used for applications for, 13.
- Person resident in United Kingdom may patent, 13, 22, 25.
- Need not indicate source of, 25.
- Corporation abroad may patent, 22.

**COMPANY** (*see* BODY CORPORATE).**COMPARISON OF PROVISIONAL AND COMPLETE SPECIFICATIONS :**

- Duty of draftsman in preparing Complete, 80.
- Essential that Provisional and Complete should correspond, 80.
- Invention must be the same in both, 80.
- Legitimate improvements may be incorporated in Complete, 81, 82.
- Examiners in Patent Office compare the two documents, 14, 15.
- Drawings with Provisional may be referred to in Complete (Section 5, Sub-section 4), 89, 490.
- See also* DISCONFORMITY.

**COMPLETE SPECIFICATION :**

- First introduction in 1730, 6.
- Under Act of 1852, 8.
- Must be filed with Convention applications under Act of 1901, 10, 234.
- Periods for acceptance and publication under Act of 1901, 10, 235.
- Must be filed within six months of Provisional, 14.
- Form and stamp for Complete, 14.
- Must accord with Provisional, 14.
- Drawings to accompany Complete, 14, 87.
- Certificate of filing, 14.
- Comparison of Complete with Provisional, 14.
- Acceptance and publication of, 15.
- May be filed with application, 17.
- But only advisable when invention is fully worked out, 18.
- Period for filing Complete may be extended, 20.
- Comptroller's examination of Complete and comparison with Provisional, 14, 15.
- Drawings with Provisional may be referred to in (Section 5, Sub-section 4), 89, 490.
- See also* SPECIFICATION.

**COMPTROLLER-GENERAL OF PATENTS :**

- Appointment by Board of Trade, 534.
- Applications for patents to be delivered or posted to, 13.
- May refuse to accept faulty specification, 14, 15, 75.
- Appeal from, to Law Officer, 17, 111.
- May issue duplicate of lost Letters Patent, 133.
- Has power to require distinct claim, 93.
- Power of, to amend notice of opposition, 107.
- Transmits notice of opposition to applicant, 107.

**COMPTROLLER-GENERAL OF PATENTS—continued.**

May give leave to file additional declarations, 108.

But not where fraud is alleged, 108.

Power to request oral explanations from applicants, 16, 108, 109.

No examination on oath, 118.

Practice of, as to the admittance of references to prior knowledge by applicant, 109.

Samples of matters in dispute may be exhibited to, by parties, 109.

Appointment of hearing by, 110.

New grounds of opposition cannot be raised before, 110.

Decision of, 110.

On appeal, transmits papers to Law Officer's clerk, 114.

Persons entitled to oppose before, 106, 114 to 116.

As to persons entitled to oppose, no distinction between Courts of Comptroller and Law Officer, 116.

In cases of alleged fraud, will not stop patent except on conclusive evidence, 117, 118.

Must give a decision to entitle parties to appeal, 118.

No jurisdiction to award costs, 117.

In doubtful cases will not stop patent, 119.

Evidence of master patent must be produced to, 122.

Will not give reference to concurrent application, 123.

May consider quantum of invention, 124.

May consider doctrine of mechanical equivalents, 125, 126.

Will not enter notice of pure trust on Register, 131, 214.

Recognises no property in invention till patent sealed, 131.

Will not generally enter an ante-provisional agreement on Register of Patents, 131.

Procedure by, in making entry on Register, 132, 214.

Will, if required, give certified copies of documents or extracts from Register, 132, 133, 218.

May correct clerical errors on request (Section 91), 536.

May require amendment of specification, 14.

Will not give reference in amendment to opponent's specification, 137.

Acceptance and advertisement by, of amendment, 139.

Advises applicant to amend on the filing of opposition, 140.

Decision of, subject to appeal to Law Officer, 140.

Will not amend patent *pendente lite* without Order of Court, 141.

General power of, to correct documents (Patents Rule 76), 249.

**COMPULSORY LICENCES**

Provided for by Section 3 of Patent Act, 1902, 499 to 501.

Grounds for petition, 206, 211.

Functions of Board of Trade, 205.

Petitions not of frequent occurrence, 205.

Reference to Judicial Committee, 205.

Procedure in presenting petitions, 206.

Who may petition, 206, 499 to 501.



**COMPULSORY LICENCES—continued.**

- Interest of petitioner, 206, 499.
- Procedure in the presentation and prosecution of petition, 206 to 210.
- Petition to be left at Patent Office, 207.
- Remitted by Board of Trade to Judicial Committee, 205, 207.
- Declarations by opponent, 207.
- Replies by petitioner, 207.
- Hearing, by Judicial Committee, 209, 210.
- Patent may be revoked, 210.
- Order of hearing, 209.
- Persons entitled to be co-respondents, 211.
- Discretion of Board of Trade, 207.
- Costs, 210.

**CONCURRENT APPLICATIONS IN OPPOSITION TO GRANT:** No reference given to, 123.

**CONDITIONS ON AMENDING SPECIFICATION:**

- Conditions imposed on amendment of old patents, 137, 144.
- Law Officer has power to impose conditions, 138, 139.
- But, as a rule, no conditions now imposed, 139.
- Power of Court to impose conditions in action for infringement, 141.
- Conditions on amendment of patent *pendente lite*, 142 to 144.
- Generally left to the Court to impose, 143.
- In exceptional cases severe conditions imposed, 143.
- Law Officer will not enlarge conditions imposed by Court, 145.
- Lord Alverstone doubts if Law Officer has jurisdiction to impose conditions on amendment *pendente lite*, 143.

**CONFORMITY OF SPECIFICATIONS** (*see* DISCONFORMITY).

**CONSIDERATION FOR GRANT:** Failure of consideration for grant vitiates patent, 84.

**CONSTRUCTION OF SPECIFICATION:**

- Practice of the Courts in construing specification, 91, 92.
- Formerly specification construed against patentee, 91.
- Malevolent construction, 91.
- Benevolent construction, 92.
- Chitty, J., on construction, 92.
- Lord Davey on construction, 92.
- To be left to the Court, 164.
- To be construed like any other written document, 92.

**CONTEMPT OF COURT:** Committal for breach of injunction constituting, 165.

**CONVENTION** (*see* INTERNATIONAL CONVENTION).

**CONVEYANCING AND LAW OF PROPERTY ACT, 1881:**

- Conveyance "as beneficial owner" implies covenants for title: exclusive licence, even when irrevocable and no payments made under it, is not a conveyance under, 197, 204.

**CO-OWNERS OF PATENTS:**

- Patents may be granted to joint applicants, 23, 489.
- May agree as to mutual rights and liabilities, 129, 212.
- May manufacture and grant licences independently of each other, 130, 198.
- Might assign to trustee for general benefit, 198, 471.
- May sue for infringement independently of each other, 130, 150.
- May assign shares of patent, 139, 196.
- Have a joint interest passing by survivorship, 129, 130.
- May effect severance of interest, 130.

**CORPORATE BODY**

- May be sole owner of communicated invention, 22.
- May apply for patent alone under Convention, 22.
- May have goods sequestrated for contempt of court, 165.
- A person within the statute, 22.
- See also* BODY CORPORATE.

**CORRECTION**

- Of title by Comptroller, 75, 76.
- Of claim by Comptroller, 93.
- Of notice of opposition, 107.
- Of defective accounts or faulty petition for prolongation not allowed, 193, 195.
- Of documents generally by Comptroller (Patents Rule 76), 249.
- See also* AMENDMENT OF SPECIFICATION and REGISTER OF PATENTS.

**COST OF PATENTS BEFORE ACT OF 1852:**

- England, Scotland, and Ireland had separate patents, 6.
- Example of cost of early patent, 6.

**COSTS**

- In opposition cases before Comptroller and Law Officer—
  - Comptroller has no jurisdiction to award costs, 117, 145.
  - Jurisdiction of Law Officer as to, 117, 145.
  - Law Officer may consider unnecessary or diffuse declarations in awarding costs, 108.
  - On discontinuance by appellant before Law Officer, 117.
- In amending specifications—
  - Comptroller cannot award costs, 145.
  - Law Officer may award costs, 145.
  - Court does not take note of costs incurred before Comptroller or Law Officer, 142.
- On petition for prolongation of patent—
  - Costs in discretion of Judicial Committee, 195.
  - Orders of Committee *re* costs enforceable as Orders of Court, 195.
  - Where several opponents, costs may be awarded as lump sum, 195.
  - Costs in abandoned petition, 195.
  - Costs of petition to be taxed by Registrar of Privy Council, 191.

**Costs—continued.****In revocation proceedings—**

Costs in application for Attorney-General's fiat, 175.

May be made costs in collateral action for infringement, 175.

Costs in petition for revocation, 180.

**On petition for compulsory licence—**

Allowed by Privy Council, 210.

**In action for infringement—**

Costs in action by plaintiff holding certificate of validity, 150, 169.

Costs in amending particulars by either party, 159.

Costs to plaintiff on withdrawal after amendment of defendants' particulars, 159.

Costs in the case of repeated amendments, 159, 160.

Costs on amendment of particulars are in discretion of Judge, 159.

Security for costs on interrogatories, 161.

Costs on judgment, 166 to 171.

Costs on higher scale on breach of injunction, 165.

Costs of shorthand notes, 166.

In Court of Appeal costs of appeal include shorthand note of judgment, 166.

Costs of shorthand notes by agreement of parties, 166, 167.

Costs of shorthand notes between solicitor and client allowed as necessary expense, 167.

Costs of particulars to be certified by Judge, 167 to 169 (Section 29, Sub-section 6), 506.

Plaintiff holding certificate of validity gets solicitor and client costs, 169 (Section 31), 507.

Costs on higher scale may be given where action involves abstruse issues, 171.

Solicitor and client costs under Public Authorities Act of 1893, 171.

No appeal generally as to costs, 171.

But might be had in the case of higher scale costs, 171.

**In action for threats—**

Court of Appeal discourages unnecessary costs by duplicating actions in threats, 185.

**COUNSEL:** Certificate of, in applying for Attorney-General's fiat, 175.

Costs of three in action, 167.

**COUNTERCLAIM** for injunction and damages by defendant in threats action, 184.

**COUNTY COURT:** No jurisdiction in, to try validity of patent, 149.

**COUNTY PALATINE COURT OF LANCASTER** has jurisdiction to try patent actions, 149.



**COURT OF APPEAL:**

Costs of appeal include cost of shorthand notes of judgment, 166.  
 No appeal against granting or withholding certificate of validity, 170.  
 „ generally as to costs, 171.  
 Appeal is by way of rehearing, 172, 173.  
 Times for lodging appeals, 172, 173.  
 Interlocutory orders concerning injunctions are appealable, 172.  
 Lord Halsbury on duties of Court of Appeal, 172, 173.  
 Papers for Court of Appeal, 173.  
 Fresh evidence in, 173.  
 Appeal from, to House of Lords, 173.

**COURT OF SESSION:**

Revocation proceedings in, take form of action of reduction, 176.  
 Lord Advocate's concurrence in, 176.  
 Has jurisdiction to rectify Register, 217.

**COVENANT** for title in assignment, 197.

**CROSS-EXAMINATION OF WITNESSES** may be had before Law Officer in opposition cases, 118.

**CROWN:**

Ancient royal grants of monopolies by, 3, 4.  
 Cannot make grant to itself, 22.

**CUSTOMERS:** Names of, may be ordered to be given in reply to interrogatories, 162.

**DAMAGES**

In threats actions, 181, 187.  
 Claim for, in action for infringement, 150, 153.  
 Measure of, 166.  
 Assessment of, 166.  
 Usually preferred to account of profits, 166.

**DATE OF LETTERS PATENT:**

Patent is dated and sealed as of the day of application, 128.  
 New patent of prolongation dated and sealed as of date of expiration of original patent, 193.  
 In application under Convention, 24, 223.

**DECEASED APPLICANT:** Legal representatives may complete application and obtain patent, 25.

**DECEASED INVENTOR:** Legal representatives of, may apply for and obtain patent, 25.

**DECLARATIONS**

- On application for patent, 13.
- By opponent on opposition to grant, 107.
- In reply by applicant, 108.
- Further declarations by opponent, 108.
- Comptroller may extend time for filing, 108.
  - Except where fraud is alleged, 108.
- To be as few and concise as possible, 108.
- Not always necessary, 108.
- Authorities before whom declarations are made, 238, 239.

**DEED:**

- Assignment of patent should be by, 196.
- Licences should be by, 201.

**DEFENCES IN ACTION FOR INFRINGEMENT OR FOR THREATS**  
 (see ACTION FOR INFRINGEMENT and ACTION AGAINST PATENTEE FOR THREATS).

**DELAY**

- Will prejudice right to interlocutory injunction, 152.
  - But special circumstances may excuse, 152.
- In following up threats by taking action with "due diligence," 185.
- What might constitute reasonable delay, 185, 186.
- Apparent undue delay might be held reasonable, 186.
- What constitutes unreasonable delay, 186.
- See also LACHES.

**DELIVERY UP OF INFRINGING GOODS:**

- Claim for, 153, 165, 166.
- Goods delivered up do not become plaintiff's property, 165.
- Defendant cannot set off value of, 165, 166.
- Only infringing portion need be delivered up, 166.

**DESIGN:**

- No patent for mere external design of element of mechanism, 53.
- But design embodying utility might be patentable, 53.
- Patent and design might co-exist, 2, 53.

**DESTRUCTION OF INFRINGING GOODS:** Goods delivered up may be destroyed, 166.

**DETAILS OF INVENTION** may be developed during provisional protection, 77, 78, 82.

**DEVELOPMENT OF INVENTION** may be worked out during provisional protection, 77, 78, 82.

**DISCLAIMER**

- First allowed by 5 & 6 Will. IV. c. 38, 7.
- Patentee *pendente lite* may amend specification by, 141.

**DISCLAIMER—continued.**

Amendment *pendente lite* must be by disclaimer only, 141.

Not assailable when once allowed, 137.

In opposition to grant, 120.

**DISCLOSURE**

Of customers' names in replies to interrogatories, 162.

Of documents between party and patent agent, 163.

Of documents in action for infringement, 163.

By inspection in action for infringement, 160, 161.

In replies to interrogatories, 162.

**DISCONFORMITY**

Between Provisional and Complete Specifications, 80 to 84.

Lord Halsbury on effect of, 80.

Comptroller's functions do not supersede objection to specification on ground of, 80.

Cause of invalidity, 80.

Instances of, 81.

Instances of alleged disconformity not so found, 82, 83.

Compared with legitimate development of Provisional, 83, 84.

Mode of claim for additional improvements so as not to constitute, 83.

Rule where development is *an* essential of invention, 83, 84.

" " " *the* essential of invention, 83, 84.

Plea of, in defence to action for infringement, 154, 156.

Defendant pleading, must give particulars, 156.

May be pleaded in petition for revocation, 175.

Particulars of, must be given in petition for revocation, 178.

May be pleaded in action to restrain threats, 184.

**DISCONTINUANCE**

Of appeal to Law Officer in opposition to grant, 117.

By plaintiff on amendment of particulars of objections, 159, 160.

" " re-amendment of particulars of objections, 159, 160.

Of petition for prolongation of patent, 195.

**DISTRESS:** Personally licensed patented article taken in, cannot be used without infringing, 148.

**DOCUMENTS:**

Discovery of, may be had by Order of Court, 163.

As between party and his patent agent not privileged, 163.

Referring to matters in former action, 163.

Sizes &c. of patent application papers, 235, 236.

**DRAWINGS**

Must be attached to specification when necessary, 14.

Advantages of, 87, 88.

Omissions and errors in, when fatal 88.



**DRAWINGS—continued.**

- When such errors may be cured, 88.
- Hints on the preparation of, 88, 89.
- Absence of, not necessarily fatal, 87.
- Reproduction of, for publication, 14, 89.
- Provisional, may be referred to in Complete, 89.

**“DUE DILIGENCE”:**

- Provisions of Section 32 with reference to, 184, 185.
- What is, 185.

**DUPLICATE** of Letters Patent lost or destroyed may be issued, 133.

**DURATION OF PATENT**

- Runs for fourteen years, 5.
- Dates from day of application, 128.

**EMPLOYER** (*see* MASTER AND SERVANT).

**ENDORSEMENT OF WRIT** (*see* ACTION FOR INFRINGEMENT *and* WRIT).

**ENLARGEMENT OF TIME**

- For payment of renewal fees, 129.
- For filing Complete Specification, 20.
- Not granted to intending opponent to prolongation, 189.
- “ “ opponent of grant who alleges fraud, 108, 240.

**ENROLMENTS OFFICE** in old patent procedure, 5.

**ENTRY IN REGISTER**

- Of patents as sealed, 214.
- Of all dealings affecting proprietorship, 214.
- No notice of trust to be entered, 214.
- Of equitable assignments, 214, 215.
- Generally, no entry of ante-provisional agreements, 215.
- Agreements made between application and sealing, 215.
- Agreements must be in writing, 215.
- Of mortgages, 216.
- Alteration of entries, 216.
- Clerical errors in, may be corrected, 216.
- Alteration of name of body corporate or individual in, 216.
- Variation of, by Order of Court, 216, 218.
- Purport of Order directing alteration to be presented at Patent Office, 217.
- Form of request to vary, 217
- Licences should be entered, 214.
- Certified extracts of, 218.

**EQUITABLE ASSIGNMENT OF PATENT RIGHT**

- May be entered in Register, 214.

**EQUIVALENTS IN QUESTIONS OF INFRINGEMENT :**

Mere equivalents generally considered infringements, 87, 98.

In combinations of old parts claim not usually construed to cover equivalents, 33, 37, 38.

May be referred to expert witnesses in action for infringement, 163, 164.

**ERRORS IN SPECIFICATION OR REGISTER :**

Clerical errors may be corrected in Register, 216.

In specification and drawings, 136.

**ESSENTIALS OF INVENTIONS (see INVENTION, NOVELTY OF INVENTION, and UTILITY).****ESTOPPEL :**

Defendant may be estopped from denying validity of patent, 164, 165.

If he has submitted to judgment, 165.

Or worked the patent in partnership with plaintiff, 165.

Or sold the patent to plaintiff, 165.

Or is working the patent under licence, 201.

Delivery of defence by licensee in action by patentee is not determination of licence, 202.

Assignment by bankrupt's trustee does not create estoppel against bankrupt patentee, 165.

**EVIDENCE**

As to mechanical equivalents, 163, 164.

As to sufficiency, 164.

Surprise evidence, 164.

Expert evidence generally, 163, 164.

Claim may be interpreted by evidence, 97.

By cross-examination in opposition before Law Officer, 118.

As to master patent in opposition to grant, 122.

Of public knowledge or prior specifications in opposition to grant, 122.

By declaration in opposition to grant, 108.

Copy or extracts certified by Comptroller to be admitted as evidence without further proof, 214.

**EX PARTE**

Application for interlocutory injunction, 151.

Application for fiat of Attorney-General in revocation petition, 175.

**EXAMINATION OF APPLICATIONS FOR PATENTS :**

Examination and comparison of Provisional and Complete, 14 to 17.

References to prior patents, 16, 17.

Limitation of field of investigation, 15.

**EXAMINATION OF CANDIDATES TO BE PUT ON THE ROLL OF PATENT AGENTS under Patent Agents' Rules, 221.**

**EXCLUSIVE LICENCE :**

- Nature of, 200.
- Precautions to be observed in granting, 203.
- Possessor of, cannot sue for infringements, 203, 204.
- Even where irrevocable, is not a conveyance, 204.
- See also* LICENCE.

**EXECUTION :**

- Stay of, 171.
- Stay of, not usually granted as to injunction, 172.
  - Except where public interest would suffer, 172.
- Stay as to costs seldom granted, 172.
- Stay of enquiry usually granted, 172.

**EXECUTOR**

- Of deceased inventor may apply for or obtain patent, 25.
- May apply for prolongation of patent, 188.
- Period within which patent may be granted to, 128.

**EXHIBITION, PUBLIC :**

- Certified by Board of Trade (Section 39), 508.
- Under Order in Council, 509.
- Exhibition of unpatented inventions, 508.

**EXHIBITS**

- Attached to declarations in opposition to grant, 109.
- Constituting illustrative examples at hearing in opposition, 109.

**EXISTING KNOWLEDGE**

- Usually implied in construing specification, 61, 62.
- Especially when referred to in specification, will be imported into claim apparently bad in gross, 61.
- Implied in preparing specification, 85.
- See also* COMMON KNOWLEDGE.

**EXPERIMENTAL USER :**

- Mere, not prior user, 64.
- When done under confidential conditions, 64.
- Must not be for profit, 64, 65.
- Sample must not be hawked about, 65.
- Discontinued user not necessarily, 65.
- Under Provisional Protection afterwards abandoned, 66.

**EXPERTS :**

- Their functions in actions for infringement, 163.
- Must not construe specification, 164.
- Evidence as to mechanical and other equivalents, 164.
- Evidence as to sufficiency, 164.
- Opinion as to infringement or non-infringement immaterial, 164.
- Action may be tried with assistance of expert referee, 164.



**EXTENSION OF TERM OF PATENT**

- First allowed by 5 & 6 Will. IV. c. 38, for seven years, 7.  
 Maximum of fourteen years provided for in 7 & 8 Vict. c. 69, 7.  
 Provided for by Section 25 of Act of 1883, 188.  
 Petition for, must be presented six months before expiration, 189.  
 New patent granted on, 193.  
 Who may apply for, 188.  
 Patentee, assignee, executor, 188.  
 Mortgagee should be a party, 188.  
 Presentation of petition, 188, 189.  
 Particulars in petition, 188, 189, 192.  
 Petitioner must show utmost good faith, 189.  
 Petition must be prosecuted with effect, 189.  
 Rules governing petitions for prolongation, 189 to 191.  
 Opponent to petition, 190, 191.  
 Interest of opponent in opposing petition, 191.  
 Attorney-General may oppose for Crown, 192.  
 Proceedings at hearing, 192.  
 Points to be proved by petitioner, 192.  
 Merit of invention, 192.  
 Public advantage, 192.  
 Foreign patents should be set forth in petition, 192.  
 Expiry of foreign patents, 192.  
 Accounts of receipts and expenditure, 192, 193.  
 Law costs not to be deducted from profits, 193.  
 Validity of patent not usually considered, 193.  
 Periods of extension, 193.  
 Issue of new patent, 193.  
 Position of assignees in petition for prolongation, 188, 193.  
 Prolongation must benefit original inventor, 193, 194.  
 Conditions may be imposed on prolongation, 194.  
 Delay in exploiting invention may prejudice, 194.  
 Prolongation of patent having invalid claim or claims, 194.  
 Petitioner must show validity of patent, 195.  
 Opponent cannot have extension of time to oppose, 189.  
 Adjournment to supplement accounts seldom granted, 195.  
 Costs in discretion of Judicial Committee, 195.  
 Effect of abandonment of petition, 195.

**EXTRACTS FROM DIFFERENT SOURCES AS ANTICIPATION:** Mosaic  
 of anticipations not permissible, 69, 70.

**FALSE SUGGESTION**

- In specification will invalidate patent, 84.  
 Ground for revocation of patent, 178.

**FALSIFICATION OF REGISTER** is a misdemeanour (Section 93), 220.

**FEEs**

- Under ancient procedure, 6.
- Under Act of 1852, 8.
- Under Acts of 1883 to 1902, 9.
- Annual fees for maintenance of patents, 128, 129, 252.
- Time for payment of renewal fees may be extended, 129.
- Reasons for extension, 129.
- Fines on extension, 129, 253.
- Fee on issue of duplicate Letters Patent, 133.
- Fee on notice of opposition, 107.
- Fees on hearing, 110, 252.
- Fees on appeal, 252.
- Fees for entry on Register, 253.
- Fees on amending specification, 139.
- Fee on opposition to amendment, 140.
- Complete list of fees, 252, 253.

**FIAT OF ATTORNEY-GENERAL :**

- When necessary to support petition for revocation, 174, 175.
- Not issued as a matter of course, 175.

**FIRST INVENTOR :**

- Declaration on application by, 13.
- Importer might be, 23.

**FOREIGN APPLICATIONS FOR PATENTS :**

- As communications on Form A1, 13.
- Under Patent Act of 1901, on Form A2, 13.

**FOREIGN CORPORATION**

- May obtain patent by communication, 22.
- Or in name of corporation, 22.

**FOREIGN PATENTS** must be declared in petition for prolongation, 192, 193.

**FOREIGN PROFITS** must be shown in accounts in petition for prolongation, 192.

**FOREIGN VESSEL:** Necessary use of invention in, touching at British ports not infringement, 146.

**FOREIGNER**

- May obtain British patent, 22.
- Applying for British patent under Convention and Act of 1901 must file Complete Specification, 10, 23, 24, 235.

**FORMS**

- In patent procedure on sale at post-offices, 13.
- Of pleadings (*see* ACTION FOR INFRINGEMENT *and* ACTION AGAINST PATENTEE FOR THREATS).

**FRANCHISE:** Patent held to be, 149.

**FRAUD**

Of patentee ground for revocation, 176.

Of wrongful patentee does not extinguish rights of true inventor, 176, 177.

**FUTURE IMPROVEMENTS** in invention may be assigned, 197.

**GOOD FRIDAY:** Day following, for leaving documents or paying fees at Patent Office (Section 98), 538.

**GRANT OF LETTERS PATENT**

Dates from day of application, 128.

Does not cover Channel Islands, 21.

May be made to representative of deceased inventor, 128.

Maintained in force by taxes, 128, 129.

Joint interest of co-grantees, 130.

Mutual rights of co-grantees, 130, 131.

False suggestion avoids, 84.

**GRANTEE**

Must be true and first inventor or importer, 22, 23.

Contract of, with public, 84.

May be non-inventor together with inventor, 23.

**GREAT SEAL**

No longer used in sealing patents, 128.

Extension of time for sealing, 128.

**HOUSE OF LORDS:**

Appeal to, in action for infringement, 173.

Petition for revocation, 180.

Action to restrain threats, 187.

Exposition by, of duties of Court of Appeal, 172, 173.

**IGNORANCE** of infringer no excuse, 146.

**ILLEGAL OR IMMORAL SUBJECT-MATTER** not patentable, 54.

**ILLUSTRATED OFFICIAL JOURNAL:**

Advertisement of application and acceptance in, 13.

Advertisement of acceptance of Complete in, 15.

Application to amend advertised in, 139.

**IMPORTATION**

Is infringement, 146.

Even when worked up into some other product, 148, 149.

**IMPORTED INVENTION**

May be patented in the United Kingdom, 13.

By foreign corporation, 22.

By first importer, 23.

Under International Convention, 9, 10, 22.



**IMPORTER:** First importer is "inventor" within Statute, 23.

### IMPROVEMENTS

Form bulk of patented inventions, 29.

Small advance may constitute, 29, 30.

Must show invention, 30.

In existing mechanism usually narrow, 33 to 37.

Examples in types of manufactures, 39, 40.

Provisional should be sufficiently elastic to admit of, 77.

In Complete must not be such as to cause disconformity, 80 to 84.

Within ambit of Provisional, 77, 78.

In opposition to grant, not to be allowed to interfere with privilege of applicant to include post-provisional improvements, 126, 127.

**INDEPENDENT INVENTORS:** First applicant is first and true inventor, 23.

### INDORSEMENT ON WRIT:

Suggested indorsement, 149, 150.

*See also* ACTION FOR INFRINGEMENT *and* WRIT.

**INDUSTRIAL OR INTERNATIONAL EXHIBITIONS** (*see* EXHIBITION, PUBLIC).

**INFANT** may obtain a patent, 22.

### INFRINGEMENT:

Importation from abroad is, 146.

Acts done abroad in virtue of contract made in England not, 146.

Purely experimental, probably not, 146.

But *contra* if used, 146.

Mere user is, 146.

Necessary use in foreign vessel not, 146.

Sale, or offering for sale, 146.

Possession with view to sale, 147.

Advertising justifies injunction, 147.

Exhibition without intent to sell is, 148.

By repair, 148.

Purchaser of licensed article, 148.

Licensed user taken in distress, 148.

By disregard of conditions of user, 148.

By workman in disobedience to master, 148.

By importation in worked-up form (indirect), 148, 149

Of combinations of old parts, 34, 35, 37.

By manufacture of component parts, 147.

In combinations of the *Curtis v. Platt* type, 37.

Of essential or "pith and marrow" of a combination, 37, 38.

Attempt to infringe, evidence of utility in infringed invention, 74.

No infringement before publication of Complete Specification, 17.

Before and after amendment of specification, 144.

**INFRINGEMENT—continued.**

Action for, may be brought by assignee, mortgagor, or co-owner, 150.

By assignee of bankrupt patentee, 150.

Particulars of, must be delivered by plaintiff, 153.

By manufacture and storage, but no sale during patent right, 165.

See also ACTION FOR INFRINGEMENT.

**INFRINGER:**

Limited licensee may be, 148, 176.

Importer is, 146.

User, however slight, is, 146.

Seller of patent article, 146.

Person offering for sale, 146.

Foreign shipmaster in British port, 146.

Possessor for purposes of sale, 146.

Advertiser, 147.

Exhibitor, 148.

Repairer, 148.

Purchaser from licensee, 148.

Person taking in distress from personal licensee, 148.

Workman renders master liable as, 148.

User or importer of goods indirectly infringing, 148, 149.

Carrier may be, 149.

Customs agents not, 149.

**INFRINGING ARTICLES OR GOODS**

Liable to delivery up or destruction in action, 150, 165, 166.

Infringing part of article only, 166.

Claim for delivery up or destruction in writ, 150.

Statement of claim, 153.

Manufacture but no sale during patent, 165.

**INGENUITY (see INVENTION).****INJUNCTION (INTERLOCUTORY):**

Remedy of, in cases of infringement, 151, 152.

May be ordered by High Court, 151.

Palatine Court of Lancaster, 149.

Not usually given for trifling infringement, 151.

Nor where defendant undertakes not to continue, 151.

Application for, might be made *ex parte*, 151.

Age of patent and its record considered, 152.

*Primâ facie* infringement must be established, 151, 152.

Where patent has been sustained in an action, 152.

Where defendant does not dispute validity, 152.

Delay in bringing action will prejudice right to, 152.

Unless there are special circumstances to excuse, 152.

Defendant may avoid, by undertaking to keep account, 152.

**INJUNCTION (INTERLOCUTORY)—continued.**

Not usually granted where large works or public interest would suffer, 152.

Order should contain clause protecting defendant, 152.

Appealable to Court of Appeal, 172.

May be obtained in action for threats, 183.

**INJUNCTION (FINAL):**

Court usually grants, to successful plaintiff, 165.

Only remains in force during existence of patent, 165.

Will bind goods made but not sold during patent right, 165.

Breach of, involves committal, 165.

Injunction by corporate body, 165.

Not granted in respect of expired patent, 165.

May be obtained in action for threats, 183.

**INSPECTION**

May be granted to either party in an action, 160.

Application by summons, 160.

Must be shown to be necessary, 160.

Affidavits in support of application for, 160.

Mere suspicion will not justify, 160.

Not granted if likely to disclose trade secret, 160.

Sworn expert may be sent to effect, 160.

Persons inspecting may take samples, 160.

Orders on *ex parte* applications not usual, 160.

**INSTITUTE OF PATENT AGENTS (*see* PATENT AGENTS).****INSUFFICIENCY**

May be established or rebutted by skilled evidence, 164.

*See also* SPECIFICATION.

**INTELLIGIBILITY OF SPECIFICATION (*see* SPECIFICATION).****INTENTION of infringer not material, 146.****INTERLOCUTORY INJUNCTION (*see* INJUNCTION, INTERLOCUTORY).****INTERNATIONAL ARRANGEMENTS:**

Patent Act of 1901 refers to, 9, 10, 541.

'Twelve months' priority of application under, 9.

Applicant under, must file Complete Specification with application, 10.

Privileges of foreign inventor under, 9, 10, 18, 19.

**INTERNATIONAL CONVENTION:**

*See* Appendix A, 450.

**INTERROGATORIES**

May be administered on either side by order, 161.

Security for costs of, 161.

Must be exhibited on applying for order, 161.



**INTERROGATORIES—continued.**

- Party interrogated may refuse to answer, 161.
- Distinction between, and further particulars, 161.
- Province of interrogatories, 161.
- Must not be fishing, 161.
- Distinction between plaintiff's and defendant's, 161.
- Must not depend on construction of patent, 161.
- Officer of corporate body not bound to give information acquired by him in other capacity, 162.
- Replies must be made by affidavit, 162.
- Time for replying, 161.
- Rule as to replies tending to show fact of infringement, 162, 163.
- As framed on plaintiff's specification, 162.
- Examples of interrogatories ordered to be answered, 162.
- General admissions discouraged, 162, 163.
- See also* ACTION FOR INFRINGEMENT.

**INVALID PATENT** not usually prolonged, 193.

**INVENTION:**

- Definition of, in Statute of Monopolies, 9, 26.
- "    Patent Act of 1883, 55.
- "    by the Court, 55, 56.
- Alleged obviousness of, may be rebutted by evidence, 56.
- Mere novelty does not imply invention, 56.
- Mere adaptive modification is not, 56.
- Might be result of accident, 56.
- Amount of invention not material, 29, 56.
- Analogous use or application not invention, 41 to 43, 57.
- Examples of mere analogous user, 57.
- Commercial success does not prove, 58.
- Mere increased utility does not prove, 58.
- Example of apparent analogous user sustained, 58.
- Examples of small amount of invention sustained, 59.
- Long-felt want supplied may imply, 59.
- Uselessness of alleged anticipations, may infer, 59.
- Mere physical connection of known items not, 31.
- But *contra* if ingenuity required, 31, 32.
- See also* **INGENUITY, NOVELTY OF INVENTION, and SUBJECT-MATTER OF PATENTS.**

**INVENTOR:**

- No patentee is "first and true inventor" of invention previously published in the realm, 68.
- An importer from abroad may be, 23.
- Co-inventors, 23.
- Must have invented "some new manufacture," 55, 60, 61.

**INVENTOR—continued.**

Must use ingenuity, 55.

Might become so by accident, 56.

Rights of foreign inventors under International Convention, 9, 10, 22.

May apply in conjunction with non-inventor, 23.

May be applicant irrespective of sex, infancy, nationality, or sanity, 22.

**IRELAND:**

Patent extends to, 21.

Irish Courts disclaim jurisdiction over Register, 217.

**ISLE OF MAN:** Patent extends to, 21.

**JOINDER OF PARTIES** in action for infringement, 150.

**JOINT APPLICANTS FOR A PATENT** might be inventor and non-inventor, 23.

**JOINT INVENTORS** may apply for patent, 23.

**JOINT ASSIGNEES OR OWNERS OF PATENT**

Have all the powers of patentee, 130.

Mutual rights, 130, 198.

**JOINT PATENTEES**

May manufacture, license, or use invention independently of each other, 130, 198.

Entries by one prejudicial to another may be expunged, 216.

**JUDGMENT:**

Effect of, in action for infringement, 165.

Costs usually follow event, 166.

May be appealed against to Court of Appeal, 172.

Shorthand notes for Court of Appeal, 173.

Judgment of Court of Appeal may be appealed to House of Lords, 173.

**JUDICIAL COMMITTEE**

Hear petitions for prolongation, 188 to 195.

“ “ for compulsory licences, 205 to 211.

**JURISDICTION OF COURTS:**

Of High Court to vary Register, 216.

Jurisdiction of Irish Court *re* Register, disclaimer, 217.

*Contra* by Court of Session in Scotland, 217.

Launcester Palatine Court can try infringement actions, 149.

County Courts no power where validity of patent concerned, 149.

Courts in Scotland and Ireland have power to try infringement actions, 543 544.

**JURY:** Patent actions generally tried without, but Court has power to direct otherwise, 163.

**KING'S BIRTHDAY:** Provision for paying fees and leaving documents on day following (Section 98), 538.

**KNOWLEDGE** (*see* COMMON KNOWLEDGE).

**LACHES:**

Delay in applying for interlocutory injunction may prejudice plaintiff, 152.  
*See also* DELAY and ACQUIESCENCE.

**LANCASTER COURT:**

County Palatine of, has jurisdiction to try patent actions, 149.  
Jurisdiction extended as to revocation proceedings, 174.  
*See also* COURT OF APPEAL.

**LAW OFFICER**

Means Attorney-General or Solicitor-General for England (Section 117), 547.

Appeal to, from Comptroller, 17.

Opinion of, as to what constitutes claim within Statute, 94.

Objection to voluminous declarations in opposition, 108.

Will admit illustrative examples, 109.

Appeal to, from Comptroller's decision, 111.

Rules of practice on appeal, 111 to 113.

Proceedings before, on appeal, 113.

May receive new evidence, 113, 114.

But not new grounds of opposition, 114.

Persons entitled to oppose before, 114 to 116.

Test of evidence in alleged fraud, 117.

On relationship of master and servant, 118, 119.

Never considers validity of opponent's patent, 119.

Rules as to inserting disclaiming clauses, 121.

Rules as to limitation of master patent, 122.

May consider quantum of invention, 124.

„ doctrine of mechanical equivalents, 125.

May examine witnesses on oath, 118.

Decision of, final, 127.

„ „ as regards person entitled to oppose amendment, 116, 140.

Appeal to, from Comptroller's decision on amendment, 140.

Power of, to impose conditions on amendment, 138, 139.

Prefer to leave imposition of conditions to Court, 139.

Query by Webster, Master of Rolls, as to power of Law Officer to impose conditions in amendments *pendente lite*, 143.

Will not impose terms in excess of those imposed by Court, 145.

Fiat of Attorney-General in petition for revocation, 175.

Attorney-General may object to prolongation, 192.

**LAW OFFICER'S RULES** regulating practice on appeals from Comptroller, 111 to 113.



**LEGAL PROCEEDINGS :**

Provisions of Patent Act, 1883 (Sections 28 to 32), 505 to 507.

*See also* AMENDMENT OF PLEADINGS, APPEAL, ACTION FOR INFRINGEMENT,  
ACTION AGAINST PATENTEE FOR THREATS, PROLONGATION OF PATENTS,  
*and* REVOCATION OF PATENT.

**LEGAL REPRESENTATIVE** of deceased inventor or applicant may apply  
for or obtain patent, 25.

**LETTERS PATENT FOR INVENTION :**

Origin of, 3.

Early history, 3, 4.

Examples of early patents, 3, 4.

Granted for one invention only, 9; *see also* Rule 9, 231.

" " " (Section 33), 507.

Sealing of patent, 17, 128.

Period of grant, 128.

Patent dated as of day of application, 128.

Sketch of procedure in obtaining, 13 to 21.

Applying for, with Provisional Specification, 17.

" " Complete Specification, 18.

Examination of application for, 14, 15.

Cover the United Kingdom and Isle of Man, 21.

Fees for maintaining, in force, 128, 129.

Persons to whom, may be granted, 22 to 25.

Duplicate of, may be obtained on loss or destruction, 133.

Co-applicants for, 23.

May be obtained by mere importer, 23.

Legal representative of inventor may obtain, 22, 25.

May be obtained for communicated invention, 22, 25.

Subject-matter of, 26 to 74.

Title of, 75.

Grant of, may be opposed, 105.

Sealed with seal of Patent Office, 128.

Time within which sealing must be effected, 128.

Grant of, is personal estate, 129.

Transmissible by assignment &c., 129.

Mutual rights of co-proprietors, 129, 130.

Joint interest passing by survivorship, 129, 130.

Is entered on Register, 131.

May be mortgaged, 130.

Changes affecting proprietorship &c. of, should be registered, 131.

Prolongation of, 188.

Form of Letters Patent, 255.

Not obtainable for illegal or immoral objects, 54.

Duplicate of, may be issued when lost or destroyed, 133, 508.

**LICENCE :**

- Nature of, 200.
- Species of licences, 200.
- Exclusive, general, and restricted, 200.
- Implied, to purchaser from authorised vendor, 200.
- Ordinarily, not assignable, 200, 201.
- Sub-licences not grantable by licensee, 201.
- Should be under hand and seal, 201.
- Might be oral, 201.
- Effect of, as regards estoppel, 201.
- For full term of patent, 200.
- Determination of, 202.
- Relationship of licensor and licensee after determination of, 202.
- When not revocable at will, 202, 204.
- Points to be considered in granting and accepting, 202.
- Provisions for payment of renewal fees, 203.
- Does not entitle licensee to sue for infringement, 203.
- Exclusive, amounting to assignment, 204.
  - Does not constitute a conveyance, 204.
- Obligations and covenants of licensee under, 204.
- Mutual obligations, 204.
- Fraud by licensor, 204.
- Should be entered on Register, 204.
- Ad valorem* stamp on registration, 205.
- See also COMPULSORY LICENCES.

**LICENSEE**

- Cannot sue alone for infringements, 204.
- During continuance of licence cannot dispute validity, 201.
- Invalid patent may be binding on, 201, 203.
- Terms of licence might cause or prevent estoppel, 201.
- May repudiate licence in case of fraud by licensor, 204.
- Liability of, on covenants, 202, 203.
- Cannot assign licence, 200.
- Should register licence, 204.
- May appear on petition for compulsory licence, 211.
- Has *locus standi* to oppose grant of similar subsequent patent, 115.
- Might be subject to conditional use of invention, 148, 204.
- Covenants imposed on, 204.
- Delivery of defence in action for royalties is not a notice to terminate the licence, 202.

**LICENSOR**

- Does not impliedly warrant validity of patent, 201.
- Not obliged to pay annuities on patent unless provided for, 203.
- Fraudulent, must repay all royalties paid under licence, 204.

**LITTERÆ PATENTES:** Former royal grants made by, 3.

**LONDON GAZETTE:** Advertisement in, of petition for prolongation of patent, 189.

**LORD ADVOCATE:**

Authorisation by, in presenting petition for revocation, 174.

Action of reduction at instance of, 176.

**LORD CHANCELLOR:** Saving for existing rules by (Section 115), 546.

**LORD ORDINARY** means "the Court" in Section 111 of Patent Act, 544.

**LOST PATENT** may be replaced by duplicate, 133, 508.

**LUNATIC** may be applicant for patent, 22.

**MACHINE**

Is good subject-matter for patent, 28.

New mode of using old, 29.

Slight advance on existing, 29.

Mere placing together of two old machines not subject-matter, 31.

Machines composed of old parts narrow in scope of claim, 37.

**MAKING:** Licence to make involves licence to sell, 200.

**MALA FIDES**

Invalidates grant, 84.

Fatal to petition for prolongation, 189.

**MANDAMUS:**

No mandamus to compel Comptroller to hear opponent without interest, 116.

**MANUFACTURE:**

Invention must be "new manufacture," 26.

"Manufacture" in its limited sense, 39.

Construction of the term in Statute of Monopolies, 26, 27.

Means apparatus for making, 27.

The process of making, 27.

The product, 27.

Excludes a mere principle, 27.

Includes a new machine, 27, 28.

„ new combinations of mechanical parts, 28.

„ improvements in existing manufactures, 39.

„ new products, 44.

„ „ processes, 46.

„ „ principles coupled with means for carrying those into effect, 48.

See also *INVENTION* and *SUBJECT-MATTER OF PATENTS*.

**MARRIED WOMAN** may be patentee, 22.



**MASTER AND SERVANT:**

Master has no right to servant's invention, 24, 118, 119.

Not even when made in employer's time and with his tools, 24, 118.

But workman assisting inventor to perfect invention has no right to patent details, 24, 118.

Infringement by workman makes master liable, 148.

**MASTER PATENT:**

In opposition to grant, opponent possessing master patent may obtain special reference, 122.

Principles of Law Officer in ordering special reference to, 122.

Construction of alleged, 122, 123.

Duty of opponent alleging, 122.

Where applicant's invention is slight, the alleged master patent not to be narrowly construed, 123.

Master patent for specific purpose, 52.

**MECHANICAL EQUIVALENTS:**

In opposition to grant, Law Officer may consider the question of mechanical equivalents, 125, 126.

Mere equivalents are infringements, 98.

What are, may be referred to experts in actions for infringement, 164.

Doctrine of, does not go far in patents for mere combinations of old parts, 37.

**MERGER OF PATENT, in Crown, 23.****MERIT**

Of invention a prime consideration in petition for prolongation, 192.

*See also* UTILITY.

**MISREPRESENTATION OR MISDIRECTION**

In specification invalidates patent, 84 to 86.

By marking unpatented article "Patent," 219.

By use of Royal Arms, 220.

By unregistered Patent Agent, 221.

**MISTAKE**

In specification or drawings may be amended, 135.

In entries in Register may be corrected, 216.

**MODELS of inventions may be used in opposition to grant, 109.****MONOPOLIES:**

Royal grants of, 3, 4.

Instances of early grants, 3, 4.

Abuses of, *temp.* Elizabeth, 4.

Done away with by Statute of Monopolies, 4.

Exceptions in favour of inventions, 4.

Limited to "manufactures" new at the date of grant, 4, 5.

*See also* STATUTE OF MONOPOLIES.

**MORTGAGE** capable of registration, 216.

**MORTGAGEE**

Should join with mortgagor in amending patent, 135.  
Ought to be a party to petition for prolongation, 188.

**MOTION OR SUMMONS**

For leave to amend specification *pendente lite*, 141.  
To vary entry on the Register, 216.  
Application to serve notice of motion with writ, for interlocutory injunction, 151.

**MUNITIONS OF WAR**: Assignment of, to Secretary of State (Section 44), 510 to 512.

**MUSEUM (PATENT)**: Control of (Section 41), 510.

**NEW TRIAL** on ground of surprise, 164.

**NEW USE OF OLD THING**: Subject-matter for patent, 35.

**NON-USER OF INVENTIONS**

May cause refusal of petition for prolongation, 194.  
May be explained by circumstances, 194.

**NOVELTY OF INVENTION**:

Patentable invention must be new, 60.  
Construction of subsidiary claims, 61, 62.  
General rule as to novelty, 63.  
Requirement of, in Statute of Monopolies, 26.  
Novelty within United Kingdom meant, 60.  
All claimed matter must be novel, 60.  
Invention must not have been previously published or used, 60, 61.  
Novelty in process, 62.  
    " combination, 61.  
Prior user destroys novelty, 64.  
Effect of experimental user, 64.  
Private experimental user for profit destroys, 64.  
    But otherwise if goods not sold, 65.  
Secret user, 65.  
Showing samples, 65.  
Single user on private premises, 65.  
Discontinued prior user may destroy, 65, 66.  
Abandoned experiments do not, 66.  
Prior user might be clumsy infringement *after* patent, but not anticipation *before*, 66.  
Effect of publication during abandoned provisional protection, 66, 67.  
    " " in book, specification, periodical, or report, 68.  
General rule as to what constitutes publication, 68, 69.

**NOVELTY OF INVENTION—continued.**

Novelty destroyed by prior publication of book in foreign language, 69.

                  "                  "                  "                  drawing alone, 69.

Novelty not destroyed by mosaic of anticipations, 69, 70.

Effect of paper anticipations on, 70.

Insufficient prior specification might destroy, 70, 71.

*See also* ANTICIPATION OF INVENTION, PRIOR GRANT, PRIOR PUBLICATION,  
and PRIOR USER.

**OBJECTIONS (see PARTICULARS OF OBJECTIONS).****OFFENCES AND PENALTIES:**

Falsely representing an article to be patented, 219.

Representation under expired patent, 219.

          "          "          "          provisional protection, 219.

          "          "          "          accepted Complete Specification, 219.

Use of Royal Arms, 220.

Falsification of Register or of extract therefrom, 220.

**OFFICIAL FORMS** purchasable at post-offices, 13.

**OFFICIAL JOURNAL:** Provision for publication of (Section 40, Sub-sections 1 and 2), 509.

**OFFICIAL REFEREE:** Action for infringement might be referred to, 164.

**OLD:** New mode of using old machine is subject-matter, 35.

**OMISSION** of step in former process may be subject-matter, 47.

**ONE INVENTION:** Patent should cover one invention only, 9.

**OPPONENT TO GRANT OF PATENT**

May be patentee, assignee, or manufacturer under existing or lapsed prior patent, 114 to 116.

May be applicant having Complete Specification accepted, 107, 116.

    ,, licensee under prior patent, 115.

    ,, any person from whom the invention has been obtained, 106, 108, 118.

May be any person whose invention protected after date of applicant's Provisional has been incorporated in his Complete, 126, 127.

May be any person having an ascertainable substantial interest, 116, 117.

**OPPOSITION**

To grant of patent—

    Advertisement of acceptance of Complete, 105.

    Invitation to oppose grant within two months, 105.

    Publication of specification, 105.

    Persons entitled to oppose, 106, 114 to 116.

    Grounds of opposition, 106.



OPPOSITION—*continued.*To grant of patent—*continued.*

Opponent having *locus standi* may include any other patents, 106.

Notice of opposition and its contents, 107.

Person having Complete Specification accepted may oppose as patentee, 107.

Opposition founded on expired patent, 109.

Comptroller has power to cure informalities in notice of opposition at or before hearing, 107 (*see also* Rule 76), 249.

Declarations in support by opponent, 107.

„ by applicant in reply to opponent, 108.

„ in rejoinder by opponent, 108.

Comptroller may extend time for filing declarations, 108.

Extension of time never allowed where fraud alleged, 108 (Rule 33), 440.

Declarations to be few and concise, 108.

„ may be dispensed with, 108.

Applicant may limit ambit of opponent's claim by citing prior specifications and public knowledge, 109.

Exhibits to declarations, 109.

Illustrative samples may be shown at hearing, 109.

Hearing before Comptroller, 110.

Opponent cannot raise fresh grounds of opposition at hearing, 110.

Decision of Comptroller, 110.

## Appeal to Law Officer, 111.

Rules regulating appeals, 111.

Appeal a rehearing, 113.

Acceptance by either party of Comptroller's decision, 113.

Proceedings before Law Officer, 114.

Rules as to admission of further evidence before Law Officer, 114.

Opponent may be assignee of or manufacturer under lapsed patent, 115.

„ „ grantee of existing or expired patent, 115.

Applicant having Complete Specification accepted, 116.

Opponent may be licensee under prior patent, 115.

Opponent may be any person having ascertainable substantial interest, 116.

Opponent may be any person from whom the invention has been wrongfully obtained, 117.

Opponent may be any person whose invention, protected after the date of applicant's specification, has been incorporated in applicant's Complete, 126.

Applicant under foreign antedated accepted Complete not entitled to oppose, 115.

Patent agent not entitled to oppose on behalf of client, 115.

Person about to manufacture under prior patent not entitled to oppose, 115; but query *re Meyer*, 116.

Opponent must show that prior invention has been claimed, 117.

In alleged fraud Comptroller only considers transactions in the United Kingdom, 117.

OPPOSITION—*continued.*Appeal to Law Officer—*continued.*

Test of evidence of fraud, 117, 118.

Patent might be jointly issued to applicant and opponent, 118.

Cross-examination of parties before Law Officer, 118.

Relationship of master and servant, 118, 119.

Grant to applicant seldom refused unless similarity very close, 119.

Validity of opponent's patent never considered, 119.

Disclaimer sometimes required in applicant's specification, 120.

Special reference to master patent, 120.

Duty of opponent claiming master patent, 122.

Disclaimers protect the public, 121.

Slight alteration by applicant may meet opposition, 120.

Grounds for ordering special references, 121.

Applicant's invention an improvement on opponent's, 121.

Master patent may be limited by prior references or by claims, 122.

Where applicant's invention narrow, alleged master patent not so strictly construed 123.

Special reference never given to concurrent application, 123.

" " given to expired patent, 123.

Quantum of invention may be considered by Law Officer, 124.

Applicant may obtain patent for reduced claim, 124.

But residuum must have been in the original claim, 124.

Applicant not allowed to shift his ground, 125.

If residuum appears trifling, patent may be refused, 125.

Law Officer may give effect to doctrine of mechanical equivalents, 125.

Applicant who has incorporated intermediate improvements protected by opponent will be caused to strike them out, 126.

But applicant may show that these are legitimate developments of the Provisional, 126, 127.

Decision of Law Officer final unless in case of fraud, 127.

## To amendment of specification—

Persons entitled to oppose amendment must have substantial interests, 140.

Limit of time for opposing amendment, 140.

Notice of opposition, 140.

Proceedings and practice same as those in opposition to grant, 140.

Opponent to amendment cannot obtain special reference, 137.

Applicant for amendment must not impute disadvantage to opponent's invention, 137.

Conditions not now imposed by Law Officer, 138.

Opposition to amendment *pendente lite*, 142, 143.

Defendant in action for infringement entitled to oppose amendment, 144, 145.

## To prolongation of term of patent—

Opponent not required to show such personal interest as in opposition to grant or amendment, 191.

*Caveat* to be entered by opponent, 190.

**OPPOSITION—continued.**

To prolongation of term of patent—*continued.*

Grounds of opposition to be filed by opponent, 191, 192.

Attorney-General may be heard for the Crown, 192.

Attorney-General need not give notice of his grounds of objection, 192.

Opponent should state fully in his *caveat* all particulars of objection, 191, 192.

Attorney-General not tied by particulars, 192.

Opponent may appear personally or by counsel, 192.

Evidence of invalidity of patent may be given by opponent, 194.

Successful opponent gets taxed costs, 195.

Abandonment of petition entails costs payable to opponent, 195.

**ORDER FOR EXTENSION OF TERM OF PATENT**

Entails issue of new Letters Patent dated from expiry of original, 193.

Should be taken to Patent Office and entered on Register, 217.

**ORDER OF COURT**

Affecting Register should be duly entered, 217.

Order of revocation should be entered on Register, 217.

**ORIGIN OF LETTERS PATENT, 3.****OWNER**

Of patent may sue for infringement, 150.

Co-owner also may sue independently, 130.

Surviving owner takes by survivorship, 129, 130.

**PALATINE COURT OF LANCASTER** has jurisdiction to try patent actions, 149.

**PART OF INVENTION** : If part of claimed invention is bad, the whole is bad, 60, 61.

**PARTICULARS OF BREACHES**

Must be delivered with statement of claim, 153.

All alleged instances of infringement to be set forth, 153.

Date, place, and name must be set forth, 153.

Object of particulars of breaches, 153.

Allegation of infringement should be unqualified, 153, 154.

Qualifying words may be struck out, 154.

Claim infringed should be pointed out, 154.

Infringements not specified cannot be proved, 154.

May be amended from time to time by Order, 158.

Application to amend made by summons, 158.

Might be made at trial of action, 158.

*See also* ACTION FOR INFRINGEMENT.

**PARTICULARS OF OBJECTIONS**

In action for infringement—

Must be delivered with defence, 154.

To be divided into paragraphs, 154.



**PARTICULARS OF OBJECTIONS—continued.****In action for infringement—continued.**

Must give full particulars of all grounds alleged to invalidate patent, 154

Prior specifications and books to be identified, 154.

When necessary, pages, lines, and figures to be given, 154.

Under Scotch practice this not necessary, 154.

Claims objected to in plaintiff's specification should be specified, 155.

But only when plaintiff's specification is long and involved, 155.

Application by summons for further particulars, 155.

Present practice in such applications, 155.

Usually identification of lines and pages not forced on defendant, 155.

Allegations of prior user must give full particulars, 155.

Prior common knowledge may be alleged without giving particulars, 155.

Particulars must be given of insufficiency, 156.

„ seldom ordered of non-utility, 156.

„ always ordered of disconformity, 156.

Query if particulars must be given of prior grant, 157, 158.

May be amended from time to time, 158.

„ „ at trial of action, 158.

Court of Appeal might allow amendment, 158.

Amendments at trial not usually granted, 158.

New evidence must not have been discoverable before, 158.

Discretion of Judge on giving leave to amend, 158, 159.

Usual conditions imposed on amendment, 158, 159.

Conditions imposed on repeated amendments, 159, 160.

*See also ACTION FOR INFRINGEMENT.*

**In action for threats—**

Plaintiff must give particulars of threats, 184.

In verbal threats, name of recipient and words used must be given, 184.

Plaintiff attacking validity of patent must give particulars of objections, 184.

If defendant pleads infringement, and alleges validity of patent, he must give particulars of breaches, 184.

**In proceedings for revocation—**

Full particulars of objections must be delivered with petition, 178.

Particulars may be amended from time to time by leave, 178.

**PARTIES****In action for infringement—****Plaintiff—**

May be patentee, 150.

„ assignee, 150, 151.

„ mortgagor, 150.

„ co-owners or one co-owner, 150.

„ assignee of bankrupt patentee, 150.

Licensee cannot sue, 150.

Nor exclusive agent for sale, 150.

**PARTIES—continued.****In action for infringement—continued.****Defendant—**

- May be infringing manufacturer, 146.
- „ seller of goods, 146.
- „ user of goods, 146.
- „ exhibitor, 148.
- „ carrier of goods, 149.
- „ a corporation, 151.
- „ the master of an infringing workman, 148.
- „ advertiser of infringing goods, 147.
- „ repairer of patented goods, 148.
- „ licensee or purchaser disregarding attached conditions, 148.
- „ importer of infringing goods, 148.

**PARTNERS** of patentee estopped from denying validity of patent, 165.

**PATENT**

Differentiated from Trade Marks and Designs, 1.  
See **LETTERS PATENT**.

**PATENT ACT OF 1902:**

Amendments affected by, 10, 11.  
Operative dates of Sections, 11.

**PATENT AGENTS:**

Functions and advantages of employing, 10, 20  
Act of 1866 relative to, 220  
Registration of, 221  
Penalty for false description as "Patent Agent," 221  
Admission to roll by examination, 221  
Persons entitled to registration, 221  
Annual registration fee, 221  
Patent Agents Rules of 1866 held in force, 221  
Effect of Patents Rules of 1866 on, 222  
Chartered Institute of Patent Agents, 222  
Conventions with and without, 104

**PATENT APPLICANTS:**

are held to be "inventions" the subject of Letters Patent, 220  
False statements by, 221, 222  
Oaths of, 221, 222, 223, 224, 225, 226, 227, 228, 229

**PATENT OFFICE:**

Business hours, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229  
Complaints against, 221, 222, 223, 224, 225, 226, 227, 228, 229  
Costs of, 221, 222, 223, 224, 225, 226, 227, 228, 229  
Examination of, 221, 222, 223, 224, 225, 226, 227, 228, 229  
Fees of, 221, 222, 223, 224, 225, 226, 227, 228, 229

**PATENT OFFICE—continued.**

Powers of Board of Trade as to (Sections 83, 101), 534, 539.

Cutlers' Company's Office (Section 81), 529.

Applications to be left at or sent to (Sections 5, 11, 18, 45, 62, 69),  
490 *et seq.*

Representation of inventor at, by agent (Patent Rule 81), 251.

Examiners at, 14, 15, 75, 110.

Notice of opposition to be given at, 107.

Trusts not registered at, 214.

Order for revocation of patent to be left at, 180.

„ prolongation of patent to be left at, 217.

When open to public (Patent Rule 70), 250.

Communications with, may be had by post, 13.

Petition for compulsory licence to be left at, 207.

**PATENT OFFICE LIBRARY:** German specification in, as prior publication, 69.

**PATENT OFFICE PUBLICATIONS** to be issued by Comptroller  
(Section 40), 509.

**PATENT OFFICE REPORTS:** Publications provided for (Section 40), 509.

**PATENT RULES, 1903 to 1906 (CONSOLIDATED),** 220 to 251.

**PATENTEE:**

Who may be a, 22, 23.

Foreigner may be, 22

Infants, lunatics, and corporate bodies, 22

Exceptions to general rule, 22, 23

Joint patentees, 23

Importers of inventions, 23, 24

Deceased inventor's representatives, 20

Agents of inventors abroad, 20

Means for suit for time being entitled to benefit of patent (Section 40), 510

**PATENT DEVICES AND TRADE MARKS ACTS 1869 to 1907  
(CONSOLIDATED),** Appendix B, 100

1869 Principal Act

1880 Amending Act—deposition, extension of time by acquisition of  
property—publication of specification—joint patents.

1889 Amending Act—provisional designs—publication of unopposed  
specifications.

1893 Amending Act—patent agents—power to do business of patentees  
in the United Kingdom—provision of reports—Board of Trade  
patentees—provision of evidence—Patent Court.

1899 Amending Act—provisional designs—*et seq.*

1902 Amending Act—provisional designs—*et seq.*

1903 Amending Act—provisional designs—*et seq.*

1906 Amending Act—provisional designs—*et seq.*



**PENALTIES** (*see* OFFENCES *and* PENALTIES), 219.

**PERSON** includes body corporate (Section 117), 547.

**"PERSON AGGRIEVED"** (*see* AGGRIEVED PERSON).

**PETITION** (*see* COMPULSORY LICENCE, PROLONGATION OF PATENTS, *and* REVOCATION OF PATENT).

**"PITH AND MARROW"** OF INVENTION: Court of Appeal on, 38.

**PLEADINGS** (*see* ACTION FOR INFRINGEMENT *and* ACTION AGAINST PATENTEE FOR THREATS).

**POSSESSION**: Undisturbed, favours patentee in application for interlocutory injunction, 151.

**POST**: Communication with Patent Office may be made by, 13.

**PRACTICE** (*see* ACTION FOR INFRINGEMENT, ACTION AGAINST PATENTEE FOR THREATS, INJUNCTION (INTERLOCUTORY), REVOCATION OF PATENT, TRIAL, &c.).

#### PRINCIPLE

Cannot be patented, 48 to 53.

Depending on abstract law of nature, 48.

Apparatus for or method of utilising a, is patentable, 49, 50.

May be claimed coupled with means for utilisation, 51.

Examples of principle coupled with means for carrying into effect, 49, 50, 52.

Example of bare principle held invalid, 51.

Distinction between "principle" and "essence," 51, 52.

Dr. Martin on the patenting of principles, 52.

If every mode of carrying a principle into effect is claimed, that is a claim to the principle itself, 50.

#### PROOF GRANT

As defence in action for infringement, 150.

Circumstances in which proof grant is available as defence, 150, 157.

Query as to particulars of proof grant, 151, 155.

#### PROOF PUBLICATION

Relates to publication in the United Kingdom only, 159.

In book, periodicals, newspaper or pamphlet, 159.

By drawing alone, 159, 160.

In Government Report, 159.

By public lecture, 159.

General rule as to what constitutes publication, 159, 160.

Right to be treated as publication, 159.

What is or is not publication, 159.

As respects the prior art of a foreign country, 161.

As to publication of a complete specification, 161.

**PRIOR PUBLICATION—continued.**

Mosaic of extracts not permissible, 69, 70.

Prior invention need not have been worked if clearly published, 70.

“Paper anticipations,” 70.

Lord Westbury on “paper anticipations,” 70.

Will suffice if understood by “highest class” of workmen, 70.

A prior publication, insufficient as a specification, might be sufficient as an anticipation, 70, 71.

General rule as to sufficiency of “paper anticipations,” 70.

Searches to ascertain prior publications, 71.

Publication during currency of abandoned Provisional, 68.

See also **PRIOR USER.**

**PRIOR USER:**

Prior user in public manner will void subsequent patent, 64.

Mere experiment will not, 64.

Nor even manufacture under confidential conditions, 64, 65.

But experiments must not be utilised for profit, 64.

Prior sale of goods made by experimental apparatus voids subsequent patent, 64.

Secret prior user not for purposes of profit, 65.

Showing sample of invention in non-confidential manner, 65.

Manufacturing and storing goods in quantity prior to date of patent, 64, 65.

One uncommercial user in private premises, 66.

Discontinued, will void patent, 65.

Even if anticipating article no longer exists, 66, 66.

Evidence depending on memory, 66, 66.

Abandoned experiment not anticipation, 66.

Alleged, might be clumsy infringement after patent, but no anticipation before, 66.

Public user during currency of abandoned Provisional, 66, 67.

See also **PRIOR PUBLICATION.**

**PROFITEER:**

None as to communications between patent agent and patentee, 106.  
Others or members of corporate body, 106.

**PROVISIONAL:**

Patent for publication objected to, 105.  
See also **PUBLICATION OF PATENTS.**

**PROVISIONAL PATENT:**

Under status of abandoned not void, 67, 67.

Under 31 of 1882, 67.

Under 31 of 1882, 67, 67.

Application for patent, 67.

**PROCEDURE IN OBTAINING PATENTS—continued.**

- Declaration on application, 13.
- Provisional protection, 13.
- Certificate of filing, 13.
- Advertisement and acceptance, 13.
- Complete Specification must be filed within six months, 14.
- Certificate of filing Complete, 14.
- Comparison of Provisional with Complete, 14.
- Examination as to novelty, 15.
- Advertisement of acceptance of Complete, 15, 17.
- Period for opposition to grant, 17.
- Filing Complete with application, 17.
- Sealing and issue of patent to applicant, 21.
- Extension of time to file Complete, 20.
- Complete may be filed with application, 18.
- Opposition may be entered to grant, 17, 105.
- Appeal to Law Officer, 17.

**PROCESS :**

- A process is good subject-matter for a patent, 39, 46.
  - Or improvements in existing processes may be, 39.
  - Or in part of a process, 40.
- New combination of old materials in, is subject-matter, 46.
- For making old things in more economical manner, 47.
- Addition to or subtraction from is subject-matter, 47.
- May be claimed in conjunction with product and apparatus, 48.
- In chemical, analogy does not go far, 47.
- See also SUBJECT-MATTER OF PATENTS.

**PRODUCT**

- Is good subject-matter, 41.
- Lord Halsbury on, as subject-matter, 45.
- Lord Davey on, as subject-matter, 45.
- New compositions of materials, 45, 46.
- New woven products, 46.
- See also SUBJECT-MATTER OF PATENTS

**PROFIT (or ACCOUNT) IN PROFITS, ACTION FOR INFRINGEMENT, and EXTENSION OF TERM OF PATENT).****PROLONGATION OF PATENTS (or EXTENSION OF TERM OF PATENT).****PROPERTY**

- Patent can be a potential property, 130
- Co-patentees have joint interest post-est by survivorship, 130, 131

**PROPERTY IN**

- In process, cannot be registered as 107
- In a separate subject, 100



**PROSECUTING "WITH DUE DILIGENCE"** (see ACTION AGAINST PATENTEE FOR THREATS).

**PROVISIONAL PROTECTION**

First introduced by Act of 1852, 8.

Object of, 77.

Invention may be publicly worked during, 17.

**PROVISIONAL SPECIFICATION**

First introduced by Act of 1852, 8, 77.

Form and fees on, 13.

Certificate of filing, 13.

Comparison of Provisional with Complete, 14, 15.

Provisional a secret document during protection, 13.

Advantages of filing Provisional with application, 17.

Title of, 75.

Must properly indicate the invention, 75.

Must neither be too wide nor too narrow, 75, 76.

Supervision of Comptroller over, 75, 76.

Example of objection to, 76.

Fancy titles not accepted, 76.

Must ascertain nature of invention, 77.

Must be sufficient to earmark invention, 77.

Should not describe invention too minutely, 77.

Should be sufficiently elastic to admit of development, 77.

Byles, J., an office of, 78.

Fry, J., " 78.

Not necessary to detail advantages of invention in, 79.

Remains a secret document till acceptance of Complete, 79.

If no Complete filed, is considered abandoned, 67, 79.

Preserved in Patent Office after abandonment, 79.

If abandoned, might afterwards be produced by Patent Office on Order by Judge, 79.

**PUBLIC:**

Statute of Monopolies to benefit public, 4, 5, 7.

No anticipation by book inaccessible to, 69.

Disclosure of invention to, 63.

Patent must benefit, 102.

Requirements of, must be satisfied (compulsory licence), 206.

Interests of, considered in granting prolongation, 102.

Object of disclosure in opposition is chiefly to protect public, 120.

Satisfaction of public demand and commercial success are evidences of utility, 79.

**PUBLIC AUTHORITIES PROTECTION ACT.** Costs as between collector and agent, 171.

**PUBLIC KNOWLEDGE:**

No particulars of, required in Particulars of Objections, 155.  
*See also* PRIOR PUBLICATION *and* PRIOR USER.

**PUBLIC USER:**

Prior public user invalidates subsequent patent, 64.  
*See also* PRIOR PUBLICATION *and* PRIOR USER.

**PUBLICATION** (*see* ANTICIPATION OF INVENTION, NOVELTY OF INVENTION, PRIOR PUBLICATION, *and* PRIOR USER).

**PURCHASER**

Of article which infringes is an infringer, 146.  
 From person licensed to make or sell has implied licence to use or resell, 148.  
 Of patented article subject to limitation as to use, must have conditions brought to his notice at time of purchase, 148.  
 Interrogatories as to, of infringing articles, 161.  
 Of patented article must not renew essential of invention, 148.

**REALM:**

"Novelty" means novelty within the realm, 60.  
 In opposition to grant, grounds of opposition must have arisen within the, 117.

**RECITALS IN LETTERS PATENT** (*see* FORM OF LETTERS PATENT), 255.

**RECTIFICATION OF THE REGISTER OF PATENTS** (*see* REGISTER OF PATENTS).

**REDUCTION:** Proceedings for revocation in Scotland are in form of action of, 176.

**REFEREE:**

Court may call in scientific, in actions for infringement, 164.  
 Judicial Committee may remit to, 210.

**REFERENCES TO PRIOR PATENTS** (*see* OPPOSITION &c.).

**REGISTER OF PATENT AGENTS:**

Agent omitting to pay fee may be struck off, 221.  
 Comptroller may refuse to recognise agent not on, 222, 251.

**REGISTER OF PATENTS**

Kept at Patent Office, 214.  
 Purpose of Register, 214.  
 Entries of assignments, licences, &c., made in, 214.  
*Prima facie* evidence of contents, 214.  
 No notice of trust to be entered on, 214.  
 Equitable assignments may be entered in, 214, 215.  
 Rules governing entry of documents made before sealing, 215.  
 " " " " " " application, 215.

**REGISTER OF PATENTS—continued.**

Instance of non-registrable document, 215.

Pre-application document must identify invention, 215.

Registrable matter must be in writing, 215.

Mortgagee cannot be entered as proprietor, 216.

Alteration of entries in, 216.

Clerical errors in, may be altered, 216.

Varying the, by Order of Court, 217.

” ” ” ” in Scotland, 217.

Jurisdiction disclaimed by Irish Court, 217.

Order of Court to vary, may be appealed against, 217.

Effect of Order of Court should be entered in, 217.

Request for entry, 217.

Form of request, 217.

Body corporate may be entered as proprietor, 217.

Requests to enter in, to be accompanied by originals and attested copies, 217, 218.

Collateral documents or certified extracts may be required by Comptroller, 218.

Certified extracts from Register supplied by Comptroller, 218.

Patents Rules relating to, 244 to 247.

**REGISTRAR OF PRIVY COUNCIL:** Costs in petition for prolongation to be taxed by, 195.

**REMEDIES**

Of patentee (*see* ACTION FOR INFRINGEMENT).

Of public (*see* ACTION AGAINST PATENTEE FOR THREATS *and* REVOCATION OF PATENT).

**REMUNERATION OF INVENTOR:**

Prolongation must, directly or indirectly, tend towards benefit of original inventor, 188, 193.

Adequate remuneration of, 193.

*See also* EXTENSION OF TERM OF PATENT.

**RENEWAL FEES:**

List of, 128, 129.

Fees for extension of time to pay, 129.

Arrangements in exclusive licences as to who should pay, 203, 479.

**REPAIR OF PATENTED ARTICLE** is infringement if it involves renewal of essential part, 148.

**REPORT** to Government might constitute publication, 68.

**REPORTS OF PATENT CASES** published by Comptroller (Section 40), 509.

**RESIDENT IN UNITED KINGDOM** may patent invention communicated from abroad, 25.



**RESTRAINT OF TRADE** among reasons for applications for compulsory licence, 205.

**REVOCACTION OF PATENT:**

Action of *scire facias* abolished, 174.

Revocation now obtained by petition to Court, 174.

Lancaster County Palatine Court has jurisdiction in, 174.

Persons entitled to petition for, 174.

Fiat of Attorney-General or Lord Advocate, 174, 175.

Petitioner who has *locus standi* may attack patent on any proper ground, 175.

Proceedings in obtaining fiat of Attorney-General, 175.

Application for fiat may be made *ex parte* or otherwise, 175.

Granting of fiat in discretion of Attorney-General, 175.

No costs on application for fiat, 175.

Proceedings in Scotland for, by action of reduction, 176.

Persons having interest, 176.

Fraud as a ground of revocation, 176.

Master and servant, 176.

Successful petitioner, if true inventor, may have patent transferred to himself, 176, 177.

Or respondent may be made trustee, 177.

Evidence by petitioner of prior user or publication, 177.

Query as to imported invention, 177.

Prior public user, 177.

Use in private house, 178.

Analogous prior user, 178.

Petitioner must lodge particulars of objections, 178.

No statutory requirement to grant certificate of particulars, 178.

Grounds for revocation may include all those upon which a specification may be attacked in an action for infringement, 178.

Respondent cannot be estopped by former judgment, 178, 179.

„ may amend invalid patent, 179.

Conditions of such amendment, 179.

Order of procedure at hearing, 179.

Hearing may be by affidavit, or may be put in witness list, 179.

Order of revocation to be noted on Register, 180.

Costs in, 180.

Appeal, 180.

**RIGHT TO BEGIN**

In opposition to grant, rests with applicant, 110.

*Contra*, if opponent alleges fraud, 110.

In revocation proceedings, respondent begins, 179.

When evidence is given by affidavit, the respondent should file his evidence-in-chief first, 179, 180.

**RIVAL APPLICANTS:**

No references to concurrent applications in opposition, 123.

Patent might be issued jointly to, 118.

**ROYAL ARMS:** Prohibition against unauthorised use of, 220.

### ROYALTIES

Under licence might be payable even after premature lapsing of patent, 201, 203.

Covenant to pay, under licensee, 204.

Paid through fraud of licensor may be recovered, 204.

Reasonable, might be made condition of prolongation, 194.

**RULES, PATENTS, 1903 to 1905, 229.**

Law Officers', 111 to 113.

Privy Council, *re* compulsory licences, 208 to 210.

Board of Trade, *re* compulsory licences, 206 to 208.

### SALE

Of patent (*see* ASSIGNMENT).

Of patented articles without authority is infringement, 146.

Large sale of patented article is no proof of utility of invention, 73.

### SAMPLES

May be used before Comptroller in opposition to grant, 109.

May be ordered to be taken in action for infringement, 160.

Duplication might arise through showing, 65.

**SATURDAY:** Day following, for leaving documents or paying fees at Patent Office (Section 98), 538.

### SCIRE FACIAS:

Old action of, abolished by Act of 1883, 174.

*See also* REVOCATION.

### SCOPE OF PATENT

To be ascertained from claims, 93, 94.

How modified by use of words, such as "substantially" &c., 98.

Scope of subordinate claim might be modified, 100, 101.

### SCOTLAND:

Jurisdiction of Court with regard to rectification of Register, 217.

Revocation of patent in, effected by action of reduction, 176.

Fiat of Lord Advocate, 174, 176.

Practice in, with regard to particulars of objections, 154, 156.

Sheriff's Court for prosecuting in offences under Act (Section 108), 543.

### SEAL

Of Patent Office replaced Great Seal in 1878, 128.

Assignment of patent should be under, 196.

Licence valid though not under, 201.

### SEALING THE PATENT:

Limits of time for, 128.

To deceased inventor's representative, 128.

Extension of time for, 128.

**SECRET:**

Prior secret user for profit invalidates patent, 65.

In discovery in patent actions, person inspecting may be sworn to secrecy, 160.

Preservation of trade secret a reason for resisting inspection, 160.

Invention assigned to Secretary of State may be kept (Section 44), 510.

**SECRETARY OF STATE:**

Assignments to (Section 44), 510.

Invention so assigned may be kept secret (Section 44, Sub-sections 4 and 5), 510.

**SECURITY FOR COSTS:** Payment towards, in delivering interrogatories, 161.

**SEQUESTRATION** of goods of corporate body for breach of injunction, 165.

**SERVANT** (*see* MASTER AND SERVANT).

**SERVICE OF PETITION OR NOTICE OF MOTION ON FOREIGN PROPRIETOR**, 217.

**SHERIFF COURT:** Summary jurisdiction of, under Patents Act, 1883, 543.

**SHIP:** Necessary use of patent article in foreign ship in British waters, 146.

**SHORTHAND NOTES:** Costs of, at trial usually not allowed, 166.

**SIMPLICITY:** *Per* Lord Halsbury, No smallness or simplicity will prevent a patent from being valid, 56.

**SKILLED WORKMAN TEST**, 86.

**SOLICITOR AND CLIENT COSTS** (*see* COSTS).

**SOLICITOR-GENERAL** (*see* LAW OFFICER).

**SPECIAL REFERENCES AND DISCLAIMERS** (*see* OPPOSITION TO GRANT &c ).

**SPECIFIC PERFORMANCE** of agreement to assign a patent, 196.

**SPECIFICATION:**

First required in 1730, 6.

Economic consequences of, 6, 7.

Must be prepared with reasonable skill and knowledge, 20.

Methods of preparing and filing (*see* Chapter II., pages 13 to 21).

Title—

Title must ascertain invention, 75.

Comptroller may refuse imperfect title, 75.

Must be neither too wide nor too narrow, 75, 76.

Supervision exercised by Comptroller, 76.

Objections to title now seldom taken in actions for infringement, 76.

Examples of old cases on defective titles, 76.

Objections to defective title still hold good, 76.

Fancy titles disallowed, 76.



SPECIFICATION—*continued.*

## Provisional—

First introduced by Act of 1852, 77.

Now used in the bulk of applications, 77.

Method and forms for preparation of (*see* Chapter II., p. 13).

Advantages of Provisional, 17, 18.

Function of the Provisional Specification, 77, 78.

Should describe the invention in general terms, 77.

But sufficiently to earmark the invention, 77.

Should not be too precise in its terms, 77.

Development of invention during Provisional Protection, 77, 78.

Opinions by the Courts on the office of the Provisional, 78.

Advantages of invention need not be stated in, 79.

Provisional Specification a secret document until publication of Complete, 79.

May be abandoned, 19, 79.

Abandoned Provisional may be inspected by the Court, 79.

## Complete—

Must particularly describe and ascertain invention, 80.

Must not exceed scope of Provisional, 80.

Disconformity with Provisional avoids patent, 80.

Invention in Provisional must be the same as that in Complete, 80.

Examples of disconformity, 80, 81.

Disconformity compared with proper development of invention, 81, 88.

Examples of rulings where disconformity held not to exist, 82, 83.

How to claim post-provisional developments, 83.

Developments must arise from original invention, 83.

Claim for invention combined with accidental circumstances bad, 83.

Essential new element in combination claim may be bad, 84.

Where post-provisional development proves to be the only new essential in invention, patent is bad, 84.

Must be sufficient and full, 84.

Ambiguity and misdirection fatal to patent, 84.

Must be prepared in good faith, 84.

Reasonable skill and knowledge, 84.

Addressed to persons skilled in the art, 85.

Test of sufficiency of specification, 85, 86.

Skilled workman test, 86.

Evident errors not fatal, 86.

But errors only discoverable by experiment usually fatal, 86, 87.

Reasonable variations allowed in, 87.

Drawings must be added where necessary, 87.

But absence of drawings not fatal, 87.

Some advantages of drawings, 87, 88.

Omissions and errors in drawings usually fatal when relating to essence of patent, 88.

But *contra* when of less materiality, 88.

**SPECIFICATION—continued.****Complete—continued.**

- True function of drawings, 88, 89.
- Hints on the preparation of drawings, 89.
- Reproduction of drawings by process, 89.
- Drawings accompanying Provisional may serve to illustrate Complete (Act of 1886), 89.
- Differentiating old from new in Complete, 89, 90.
- In some cases differentiation unnecessary, 90, 91.
- Recent case where lack of differentiation proved fatal, 91.
- Where useful and useless methods are both claimed, patent is bad, 91.
- Construction of specification is for the Court, 91.
- Benevolent, malevolent, and fair construction, 91, 92.
- Lord Davey on modern principles of construction, 92.
- Amendment of (*see* AMENDMENT OF SPECIFICATION).

**Claims—**

- Complete must end with statement of claim, 93.
- Difficulty of framing claims, 93.
- Power of Comptroller to require claims, 93.
- Opinion of Herschell, S.-G., on what constitutes a claim, 94.
- Claim must refer to invention in Complete, 94.
- Absence of claim would not render patent invalid, 94.
- Object and purpose of claims, 94.
- Vague and "fishing" claims, 94.
- Danger of claims cast too wide, 94, 95.
- Failure of any essential part of claim renders patent bad, 95, 96.
  - „ alternative arrangement in claim usually fatal, 95.
- Court will not stretch claim beyond fair meaning, 96.
- Examples of failure of alternative arrangements in claims, 96.
- Claim on the face of it too wide may be restricted by evidence, 97.
- "Substantially as hereinbefore described" in claim, 98.
- Lord Alverstone on colourable alterations, 98.
- Principles, how far claimable, 99.
- Principles combined with means for carrying into effect, 99.
  - But the claim must not affect to claim every mode of carrying principle into effect, 99.
- A claim is not a disclaimer, 99.
- Apparently bad subordinate claim not necessarily fatal, 100, 101.
- Claim to be read with specification and not as an isolated sentence, 100.
- Bad claim not excused because "foolish or suicidal," 100.
- If essential and clearly necessary part is left out of claim, it may be read into claim by the Court, 100.
- Claim apparently in gross but really subsidiary may be sustained, 101.
- General principles governing the construction of apparently bad subsidiary claims, 101.
- Where an important and novel part of invention is described but left out of claim the Court will not read it in, 101, 102.

## SPECIFICATION—continued.

## Claims—continued.

- Presumption that no two claims are co-extensive, 102.
- Each claim must have separate effective meaning, 102.
- Claims, evidently surplus, do not affect validity, 102.
- Claim for separate part of combination useless *per se* is bad, 103.
- Claims for combinations of mechanism, materials, or chemical agents, 103.
- Rules in framing combination claims, 103.
- A novel essential in a combination claim is protected *per se*, 38, 103.
- Advisable to differentiate novel elements, 103.
- Rules for the preparations of claims, 103, 104.
- Amendment of (*see* AMENDMENT OF SPECIFICATION).

## Drawings—

- Must be attached to specification when necessary, 87.
- Advantages of drawings, 87.
- When omissions and errors in drawings may be fatal, 88.
- When such errors may be cured, 88.
- Feature in drawing but not in description may be held claimed, 88.
- How to prepare drawings, 89.
- Sizes and regulations concerning, 14.
- Absence of drawings not necessarily fatal, 87.
- True office of drawings, 88, 89.
- Reproduction of drawings for publication, 14, 89.
- Provisional drawings may be referred to in Complete, 89.
- Patent Act, 1886 (Section 2), relative to, 89.
- Amendment of (*see* AMENDMENT OF SPECIFICATION).

*See also* CLAIMS, COMPLETE SPECIFICATION, DISCONFORMITY, and PROVISIONAL SPECIFICATION.

## STATEMENT OF CLAIM

- In action for infringement of patent—
  - Heads of, 153.
- In action for restraint of threats—
  - Heads of, 183, 184.

## STATEMENT OF DEFENCE

- In action for infringement of patent—
  - Heads of, 153.
- In action for restraint of threats—
  - Heads of, 183, 184.

## STATUTE OF MONOPOLIES:

- Trade monopolies done away with by, 4.
- Sections 5 and 6 preserve patents for inventions, 4.
- “Invention” as defined in, 26.
- Section 6 of Statute, 26.
- “New manufacture” in Statute, 26 27.



**STATUTES :**

Patents Act, 1883	.	.	} Consolidated in Appendix C, 483.
" " 1885	.	.	
" " 1886	.	.	
" " 1888	.	.	
" " 1901	.	.	
" " 1902	.	.	

**STATUTORY DECLARATIONS**

In opposition to grant, 108.

In revocation proceedings, 175.

In petition for compulsory licence, 207.

With application for patent under Convention (Rule 14), 235.

**STAY OF EXECUTION**

On appeal, 171.

Stay of injunction seldom granted, 171, 172.

Reasons for staying injunction, 172.

**SUBJECT-MATTER OF PATENTS :**

As defined in Section 6 of Statute of Monopolies, 5, 26.

Must be some "manner of new manufacture," 26.

Meaning of "manufacture," 26.

Bare principle not, 27, 48.

When process is, 27.

Products are, 44.

Classes of, 28.

New machine for new purpose, 28.

" " " old purpose, 28, 29.

Improvements in existing machinery, 29.

Slight advance may be, 29, 30.

Obvious alterations are not, 30.

Improvements upon existing patents are, 30, 31.

New combinations are, 31.

Mere judicious arrangement is not, 31.

Mere stringing together of known things is not, 31.

But if invention required to combine known things, there may be, 32.

Combination of concretion and abstraction not, 32.

Combinations of known mechanism, 33.

Combinations of known parts usually narrow in scope, 33, 37.

Obvious combinations not, 33, 34.

Combinations of known parts formerly separately used for same purpose  
must possess new functional advantage, 34.

Combination containing essentially new feature, 37.

Combinations of materials and agents, mechanically or otherwise, 39.

Examples of improvements in stated manufactures, 39, 40.

**SUBJECT-MATTER OF PATENTS—continued.**

Obvious substitution of one known material for another for analogous purpose is not, 41.

But *contra* when invention required, 41.

Obvious analogous user not, 41, 42.

Except where invention is found, 42, 43.

Rule against analogous user not so strong in chemistry, 43.

No general rule on analogous user, 43.

Product *per se* may be, 44, 45.

A machine-made product as against a hand-made not, 45, 46.

Variations in weaving of cloths usually not, 46.

Apparatus, process, and product in one patent, 48.

New process for old purpose may be, 47.

Addition or omission in process or combination may be, 47.

Means for carrying new principle into effect, 48 to 53.

“*Quasi* principle” or “essential” of invention as, 51 to 53.

External form of mechanical element not, 53.

Inventions having illegal or immoral objects not, 54.

See also INVENTION, NOVELTY OF INVENTION, and UTILITY.

**SUBORDINATE INTEGER:** Claim for, 103.

**SUBSIDIARY CLAIM**

Apparently bad not necessarily fatal, 61, 100, 101.

Instances where upheld, 61, 100.

„ „ fatal, 100.

General rule in construing such claims, 101.

**SUBTRACTION** (*see* OMISSION).

**SUCCESS OF INVENTION:** Commercial success not *per se* proof of utility and invention, 58, 73.

**SUFFICIENCY OF SPECIFICATION** (*see* SPECIFICATION).

**SUGGESTION:** False suggestion invalidates grant, 84.

**SUMMARY CONVICTION:** Offences punishable by, 219.

**SUNDAY:** Patent Office closed on; day following for leaving documents and paying fees (Section 98), 538.

**SURVIVORSHIP:** Co-patentees possess a joint interest, passing by, 129, 130.

**TAXATION OF COSTS:**

Particulars to be allowed in, must be certified by Judge, 167.

Solicitor and client costs allowed where successful plaintiff possesses certificate of validity awarded in previous action, 153.

**TECHNICAL TERMS IN SPECIFICATION:**

May be used without explanation, 85.

Specification is addressed to persons skilled in the art, 85.

**TENANTS IN COMMON:**

Joint tenancy may be destroyed by severance of joint interest, 129, 130.

*See also* JOINT OWNERS *and* JOINT PATENTEES.

**TERM OF PATENT**

Granted for fourteen years, 128.

May be prolonged for further term at the discretion of Judicial Committee, 188.

**THIRD PARTY**

In petition for revocation, all persons having interest in patent must be made respondents, 179.

Assignees petitioning for prolongation should join original inventor as party to be benefited, 193, 194.

**THREATS OF LEGAL PROCEEDINGS BY PATENTEE:**

Persons aggrieved by threats of patentee may take action for injunction and damages, 181.

Unless patentee with due diligence commences an action for infringement, 182, 184.

Threats must be in respect of something done or intended to be done, 182.

General warning might be construed as threat, 182.

One threat will justify action, 183.

Threat might be by solicitor's letter, 183.

„ „ addressed to principal or customers, 183.

„ „ verbal, 183.

„ „ in reply to enquiry, 183.

Remedy of person threatened, 183.

Party threatened may challenge validity of patent, 183.

„ „ must give particulars of threats, 184.

Verbal threats are akin to slander, 184.

If patent attacked, particulars of objections must be given, 184.

Defendant patentee may counterclaim for injunction and damages for infringement, 184.

Plaintiff in reply may attack patent and give particulars of objection, 184.

Dual nature of such an action, 184.

What constitutes "due diligence," 184 to 186.

Separate actions for infringement and for threats discouraged, 185.

Procedure advisable in threats actions, 185.

Meaning of "prosecuted with due diligence," 186.

Person threatening is the person to bring the infringement action, 187.

Interlocutory injunction not easily obtained in threats action, 187.



**THREATS OF LEGAL PROCEEDINGS BY PATENTEE—continued.**

Measure of damages in threats action, 187.

Appeal to Court of Appeal and House of Lords, 187.

See also ACTION AGAINST PATENTEE FOR THREATS.

**TITLE**

Should exactly indicate invention, 75, 76.

See also SPECIFICATION.

**TRADE MARK** differentiated from patent and design, 1.

**TRADE SECRET:**

Inspection may be refused if likely to discover trade secret, 160.

If trade secrets endangered, inspection may be made by expert appointed by Court and sworn to secrecy, 160.

**TRIAL:**

Plaintiff, if necessary, must prove title, 163.

Construction of specification left to Court, 163.

Generally tried without a jury, 163.

Infringement to be proved, 163.

Expert evidence may be called, 163.

Duties of expert witnesses, 163, 164.

Experts not to construe specification, 164.

May give opinion on mechanical and other equivalents, 164.

Experts and workmen may give evidence on sufficiency, 164.

Surprise evidence, 164.

Adjournment on surprise is in discretion of Court, 164.

New trial on ground of surprise not granted unless on affidavit alleging surprise, 164.

Action may be remitted to official referee to decide abstruse scientific questions, 164.

When defendant may be estopped from denying validity, 164, 165.

Assignment by trustee of bankrupt patentee does not create estoppel, 165.

Judgment may give injunction, damages or account, delivery up or destruction, and costs, 165.

Breach of injunction, 165.

Ownership of infringing goods delivered up, 165, 166.

Measure of damages, 166.

General costs of action, 166.

Costs of particulars, certificate of, 167 to 169.

Certificate of validity, 169.

No appeal against refusal of certificate of validity, 170.

Stay of execution, 171, 172.

Appeal, 172, 173.

See also ACCOUNT OF PROFITS, ACTION FOR INFRINGEMENT, ACTION AGAINST PATENTEE FOR THREATS, COSTS, DAMAGES, and DELIVERY UP OF INFRINGING GOODS.

**TRUE AND FIRST INVENTOR :**

Defendant pleading that plaintiff is not, should be prepared to show who is, 156.

Importer from aboard is, 23.

First legitim to applicant is, 23.

*See also* INVENTOR.

**TRUST:** Notice of, may not be entered on Register, 214.

**TRUSTEE**

In bankruptcy may enter himself on Register as proprietor, 197, 217.

Co-owners might assign to trustee to work patent for mutual interests, 198, 199, 471.

**UNDERTAKING :**

Defendant may escape interlocutory injunction by undertaking to keep account, 152.

By defendant not to continue alleged infringement, 151.

By plaintiff on obtaining interlocutory injunction, 152.

By plaintiff on application for stay of execution, 171, 172.

**UTILITY :**

Meaning of "utility," 72.

Not necessarily profitable purpose, 72.

Means something better than preceding knowledge, 71.

Means usefulness for purpose of inventor, 71.

Failure of, avoids patent, 72.

Possible flaw in working destroys, 72.

Subsequent knowledge may not be used to cure original failure in, 72, 73.

Specification to be construed as of its own date, 73.

Question of fact and matter of proof, 73.

Commercial success not conclusive proof of, 73.

But will be considered by the Court, 73.

Amount of, may be small, 73.

Retrogression in one direction balanced by progression in another may constitute, 73.

Non-utility in one claim voids patent, 73, 74.

But perhaps not if claim is subordinate and non-essential, 74.

Fact of infringement held to be a testimony to utility, 74.

Where two methods are claimed, one useful the other useless, patent is bad, 91.

*See also* SUBJECT-MATTER OF PATENTS.

**VAGUENESS :**

Claim should not be vague, 93, 94.

In specification may invalidate grant, 84.

Example of, 85.

Subject of evidence, 86.

Of specification may be pleaded in defence to action for infringement, 154.

**VALIDITY OF LETTERS PATENT** (*see* ANTICIPATION OF INVENTION, DISCONFORMITY, NOVELTY OF INVENTION, PRIOR GRANT, PRIOR PUBLICATION, and PRIOR USER).

**VARIANCE** (*see* DISCONFORMITY).

**VENDEE** (*see* ASSIGNEE and ASSIGNMENTS OF LETTERS PATENT).

**VENDOR** (*see* ASSIGNOR and ASSIGNMENTS OF LETTERS PATENT).

**VERBAL AGREEMENT OR LICENCE** (*see* AGREEMENTS and LICENCE).

**VESSEL** (*see* SHIP).

**WAR**: Patents for war munitions assignable to Secretary for War (Section 44), 510 to 512.

**WARRANT AND SEAL** under Patent Act, 1852, 6.

**WARRANTY OF VALIDITY**

Not implied in assignment of patent, 197.

In patent licence, 203.

**WITNESS, SCIENTIFIC** (*see* EXPERT).

**WORKMAN**: "Skilled workman" test of sufficiency of specification, 86.

**WRIT**:

Endorsement of, in action for infringement, 149, 150.

Entering of appearance by defendant to, 151.

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## **PART II.—TRADE MARKS.**

### **ABANDONMENT:**

- Right to trade mark lost by, 300.
- Intention of, must be apparent, 300.
- Of mark may cause removal from Register, 300.
- Of application, 298; Section 63, 521.
- By owner removing it from Register, 311.

### **ABROAD:**

- Use of old mark, gives no claim to registration, 282.
- Mere transit of goods from, is not user, 283.
- Protection against fraudulent use of trade mark, 361.

“**ABSORBINE**” held not an invented word, 271.

**ACCEPTANCE** of application by Comptroller, 295.

**ACCESSORIES** for use with apparatus having new trade name, 339.

### **ACCOUNT OF PROFITS**

- In action for infringement, 324, 329.
- Discovery of customers usually appendant to, 328.
- Plaintiff must choose, or damages, not both, 329.

**ACCOUNT OF SALES** may be directed in action for infringement, 328, 329.

**ACQUIESCENCE:** Extreme delay might be considered, 327.

### **ACQUISITION**

- Of trade mark by registration, 260.
- “ ” purchase of business and goodwill, 315 to 317.
- “ ” trustee of bankrupt, 316.
- “ ” on dissolution of partnership, 316, 317.
- “ ” by devolution, 317.
- “ ” cannot be effected by licence to use, 317.

### **ACTION**

- For rectification of Register (Chapter IV.), 302 to 314.
- “ infringement of trade mark (Chapter VI.), 318 to 331.
- “ passing off (Chapter VII.), 332 to 353.
- “ trade libel, 330, 331.

*See also* **INFRINGEMENT, PASSING OFF, and RECTIFICATION OF THE REGISTER.**

### **ADDITION**

- Of letters, words, or figures to essential of trade mark, 261, 262, 276 to 281.
- Duty of disclaimer of such added matter, 261, 262, 276 to 281 (*see also* **DISCLAIMER**).
- May be made to registered mark, 311 *et seq.*
- Of word “**Limited**” to company’s name, 312, 313.

**ADDRESS**

- Of applicant, 294.
- Of Comptroller, 294.
- For service in notice of opposition, 296.
- Of Secretary of Board of Trade, 298.

**ADVERTISEMENT**

- Of application in *Trade Marks Journal*, 295.
- Opposition to be filed within one month of, 295.
- Of another's registered mark is infringement, 321, 322.

"AEILYTON" instanced by Lopes, J., as good "fancy" word, 267.

**AGENT**

- Authorised for applicant, 294.
- Trade Marks Rule 9 as to, 363.

**AGGRIEVED:**

- Applicant to expunge or vary mark of another must be person, 305.
- Definitions of, persons, 305, 306.
- Defendant in action for infringement is, 306.
- Person having registration opposed is, 306.
- Section 90 as to person, 535.

**ALIENS:**

- Registration granted to, 260.
- Check on fraudulent use abroad of British marks by, 361.

**ALTERATION**

- Of trade mark on Register, 311.
- At instance of person aggrieved, 305, 306.
- "    "    proprietor, 311 to 314.
- Of old marks is restricted, 312, 313.
- Of non-essential particulars only allowed, 312.
- No alteration allowed prejudicial to other owners, 312.
- May sometimes be done without aid of Court, 312.
- Of misleading item in mark, 313.

AMENDMENT on application, made to meet objection raised in Court, cannot be entertained, 285.

**AMERICAN**

- Practice as to novelty and originality of marks, 303.
- "    "    assignment of mark, 315.

"ANCHOR" MARKS: Common to trade in umbrellas, 303, 309.

"ANCROSS" held colourable imitation by word of old "Anchor" device mark, 284.

"ANGOSTURA BITTERS": Name of particular article only usable by those having exact secret of manufacture, 336, 337.

**"APOLLINARIS" MARK :**

If name is that of district of production of goods, it is geographical, 274.  
But such a name is reserved to those having access to source, 340.

"APOLLINIS" held to infringe "Apollinaris," 308.

**APPEAL**

To Board of Trade from Comptroller's refusal of application, 296.  
" " " " " decision in opposition, 297, 298.  
To the Court of Appeal in applications to rectify Register, 314.  
To Comptroller and to the Court from refusal to register under Cutlers' Company's Acts, 299.  
In action for infringement, 330.  
Advancement of, 330.  
Not advisable if defendant removes cause of complaint, 330.

"APPLE BRAND" with apple, held not distinguishable from "Pomril" with half apple, 307.

**APPLICANT**

May be individual, 293.  
" firm, 293.  
" company, 293.  
" corporation, 293.  
" foreigner, 293.

**APPLICATION :**

Unnecessary, involving no material change in mark, refused, 285.  
To register, 293.  
Forms of, all on sale at post-offices, 293.  
Acceptance or refusal of, 295.  
Advertisement of, 295.  
Opposition to, 296.  
Statements in support of, 297.  
Abandonment of, 297.  
Sheffield marks, 299, 300.  
Cotton goods, 294, 295.  
Of false trade description to goods, 360.  
For registration equivalent to public use, 302.  
Abandonment by non-prosecution (Section 63), 521.

**ARMS :**

Royal or national not registrable, 287.  
Unauthorised display of (Section 106), 543.

**ARTICLE :**

Marks giving pictorial representation of, not registrable, 266, 287, 290.  
Prohibition relaxed where not necessary shape (*see James's Trade Mark*), 290.



**ASSENT OF EXISTING PROPRIETOR:** Comptroller may require, before accepting new application from other applicant, 295.

**ASSIGNEE**

Of mark must also be assignee of goodwill, 315.

Trustee in bankruptcy, 316.

Of partnership, 316, 317.

Mark must indicate in hands of assignee what it indicated in hands of assignor, 316.

Should register as owner, 316.

**ASSIGNMENT OF TRADE MARK**

Always with goodwill of business, 315.

Connection between mark and goods, 315, 316.

To trustee in bankruptcy, 316.

As partnership asset, 316, 317.

Of marks, registered in series, 315.

**ASSUMED NAME:**

Trade name may be, 350.

Fraudulent imitations of, 350, 351.

In "signature" form not valid trade mark, 265.

Fraudulent purpose by taking, 263.

"ATHENA," 308.

**AUTHORISATION** of applicant's agent, 294.

**BAILEE** of goods bearing infringing marks, 323, 325, 355.

**BANK HOLIDAYS** and **SUNDAYS:** Patent Office closed on; day following for leaving documents and paying fees at Patent Office (Section 98), 538.

"BANK OF ENGLAND" common mark for sealing wax, 308.

**BANKRUPT:** Assignee of trade mark of, 316.

**BANKRUPTCY:**

On, trade marks pass to trustee, 316.

Of member of partnership, 316.

**BASS'S "TRIANGLE" MARK** (*see Worthington's Trade Mark*), 307.

**BASS, RATCLIFF & GRETIN'S MARKS**, 307.

"BELL" MARK, 320.

**BLOCKS**

To advertise application in *Trade Marks Journal*, 295.

Forged, under Merchandise Marks Acts, 354, 355.

Innocent engraver of, 354, 357.

**BOARD OF TRADE :**

- Appeal to, by applicant for registration, 296.
- "      "      "      or opponent, 297, 298.
- Reference to Court by, 296, 298.

"BODEGA" distinguishing trade name, 350.

**BOTTLES**, to refill old, bearing another's mark is infringement, 322, 356.

"BOVRIL" held an "invented" or "fancy" word, consideration being had to circumstances, 271, 272.

"BRAIDED FIXED STARS" held descriptive mark, 309.

**BRAND**

- Must be distinctive, 265, 266.
- Definition of, 266.

"BROOKS'S SADDLES," 263, 264.

"BURGESS," 263, 349.

**BUSINESS** built up on mark may operate as reason to sustain it on Register, 272.

"CALIFORNIAN FIG SYRUP": Foreign marks must conform to British requirements, 288.

**"CAMEL HAIR BELTING"**

- Refused registration as being geographical, 273.
- Common Law mark upheld as denoting plaintiff's manufacture only, 333 to 335.

**CANCELLATION** of trade mark at instance of proprietor, 311.

"CASH'S FRILLINGS," 264, 345.

"CELLULAR" CLOTHING: New name for new but unpatented article, 338.

**CERTIFICATE**

- Of refusal to register old mark, 285, 286, 319.
- That validity of trade mark has been put in issue, for use in subsequent action, 330.
- Should be pleaded in subsequent action, 330.
- Issue of certificate of registration, 295.

**CHRISTMAS DAY**: Day following, for leaving documents and paying fees at Patent Office (Section 98), 538.

"CHRISTY MINSTRELS," 350.

**CLASSES OF GOODS**

- Divided into fifty classes, 293.
- Classification, 382.

CLERICAL ERROR in Register may be corrected by Comptroller, 310.

“COKER” MATS, 308.

“COLMAN’S” MARKS, rectification of, by removal of words “trade mark” from label, 313.

#### COLOUR:

Registration does not take note of special colour (Section 67), 523.

Marks may be registered in any colour or colours (Section 67), 523.

Right of owner to use registered or any other colours (Section 67), 523.

Question of colour in infringement open to consideration, 307.

#### COMBINATIONS:

Marks composed of, 261, 262, 275 to 281.

Of essential particulars and non-essential, 275 to 281.

“Distinctive” open or common parts of combinations to be disclaimed, 277 *et seq.*

Of old marks with devices or characteristics common to the trade, 284, 285.

COMMON ADDITIONS to essential parts of mark, 275 to 281.

COMMON LAW TRADE MARK (*see* Chapter VII.), 332 to 353.

First so termed by Lindley, L. J., 333.

Owners of, may restrain infringement, 332.

Names as, 332.

Where personal name has become identified with goods, 263, 264, 344, 345.

Geographical name may be, 274, 275, 335, 336, 340.

New names for new products not, 338, 339.

Name indicative of principle not, 345, 346.

#### COMMON TO THE TRADE:

Common Marks may be incorporated with new or old marks, 276.

Duty of disclaimer, 276.

Marks improperly registered may be expunged, 308, 309.

“COMPACTUM” held descriptive for umbrellas, 309.

#### COMPANY

May register trade mark, 293.

Application form signed by secretary or other officer, 294.

Change or modification in name may be put on Register, 312, 313.

May effect alterations in non-essentials of mark, 313.

#### COMPARISON OF MARKS

In infringement actions, 319.

Instances of resemblance held, 320.

Evidence to assist in, 320.

Eye not the only guide, 320.

Name might infringe device, 320, 321.



**COMPOUND WORD MARKS:** Misspelt and compounds of common words not registrable, 271.

**COMPTROLLER :**

Warning to applicants against including goods not intended to be traded in, 293.

Address of, 294.

Acceptance or refusal of application by, 295.

Objection of, subject to consent of prior owner, 295.

Requirements of, on advertisement, 295.

Objection of, may be disposed of at hearing, 296.

Appeal from, to Board of Trade, 296.

" " " in opposition, 297, 298.

Hearing before, in opposition cases, 298.

Co-operation of, with Cutlers' Company, 299.

Clerical errors corrected by, 304.

May apply to Law Officer for directions (Section 95), 537.

**CONCURRENT RIGHT**

May exist in trade marks, 302, 303.

Discretion for creating (Sections 71 and 72), 524, 525.

Partners in dissolved partnership may possess, 316, 317.

But none in dissolved joint adventure, 317.

Not more than three persons can have, 284.

**CONCURRENT USER:** Defence in action for infringement, 328.

"**CONDI-SANTAS**" (see *Sunitus Co. v. Condy*), 320.

**CONFIDENCE:** Breach of, 337.

**CONFUSION OF NAMES:**

Circumstances in which person of same name as plaintiff not bound to use extra precautions to avoid, 344.

But *contra* where plaintiff's name indissolubly connected with goods (*Cash's Frillings*), 345.

**CONNECTION**

Between trade mark and goodwill, 315.

Of mark with origin, 315, 316.

**CONSENT BY REGISTERED OWNERS** may be required by Comptroller to register new mark, 295.

**CONVENTION (INTERNATIONAL):**

Text of Convention with Amendments of December, 1900 (see Appendix A), 450.

Proceedings in each country on trade marks to be governed by native laws, 287, 288.

**CONVENTION (INTERNATIONAL)—continued.**

Declaration by British Delegates on adhering to Amendment of 1900, reserving provisions of Merchandise Marks Acts for punishing forgery of trade marks, 361.

Period of priority for registration of trade marks by foreigners under Article 4 of Convention, 451, 452.

**COPY :**

Infringement, though not exact copy, 319.

Instances of infringements not copies, 320.

Uselessness of precedents in deciding what is, 320.

Word might be copy of device, 320, 321.

**COPYRIGHT:** Registration in Stationers' Hall gives no protection, 328.

**CORKS:** Brands on, 266.

**CORPORATION** may register trade mark, 293.

**CORRECTION OF REGISTER**

By Comptroller, of clerical errors, 310.

At instance of "person aggrieved," 304, 305.

Instances of marks corrected or expunged, 308 to 310.

By Comptroller, of non-essential particulars, 311, 312.

By cancellation at instance of proprietor, 310, 311.

By striking out such a word as "patent," or by addition of "Limited" to Company's name, 313.

By change of name, 312.

**COSTS**

Payable by applicant before Comptroller on withdrawal, on opposition, 298.

None allowed by Court in respect of proceedings before Comptroller and Board of Trade, 298, 299.

Payable by unsuccessful party on proceedings in Court to rectify Register, 310.

In action for infringement, 329, 330.

When costs on higher scale may be given, 330.

Solicitor and client costs, when plaintiff possesses certificate of validity, 330.

In applications for interlocutory injunction against innocent infringers, 325, 326.

**COTTON MARKS :**

Representations of marks in, 294, 295.

Advertisement of, 295.

**COUNTERCLAIM FOR RECTIFICATION:** Motion to expunge or vary cannot be made by counterclaim, 328.

**COUNTY COURT:** No jurisdiction to try trade mark action, 318.

**COURT:**

Definition of the, 298, 314.

Includes Lancaster Palatine Chancery Court for applications in Manchester Office, 298, 314.

Jurisdiction of Irish Court in rectification of Register, 314.

" " Scottish " " " " 314.

" " County " action on trade mark, 318.

CREST might be registered as trade mark, 265.

**CRIMINAL PROSECUTION**

Under Merchandise Marks Acts, 1867 to 1894, 354 to 361.

Forgery of trade marks, 354.

Block for forging, 354.

Offences and punishments, 354.

Innocent retailer, 356.

" engraver, 357.

Evidence in criminal proceedings, 357, 358.

Examples of " " 356, 358, 359.

False trade description, 360.

CROWN (Royal) not registrable, 287.

**CUSTOMERS:**

Names of, not usually ordered in discovery, 328.

But may be required in account of profits, 328, 329.

**CUTLERS' COMPANY:**

Registration under Acts of, 286.

Sheffield Register under, 299.

Oversees applications for metal goods made in Hallamshire, 299.

Application refused by, may be referred to Comptroller and Court, 299.

CUTLERY: Registration of marks for, 286, 299.

" DAIRY MAID" (*Anglo-Swiss Milk Co. v. Metcalf*), 507.

**DAMAGES:**

Successful plaintiff in action for infringement must elect for damages or account of profits, 329.

In action for passing off, 348.

**DATE OF REGISTRATION**

Is date of application (Section 75), 526.

In application to rectify Register consideration must be given to circumstances existing at, 306.

" DAY & MARTIN": Conspiracy by partnership to acquire old-established firm name, 353.



**DECEPTION**

By fraudulent imitation of trade marks under Merchandise Marks Acts, 1862 to 1887, 358, 359.

Ultimate, of successive purchasers, 258, 322.

By use of established trader's name, 263, 264, 343 to 346.

Particulars causing liability to, may be struck out (*re Colman's Marks*), 313, 314.

Might arise by use of old mark in new hands, 315, 316.

As basis for action of infringement, 319, 320.

Physical resemblance not always guide to, 320, 321.

Use of words might be deceptive imitation of device, 284, 320.

By imitation of "get-up," 341.

Generally in "passing off" cases (see Chapter VII.), 332.

Test sometimes is not whether a defendant's mark or "get-up" can be distinguished by Judge and jury, but whether it may be confounded by the public with the plaintiff's, 341.

By plaintiff bars right to restrain infringement, 292, 327.

**DECEPTIVE MARKS :**

Marks held to be, 307 to 309.

Deceptive use of old marks in new hands, 316.

Physical resemblance not the only test, 320, 321.

**DECLARATIONS**

By opponent to application to register, 297.

By applicant in reply, 297.

Special leave to file additional, 297.

**DEFENCE**

In action for infringement, 327.

Example of, 327.

Limitations of, 327, 328.

Application to rectify, cannot be made by counterclaim in, 328.

Features of, in action for passing off, 347.

**DEFINITION**

Of trade marks in Merchandise Marks Acts, 1862 to 1887, 261.

" " Trade Marks Act, 1875, 261.

" " Patents Act, 1888 (Section 64), 261.

Of "Court," 298, 314.

**DELAY** may prejudice application for interlocutory injunction, 327.

**DELIVERY UP**

Of infringing goods to successful plaintiff, 329.

" " in action for passing off, 348.

**"DEMON" RACQUETS** (*see Slazenger v. Feltham*), 308.

**DESCRIPTIVE :**

- Fancy words by Act of 1883 not to be, 267.
- Invented words under Act of 1888 may be, 270.
- Selected words (Section 64) (e) must not be, 272.
- Examples of descriptive words, 272.
- "    "    non-descriptive words, 272, 273.
- Geographical selected words absolutely barred, 273.
- Present day reading of geographical prohibition, 274.
- Examples of words expunged as being, 309.
- Common Law mark might be, 332 to 335.

**DESIGN**

- Distinguished from trade mark, 2.
- Hints on the selection and, of trade marks, 288 to 292.

**DESIGNER**, registered proprietor need not be, of trade mark, 302, 303.

**DESTRUCTION** of infringing goods, 329, 348.

**DEVICE :**

- One form of trade mark, 261, 265.
- Must be "distinctive," 265.
- What is a device, 265.
- Mark, brand, heading, label, or ticket, 266.
- Hints on preparing a "device" trade mark, 290.

**DEVOLUTION**

- Must accompany goodwill, 315.
- On bankruptcy of proprietor to trustee, 316.
- On sale of business without mention of trade mark, 315.
- On bankruptcy of partner in business, 316.
- On death of proprietor to personal representatives, 317.

**"DINDIGUL" :**

- Restriction on use of name of district of origin (*see Bewlay v. Hughes*), 340.

**DISCLAIMER**

- Of additions to trade marks, 275 to 281.
- Of additions which are common or open to the trade and also distinctive, 275 to 281.
- Proprietor's own name or place of business need not be disclaimed, 262, 276.
- In disclaiming the essentials of mark are to be stated, 275, 276.
- Disclaimer to be made both in new and in old marks, 276.
- Disclaimer need only be made of "distinctive" common or open additions, 277.
- Example of addition ("Smokeless Powder") open or common but *not* distinctive, 277, 279.
- Example of addition ("Silverpan") open or common but *distinctive*, 278, 279.
- Must be made at time of application, 285.

**DISCOVERY**

Granted in trade mark actions, 328, 329.

Not granted where oppressive, 328.

Not usually ordered as to names of customers and correspondents, 328.

As to sales, when infringement denied, 328.

Of customers when account of profits ordered, 329.

**DISHONEST COMPETITION**

Always restrained in improper use or assumption of trade name, 341, 342.

Foreign, restraint of, by terms of Convention and Merchandise Marks Acts, 361.

**DISTINCTIVENESS**

An essential feature in all marks (Chapter II.), 261.

In registered names, 261.

„ „ devices, 261.

In common or open portions of old or new marks, 275 to 281.

To be subject to disclaimer, the added common or open matter must be distinctive, 275 to 281.

“DOG HEAD BEER”: Popular name of label as apart from device (*see Read v. Richardson*), 321.

“DOME BLACK LEAD”: Instance where pictorial representation of merely accidental shape of goods was held registrable (*see James's Trade Mark*), 290.

DUPLICATE MARKS might be registered by different proprietors, 302, 303.

“EBOLINE” geographical, *per Chitty, J.*, 274.

“ELECTRIC” VELVETEENS: Fancy and held descriptive (*see Leaf's Application*), 268.

“ELECTROZONE” held not invented word, but word in ordinary use, 270, 271.

“ELEPHANTS”: Popular name of label; any label containing an elephant held to infringe (*see Orr-Ewing v. Johnstone*), 321.

“EMOLLIOLORUM” held distinguishable from “Molliscorium” (*see Talbot's Trade Mark*), 308.

“EMU” differentiated from “Oomoo” (*see Burgoyne's Trade Mark*), 308.

ENGLISH WORD selected may constitute registrable mark, 272.

**ENTERED AT STATIONERS' HALL:**

Copyright registration at Stationers' Hall gives no protection to mark, 328.

To be struck out of representation of mark on application to register, 292.



**ENTRY ON THE REGISTER :**

- Issue of certificate of, 295, 296.
- Expunging or varying, 304, 305.
- Prima facie* evidence of right to mark, 304.
- After five years, conclusive evidence, 304.
- Proprietor may delete mark, 310, 311.

**ERASURE :** Delivery up of infringing goods in action for, 329.

"ERECT FORM" held not common law mark for corsets, 337, 338.

**ERRORS :** Clerical, in Register may be corrected, 304.

**ESSENTIAL PARTICULARS**

- In combination marks, applicant should indicate, 261, 276.
- In making application, must be stated, 276, 285.
- Common additions which are also "distinctive" must be disclaimed as apart from the, 275 to 281.
- Not to be altered (under Section 92), 312.
- Names may be altered, 312.
- Of old marks, not altered, 312, 313.

**ESTOPPEL**

- By delay or acquiescence as defence in action for infringement, 327, 328.
- By misleading or untrue representations on mark, such as "Patent" &c., 292, 327.

"ETON" CIGARETTES (*see Wood v. Butler*), 309, 317.

**EVIDENCE**

- Of actual deception in passing off case not necessary, 341.
- In prosecutions under Merchandise Marks Acts, 357.
- Applicant in rectification case may use declarations made by respondent in registering his prior mark, 314.

**EXCLUSIVE USE :**

- Registration, evidence of right to, 304.
- No right to, apart from goodwill of business, 315.

**EXECUTORS :** Trade mark devolves on, by death of proprietor, 317.

**EXPORTER** may properly register and hold trade mark, 259, 260.

**EXPOSURE FOR SALE** of goods bearing infringing mark constitutes infringement, 321, 322.

**EXPUNGING TRADE MARK FROM REGISTER :**

- Chapter IV., 302 to 314.
- See also* RECTIFICATION OF THE REGISTER.

**EXTRACTS FROM REGISTER :**

- How obtained (Section 88), 535.
- Certified and sealed are evidence (Section 89), 535.

**FACTORY:** Right to name of, 350.

**FALSE PRETENCES** by falsifying or forging trade marks, 354, 355.

**FALSE TRADE DESCRIPTION** under Merchandise Marks Acts, 354, 360.

### FALSIFICATION

Of Register a misdemeanour (Section 93), 537.

Of genuine marks by alteration &c., 354.

### FANCY WORDS

Excluded from Acts of 1875 and 1877, 267.

Permitted in Act of 1883, 267.

Limitation of, by the Courts, 267, 268.

Leading case under Act of 1883 (*Van Duzer*), 267.

Substitution of "invented" words for, in Act of 1888, 268.

Decisions as to, do not govern consideration of invented words, 269.

Leading case "*Solio*" as to invented words, 269.

Principles now governing invented words, 269, 270.

### FEEES

On application, 293.

On electro printing block, 295.

Registration fee, 295, 296.

On opposition, 296.

Hearing, 297.

Renewal, 300.

Fines on restoration after expiry of period of renewal, 300.

List of, 379, 380.

**FICTITIOUS PERSONAGES:** Names of, may be registered in plain lettering, 273.

"**FIG SYRUP**" (Californian) (*see Californian Fig Syrup Co.'s Mark*), 288.

"**FILTERED BLUE**" (*see re Edge*), 309.

### FIRM:

Name of, registered in distinctive manner, 262, 265.

„ may be protected from fraudulent assumption by others, 343 to 346, 351, 352.

**FIRST BUYER:** Knowledge of fraud is not transmitted to ultimate purchaser, 258, 322.

**FLAGS:** National, not registrable, 291.

### FOREIGN

Subjects may obtain registration of their marks, 260, 287.

Applications under Convention must conform to British requirements, 288.

Period of priority for foreign applications is four months (Section 103 of Act and Article 4 of Convention, Appendix A), 287, 450.

**FOREIGNERS**

May register mark, 260, 287.

Rights of, under Convention, in restriction of fraudulent use, limited by Merchandise Marks Acts, 361.

Subject to punishment under International Convention for forgery of marks, 361.

Period of priority for applications by, limited to four months (Section 103 of Act and Article 4 of Convention, Appendix A), 287, 450.

**FORGERY** of trade marks under Merchandise Marks Acts, 354 to 361.

**FORMS**

On sale at post-offices &c., 381.

Application to register, 293.

Opposition to registration, 296.

Endorsement of writ in action for infringement, 324.

Statement of claim " " " 324.

Defence " " " 327, 328.

Order in action, 329.

**"FORREST WATCHES"**: Appropriation of deceased maker's name (*see re Hill*), 309.

**FRAUD:**

Proof of, not necessary in infringement actions, 258, 322.

Not always to be considered from point of view of Judge and jury, but also from point of view of public, 341.

Fraudulent imitation of "get-up," 341, 342.

By use of trader's name, 343 to 346, 351, 352.

Onus of proving no intentional, under Merchandise Marks Acts, 356, 357.

Provisions in Convention for preventing, 361.

**"FRIEDRICHSHALL":**

Geographical name, 274.

Goods not traded in, 309.

*See re Apollinaris Marks*, 274, 309.

**"FRUIT SALT"** (*see Eno v. Dunn*), 308.

**"G. B. D."** as trade mark (*see Maréchal v. M'Colgan*), 307.

**"GEM"** (*see re Arbenz*), 309.

**GEOGRAPHICAL NAMES:**

Selected words must not be, 272, 273 to 275.

Reasons for exclusion, 273.

Present-day reading of geographical prohibition, 274.

General substance of decisions on, 275.

"Glenfield Starch" Case exceptional, 340.

**GET-UP:**

Deception by imitating "get-up" of goods, 341

Test is, will ordinary customer be deceived, 341.

**GET-UP—continued.**

Recent, is not usually protected, 341 to 343.

“Red, White, and Blue” Coffee Tin Case, 341.

Imitative, may deceive though details not copied, 342.

Merely to take part of, will not constitute infringement if general appearance distinguishable, 342.

“GIANACLIS”: Mark not distinctive; name in possessive (*see re Gianaclis*), 309.

“GLENFIELD”: Geographical name: Common Law mark: identified with maker's goods (*see Wotherspoon v. Currie*), 336, 340.

GOOD FRIDAY: Day following, for leaving documents and paying fees at Patent Office (Section 98), 538.

**GOODS**

Distinguished in early times by makers' and owners' marks, 257.

Not only makers but handlers of, may have trade mark, 259, 260.

May be natural products as well as manufactured, 260.

Selected words may not refer to character or quality of, 272.

Nor to place of origin, 273 to 275.

Representation of, not allowed as trade mark, 290, 291.

Mark must distinguish, actually on sale in United Kingdom, 293.

Classification of, 382.

Mark not registrable for, not traded in, 293, 309.

Mark must indicate in hands of assignee same, it was applied to by assignor, 315.

Proprietor must not let his mark be put on, of other's manufacture when maker's name appears, 317.

Fraudulent imitation of “get-up” of, restrained, 341.

Identified with principle of construction, 346.

Having forged marks applied, 354, 355.

Innocent retailer of, fraudulently marked, 356.

Shifting labels on, 357.

Applying false trade description to, 360.

Imported, bearing fraudulent marks, 361.

Infringement of mark must be in respect of, for which the mark was registered, 321.

To constitute infringement the mark need not be actually applied to the goods; advertisement of mark will do, 321, 322.

**GOODWILL:**

Trade mark only assignable with, 315.

“ ” in hands of new proprietor must not be made instrument of fraud, 316.

Assignment of, with marks to trustee of bankrupt, 316.

Of partnership 316, 317.

Of joint adventure, 317.

Assignee must satisfy Comptroller of purchase of goodwill, 317.

GROSS: Trade mark cannot exist in, 316.



GROSVENOR LIBRARY (*see Hobey v. Grosvenor Library, Limited*), 352.

HALLAMSHIRE: Sheffield Marks, 299 to 301.

**HAND-MADE CIGARETTES:**

*Semble*, incorrect trade description "is falso" trade description (*see Kirshenboim v. Salmon & Gluckstein*). 360.

"HARVEY'S SAUCE" (*see Lazenby v. White*), 345.

**HEADING**

Must be distinctive, 265.

Definition of, 266, 267.

"HOLBROOK'S" (*see Powell v. Birmingham Brewery Co.*), 336.

"HOLLOWAY'S PILLS" &c. (*see Holloway v. Holloway*), 264, 349.

"HEMATOGEN" held not invented word, 270.

**IDENTICAL MARKS**

Might be registered by different owners up to three when marks are old and concurrently used, 284.

Might be registered even in the case of marks not old in case of concurrent user, 302.

**IGNORANCE**

Of plaintiff's rights will not shield defendant, 322.

Of retailer or engraver, under Merchandise Marks Acts, 356, 357.

IMAGINARY PERSONS: Names of, may be registered as trade marks in plain type, 273.

**IMITATION**

Of trade mark, 319 to 321.

Of "get-up" of goods, 341 *et seq.*

"IMPERIAL" not registrable as trade mark, 287.

IMPORTATION of fraudulently or deceptively marked goods prohibited, 361.

**INDICTMENT**

In case of infringement, 318.

Under criminal prosecution (Chapter VIII.), 354.

**INFRINGEMENT:**

Action for (Chapter VI.), 318.

Remedies for, 318.

Action in Chancery for restraint of, 318, 319.

Action for passing off (Chapter VII.), 332.

Registration a condition precedent to action for, 319.

Certificate of refusal to register, 319.

Consideration of features of, 319 to 322.

INFRINGEMENT—*continued.*Action for—*continued.*

- Resemblance need not be exact to constitute, 319.
- Instances of general resemblance constituting, 320.
- Each case to be decided on its own merits, 320.
- Mere physical resemblance not only guide, 320
- Name echo of device, 321.
- Must be in respect of goods for which mark is registered, 321.
- Modes of applying infringing mark, 321, 322.
- Advertisement might constitute, 322.
- Refilling old marked vessels, 322.
- Proof of actual deception not necessary, 322.
- „ fraudulent intent „ „ 322.
- Ignorance of infringer not material, 322.
- In doubtful cases, test is ultimate deception of public, 322, 323.
- Innocent infringers, 323 to 326.
- Must not be of too trivial a nature, 323.
- Advisable to warn infringer before action, 324.
- Course to be adopted by defendant, 327.
- Defendant must not seek rectification by counterclaim, 328.
- Practice in action for, 328, 329.
- Costs „ „ 329, 330.
- No statutory threats action for threats by proprietor, 330, 331.
- In action for passing off (Chapter VII.), 332.
- Of name trade mark, 332, 333.
- “Common Law trade marks,” 333.
- Reddaway’s “Camel Belting” Case, 333 to 335.
- “Stone Ale” Case, 335.
- “Glenfield Starch” Case, 336, 340.
- “Yorkshire Relish” Case, 336.
- Of new name of new product, 338, 339.
- “Linoleum” Case, 339.
- Accessories, 339.
- Of “get-up” of goods, 341 to 343.
- Test of, to be kept in view by the Court, 341.
- Of trading name, 343 to 345.
- “Valentine” Case, 344.
- “Cash” Case, 345.
- Names *publici juris*, 345.
- Names denoting a principle of construction, 346.
- Plaintiff must prove probability of deception, 347.
- Practice in “passing off” cases, 348.
- “Get-up” of shop front or premises, 349.
- Of fancy or assumed trading name, 348 to 350.
- Of registered or unregistered company names, 350 to 352.
- Fraudulent firm name, 350.
- Foreign firm’s name, 353.

**INITIALS**

- Plainly printed, not registrable, 266.
- Doubtful even when in distinctive dress, or in combination with device, 266.
- When common to trade must be disclaimed, 276.

**INJUNCTION:**

- Interlocutory, to be applied for promptly, 327.
- Delay will prejudice right to, 327.
- Claim for, in writ, 324.
- "    "    statement of claim, 324.
- Interlocutory, may be applied for after issue of writ, 325.
- Relief includes, 329.
- Obtainable as part of relief in "passing off" action, 332.

**INNOCENT INFRINGER**

- Not so hardly dealt with as wilful wrongdoer, 323, 325.
- Offer which should be made by, on notice of infringement, 325.
- General practice as to granting injunctions, and giving costs against trivial or innocent infringers who have submitted and offered terms, 325, 326.

**INQUIRY** as to damages in action for infringement, 329.

**INSPECTION:** Court may order, in action, 329.

**INTERNATIONAL ARRANGEMENTS:**

- Registration of trade marks under, 287.
- As to fraudulent use of trade marks, 361.
- Text of Convention and Protocol dealing with (Appendix A), 450.
- Period of priority to foreign applicants is four months (see Section 103 of Act, page 541, and Article IV. of Convention, page 450).

**INVENTED WORDS**

- Introduced by Act of 1888, 268.
- Construction of, not limited by old fancy words decisions, 268.
- Erroneous procedure in Patent Office with regard to registration of, 268.
- "    "    Courts    "    "    "    268, 269.
- Correct reading of Statute by House of Lords in "Solio" Case, 269.
- Reading now in force regarding, 269, 270.
- Distorted or misspelt words and phrases are not, 271.
- May contain allusion to character or quality of goods, 270.
- Examples of words held not invented words, 270, 271.

**INVENTOR:**

- Proprietor of mark need not be, 302.
- Of new name for new patented product, 338, 339.
- "    "    unpatented    "    339.

**INVOICE:** False description in, under Merchandise Marks Acts, 360.

**IRISH COURTS:** Jurisdiction to rectify Register disclaimed by, 314.

“IVORY” SOAP (*see Goodwin v. Ivory Soap Co.*), 308.

“JOHN BULL” BEER (*see Paine v. Daniels*), 248.

#### JOINT TRADE MARK:

Owners in partnership, 316.

Members of dissolved partnership, 316, 317.

#### JURISDICTION

Of Lancaster Palatine Court, 314.

Of Scottish Courts to rectify Register, 314.

Of Irish “ ” “ ” disclaimed, 314.

#### JURY:

Infringement actions usually tried without, 323.

Application for trial with, has been refused, 323.

KEEPER OF COTTON MARKS (MANCHESTER) (Rule 13), 365.

“KODAK” registered for cameras, restrained from being registered for bicycles by another firm (*see Eastman v. Griffiths*), 306, 309.

#### LABEL

Must be distinctive, 265.

Definition of, 267.

#### LAW OFFICER:

Definition of (Section 117, Sub-section 1), 547.

Comptroller may apply to, for directions (Section 95), 537.

“LEATHER CLOTH CASE”: Mark is confined to class of goods for which registered, 323.

#### LETTERS

Constituting additions to trade mark, 261.

Combinations of, as old marks, 262

LIBEL (TRADE) may be restrained, 330, 331.

LICENCE: Owner of trade mark cannot license its use by another, 317.

LIMITATION by disclaimer (*see DISCLAIMER*), 276 to 281.

“LIMITED” ADDED TO REGISTERED MARK: Addition, as a rule, allowed both in old and new marks, 312, 313.

LINOLEUM: New name for new patented product becomes public property after expiry of patent (*see Linoleum Co. v. Nairn*), 338, 339.

“LOUISE” (MADAM): Fancy trading name is protected (*see Isaacson v. Thompson*), 351.

“MAGNOLIA” MARK: Little-known geographical name may be upheld (*see Magnolia Metal Co.’s Mark*), 274.





MISSPELT WORDS not registrable as selected or invented words, 271.

"MONKEY" not geographical name, 274.

#### MONOPOLY:

Trade mark recognised as not creating, 258.

Of new name of new product, not sustainable, 338.

When product is patented, monopoly in name only lasts for term of patent, 338.

#### NAME:

As trade mark in distinctive dress, 262.

„ „ signature of individual or firm, 262.

Name *per se* not a registrable mark, 262, 263.

Not exclusive against others of same, 263.

Common Law remedy against fraudulent use of, 263.

Restraint on use of one's own, 263, 264.

Can only be registered in distinctive dress, 265.

Signature is simply, in distinctive dress, 265.

„ must be that of individual or firm applying, 265.

Of person in possessive case, not registrable, 292.

As trade mark at Common Law, 344, 345.

Of new product, patented or unpatented, 338.

Trader's name, how far exclusive, 344, 345.

When denoting a principle of construction, 346.

Trading or firm name, 350, 351.

Fraudulent appropriation of name, 350.

Fancy trading names, 350.

How far similarity of names of companies may be restrained, 351, 352.

NATIONAL ARMS not registrable, 287.

"NECTAR" refused as descriptive with reference to tea, 272.

#### NEW MARKS

May be registered, 261 *et seq.*

Characteristics of, 161.

#### NOTICE

Of opposition to registration, 296.

Of intention to appeal to Board of Trade, 297.

Of defence of innocent infringer under Merchandise Marks Acts, 357.

OFFENCES under the Merchandise Marks Acts, 354.

OFFER of redress for infringement, 326.

#### OLD MARKS:

Provisions for registration of, 281 *et seq.*

Marks in use before 13th August, 1875, are registrable, 281.

Old marks not acceptable as new marks are privileged for acceptance, 282.

**OLD MARKS—continued.**

Special and distinctive words, letters, figures, or combinations are registrable as old marks, 282.

Not so severely criticised as to "distinctiveness" as are new marks, 282.

Must have been applied to goods within the United Kingdom, 282.

Must be registered exactly as used before 13th August, 1875, 283.

" " " only for goods with which mark was used before 13th August, 1875, 283.

"Three Mark Rule" as to old marks, 283.

More than three users make mark common to trade, 284.

Common marks may still be registered in combination with other distinctive features, 284, 285.

But common portion of mark must be distinctly disclaimed, 285.

Disclaimer of common part must be made at time of application, 285.

Certificate of refusal to register, 286.

" " " gives right to sue for infringement, 286.

"OOMOO," distinguished from "Emu" (*see Burgoyne's Trade Mark*), 308.

**OPPOSITION TO REGISTRATION :**

Time for filing, 296.

Notice of, 296.

Form of, 296.

Comptroller may hear, 297.

Appeal to Board of Trade, 297.

Reference to Court, 298.

Opponent must be aggrieved person, 296.

**ORDER**

To rectify Register is final order, 310.

In infringement action, 329.

In action for passing off, 348.

For forfeiture of infringing goods under Merchandise Marks Acts, 355.

Notice of order to expunge or rectify to be given to Comptroller, 305.

**ORIGIN OF TRADE MARKS** in early times, 257, 258.

**OYSTERS ("WHITSTABLE")**: Name of district of origin not restricted to one company, 340.

**PALATINE COURT OF LANCASTER**: Jurisdiction to deal with cases concerning district trade marks, 314.

**"PARCHMENT BANK"**: Mark not particular and distinctive (*see Pirie v. Goodall*), 309.

**"PARTICULAR AND DISTINCTIVE"**: Individual or firm name must be registered in some "particular and distinctive" form, 262.

**PARTICULARS**: Plaintiff in action for infringement or passing off should give sufficient particulars of the infringement or passing off, 324.

**PARTNERSHIP:**

Mark is joint property of partners unless otherwise provided, 316.

On dissolution of, mark goes with goodwill, 316, 317.

Former partner in dissolved partnership cannot convey right to use partnership mark to limited company, 317.

In joint adventure gives no surviving right to mark on closing of adventure, 317.

**PASSING OFF:**

Chapter VII., 332 to 353.

Relief to owners of unregistered and unregistrable marks, 332.

*Dictum* by Lord Blackburn on passing off, 332.

Where name has become identified with a certain maker's goods, 332.

Reddaway's "Camel Bolting" Case, 333 to 335.

"Stone Ale" Case, 335.

"Glenfield Starch" Case, 336, 340.

"Yorkshire Relish" Case, 336.

Secret recipe, 336.

New name of new patented product, 338.

" " " unpatented product, 339.

"Linoleum" Case, 338.

"Vaseline" Case, 339.

Name of district of origin, 340.

Obvious imitation of plaintiff's mark, 340, 341.

Fraudulent imitation of "get-up" of goods, 341.

Recent "get-up" has no prescriptive right to protection, 341.

"Red, White, and Blue" Coffee Tin Case, 341.

Alleged imitation of "get-up" must have similar general appearance, 342.

Passing off by use of name similar to plaintiff's, 343.

"Valentine Meat Extract" Case, 344.

"Cash Frilling" Case, 345.

Limits of application of rule as to trader's name ("Chivers' Jelly" Case), 345.

Names *publici juris*, 345.

Names denoting a principle, 346.

No statutory right of action for "passing off," 346.

Particulars of deception and damage should, if possible, be given, 347.

Imitation of appearance of business premises may be restrained, 349.

" " firm name, 349 to 353.

Distinguishing name of shop or warehouse, 350.

Fancy trading name, 350.

Fraudulent partnership to imitate name of old-established business, 353.

**PATENT:**

New name of new goods under patent, 338.

" " " not patented, 339.

Not advisable to include word "patent" in trade mark, 292.

False representation as to, debars plaintiff from relief, 292.

Not usually struck out of old mark, 313.



**PATTERN** formed by dividing lines to ensure exact subdivision not a trade mark, 266.

"PERSON" includes body corporate and partnership firm (Section 117, Sub-section 1), 547.

**PICTURE** of goods not accepted as trade mark, 290, 291.

"PINET" CASE: Fraudulent assumption of existing firm's name (see *Pinet v. Pinet*), 394.

"PIRLE": Held descriptive and not invented word (see *Ripley's Application*), 271.

#### **PLACE:**

Name of, as trade mark, geographical, not registrable, 273 to 275.

Of origin in connection with goods not registrable, 275.

May be a selected word and registrable if little known, 274.

#### **PLAINTIFF:**

Particulars of title of, 324.

Right of, to sue for infringement of registered trade mark derived from Statute, 319.

Might be foreigner, 293.

Right of non-domiciled foreigner to restrain use of name, 353.

#### **PLEADINGS**

In infringement action, 324, 327.

Writ, 324.

Statement of claim, 324.

Defence, 327.

In passing off action, 348.

#### **PORTRAIT**

May be registered as trade mark, 265.

Label containing, with letterpress, might be held imitated by label containing similar but not the same matter, 342.

#### **POSSESSION**

Of spuriously marked goods under the Merchandise Marks Acts, 355.

Punishments and penalties in respect of, 355.

**POSSESSIVE CASE:** Name trade mark not to be in, 292.

#### **PRACTICE**

In applying for and opposing registration of trade marks (Chapter III.), 293 to 301.

In rectifying the Register (Chapter IV.), 302 to 314.

In dealing with innocent or trivial infringements, 323, 325.

**PREDECESSOR :**

Mark must indicate in assignee's hands what it indicated in hands of, 316.

Mark containing name or initials of, not deceptive, 316.

**PRINCIPLES OF TRADE MARK AND TRADE NAME LAW :**

Origin and growth of, 257 to 260.

Bacon, V.-C., on, 259.

Lord Blackburn on, 332, 333.

Lord Cranworth on, 320.

**PRINTER :**

Printing labels for genuine goods, no offence, 357.

Forgery by, under Merchandise Marks Act, 357, 358.

Conviction of, of forged labels, 358.

**PROCEDURE**

In registering trade mark (Chapter III.), 293 to 301.

In opposition to registration, 296, 297.

In rectification of the Register (Chapter IV.), 302 to 314.

**PROFITS (see ACCOUNT OF PROFITS).****PROPERTY IN TRADE MARK :**

Trade mark is personal property and may be assigned and transferred with goodwill, 315.

Disinclination in early times to create, 258.

**PROPRIETOR :**

Person entitled to be, 259.

Foreigner may be, 260.

Signature of, may be trade mark, 262.

May oppose subsequent application, 296.

Cannot assign mark apart from goodwill, 315.

On death of, mark passes to personal representative, 317.

Cannot license his mark to be used on another's goods, 317.

**PROSECUTION**

Under Merchandise Marks Acts, 354.

Offences and penalties, 354, 355.

Evidence, 357.

Of innocent retailer, 356.

Of engravers and lithographers, 357.

For fraudulent imitation, 358.

For false trade description, 360.

**PUBLICATION :**

Novelty *per se* not an essential in a trade mark, 302.

Prior publication of invented word does not invalidate registration, 303.

**PUBLICI JURIS :**

Names and marks becoming, 345, 346.

New names of new products, 338, 339.

**PUFFING** one's own goods not trade libel on others, 331.

**PURCHASER :**

Deception of ultimate, 258, 322.

Of goodwill takes trade mark, 315.

Of goods having spurious marks, 355.

**"READING BISCUITS,"** 273.

**RECTIFICATION OF THE REGISTER :**

Registered mark must be put to use, 302.

Want of novelty in mark no ground for, 302.

Nor prior publication, 302, 303.

Registration *prima facie* evidence of exclusive right to mark, 304.

Five years' registration conclusive evidence " " 304.

But rectification of the Register may take place at any time, 304.

Minor correction of clerical and other errors, 304.

By person aggrieved, 305.

Transmission of order to Comptroller, 305.

Aggrieved person's grievance must not be merely in gross, 305.

Defendant in action is person aggrieved, 306.

Opposed applicant is person aggrieved, 306.

Grounds for rectifying Register, 305 to 307.

Examples of marks expunged, varied, or sustained, 307 to 309.

Application to rectify must not be made by counterclaim in action, 328.

Applicant to expunge must not move to have his name substituted, 310.

Costs in, 310.

Damages, 310.

Appeal, 310.

Proprietor may expunge his own mark, 311.

By registered proprietor of non-essential particulars, 311.

Addition of word "Limited" to name, 312.

Alteration of name, 312.

No alteration allowed prejudicial to other owners, 312.

Difficulty of altering old marks, 312, 313.

Striking out "Patent" or "Trade Mark," 313.

" " misleading item in mark, 313.

Courts having jurisdiction to rectify Register, 314.

Irish Court disclaims jurisdiction, 314.

Proceedings may be by affidavit or as a witness action, 314.

**"RED, WHITE, AND BLUE" COFFEE TINS,** 341.

**REFERENCE**

Of appeal from Board of Trade to Court, 298.

To character or quality of goods in selected words, 272.

**REFUSAL TO REGISTER:** Certificate of, 286.

**"REGISTERED":**

Penalty for representing mark as, 301.

Even when, abroad, 301.

**REGISTER OF TRADE MARKS:**

Provision of (Section 78), 527.

Refusal of application on account of resemblance to mark on, 295.

Entry on payment of final fee, 295, 296.

Mark removed from, if renewal fee not paid, 300.

Rectification of (Chapter IV.), 302 to 314.

Effect of Order of Court to be noted on, 305.

Courts having jurisdiction over, 314.

For Sheffield marks (Section 81, Sub-section 1), 529.

**REGISTRATION OF TRADE MARKS:**

No provision for, before 1875, 260.

Acquisition by, 260, 293.

Procedure in obtaining (Chapter III.), 293.

Application for, 293.

    "    "    equivalent to public use, 302.

    "    "    old marks, 281 *et seq.*

    "    "    advertisement of, 295.

May precede user, 302.

Must be for particular goods or classes, 293.

Only protects mark for goods in respect of which, registered, 282, 306.

In a series, 315.

Common marks as additions, 276.

For cotton goods, 294.

    "    Sheffield goods, 299.

By foreigners, 260, 293.

    "    "    under Convention, 287, 288.

Fees for, 293, 296, 379.

Opposition to, 296.

Three Mark Rule in, 283 *et seq.*

Appeal to Board of Trade from Comptroller's refusal, 296.

Certificate of refusal of, 286.

Makes proof of fraudulent intent unnecessary, 322.

Equivalent to public use, 302.

As evidence of proprietor's right, 302.

Duration of, 300.

Cancellation of, 300.

Novelty not an essential in, 302.

Motion to expunge or vary (Chapter IV.), 302.

**REMOVAL OF MARK FROM REGISTER** (*see* RECTIFICATION OF REGISTER).

**REPRESENTATION**

Of goods not a registrable trade mark, 290, 291.

Of mark in application for registration, 293.



REPUTATION OF GOODS makes reputation of mark, 315.

#### REQUEST

By assignee to register name as proprietor, 317.  
Section 87, 534.

RESTORATION OF MARK TO REGISTER by payment of fine *plus* renewal fee, 300.

“ROTTGEN’S” CUTLERY (*see Rodgers v. Rottgen*), 320.

#### ROYAL ARMS

Not registrable as trade mark, 287, 291.  
Word “Royal” not registrable, 287.  
Representations of members of Royal Family not registrable, 287.  
Unauthorised assumption of (Section 106), 543.

“RUGBY CEMENT,” 273.

RULES: Trade Mark Rules, 1890 to 1898 (Consolidated), 362.

“RUPEE” MARK: Fraudulent imitation of, 358.

“ST. RAPHAEL”: Example of addition held to be part of mark and not subject to disclaimer (*see Clement’s Mark*), 277, 279.

SALES: Discovery concerning sales in infringement action, 328.

“SANITAS” (*see Sunitas Co. v. Condy*), 320.

“SATININE” held not invented word (*Meyerstein’s Application*), 268.

SATURDAY: Day following, for leaving documents and paying fees at Patent Office (Section 98), 538.

“SAVONOL” held invented word (*Field v. Wagel*), 270.

#### SCHEDULES

To Trade Mark Rules—

First Schedule (Fees), 379.  
Second „ (Forms), 381.  
Third „ (Classification of goods), 382.

SCOTLAND: Jurisdiction of Courts in, to rectify Register, 314.

#### SECRET:

Mark for goods made from secret recipe, 336, 337.  
Breach of trust regarding trade, 337.

“SECURINE” held to infringe “Seccotine,” 308.

“SEIXO”: Physical resemblance between conflicting marks not the only test  
(see *Seiwo v. Provezende*), 320.

SEIZURE of imported goods bearing spurious marks under Merchandise Marks Acts, 361 (see also Article IX. of Convention [Appendix A], and Declaration of British Delegates), 450, 457.

“SELECTED” in steel pen trade, 284.

SELECTED WORDS (see WORD TRADE MARKS).

SELECTOR OF GOODS may register and hold mark, 260.

“SEN-SEN”: “Trade Mark” does not represent mark as “registered,”  
(see *Sen-Sen v. Britten*), 301.

#### SERIES OF MARKS

Cannot be broken up, 315.

Must be assigned and transmitted as a series, 315.

SHEFFIELD marks under Cutlers’ Company, 299.

#### SIGNATURE

As trade mark, 262.

Must be that of actual name of individual or firm, 262.

SIGNBOARD: Action at Common Law to restrain deceptive, 349.

“SILVEEPAN”: Example of common or open but “distinctive” addition  
subject to disclaimer, 278, 279.

SIMILARITY OF “GET-UP,” calculated to deceive, will be restrained, 341.

“SMOKELESS POWDER”: Example of common but not “distinctive” addition  
not subject to disclaimer, 277, 279.

“SOLIO”: Ruling case in “invented words” (see *Eastman Co.’s Application*),  
268 to 270.

“SOMATOSE”: Held not an invented word (see *Farbenfabriken Application*),  
268, 269.

SPURIOUS LABELS: Conviction for producing, under Merchandise Marks  
Acts, 354.

STATEMENT OF CLAIM in action for infringement, 324.

- STATIONERS' HALL**: Registration at, not effectual to protect trade mark, 328.
- STATUTES**: Patents, Designs, and Trade Marks Acts, 1883, 1885, 1886, 1888, 1901, and 1902 (Consolidated), Appendix C, 483.
- "STEINWAY"**: "Steinberg" held to infringe (*see Steinway v. Henshaw*), 308.
- STOCKOWNERS' MEAT CO.**: Change of name on Register and marks, 312.
- "STONE ALES"**: Common Law mark (*see Montgomery v. Thompson*), 335.
- SUBMISSION** by defendant in action for infringement, 325.
- SUBSEQUENT ACTION**: Certificate of validity in, 330.
- SUNDAY**: Day following, for leaving documents and paying fees at Patent Office (Section 98), 538.
- "SUNLIGHT SOAP"**: Label imitated to some degree, but not so as to be deceptive (*see Lever v. Beddingfield*), 342.
- "TACHYTYPE"** held an invented word (*see Linotype Co.'s Application*), 270.
- TEXTILE GOODS**: Additional representations for, 294.
- "THORLEY'S CATTLE FOOD"**: Trade libel or slander (*see Thorley v. Massam*), 331.
- THREATS**:  
 Proprietor of trade mark not liable under Statute for, 331.  
 But if amounting to trade libel or slander may be restrained, 331.
- THREE MARK RULE**: Concurrent users of old mark may be independently registered owners of same mark up to three, 283.
- TICKET**  
 Must be distinctive, 265.  
 Definition of, 267.
- TIME**  
 For opposing registration, 296.  
 For filing statement by applicant, 297.  
 For declarations by applicant, 297.  
 Within which renewal of registration may be effected, 300.
- TITLE**: Proof of, conferred by registration, 302.
- "TOWER TEA"**: Costs on higher scale may be given in infringement action (*see Great Tower Street Tea Co. v. Smith*), 330.
- TRADE DESCRIPTION**: False, under Merchandise Marks Acts, 360.

**TRADE LIBEL :**

Statements not made *bonâ fide* and calculated to injure business may be restrained, 331.

See ACTION AGAINST PATENTEE FOR THREATS.

**TRADE MARKS**

Differentiated from Patent and Design, 1, 2.

Mediæval merchants' marks, 257, 258.

Early recognition of, at Common Law, 258.

First recorded case submitted to Court, 258.

Early reluctance of Courts to give right of property in, 258.

Danger recognised of deception of ultimate purchaser, 258.

Necessity of proving fraud done away with, 258.

Accepted principles in dealing with infringements of, 259.

Persons entitled to acquire and use, 259.

For natural products, 260.

Not registrable before 1875, 260.

Registration under present Statutes, 260.

Definition of, 261.

Name, signature, device, invented and selected words, 262 to 281.

Definition of, under Merchandise Marks Acts, 354.

Unregistered or Common Law (Chapter VII.), 332 to 353.

**TRADE OR TRADER'S NAME**

Registrable in distinctive form, 262.

General rule as to, 263.

Restraints upon use of own name, 263.

May be registered as signature, 262.

Signature must be actual name, 265.

In possessive case, not registrable, 292.

As old mark, 281.

Common Law defined by Lord Blackburn, 332.

Examples of Common Law trade names, 333 *et seq.*

Name otherwise in danger of being common, might be restricted to one maker who possessed original recipe, 336.

Of new products, patented or unpatented, 338.

A patent monopoly cannot be extended by name of article, 339.

Name of district cannot be appropriated, 340.

Except user has exclusive access to source of supply, 340.

Assumption or imitation of trader's name, 340.

Trader must use his own name honestly, 343 *et seq.*

Generally trader using his own name not bound to take extra precautions to avoid confusion, 344.

But where old-established business has its name connected with particular manufacture, persons of same name newly established in similar business must use the most extreme care to prevent confusion, 344, 345.



**TRADE OR TRADER'S NAME—continued.**

Names denoting principle of construction may become *publici juris*, 345.

Trading names of firms, 349.

Names of trade premises, 350.

Fraudulent assumption of same name, 350.

Registered and unregistered company names, 352.

Examples of relief granted and refused in respect of company and firm names, 352.

Foreign firm not domiciled in the United Kingdom may restrain use of their name here, 353.

**TRADE SECRET:** Exclusive possession of, might prevent trade name of article becoming *publici juris*, 336.

**TRANSFER** (*see* Chapter V.), 315.

**TRANSIT:**

To establish right to register old mark, goods bearing it must have been on sale in United Kingdom, 282.

Mere transit is not user, 283.

Seizure of goods during transit not obligatory under Article IX. of Convention, 452.

“TRILBY” upheld as properly registered word mark (*see Holt & Co.'s Trade Mark*), 273.

“TRITICUMINA” held not a “fancy” nor “invented” word, and to be descriptive (*see Meaby v. Triticine Co., Limited*), 271.

**TRIVIAL CASES:** Actions for trivial infringements discouraged, 323.

**ULTIMATE PURCHASERS:** Deception of, 258, 322.

“UNEEDA” held not “invented” word (*see National Biscuit Co.'s Application*), 271.

**UNREGISTERED MARKS**

Not trade marks within definition of Merchandise Marks Acts, 356.

Protected at Common Law (Chapter VII.), 332 to 353.

May be descriptive, 335.

„ geographical, 335, 340.

May be described as “Trade Mark,” 301.

**USE**

As affecting old marks only counts in United Kingdom, 282.

Not necessary before registration, 286.

Old mark must be used exactly as registered, 283.

Ceasing to, may constitute abandonment, 300.

Misstatement as to use of alleged old mark may cause it to be afterwards expunged, 306, 308.

**USE—continued.**

Applicant to register must use or intend to use, 293, 294.

Non-use may cause mark to be expunged, 294.

Prior, by another will not invalidate registration, 302.

Mark registered as old mark must be used only on the goods formerly denoted by it, 283.

“VALENTINE'S EXTRACT” (*see Valentine Meat Juice Co. v. Valentine Extract Co.*), 344.

**VARIATION**

Of mark on Register may be obtained at instance of proprietor, 304, 536.

Such variation only of non-essential particulars, 311; Section 91, 536.

Alteration through change of proprietor's name, 312.

By addition of word “Limited,” 312.

Alteration of name of works, 312.

More difficult in old marks, 312.

Addition of “Limited” allowed, 313.

Omission of “patent” and “trade mark” refused, 313.

Deletion of “trade mark” allowed in *re Colman's Marks*, 313.

Varying mark at instance of aggrieved person, 304.

Reasons for varying or expunging at instance of “aggrieved person,” 304, 305.

*See* RECTIFICATION OF REGISTER.

“VASELINE”: New invented word describing old product held valid, (*see Cheseborough Company's Trade Marks*), 339.

“VINCALIS”: “Wincarnis” differentiated from (*see Coleman v. Brown*), 308.

WATCHES, “Forrest,” held deceptive, 309.

WEIGHT, LIGHT: Packets of goods passed over counter held not “application” of false trade description, 360.

“WHITSTABLE” OYSTERS: District name not exclusive where other oyster beds in same district (*see Whitstable Co. v. Hayling Co.*), 340.

“WINCARNIS” (*see* “VINCALIS”).

“WINSER” INTERCEPTOR: Name of original maker denoting principle of construction (*see Winser v. Armstrong*), 346.

“WORCESTER SAUCE”: Name becomes *publici juris* (*see Lazenby v. White*), 345.

**WORD TRADE MARKS (SELECTED):**

Added words to essential part of mark, 261, 275.

“Invented” words, 267.

**WORD TRADE MARKS (SELECTED)—continued.**

Must have no reference to character or quality of goods, 272.

May be selected from English or other languages, 272.

Must not be geographical names, 272 to 274.

Examples of words held to refer to quality and character, 272.

Name of fictitious or mythical personage may be registered, 273.

Examples of selected words as trade marks, 273.

Examples of excluded geographical words, 273.

Present-day reading of geographical words, 274.

Geographical *locus* must be of some importance to exclude, 274.

But if name is area of production it is geographical, 275, 340.

Names of natural springs or mines where goods are procured are geographical, 274, 275.

*Résumé* of substance of decisions, 275.

Distinction between Common Law and registered word marks, 275.

**WRAPPERS:**

Mark placed on, of goods constitutes infringement, 321, 322.

Mark may consist of, 342.

General resemblance of, may constitute infringement, 342.

“**WRIGHT, CROSSLEY & CO.**”: A firm not domiciled in United Kingdom is not a person aggrieved, 305.

**WRIT** in action for infringement, 324.

“**YORKSHIRE RELISH**”: Trade name only usable by those having exact secret of manufacture (*see Powell v. Birmingham Brewery Co.*), 336, 337.

## PART III.—DESIGNS.

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### ACTION FOR INFRINGEMENT:

#### General—

- Designs differentiated from patents and trade marks, 1, 2.
- Useful designs introduced by Act of 1843, 388.
- Repeal of all former Acts by Act of 1883, 388.
- Designs now registered for pattern or shape, 389.
- No Common Law rights in unregistered designs, 421.
- Prohibition against unauthorised use of registered designs (Section 58), 421, 518.

Proceedings generally to be modelled upon patent actions, 426.

#### What constitutes actionable infringement—

- Protection is restricted to particular goods covered by registration, 393.
- „ restricted to United Kingdom, 398.
- The test is applied by the eye, 422.
- Exact copying of design not necessary, 422.
- Same general appearance may constitute infringement, 422.
- “Obvious” and “fraudulent” imitation, 423.
- Manisty, J., on distinction between “obvious” and “fraudulent” imitation, 423.
- Must be applied to goods, 423.
- Retailer or seller of infringing goods, 424.
- Goods made and stored but not sold before expiry of registration, 425.

#### Plaintiff—

- Registered proprietor alone entitled to sue, 425.
- Author of design, 425.
- Registered purchaser of design before or after registration, 425.
- Assignee of whole or part of registered design, 425.
- Licensee to apply design to goods, 425, 426.
- Representative of deceased or bankrupt proprietor, 426.
- Licensee to sell goods, no right of action, 426.
- Must elect between action under Section 58 or under Section 59, 427.

#### Defendant—

- Person applying the design or causing it to be applied to goods for purposes of sale, 423.
- Person exposing infringing goods for sale knowing the design has been applied without proprietor's consent, 424.
- Innocent retailer ignorant that proprietor's consent has not been obtained, 424, 433.



**ACTION FOR INFRINGEMENT—continued.****Writ—**

Suggested endorsement of, 426.

Claim for penalties in, 426.

„ damages in lieu of penalties, 427.

Must not claim both damages and penalties, 427.

Must elect under which section claim is made, 427.

**Interlocutory injunction—**

May be applied for on service of writ, 432.

Usual circumstances in which, may be granted or withheld, 432.

**Statement of Claim—**

Suggested form of, 427.

Modification of, in case of retailer or seller of infringing goods, 427.

Claim for penalties, 427.

„ damages, 427.

Must not claim both damages and penalties, 427.

Must elect penalties or damages, 427.

In action against retailer must allege knowledge of absence of proprietor's consent, 424.

**Particulars of breaches—**

No statutory obligation to give, 427.

But rule is to deliver, 428.

Must give fullest ascertainable particulars of infringements, 427.

May be ordered, if not delivered, 428.

**Defence—**

Suggested form of, 428.

No counterclaim, for rectification of the Register, allowed in, 437.

Modification of, where defendant is retailer or seller of goods, 428.

Heads of, 429.

**Particulars of objections—**

No statutory obligation to deliver, 429.

But rule is to deliver, 429.

May be ordered, if not delivered, 428.

Suggested form of, 429.

Heads of, 429.

Denial of authorship of design, 429.

Subject-matter, 429.

Prior publication, or user, or common knowledge, 429.

Full particulars of prior publication or user, 429.

No particulars of common knowledge required, 429.

Sale of unmarked or improperly marked goods, 429.

Registered design used abroad but not here, 435.

May be amended, 430.

„ „ at instance of plaintiff by summons, 430.

„ „ „ „ defendant, 430.

Terms of amendment, 430.

Discretion of Judge, 430.

Anticipations relied on at trial must as a rule have been pleaded, 430.

**ACTION FOR INFRINGEMENT—continued.****Inspection—**

- Order for, may be obtained at any time, 430.
- Rules in applying for, by plaintiff or defendant, 430, 431.
- Application for, by summons, 431.
- Mere suspicion will not justify, 431.
- Affidavit by party, 431.
- No order that might prejudice parties, 431.
- Where trade secrets might be disclosed, 431.

**Interrogatories—**

- None allowed where penalties are claimed, 431.
- Leave to deliver, 432.
- May be delivered where damages are claimed, 431.
- Payment into Court by party interrogating, 432.
- Rule in Chancery Division as to, 432.
- Limits of, 432.
- In case of officer of body corporate replies need not be outside scope of official knowledge, 432.
- To be answered by affidavit, 432.

**Costs—**

- Usually follow event, 432.
- But may be apportioned according to circumstances, 432.
- Judge has full discretion as to, 433.
- Terms as to, in amending particulars, 430.
- Order as to, may be influenced by behaviour of parties, 433.
- Influenced by success or failure of separate issues, 433.
- Of untried issues, 433.
- In the case of innocent retailer, 433.

**Threats—**

- No provision in Act for restraint of, 433.
- Might be actionable at Common Law as trade libel or slander, 433.

Appeal to Court of Appeal and House of Lords, 433.

**Injunction—**

- Claimed in writ, 426.
- „ „ statement of claim, 427.

**Delivery up—**

- Claimed in writ, 426.
- „ „ statement of claim, 427.

*See also* COUNTERCLAIM, INFRINGEMENT, INJUNCTION, PLEADINGS, *and* WRIT.

**ACTS (see STATUTES RELATING TO DESIGNS).****ADDRESS**

- Of Comptroller, 392.
- Of Secretary of Board of Trade, 394.
- Of proprietor entered in Register, 396.
- Of assignee „ „ 396.

**AGENT :**

- Signature of application form by, when employed by applicant, 392.
- „ to drawings or specimens, 392.
- For applicant may inspect Register, 395.
- Of body corporate, 396.
- For sale of goods only cannot register as proprietor of design, 400.
- Mistaken registration by, in own name may be cured by substitution of principal's name, 400.

**AGGRIEVED PERSON :**

- Provision by Section 90 for rectification of Register by, 435, 535.
- Definition of "person aggrieved," 435.
- Proprietor of prior design is, 435.
- Defendant in action for infringement is, 435.
- True author as against improperly registered person is, 435.
- Onus of proof of true ownership of design, 401.
- See also* RECTIFICATION OF THE REGISTER.

**AMENDMENT**

- Of documents and drawings by Comptroller (Designs Rule 30), 444.
- Of clerical errors in application, or register by Comptroller (Section 91), 536.
- Of application by omission of goods or classes of goods (Section 91), 536.
- Form of request for (*see* Second Schedule to Designs Rules), 448.
- Fee on request for (First Schedule to Designs Rules), 448.
- Of particulars in action for infringement, 430.
- See also* ACTION FOR INFRINGEMENT.

**ANTICIPATION :**

- Design must be new and original, 412.
- „ „ not previously published in United Kingdom, 412.
- Must be in same description of goods, 412, 413.
- By patent specification of prior date, 412.
- By prior user for substantially same purpose, 413.
- Fire door would not be anticipated by house door, 413.
- By prior exhibition, 413, 414.
- Confidential disclosure is not, 413.
- Disclosure for trade purposes is, 413, 414.
- By sale of articles before registration, 414.
- By same object in different material for same purpose, 414, 415.
- By registration and user in another class, 415.
- See also* PRIOR PUBLICATION *and* PUBLICATION.

**APPEAL**

- To Board of Trade from Comptroller's refusal to register, 394.
- No provision as to costs of, 395.
- Reference of, to Court, 395.
- In action for infringement, 433.
- In application to rectify Register, 437.

**APPLICATION FOR REGISTRATION:**

Forms of, 391.

Fees on, 391, 447.

Filling in forms of, 391.

Statement of nature of design, 391.

May be for pattern, shape, configuration, or ornament, 391, 392.

Lace designs registered without search, 392.

Copies of design, 392.

Transmission to Comptroller, 392.

Classification of goods, 393.

Same design registrable in several classes, 393.

*Caveat* applications, 394.

Issue of certificate of registration, 394.

Refusal to register, 394.

Hearing before Comptroller, 394.

Appeal to Board of Trade, 394, 395.

Reference to Court, 395.

Inspection of registered designs by applicant, 395.

Documents and drawings relating to, may be amended (Section 91), 536  
(*see also* AMENDMENT).

Persons qualified to make, 399 to 401.

**ASSIGNMENT**

To be entered on Register of Designs, 396.

Request by assignee, 396.

„ „ must be verified by declaration, 396.

May be made to corporate bodies, 396.

Of unregistered design for valuable consideration, 399.

Mere agent to sell the goods not qualified as proprietor, 400.

Of design qualifies assignee to enter name as proprietor, 399.

Must be in writing, 396, 426.

**AUTHOR**

Of design is qualified to register, 399.

May be employer of real designer, 399.

Doubtful if first importer is, 401.

May make design on behalf of another person for valuable consideration,  
399.

Definition of (Section 61), 519.

**BANK HOLIDAYS:** Day following, for leaving documents and paying fees  
at Patent Office (Section 98), 538.

**BANKRUPTCY:**

Trustee in, of registered proprietor, may sue for infringement, 426.

May register himself as proprietor, 396.

**BOARD OF TRADE:**

Exhibition of unregistered designs at exhibition certified by, 397.

Appeal to, from refusal of Comptroller to register design, 394.



**BOARD OF TRADE—continued.**

- Not empowered to give costs in appeals from Comptroller, 395.
- Custody of Register taken from, by Act of 1875, 388.
- No appeal from decision of, as to acceptance of application, 395.
- Might refer appeal to Court, 395.
- Provision for appointment of Comptroller by (Section 83), 534.
- Power of, to make rules under Act (Section 101), 539.

**BOOKS:**

- Anticipation of design by prior publication in, 414.
- Plea in defence to action for infringement of prior publication in, 429.

**CERTIFICATES**

- Of registration of design, 394.
- Of search by Comptroller, 395.
- Of entries in Register by Comptroller for use in legal proceedings, 397.
- Of Board of Trade as to Industrial and International Exhibitions, 397.
- Copy of certificate of registration if lost may be replaced (Section 49), 515.
- Of Comptroller are *prima facie* evidence of act or entry (Section 96), 537.
- Form of request for Comptroller's (see Second Schedule to Designs Rules), 448.

**CHANNEL ISLANDS:** Copyright does not extend to, 398.

**CHRISTMAS DAY:** Patent Office closed; fees or acts due on that day may be paid or done on day following (Section 98), 538.

**CLASSES OF GOODS:**

- List of classes, 393, 449.
- Protection restricted to particular class or classes covered by registration, 393.
- Same design registrable in several classes, 393.
- Registration in sets or series, 393, 394.
- Applications may be amended by omission of goods or classes (Section 91), 536.
- Effect of registration in wrong class, 415.
- Registration apparently covers all articles in each class of registration (Sections 58 to 60), 518, 519.

**COLONIAL ARRANGEMENTS:** Registration under (Sections 103, 104), 541, 542.

**COMBINATION DESIGNS**

- Are good subject-matter for registration, 406.
- But combination must betray ingenuity, 406.
- Mere slight changes will not do, 406, 407.
- Quantum of ingenuity will be considered, 407.

**COMMERCIAL SUCCESS** may help to sustain registration, 408.

**COMPTROLLER OF PATENTS, DESIGNS, AND TRADE MARKS :**

- Board of Trade has power to appoint (Section 83), 534.
- May consult Law Officers in difficult questions (Section 95), 537.
- Is requested in lace forms to register without search, 392.
- Applications for registration delivered to, 392.
- Issues certificate of registration, 394.
- May refuse registration, 394.
- Gives hearing to applicant, 394.
- Appeal from, to Board of Trade, 394.
- Permits inspection of designs on Register, 395.
- Searches by, 395.
- Enters design in Register, 396.
- Will amend documents and drawings (Designs Rule 30), 444.
- "    "    clerical errors in application or Register (Section 91), 536.
- "    delete goods or classes from application (Section 91), 536.
- Issues certificates of search, 395.
- "    "    entries &c., for use in legal proceedings, 397.
- "    duplicate of lost certificate of registration (Section 49), 515.
- Will alter name of registered proprietor in Register, 396.
- May be made a party in an application to rectify the Register, 437.
- Notice to, of intention by applicant to exhibit unregistered design, 397.

**CONSENT**

- Unlawful to apply design without, of proprietor, 421, 423, 424.
- Exposure for sale of articles having design applied without proprietor's, 421, 424.
- Innocent retailer must plead his ignorance that design had been applied without proprietor's, 429.

**COPIES**

- Of lost certificate of registration issued (Section 49), 515.
- Certified, of entry may be obtained, 397.
- False, of entries in Register punishable as misdemeanour (Section 49), 515.
- Of registered design, not to be taken during copyright, 395.
- "    "    "    may be taken after expiry of copyright, 395.
- Of notice of appeal to Board of Trade to be sent to Comptroller, 437.
- Of rectification order to be left with Comptroller, 437.

**COPYRIGHT**

- Only for goods and classes in which design is registered, 393.
- Commences at date of registration, 397.
- Lasts for five years, 397.
- No extension granted, 397.
- Extends only over United Kingdom, 398.
- Does not extend to Channel Islands, 398.
- May be assigned, 396, 401.
- Where proprietorship is disputed, onus of showing title lies on claimant, 401.

**COPYRIGHT—continued.**

- Devolves as personal property, 396, 401.
- Prohibition in Section 58 against infringement of, 421.
- Is personal property, 401.

**CORPORATION**

- May be registered as proprietor of design, 396.
- Is included under "person" in Section 117 of Act, 547.

**COSTS:**

- No provision as to, in appeal to Board of Trade, 395.
- Usually follow event in infringement action, 432.
- But apportionment of, governed by circumstances, 433.
- Judge has complete discretion as to, 432, 433.
- Influenced by conduct of parties, 433.
- Of untried issues, 433.
- In the case of innocent retailers, 433.
- Terms as to, in amending particulars, 430.

**COUNTERCLAIM:** Rectification of Register must not be raised in, 437.

**COURT:**

- According to Section 58, any Court of competent jurisdiction, 425.
- Means High Court of Justice or, in certain circumstances, County Court, 425.
- Includes County Palatine Court of Lancaster, 434.
- General definition of (Section 117), 547.
- In proceedings for rectification of Register—
  - Means the High Court of Justice in England, 434.
  - County Palantine Court of Lancaster, 434.
  - Scottish, claims jurisdiction (*see Cowie v. Herbert*), 434.
  - Irish, disclaims ,, (*see Bayer v. Connell*), 434.

**DAMAGES:**

- Claim in action for infringement must be for, or for penalty, not both, 427.
- Interrogatories may be delivered when claim is for, 427, 431.

**DEFINITIONS:**

- Design (Section 60), 519.
- Author (Section 61), 519.
- General definitions (under Section 177), 547.

**DESIGN**

- Differentiated from Patent and Trade Mark, 1, 2.
- Definition of (Section 60), 519.
- Must be applicable to some article of manufacture, 402.
- May be for pattern, shape, or ornament, 402.
- Or for combination of these, 402.
- No consideration given to element of utility, 402, 404.
- Might be something also patentable, 404, 405.
- But anything essentially of patentable nature cannot be, 405.



**DESIGN—continued.**

- Must be judged by its appearance, not uses, 405.
- Combinations of old, may make new, 408.
- Combinations of new and old, 410.
- Must show ingenuity, 406, 407.
- Adaptation of well-known things subject for, 406, 409.
- Lindley, L. J., on novelty and originality in, 410.
- Examples of narrow subject-matter, 411.
- Imported from abroad, 401.
- How to register, 391 to 398.
- Registered, is personal property, 401.

**DESIGNS RULES, 1890 to 1898 (CONSOLIDATED), 438.**

**DISCLAIMER:** Applicant may disclaim particular goods or classes of goods in his application (Section 91), 536.

**DOMICILE:**

- High Court of England has jurisdiction for rectifying Register irrespective of domicile of proprietor (Section 117), 547.
- Scottish and Irish Courts, where proprietor domiciled (Sections 111 to 117), 434, 544, 547.

**DISCOVERY:**

- In action for infringement, 430, 431.
- See also ACTION FOR INFRINGEMENT, INSPECTION, and INTERROGATORIES.

**DRAWING:**

- To be filed with application for registration, 392.
- May be replaced by specimens or photographs, 392.
- With *caveat* applications, 394.
- Insufficiency of, not necessarily fatal to registration, 411.
- Advisable to make perfectly distinct, 411.
- Detail views may be shown, 392, 411.
- Three copies to be supplied (*see also* Section 48), 392.

**EVIDENCE:**

- Register is *primâ facie*, of matters entered therein, 397.
- Certified copies of entries are, 397, 535.
- Certificate of Comptroller as to any entry or act (Section 96), 537.
- Certificate of search by Comptroller is not, 396.
- Of fraudulent imitation might be created by conduct of defendant, 422, 423.
- That retailer of infringing goods knew that design had been applied without proprietor's consent, 423.

**EXHIBITIONS (INDUSTRIAL AND INTERNATIONAL):**

- Directions to persons exhibiting an unregistered design at exhibition certified by Board of Trade, 397.
- Comptroller to have seven days' notice, 397.
- Dispensation from giving notice by Order in Council (Section 57), 517.



**EXHIBITIONS (INDUSTRIAL AND INTERNATIONAL)—continued.**

Form for giving notice, 397.

Fee on form, 397.

Notice must include particulars of design, 397.

Application for registration to be made within one month of opening of exhibition, 397.

Statutory provisions with reference to (Section 57), 517.

Designs Rule (36), 445.

**EXPUNGING FROM REGISTER (see RECTIFICATION OF THE REGISTER).****FALSE MARKING:**

Penalty for describing an article as "registered" when not so, 420.

Statutory prohibition of (Section 105), 542.

See also MARKING GOODS.

**FEEES:**

List of, now in force (First Schedule), 447.

Are prescribed by Board of Trade (Section 56), 517.

On application, 391.

For registration of sets of designs, 391, 447.

On request to Comptroller to make search, 395.

„ „ „ alter name on Register, 396.

On notice of intention to exhibit unregistered design, 397.

**FOREIGNERS**

Registering design in this country must use it here within six months of registration, 435.

Registration by (under Section 103), 398.

**FOREIGN COUNTRY:**

Registered design used in, but not here within six months of registration becomes invalid, 435; Section 54, 516.

Use of registered design abroad no infringement of copyright here, 398.

Importer of design from, probably not considered author, 401.

**FOREIGN STATES (ARRANGEMENTS WITH):**

Statutory provisions for (Section 103), 541.

Terms of International Convention and Protocol (Appendix A), 450.

**FORFEITURE**

Under Section 54, 435, 516.

For non-marking or improper marking, 416 to 420; Section 51, 515.

„ non-supply of representations to Comptroller (Section 50), 515.

„ non-user within six months, 397; Section 54, 516.

**FORMS:**

Obtainable at chief post-offices of important towns, 391.

Fees on (First Schedule), 447.

Writ, in action for infringement, 426.

**FORMS—continued.**

- Statement of claim, 427.
- Particulars of breaches, 427, 428.
- Defence, 428.
- Particulars of objections, 429.
- Of orders in amendment of particulars, 430.

**FRAUDULENT IMITATION:** “Obvious” and “fraudulent” imitations, 423.

**GOOD FRIDAY:**

- Patent Office closed (Section 98), 538.
- Provision as to leaving documents and paying fees on day following, 538.

**HISTORICAL REVIEW OF DESIGNS LEGISLATION:**

- Chapter I., 387, 390.
- Registration unknown before 1787, 387.
- “Useful” designs introduced by Act of 1843, 388.
- Provisional registration introduced by Act of 1850, 388.
- Custody of Register given to Commissioners of Patents, 388.
- All former Acts repealed by Act of 1883, 388.
- Distinction between “ornamental” and “useful” designs abolished, 389.

**IMITATION**

- Of old appearance by new means not subject-matter for design, 405.
- Test of imitation to be by the eye, 403, 405, 422.
- Of registered design is infringement, 422, 423.
- Distinction between “obvious” and “fraudulent” imitation, 423.
- Mere variation, without departing from spirit of design, is infringement, 423.
- Comptroller's certificate that design is not an, is not admitted as evidence, 396.

**INFANT** may register design (Section 99), 538.

**INFRINGEMENT**

- To be tested by the eye, 403, 405, 422.
- Action for, can only be taken by registered proprietor, 421.
- List of persons qualified to be registered proprietors, 401.
- Statutory provision against, 421.
- Might be by making articles according to registered design, 421.
- “ ” causing design to be applied, 421 to 424.
- “ ” selling or exposing goods for sale, 425.
- Obvious imitation is, 423.
- Need not be exact copy, 423.
- General resemblance will constitute, 423.
- May be inferred from conduct of defendant, 424.
- Distinction between “obvious” and “fraudulent” imitation, 423.
- As against retailer, plaintiff must show knowledge of wrongdoing, 424.
- Notice to retailer, 424.

**INFRINGEMENT—continued.**

- Protection for innocent seller of goods, 424.
- Maximum of penalties for, 424.
- Trumpery actions for, discouraged, 425.
- By making and storing goods prior to expiry of registration, 425.
- Utility of design immaterial in, 404.
- Remedies for (*see* ACTION FOR INFRINGEMENT).
- Defences in action for, 428.
- See also* ACTION FOR INFRINGEMENT.

**INJUNCTION:**

- Interlocutory, may be applied for on issue or service of writ, 432.
- Circumstances in which interlocutory, may be granted or refused, 432.
- Should be sought in Chancery Division, 425.
- Claim for, in writ, 426.
- "    "    statement of claim, 427.

**INNOCENT INFRINGER, 424.****INSPECTION:**

- Order for, may be had any time in course of action, 430, 431.
- Affidavit that, is necessary, 431.
- Not granted if prejudicial to either party, 431.
- Mere suspicion will not justify, 431.
- Trade secret protected in, 431.
- Applied for by motion or summons, 431.

**INSTRUCTIONS TO INTENDING APPLICANTS: Comptroller's circular of, 391.****INTERNATIONAL AND COLONIAL ARRANGEMENTS:**

- Provisions for (Section 103), 541.
- International Convention, text of, relating to (Appendix A), 451.
- Period of priority in, four months, 398.
- Amendment to Section 103 (Patents Act, 1901), 521, 522.

**INTERNATIONAL CONVENTION: Text of (Appendix A), 450.****INTERROGATORIES**

- Not to be delivered in actions for penalties under Section 58, 427.
- May be delivered in action for damages under Section 59, 431.
- Payment into Court by party interrogating, 432.
- Leave must be obtained to deliver, 432.

**IRELAND: Jurisdiction of Court in, to rectify Register, 434.****ISLE OF MAN:**

- Registration covers, 398.
- Jurisdiction of Courts in, not affected, 398.

**KNOWLEDGE OF SELLER OF INFRINGING GOODS :**

Ignorance of retailer that design has been applied without consent of proprietor, 421.

Provisions for protection of innocent retailer, 424.

**LACE :**

Application forms for, 391.

Registration of designs for, may be applied for in sets, 394.

" " " effected "without search," 392.

**LANCASTER PALATINE COURT :** Jurisdiction of, to rectify Register, 434.

**LAW OFFICERS :**

Definition of (Section 117, Sub-section 1), 547.

Comptroller may consult with, in case of difficulty (Section 95), 537.

**LICENCE :**

Either exclusive or non-exclusive to apply design to articles of manufacture, entitles licensee to register as proprietor, 399, 401.

Merely to sell articles according to design gives no rights of proprietorship, 399, 400.

Must be in writing to be registered, 399, 401.

Mistake by licensee in marking goods, 418.

**LIMITATION OF RELIEF IN ACTIONS :** Must be for penalties or for damages, not for both, 427.

**LUNATICS**

Might validly register design (Section 99), 538.

Provision for declarations &c. by (Section 99), 538.

**MARKING GOODS :**

Chapter VI., 416.

Section 51 provides for, 416, 515.

Provision for lapse of copyright in case of not, 416

Marks prescribed by Rules, 416.

Object of, 416, 417.

Copyright not destroyed if main object of provision is fulfilled, 417, 418.

Methods of, 416, 417.

Marking separate articles woven in piece, 417.

Relief in case of failure or partial failure to mark, 417.

Instances of partial failure to mark, 418, 419.

Error in using wrong die condoned, 418.

Double error in marking wrong portion of goods, 418, 419.

Wrong mark in addition to right mark, 418.

Use of old die in mistake for new, 418.

Mould or die becoming illegible, 418.

Proprietor bound "to take all proper steps to ensure marking," 418.

What constitutes failure to "take all proper steps," 418.

Goods must be marked before "delivery on sale," 419.



**MARKING GOODS—continued.**

- Delivery of unmarked goods in unfinished condition, 419.
- Marking article composed of separable parts, 419.
- Penalty for marking unregistered goods, 420.
- Registered goods sold abroad must be marked, 420.

**NEW AND ORIGINAL**

- Design must be novel and original, 412.
- Must not have been previously published in United Kingdom, 410, 414.
- Fry, L. J., on meaning of, 412.
- Must be new with reference to the goods, 410, 412, 413.
- Lindley, L. J., on meaning of, 412.
- Chitty, L. J., on distinction between, 412.
- New arrangement of well-known items, 406, 412.
- Novelty may be disproved by prior publications in books, specifications, &c., 414.
- Design not new if previously registered in different class for similar object, 413, 415.
- Query, if registration without publication would disprove novelty, 415.
  - But design old in one article may be new in another, 412.
- Analogous prior publication or user would disprove novelty, 413, 415.
- Novelty destroyed by prior exhibition or user, 414.
- Confidential disclosure would not cause anticipation, 413.
  - But disclosure for purposes of trade would invalidate registration, 413, 414.
- Instance where prior sale of the articles destroyed registration, 414.
- Prior user and sale of article for same purpose but in different material would anticipate, 415.

**NOTICES**

- By Comptroller to applicant of hearing *re* objection to register, 394.
- By applicant of intention to appeal from Comptroller's refusal to register, 394.
- Form of notice (*see* Second Schedule), 447.
- Copy of notice sent to Secretary of Board of Trade, 394.
- Notice of hearing by Board of Trade to applicant and Comptroller, 394, 395.
- To retailer of infringing goods, 424.
- To Comptroller of application to rectify Register, 437.
- Of intention to exhibit unregistered design, 397.
- May be dispensed with by Order in Council (Section 57), 397, 517.

**NOVELTY :**

- Chapter V., 412 to 415.
- See also* NEW AND ORIGINAL.

**"OBVIOUS" IMITATION :**

- "Obvious" and "fraudulent" imitation discussed, 423.
- See also* IMITATION and INFRINGEMENT.

**OFFENCES :**

- Use or application of registered design without owner's consent, 421, 518.  
 Selling or exposing for sale infringing goods without owner's consent,  
 421, 518.  
 Describing an article as "registered" when not so, 420.  
 Falsification of entries in Register (Section 93), 537.  
*See also* Sections 58, 93, and 105 on pp. 518, 537, 542.

**ORDERS IN COUNCIL :** Provisions for application by, of terms of Sections 103  
 and 104, to Foreign States and British Possessions, 541, 542.

**ORIGINAL** (*see* **NEW AND ORIGINAL**).

**PARTICULARS OF BREACHES AND OF OBJECTIONS :**

- No statutory obligation to deliver, 427 to 429.  
 Practice is to deliver, 427, 429.  
 May be ordered if not delivered, 428.  
 Suggested form of objections, 427, 429.  
 Must give fullest particulars, 427, 429.  
 Heads of, 429.  
 Full particulars of prior publication or user to be given, 429.  
 May be amended, 430.  
 Terms of amendment, 430.  
 Particulars relied on at trial must as a rule have been pleaded, 430.  
*See also* **ACTION FOR INFRINGEMENT**.

**PARTIES :**

- Plaintiff, 425, 426.  
 Defendant, 423, 424.  
 Petitioner in application to rectify Register, 435.  
 Respondent " " " " 435, 436.  
*See* **ACTION FOR INFRINGEMENT**.

**PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1883 to 1902,**  
**CONSOLIDATED (APPENDIX C), 483 et seq.**

**PATENT OFFICE :**

- Address of, 329.  
 Application for registration made at Designs Branch of, 392.  
 Register of Designs kept at, 388, 396.  
 Office copy of rectification order to be left at, 397, 437.

**PATTERN :**

- Design may be for, 389, 391.  
 Meaning of, 391.

**PENALTIES**

- For describing article as "registered" when not so, 420.  
 Under Section 58 for infringement, 421, 518.

**PENALTIES—continued.**

Limitation of aggregate of, 424; Section 58, 518.

In action for, defendant need not answer interrogatories, 427.

No, for acts committed abroad, 398.

**PERSON** includes body corporate (Section 117), 547.

**PERSON AGGRIEVED:**

Within meaning of Section 90, 435.

Consideration of who is a, 435.

*See also* Chapters IV. and VI. of Trade Mark portion (Part II.), 302, 318,  
and RECTIFICATION OF REGISTER.

**PIRACY** (*see* INFRINGEMENT).

**PLEADINGS** (*see* ACTION FOR INFRINGEMENT, DEFENCE, PARTICULARS OF BREACHES, PARTICULARS OF OBJECTIONS, STATEMENT OF CLAIM, and WRIT).

**POST:** Applications to register and other communications with the Comptroller may be sent by, 392.

**PRACTICE:**

Interrogatories in an action for penalties need not be answered, 427.

Parties may amend particulars of breaches and objections on terms, 430.

Inspection will be allowed if necessary to either party, 430.

In designs actions, to be modelled on patent actions, 426.

Plaintiff must elect to proceed for penalties or for damages, 427.

Pleadings in actions for infringement, 426 to 429.

Claimant for proprietorship of design must prove his title, 401.

In action against retailer, plaintiff must prove defendant's knowledge that consent to apply design had not been obtained, 421, 422.

Delivery up of infringing goods, 426.

In applications to rectify Register, 434.

Order in action for infringement can be appealed against, 433.

„ application to rectify „ „ „ 437.

In discovery in actions for infringement, 430, 431.

*See also* ACTION FOR INFRINGEMENT and RECTIFICATION OF THE REGISTER.

**PROCEDURE**

In registering designs (Chapter II.), 391.

In action for infringement (Chapter VII.), 421.

In rectification of the Register (Chapter VIII.), 434.

**“ PROPER STEPS ” IN MARKING :**

What constitutes, 416 to 418.

*See also* MARKING GOODS.

**PROPERTY IN DESIGNS:**

Copyright is personal property, 401.

Assignment of, qualifies assignee to enter name as proprietor, 401.

May be assigned to corporate body, 396.

Assignment of, must be in writing, 396, 401, 426.

**PROPRIETOR :**

- List of essentials for registration as, 401.
- Applicant on registration becomes, 401.
- Author of design is, 399.
- Purchaser or assignee, 399, 401.
- Licensee to apply design, 399, 401.
- Infant or lunatic may be (Section 99), 538.
- Only registered proprietor can sue for infringement, 421.
- Duty of, as to marking articles, 416, 420.
- May apply to rectify Register, 435.
- When, may be person aggrieved, 435.
- Consent of, to application of design, 421.
- Can assign or license design or right to apply, 399.

**PRIOR PUBLICATION :**

- Design must be new and original, "not previously published in the United Kingdom," 412.
- Publication by patent specification, 412.
- Confidential disclosure is not, 413.
- Experimental manufacture is not, 413.
- By book, specification, pamphlet, or newspaper, 414.
- By registration in another class, 415.
- See also NEW AND ORIGINAL.

**PROTECTION :**

- Historical review of designs protection, 387, 388.
- Granted in respect of application to articles of manufacture, 387, 393, 402.
- None for utility, 389, 403, 404.
- Only in respect of shape, pattern, configuration, or ornament, 402.
- Duration of, 397.
- Limited to United Kingdom, 398.
- For innocent infringers, 421, 424.
- Might be for useful appliance having recognisable new shape, 404.
- By design and patent might co-exist, 405.
- Under International and Colonial arrangements (Section 103), 541.
- Of unregistered designs shown in exhibitions, 397.
- Remedies for infringement of (Chapter VII.), 421.
- Temporary, by *caveat*, 394.
- By copyright is personal property, 401.
- Might be for something also patentable, 404.
- But no designs protection for mechanism or process of manufacture, 405.

**PUBLICATION**

- Of separate items composing design does not anticipate, 406.
- But invention must be shown in combination, 407.
- Of same appearance, attained in design by new means, invalidates registration, 405.
- Of design in other form for other purpose does not invalidate, 408, 409.



**PUBLICATION—continued.**

Of design for analogous use, 410.

By exhibition prior to registration, 413.

Not published by confidential disclosure, 413.

By premature sale of articles in accordance with design, 414.

By patent specification, 412.

Book, pamphlet, or newspaper, 414.

Prior public knowledge, 412.

By same design for analogous use in different material, 413.

By registration in another class, 415.

Is defence to action for infringement, 428, 429.

Is a ground for removing design from Register, 435.

Query, if registration without publication would invalidate subsequent design, 415.

See **ANTICIPATION, NEW AND ORIGINAL, and PRIOR PUBLICATION.**

**RECTIFICATION OF THE REGISTER:**

Provision in Section 90 for, 434.

Application for, made to High Court in England, 434.

Jurisdiction of Scottish and Irish Courts, 434.

May be made in Lancaster Palatine Court if parties within jurisdiction, 434.

Generally made in Chancery Division, 434.

May be made by motion or summons, 434.

Persons entitled to apply for, 435.

Definition of persons aggrieved, 435.

Grounds for rectifying Register, 435.

Substitution of rightful for wrongful owner on Register, 436.

Example of such substitution, 436.

Comptroller may alter or substitute changed name of owner, 437.

Apparently no order of Court necessary for this purpose, 437.

Application for, cannot be made as counterclaim in action for infringement, 437.

Order of Court for rectification should be left with Comptroller, 437.

Notice of application for, to be given to Comptroller, 437.

Service of notice of motion on respondent, 437.

Service when respondent is without the jurisdiction, 437.

Court might award damages to person aggrieved (Section 90, Sub-section 2), 535.

Sanction of Court for service of notice of motion without jurisdiction not necessary, 437.

Appeal may be made from order granting or refusing, 437.

**REFUSAL TO REGISTER: Steps to be taken on, 394.****REGISTER OF DESIGNS**

Is kept at Patent Office, 434 (*see also* Section 55), 516.

Names and addresses of proprietors entered in, 396.

Request for entry of assignee or licensee to apply design, 396.

**REGISTER OF DESIGNS—continued.**

Forms of request, 396.

Fees on forms of request, 396, 447.

Particulars in request, 396.

Statutory declaration verifying request, 396.

Request by body corporate, 396.

Body corporate may be entered on, by its corporate name, 396.

Order to rectify (*see* RECTIFICATION OF THE REGISTER).

Is *prima facie* evidence of matters entered therein, 396; Section 55, 516.

Certified copies of entries for legal proceedings, 397.

Removal from (*see* RECTIFICATION OF THE REGISTER).

No notice of trust entered in (Section 85), 534.

Omissions or wrong entries may be rectified (*see* RECTIFICATION OF THE REGISTER).

Falsification of, is a misdemeanour (Section 93), 537.

Is open to public subject to provisions (Section 88), 535.

Searches in, 395.

Powers of Board of Trade over (Section 101, Sub-section 1 (a)), 539.

Design itself not open to inspection, 395.

Except by proprietor, by refused applicant, or by person authorised by the Court or Comptroller, 395.

**REGISTERED PROPRIETOR (*see* PROPRIETOR).****REGISTRAR :**

Office of, created by Act of 1842, 388.

Custody of Register transferred, by Act of 1875, from Registrar to Commissioners of Patents, 388.

**REGISTRATION :**

Procedure in obtaining (Chapter II.), 391 to 398.

Whether equivalent to publication, 415.

Application for, 391.

Persons qualified to obtain (Chapter III.), 399.

Application forms, 391.

Statement of nature of design, 391.

Is for pattern, shape, ornament, or configuration, 391.

Representations must accompany application for, 392.

Samples of design may be substituted for representations, 392.

Goods in respect of which, is effected, 393.

Restricted to particular class or classes, 393.

Of same design in different classes, 393.

Of sets of designs, 393, 394.

*Caveat* applications for, 394.

Certificate of, 394.

Procedure when refused, 394, 395.

Searches may be made prior to, 395.

Duration of, 397.

**REGISTRATION—continued.**

Cannot be extended, 397.

Priority of date of, to foreigners and persons making application under Convention to register in countries other than United Kingdom, 398.

Reciprocal rights in foreign countries to British subjects, 398.

Period of priority limited to four months, 398.

Expunging and rectifying (*see* RECTIFICATION OF THE REGISTER).

After exhibiting at authorised exhibition, 397.

**REMEDIES FOR INFRINGEMENT (*see* ACTION FOR INFRINGEMENT and INFRINGEMENT).**

**RULES (DESIGNS):** Designs Rules, 1890 to 1898 (Consolidated), 438.

**SALE:**

Mere agent for, not entitled to register as proprietor, 400.

Delivery on, must be by proprietor or his authorised agent, 419.

Abroad, no infringement, 398.

Of goods unmarked causes forfeiture, 416.

Of infringing goods by innocent retailer, 424.

Delivery on, abroad of goods registered in United Kingdom (marking), 420.

**SAMPLES**

Of designs may be filed with application instead of drawings, 392.

Delivery of, is not "delivery on sale," 420.

May be delivered unmarked, 420.

**SATURDAY:** Day following, for leaving documents and paying fees at Patent Office (Section 98), 538.

**SCOTLAND:** Jurisdiction of Courts in, as to rectification of Register, 434.

**SEARCHES** for intending applicants by Comptroller, 395.

**SHAPE:**

Design may be registered for, 402, 403.

Instance of successful registration for, 403.

**SPECIFICATIONS (*see* PUBLICATION).**

**SPECIMENS** of designs may be furnished with application instead of drawings, 392.

**STATUTES RELATING TO DESIGNS:**

Earlier Statutes now repealed, 387, 388.

Patents, Designs, and Trade Marks Acts, 1883 to 1902 (Part 3, relative to Designs), 514 to 519.

**SUBJECT-MATTER OF DESIGNS:**

Designs under repealed Statutes, 387, 388.

"Useful" designs under Act of 1843, 388.

Distinction between "useful" and "ornamental" designs, now abolished, 389.



**SUBJECT-MATTER OF DESIGNS—continued.**

"Design" must be something applicable to goods, 402.

Utility in design not now considered, 389, 403, 404.

Novelty and originality to be tested by the eye, 403, 422.

Design means something appreciably different to the eye from what has been done before, 390.

"Design" as defined in Section 60 of the Act, 402.

Explanation of what is subject-matter for designs, 402.

When part of a whole is considered absolutely by itself, 403.

Change or difference from old object might be very slight, 404.

Design which is also patentable might be good as design, 404, 405.

But anything involving method of manufacture is bad as design, 405.

Design reproducing old appearance by new means is bad subject-matter, 405.

Now combination of old patterns is registrable, 406.

But combinations of old matter must show ingenuity, 407.

A small change in a combination design might be valid, 406.

Slight changes in style and detail of common articles not encouraged, 407.

Registration must not be made a "trap for honest traders," 407.

Commercial success might help to sustain doubtful subject-matter, 408.

Well-known portrait or picture applied to manufactured article might be, 409.

Picture, model, view or aspect of well-known building or object, applied to manufactured article is good, 409, 410.

Substitution of one material for another is not, 410.

Application of old thing to analogous use is not, 410.

New design incorporating old is good, 410.

Slight change of configuration of common object may be, 411.

Evidence of intention of proprietor allowed to supplement defective drawing, 411.

Design old in one article or class may be good in another for different object, 412.

*Per Chitty, L. J.*, might be new without being original, and original without being new, 412.

Always considered relatively to state of knowledge at date of registration, 412.

Design old as a house door might be new as a range door, 413.

Must be considered with reference to prior publication, 413.

*See also NOVELTY.*

**SUBSTITUTION OF TRUE AUTHOR'S NAME IN REGISTER** on application to rectify, 435.

**SUMMARY CONVICTION**

Under Section 105 for misrepresenting goods as "registered," 420, 542.

*See also OFFENCES.*

**SUNDAY:** Day following, for leaving documents or paying fees at Patent Office (Section 98), 538.



**TIME:**

See Section 98 as to extension of time when days fall on Christmas Day, Good Friday, Saturday, Sunday, or Bank Holiday, 538.

Enlargement of, at Comptroller's discretion (*see* Designs Rule 31), 444.

Within which application must be made under Convention, 398.

" " " for hearing must be made to Comptroller, 394.

" " applicant must appeal to Board of Trade, 394.

From which copyright dates, 397.

Within which design must be registered after showing at exhibitions, 397.

" " " " used in this country if manufactured and applied abroad, 397.

**TITLE:**

When title to proprietorship is disputed onus of proving true ownership lies on claimant, 401.

On entering assignee's name on Register, Comptroller must be satisfied concerning title of applicant, 396.

**TRANSFERS (*see* ASSIGNMENT).**

**TRUSTS** not capable of entry on Register (Section 85), 534.

**UNITED KINGDOM:**

Copyright covers only, 398.

Right of priority of registration in, under Convention is four months, 398; Section 103, 541.

Prior publication outside of, does not affect validity of registration, 412.

Registered goods exported from, must be marked, 420.

**UTILITY IN DESIGNS:**

Useful designs under the repealed Acts of 1843 to 1875, 388.

Not now considered, 389.

Wholly immaterial as element in design, 403, 404.

**WRIT:**

Endorsement of, in action for infringement, 426.

Claim in, must be for penalties or for damages, not for both, 427.

*By S.H.R.*  
*9/19/06*

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