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THE PATENT OFFICE HANDBOOK.

(Third Edition.)

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GOVERNMENT OF INDIA
THE PATENT OFFICE

PATENT OFFICE HANDBOOK

(Acts, Rules and Instructions)

(Third Edition.)



CALCUTTA
SUPERINTENDENT GOVERNMENT PRINTING, INDIA
1922

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PREFACE.

THE foundation of patent legislation in India lies in the English "Statute of Monopolies" which was enacted in 1623, the 21st year of King James the First. The more important section 6 is as follows:—

" Provided also that any declaration before mentioned shall not extend to any letters patents and grants of privilege for the term of fourteen years or under, hereafter to be made, of the sole working or making of any manner of new manufactures within this Realm to the true and first inventor and inventors of such manufactures, which others at the time of making of such letters patents and grants shall not use, so as also they be not contrary to the law nor mischievous to the State by raising prices of commodities at home, or hurt of trade, or generally inconvenient: The said fourteen years to be accomplished from the date of the first letters patent or grants of such privilege hereafter to be made, but that the same shall be of such force as they should be if this Act had never been made, and of none other."

The existing Indian patent law is contained in the Indian Patents and Designs Act, 1911 and the Indian Patents and Designs (Amendment) Act 1920, supplemented by the Indian Patents and Designs (Temporary Rules) Act, 1915, and by the Rules made under those Acts. These Acts and Rules, with certain instructions and other matters of interest to persons who have dealings in patents for inventions or copyright for designs, are contained in the present volume. The Patent Office does not deal with trade marks or with copyright generally in books, pictures, music and other matters which fall under the Indian Copyright Act, III of 1914. There is, in fact, no provision of law in British India for the registration of either Trade Marks or of Copyright. Trade marks are protected under the Merchandise Marks Act (IV of 1889) which forms Chapter XVIII of the Indian Penal Code. Protection for copyright accrues under the Indian Copyright Act under which there is now no registration of rights, but the printer has to supply copies of these works as stated in that Act and in the Printing Presses and Books Act, XXV of 1867.

On the whole, Indian law and procedure closely follows that in the United Kingdom for the protection of inven-

tions and the registration of designs, as it always has done in matters of major interest. One main difference exists, however, as owing to the absence of provision of law for the registration of trade marks, India cannot become a party to the International Convention under which certain rights of priority are obtainable in other countries. The Reciprocal Arrangement with the United Kingdom and other parts of His Majesty's Dominions affords, however, a partial substitute.

The first Indian Act for granting exclusive privileges to inventors was passed in 1856, after an agitation that had been carried on fitfully for some twenty years. Difficulties arising from an uncertainty as to the effect of the Royal Prerogative prevented earlier action, and, owing to some informality, the Act itself was repealed in the following year. In 1859 it was re-enacted with modifications, and in 1872 the Patterns and Designs Protection Act was passed. The Protection of Inventions Act of 1883, dealing with exhibitions, followed, and then the Inventions and Designs Act of 1888. All these are now replaced by the present Act of 1911.

The existing Acts extend to the whole of British India, including British Baluchistan, the Santhal Parganas and the Shan States. This of course includes Burma but it does not embrace the Indian States. Of the latter, four, *viz.*, (1) Hyderabad (Deccan), (2) Mysore, (3) Marwar, (4) Travancore, have ordinances of their own, for which particulars must be obtained from the Governments of the States in question.

V. LOUGH,

Controller of Patents and Designs.

First Edition, 1916.

Second Edition, 1919.

Third Edition, 1922.

NOTICES.

The Patent Office, 1, Council House Street, Calcutta.

PUBLIC ROOM, OPEN 11 A.M. TO 4 P.M.; SATURDAYS, 11 A.M. TO 1 P.M.

1. *All communications* relating to applications for patents and for registration of designs under the Indian Patents and Designs Act (11 of 1911), or in continuation of applications under the Inventions and Designs Act (V of 1888) must be made in English and addressed to the Controller of Patents and Designs, 1, Council House Street, Calcutta. Documents sent by post should be carefully packed and a full address given in all communications.

2. *Directions* for the guidance of inventors and others are given in the Patent Office Handbook (price one rupee) which contains the Indian Patents and Designs Act, 1911, the Indian Patents and Designs (Amendment) Act, 1920, the Indian Patents and Designs Rules, 1912, the Indian Patents and Designs (Temporary Rules) Act, 1915, the Indian Patents and Designs (Temporary) Rules, 1919, together with current regulations and instructions. *These should be consulted before an application is made to the Controller.*

3. *Advice.* The Patent Office cannot undertake (1) to give opinions on the interpretation of Patent Law, or on the advisability of protecting inventions and designs or on their infringement; (2) to make searches in respect of information available in the public room; (3) to recommend any particular agent; or (4) to assist in the disposal of inventions. Models are not required unless specially asked for. Drawings must be on tracing cloth and the Rules and Instructions for the preparation of drawings as given in the Handbook should be strictly followed. A provisional patent cannot be secured under the Indian Patents and Designs Act, 1911.

4. Applicants are warned that the Indian Patents and Designs Act, 1911, is in force in British India only, and patents granted under it do not extend to the United Kingdom or any of the British possessions. The International Convention for the Protection of Industrial Property does not include India. Under the Reciprocal Arrangement a patent may, however, be obtained in India in respect of the subject matter of an application for a patent in the United Kingdom and certain other parts of His Majesty's Dominions to be ante-dated as of the date of that application. For information regarding patents in countries other than India application should be made to the patent offices in the countries concerned.

5. *Fees* are payable in *cash* and must be received in the Patent Office within the time allowed by the Acts. When cheques are offered in payment of fees, it must be clearly understood that the

office cannot hold itself responsible for any delay that may occur in the collection of cash on the cheques; any cheque not payable in Calcutta is subject to commission for which due allowance should be made. In cases where it is not possible to have the fees handed in at the Patent Office, it is preferable to send them by money-order or postal order payable at Calcutta to the Controller of Patents and Designs, and to advise him that they have been so sent. Stamps will not be received in payment of fees.

6. *Trade and property marks and names* are not registered and *medicines* are not patented under the Indian Patents and Designs Act. There is no provision of Law in British India for their registration. Neither does this Act deal with *pictures, photographs, etc.*, for which copyright is obtainable under the Indian Copyright Act, 1914.

7. *Printed Specifications* of applications, which have been accepted, are published within about three weeks after acceptance has been notified in the *Gazette of India*. These specifications can be purchased at the Patent Office at a uniform price of one rupee per copy, and may be seen free of charge, together with other publications of the Patent Office at the following places:—

AHMIDABAD	. . . . .	R. C. Technical Institute
ALLAHABAD	. . . . .	Public Library
BANGALORE	. . . . .	Indian Institute of Science
BARODA	. . . . .	Department of Commerce and Industries
BOMBAY	. . . . .	Record Office
"	. . . . .	Victoria Jubilee Technical Institute, Byculla
"	. . . . .	The Bombay Textile and Engineering Association, No. 1A, Sussex Road, Parel
CALCUTTA	. . . . .	Patent Office, No. 1, Council House Street
"	. . . . .	Bengal Engineering College, Sibpur.
CANNING	. . . . .	Office of the Director of Industries, United Pro- vinces
CHINSURA	. . . . .	Office of the Commissioner, Burdwan Division
CHITTAGONG	. . . . .	Office of the Commissioner, Chittagong Division
DACCA	. . . . .	Office of the District Board, Dacca
DELHI	. . . . .	Office of the Deputy Commissioner
HYDRABAD	. . . . .	Industries and Commerce Department of His High- ness the Nizam's Government.
KARACHI	. . . . .	Office of City Deputy Collector.
LAHORE	. . . . .	Punjab Public Library
LONDON	. . . . .	The Patent Office, 25, Southampton Buildings, W. C.
MADRAS	. . . . .	Record Office, Egmore
"	. . . . .	College of Engineering
MYSORE	. . . . .	Office of the Secretary to Government, General and Revenue Department
NAGPUR	. . . . .	Victoria Technical Institute
PATNA	. . . . .	Secretariat Library, Government of Bihar and Orissa
POONA	. . . . .	College of Engineering
RANCHI	. . . . .	Office of the Director of Industries, Bihar and Orissa
RANGOON	. . . . .	Office of the Revenue Secretary, Government of Burma
ROORKEE	. . . . .	Thomason College
SHOLAPUR	. . . . .	Office of the Collector.
WASHINGTON (U. S. A.)	. . . . .	The Patent Office

8. *Specifications* of inventions which have been notified in the *Gazette of India* as filed under the provisions of the *Inventions and*

Designs Act (V of 1888) are not printed, but copies may be inspected on payment of a fee of one rupee at the Patent Office, 1, Council House Street, Calcutta; the Record Office, Egmore, Madras; the Record Office, Bombay; the Office of the Revenue Secretary to the Government, Rangoon; and the Office of the Director of Industries, United Provinces, Cawnpore. Specifications and other publications of the United Kingdom Patent Office can also be seen in the Patent Office, Calcutta, in the Record Office, Bombay, and in the Connemara Library, Madras.

9. *Publications* on sale at the Patent Office:—

	<i>Price.</i>
	Rs. A.
(a) Patent Office Handbook (Acts, Rules and Instructions)	1 0
(b) The Indian Patents and Designs Act, II of 1911	0 10
(c) The Indian Patents and Designs Act, II of 1911 (Urdu and Hindi each	0 2
(d) The Indian Patents and Designs Rules, 1912	0 2
(e) Weekly Notifications (Extract from the <i>Gazette of India</i>)	0 1
Annual subscription with postage	3 0
(f) Inventions (Consolidated Subject Matter Index, 1900- 1908, and Chronological lists, 1909 1904)	2 0
(g) Inventions (Consolidated Subject Matter Index, 1900- 1911, and Chronological lists, 1905 1911)	3 0
(h) Patent Office Journals (Issued quarterly) each	0 8
(i) Patent Office Journals, 1914, 1915, 1916, 1917, 1918, 1919, 1920, 1921 each	1 0
(j) Printed specifications of Inventions since 1912 each	1 0

PATENT OFFICE HANDBOOK.

THE INDIAN PATENTS AND DESIGNS ACT, 1911
(II OF 1911).¹

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¹ Act II of 1911, received the assent of the Governor General on the 1st March 1911. For Statement of Objects and Reasons, see Gazette of India, 1910, Part V, pages 92-93; for Report of Select Committee, see *ibid.*, 1911, Part V, pages 1-3; and for Proceedings in Council, see *ibid.*, 1911, Part VI, pages 45 and 179-180.

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AN ACT TO AMEND THE LAW RELATING TO THE PROTECTION OF INVENTIONS AND DESIGNS.

WHEREAS it is expedient to amend the law relating to the protection of inventions and designs; It is hereby enacted as follows:—

PRELIMINARY.

1. (1) This Act may be called the Indian Patents and Designs Act, 1911.

(2) It extends to the whole of British India,¹ including British Baluchistan and the Santhal Parganas; and

Short title,
extent and
commence-
ment.

¹ British India shall mean all territories and places within His Majesty's dominions which are for the time being governed by His Majesty through the Governor General of India or through any Governor or other officer subordinate to the Governor General of India. [General Clauses Act, 1897, sec. 3 (?).]

The Act has been further extended to the Shan States. See notice on p. 3B.

(3) It shall come into force on the first day of January 1912.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) “ Advocate General ” includes a Government Advocate :

(2) “ article ” means (as respects designs) any article of manufacture and any substance, artificial or natural, or partly artificial and partly natural :

(3) “ Controller ” means the Controller of Patents and Designs appointed under this Act :

(4) “ copyright ” means the exclusive right to apply a design to any article in any class in which the design is registered :

(5) “ design ” means any design applicable to any article, 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, but does not include any trade or property mark as defined in sections XLV of 1860. 478 and 479¹ of the Indian Penal Code :

V of 1908. (6) “ District Court ” has the meaning assigned to that expression by the Code of Civil Procedure, 1908.²

V of 1898. (7) “ High Court ” has the meaning assigned to that expression by the Code of Criminal Procedure, 1898,³ in reference to proceedings against European British Subjects :

(8) “ invention ” means any manner of new⁴ manufacture and includes an improvement and an alleged invention :

¹ 478. A mark used for denoting that goods are the manufacture or merchandise of a particular person is called a trade mark, and for the purposes of this Code the expression “ trade mark ” includes any trade mark which is registered in the register of trade marks kept under the Patents, Designs and Trade Marks Act, 1883 (46 & 47 Vict., c. 57), and any trade mark which, either with or without registration, is protected by law in any British possession or foreign State to which the provisions of the one hundred and third section of the Patents, Designs and Trade Marks Act, 1883, are, under Order in Council, for the time being applicable.

479. A mark used for denoting that moveable property belongs to a particular person is called a property mark.

² Act No. V of 1908, Section 2 (4) “ district ” means the local limits of the jurisdiction of a principal Civil Court of original jurisdiction (hereinafter called a “ District Court ”), and includes the local limits of the ordinary original civil jurisdiction of a High Court.

³ Act No. V of 1898, Section 4 (1) (j) “ High Court ” means, in reference to proceedings against European British subjects or persons jointly charged with European British subjects, the High Court of Judicature at Fort William, Madras and Bombay, the High Court of Judicature for the North-Western Provinces, the Chief Court of the Punjab and the Chief Court of Lower Burma; in other cases “ High Court ” means the highest Court of Criminal appeal or revision for any local area; or, where no such Court is established under any law for the time being in force, such officer as the Governor General in Council may appoint in this behalf.

⁴ For novelty of invention, see Section 28.

(9) " legal representative " means a person who in law represents the estate of a deceased person :

(10) " manufacture " includes any art, process or manner of producing, preparing or making an article, and also any article prepared or produced by manufacture :

(11) " patent " means a patent¹ granted under the provisions of this Act :

(12) " patentee " means the person for the time being entitled to the benefit of a patent :

(13) " prescribed " includes prescribed by rules² under this Act : and

(14) " proprietor of a new and original design,"—

(a) where the author of the design, for good consideration, executes the work for some other person, means the person for whom the design is so executed : and

(b) where any person acquires the design or the right to apply the design to any article, either exclusively of any other person or otherwise, means in the respect and to the extent in and to which the design or right has been so acquired, the person by whom the design or right is so acquired ; and

(c) in any other case, means the author of the design ;

and where the property in, or the right to apply, the design has devolved from the original proprietor upon any other person, includes that other person.

PART I.

PATENTS.

Application for and Grant of Patent.

Application.

3. (1) An application³ for a patent may be made by any person whether he is a British subject or not, and whether alone or jointly with any other person.

(2) The application must be made in the prescribed form⁴ and must be left at the Patent Office in the prescribed manner.⁵

¹ For form of Patent, see the third Schedule to the Rules, p. 72.

² Indian Patents and Designs Rules, 1912 and 1915.

³ Rule 10.

⁴ Form 1, 2 or 2A ; Fee Rs. 10.

⁵ Rule 3.

(3) The application must contain a declaration to the effect that the applicant is in possession of an invention, whereof he, or in the case of a joint application one at least of the applicants, claims to be the true and first inventor¹ or the legal representative or assign of such inventor and for which he desires to obtain a patent, and must be accompanied by a specification and by the prescribed fee:²

(4) Where the true and first inventor¹ is not a party to the application, the application must contain a statement of his name, and such particulars for his identification as may be prescribed, and the applicant must show that he is the legal representative or assign of such inventor.

4. (1) The specification³ must particularly describe and ascertain the nature of the invention and the manner in which the same is to be performed. Specification.

(2) Where the Controller deems it desirable, he may require that suitable drawings⁴ shall be supplied with the specification, or at any time before the acceptance of the application, and such drawings shall be deemed to form part of the specification.

(3) The specification must commence with the title, and must end with a distinct statement of the invention claimed.

(4) If in any particular case the Controller considers that an application should be further supplemented by a model or sample of anything illustrating the invention or alleged to constitute an invention such model or sample, as he may require shall be furnished before the acceptance of the application, but such model or sample shall not be deemed to form part of the specification.

5. (1) The Controller shall examine every application, and if he considers that— Proceedings
upon appli-
cation.

(a) the nature of the invention is not fairly described, or

(b) the application, specification and drawings have not been prepared in the prescribed manner or relate to more than one invention, or

(c) the title does not sufficiently indicate the subject-matter of the invention, or

(d) the statement of claim does not sufficiently define the invention, or

(e) the invention as described and claimed is *prima facie* not a new manufacture or improvement,

¹ Under the practice of the Patent Office, which is intended to safeguard the interest of the person or persons who made the invention, the actual name of the inventor must appear. It is insufficient to give the name of a company or firm.

² *Ra.* 10.

³ Rule 11; Form 3 to accompany Form 1 or 2. See also hints for the preparation of the specification, page 93.

⁴ Rules 11—13. Also special instructions, see page 96.

he may¹ refuse to accept the application or require that the application, specification or drawings be amended before he proceeds with the application; and in the latter case the application shall, if the Controller so directs, bear date as from the time when the requirement is complied with.

(2) Where the Controller refuses to accept an application or requires an amendment, the applicant may appeal² from his decision to the Governor General in Council.

(3) The investigations required by this section shall not be held in any way to guarantee the validity of any patent, and no liability shall be incurred by the Governor General in Council or any officer by reason of, or in connection with, any such investigation, or any proceeding consequent thereon.

(4) Unless an application is accepted within twelve months from the date of the application, the application shall (except where an appeal² has been lodged) become void³:

Provided that where an application⁴ is made for an extension of time for the acceptance of an application, the Controller shall, on payment of the prescribed fee,⁵ grant an extension of time to the extent applied for but not exceeding three months.

Advertisement on acceptance of application.

6. On the acceptance of an application the Controller shall give notice thereof to the applicant and shall advertise⁶ the acceptance; and the application and specification with the drawings (if any) shall be open to public inspection.⁷

Use of invention on acceptance of application.

7. Where an application for a patent in respect of an invention has been accepted, any use or publication of the invention during the period between the date of application and the date of sealing such patent shall not prejudice the patent to be granted for the invention:

Provided that an applicant shall not be entitled to institute any proceedings for infringement unless and until a patent for the invention has been granted to him.

Inquiry before sealing patent.

8. After acceptance of an application and before sealing a patent the Controller shall, if he thinks it advisable or is directed by the Governor General in Council so to do, refer the specification for inquiry and report to any person whom he thinks fit.

¹ After hearing the applicant or his agent if requested so to do. See Rule 43.

² Section 70; Rule 41; Form 24; Fee, Rs. 30.

³ See Section 61, the documents are then not open to inspection.

⁴ Form 4.

⁵ Fee, Rs. 20.

⁶ This is done in the Gazette of India of which an extract is published weekly by the Patent Office.

⁷ The specification and drawings are printed and on sale at one rupee per copy about three weeks later.

9. (1) Any person may, on payment of the prescribed fee¹ at any time within three months from the date of the advertisement of the acceptance of an application, give notice at the Patent Office of opposition² to the grant of the patent on any of the following grounds,³ namely:—

Opposition
to grant of
patent.

- (a) that the applicant obtained the invention from him, or from a person of whom he is the legal representative or assign; or
- (b) that the invention has been claimed in any specification filed in British India which is or will be of prior date to the patent, the grant of which is opposed; or
- (c) that the nature of the invention or the manner in which it is to be performed is not sufficiently or fairly described and ascertained in the specification; or
- (d) that the invention has been publicly used in any part of British India or has been made publicly known in any part of British India;

but on no other ground.

(2) Where such notice is given, the Controller shall give notice of the opposition to the applicant, and shall, on the expiration of those three months, after hearing the applicant and the opponent, if desirous of being heard, decide on the case.⁴

(3) The decision of the Controller shall be subject to appeal⁵ to the Governor General in Council.

10. (1) If there is no opposition, or, in case of opposition, if the determination is in favour of the grant of a patent, a patent shall, on payment of the prescribed fee⁶ be granted, subject to such conditions (if any) as the Governor General in Council thinks expedient, to the applicant, or in the case of a joint application to the applicants jointly, and the Controller shall cause the patent to be sealed with the seal of the Patent Office.

Grant and
sealing of
patent.

(2) A patent shall be sealed as soon as may be, and not after the expiration of eighteen months from the date of application:

Provided that,—

- (a) where the Controller has allowed an extension of the time within which an application may be accepted, a further extension of four months after the said eighteen months shall be allowed for the sealing of the patent;

¹ Fee, Rs. 5.

² Rule 14; Form 5

³ One or more of these grounds should be stated on the notice of opposition.

⁴ Rules 14—16. For notice of intention to attend hearings, see Form 6. Fee, Rs. 10 for each party.

⁵ Section 70; Rule 41; Form 24; Fee Rs. 30.

⁶ Fee, Rs. 30, Rule 17, Form 7.

- (b) where the sealing is delayed by an appeal to the Governor General in Council, or by a reference under section 8, or by opposition to the grant of the patent, the patent may be sealed at such time as the Controller may direct;
- (c) where the patent is granted to the legal representative of an applicant who has died before the expiration of the time which would otherwise be allowed for sealing the patent, the patent may be sealed at any time within twelve months after the date of his death;
- (d) where in consequence of the neglect or failure of the applicant to pay any fee a patent cannot be sealed within the period allowed by this section, that period may, on payment of the prescribed fee¹ and on compliance with the prescribed conditions, be extended to such an extent as may be prescribed.

Date of patent.

11. Except as otherwise expressly provided by this Act, a patent shall be dated and sealed as of the date of the application :

Provided that no proceedings shall be taken in respect of an infringement committed before the publication of the specification.

Effect, extent and form of patent.

12. (1) A patent sealed with the seal of the Patent Office shall, subject to the other provisions of this Act, confer on the patentee the exclusive privilege of making, selling and using the invention throughout British India and of authorizing others so to do.

(2) Every patent may be in the prescribed form² and shall be granted for one invention only, but the specification may contain more than one claim; and it shall not be competent for any person in a suit or other proceeding to take any objection to a patent on the ground that it has been granted for more than one invention.

Fraudulent applications for patents.

13. (1) A patent granted to the true and first inventor or his legal representative or assign shall not be invalidated by an application in fraud of him, or by protection obtained thereon or by any use or publication of the invention subsequent to that fraudulent application during the period of protection.

(2) Where a patent has been revoked on the ground of fraud³ or on any other ground, the Controller may, on the application of the true inventor or his legal representative or assign made in accordance with the provisions of this Act, grant to him a patent in lieu of and bearing the same date as the patent so revoked for any invention comprised in the revoked patent to which he was entitled :

Provided that no suit shall be brought for any infringement of the patent so granted committed before the actual date when such patent was granted.

¹ Rule 17 (2); Form 4; Fee, Rs. 10 for one month, Rs. 20 for two months, Rs. 30 for three months.

² Rules, Third Schedule, p. 72.

³ See also Section 38 (2).

Term of Patent.

14. (1) The term limited in every patent for the duration thereof shall, save as otherwise expressly provided by this Act, be fourteen years from its date. Term of patent.

(2) A patent shall, notwithstanding anything therein or in this Act, cease if the patentee fails to pay the prescribed fees within the prescribed times.¹

Provided that the Controller, upon the application of the patentee, shall, on receipt of such additional fee² as may be prescribed, enlarge the time to such an extent as may be applied for but not exceeding three months.

(3) If any proceeding is taken in respect of an infringement of the patent committed after a failure to pay any fee within the prescribed time, and before any enlargement thereof, the Court before which the proceeding is taken may, if it thinks fit, refuse to award any damages in respect of such infringement.

15. (1) A patentee may, after advertising³ in the prescribed manner his intention to do so, present a petition to the Governor General in Council praying that his patent may be extended for a further term; but such petition must be left at the Patent Office at least six months before the time limited for the expiration of the patent and must be accompanied by the prescribed fee.⁴ Extension of term of patent.

(2) Any person may give notice⁵ to the Controller of objection to the extension.

(3) Where a petition is presented under sub-section (1), the Governor General in Council may, as he thinks fit, dispose of the petition himself or refer it to a High Court for decision.

(4) If the petition be referred to a High Court, then on the hearing of such petition under this section the patentee, and any person who has given notice under sub-section (2) of objection, shall be made parties to the proceeding, and the Controller shall be entitled to appear and be heard.

(5) The Court to which the petition is referred shall, in considering its 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.

(6) If it appears to the Governor General in Council, or to the High Court when the petition has been referred to it, that the patentee has been inadequately remunerated by his patent, the Governor General in Council, or the High Court as the case may

¹ See Schedule to the Act; annually Rs. 50 before the expiration of the 4th, 5th, 6th, 7th and 8th years, then annually Rs. 100 before the expiration of the 9th, 10th, 11th, 12th and 13th years from the date of the patent. Form 8 should be used in paying the fee.

² Form 4. Fee, Rs. 10 for one month, Rs. 20 for two months, or Rs. 30 for three months.

³ Rule 45.

⁴ Fee Rs. 50. The petition should set forth fully the nature and merits of the invention in relation to the public, the profits made by the patentee and the circumstances of the cases. Compare Section 15 (5 and 6).

⁵ No forms or fees are prescribed.

be. may by order extend the term of the patent for a further term not exceeding seven, or, in exceptional cases, fourteen years, or may order the grant of a new patent for such term as may be specified in the order and subject to the payment of such fees as may be prescribed and containing any restriction, conditions and provisions which the Governor General in Council or the High Court, as the case may be, may think fit:

Provided that any patent so extended or granted shall, notwithstanding anything therein, or in this Act, cease if the inventor fails to pay before the expiration of each year the prescribed fee.¹

Restoration
of lapsed
patent.

16. (1) Where any patent has ceased owing to the failure of the patentee to pay any prescribed fee within the prescribed time² the patentee may apply to the Controller in the prescribed manner³ for an order for the restoration of the patent.⁴

(2) Every such application shall contain a statement of the circumstances which have led to the omission of the payment of the prescribed fee.

(3) If it appears from such statement that the omission was unintentional or unavoidable and that no undue delay has occurred in the making of the application the Controller shall advertise the application in the prescribed manner⁵ and within such time as may be prescribed any person may give notice⁶ of opposition at the Patent Office.

(4) Where such notice is given the Controller shall notify the applicant thereof.

(5) After the expiration of the prescribed period the Controller shall hear the case and, subject to an appeal⁷ to the Governor General in Council, issue an order either restoring the patent subject to any conditions and restrictions⁸ deemed to be advisable or dismissing the application:

Provided that in every order under this section restoring a patent such provisions as may be prescribed shall be inserted for the protection of persons who may have availed themselves of the subject-matter of the patent after the patent had ceased.

Amendment of Application or Specification.

Amendment
of applica-
tion or speci-
fication by
Controller.

17. (1) An applicant or a patentee may at any time, by request in writing left at the Patent Office and accompanied by the pre-

¹ Rs. 100.

² See Section 14 (2).

³ Rule 19; Form 9; Fee, Rs. 100.

⁴ This section does not apply to exclusive privileges, obtained under the Inventions and Designs Act, 1888, which have not been converted into patents under Section 81 of this Act.

⁵ In the Gazette of India; Rule 19 (2).

⁶ Rule 20; Form 5; Fee, Rs. 5.

⁷ Section 70; Rule 41; Form 24; Fee Rs. 30.

⁸ The words "and restrictions" were added by the second Repealing and Amendment Act, XVII of 1914.

scribed fee,¹ seek leave to amend his application or specification, including drawings forming part thereof, by way of disclaimer, correction or explanation² stating the nature of, and the reasons for, the proposed amendment.

(2) If the application for a patent has not been accepted, the Controller shall determine whether and subject to what conditions (if any) the amendment shall be allowed.

(3) In any other case the request and the nature of the proposed amendment shall be advertised³ in the prescribed manner, and at any time within three months from its first advertisement any person may give notice⁴ at the Patent Office of opposition to the amendment.

(4) Where such a notice is given the Controller shall give notice⁵ of the opposition to the person making the request, and shall hear and decide the case.⁶

(5) Where no notice of opposition is given, or the person so giving notice of opposition does not appear, the Controller shall determine whether and subject to what conditions, if any, the amendment ought to be allowed.

(6) The decision of the Controller in either case shall be subject to an appeal⁷ to the Governor General in Council.

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

(8) 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 be advertised in the prescribed manner⁹ and shall in all Courts and for all purposes be deemed to form part of the application or specification.

(9) This section shall not apply when and so long as any suit for infringement or proceeding before a Court for the revocation of the patent is pending.

18. In any suit for infringement of a patent or proceeding before a Court for the revocation of a patent the Court may by order allow Amendment
of specifica-
tion by the
Court.

¹ Rules 21—23; Form 10; Fee, Rs. 10 before acceptance or Rs. 20 after acceptance.

² Note that only disclaimer, correction or explanation are allowable: addition of new invention or improvement is not permissible. See sub-section 7. Mere clerical errors may be corrected under Section 62 by request on Form 20, the fee being Rs. 3 only. This section does not apply to requirements made by the Controller under Section 5.

³ In the Gazette of India; Rule 22.

⁴ Rule 23; Form 5; Fee, Rs. 5.

⁵ Rule 23 and Rules 14—16.

⁶ Rule 23 For notice of intention to attend hearing, see Form 6 Fee, Rs. 10 for each party.

⁷ Section 70; Rule 41; Form 24; Fee, Rs. 30.

⁸ See sub-section 1 above and second footnote thereto.

⁹ In the Gazette of India.

the patentee to amend his specification by way of disclaimer¹ in such manner, and subject to such terms as to costs, advertisement or otherwise, as the Court may think fit:

Provided that no amendment shall be so 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 the amendment, and where an application for such an order is made to the Court notice of the application shall be given to the Controller, and the Controller shall have the right to appear and be heard.

Restriction
on recovery
of damages.

19. Where an amendment of a specification by way of disclaimer, correction or explanation has been allowed under this Act² no damages shall be given in any suit 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.

*Register of Patents.*³

Register of
Patents.

20. (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 licenses under patents, and of amendments, extensions, and revocations of patents, and such other matters affecting the validity or proprietorship of patents as may be prescribed.

(2) The register of inventions and address book existing⁴ at the commencement of this Act shall be incorporated with, and form part of, the register of patents under this Act.

(3) The register of patents shall be *prima facie* evidence of any matters by this Act directed or authorised to be inserted therein.⁵

(4) Copies of deeds, licenses and any other documents affecting the proprietorship in any patent or in any license thereunder, must be supplied to the Controller in the prescribed manner for filing in the Patent Office, and, unless such copies have been so supplied, such deeds, licenses or other documents shall not be received as evidence of any transaction affecting a patent.

¹ Note that the Court can only allow disclaimer, but not correction or explanation. Compare Section 17 above.

² See Sections 17 and 18.

³ See Sections 58-64; Rules 39 and 40. No entry can be made before a patent is granted.

⁴ See Inventions and Designs Act V of 1888, Sections 12-14.

⁵ Certified copies of entries are supplied on request on Form 19. See Section 71 and note on page 100.

Crown.

21. Subject to any conditions¹ which the Governor General in Council may have imposed, a patent shall have to all intents the like effect as against His Majesty as it has against a subject: Patent to bind Crown.

Provided that the officers or authorities administering any department of the service of His Majesty may, by themselves, their agents, contractors or others, at any time after the application, use the invention for the services of the Crown on such terms as may, either before or after the use thereof, be agreed on, with the approval of the Governor General in Council between those officers or authorities and the patentee, or, in default of agreement, as may be settled by the Governor General in Council after hearing all parties interested.

Compulsory Licenses and Revocation.

22. (1) Any person interested may present a petition to the Governor General in Council, which shall be left at the Patent Office, together with the prescribed fee² 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 license, or, in the alternative, for the revocation of the patent. Compulsory license and revocation.

(2) The Governor General in Council shall consider the petition, and if the parties do not come to an arrangement between themselves the Governor General in Council may, as he thinks fit, either dispose of the petition himself or refer it to a High Court for decision.

(3) The provisions of sub-section (4) of section 15, prescribing the procedure to be followed in the case of references to the Court under that section, shall apply in the case of references made to the Court under this section.

(4) If the Governor General in Council is of opinion, or, where a reference has been made under sub-section (2) to a High Court, that Court finds, that the reasonable requirements of the public with reference to the patented invention have not been satisfied, the patentee may be ordered to grant licenses on such terms as the Governor General in Council or the High Court, as the case may be, may think just, or, if the Governor General in Council or the High Court is of opinion that the reasonable requirements of the public will not be satisfied by the grant of licenses, the patent may be revoked by order of the Governor General in Council or the High Court:

¹ A Government servant (see page 84) is obliged, under Rule 10 (3), to disclose his service in his application. If the applicant is in the Military or Marine service of the Government of India, he has to comply with the special rules (see page 84) before making an application for a patent. The usual condition imposed on all Government servants in the patent grant is "that Government shall have the right to use the invention either without payment or on such terms as it may consider reasonable."

² Fee, Rs. 10. Forms or procedure are not prescribed.

Provided that an order of revocation shall not be made before the expiration of four years from the date of the patent, or if the patentee gives satisfactory reasons for his default.

(5) For the purposes of this section the reasonable requirements of the public shall not be deemed to have been satisfied—

- (a) if by reason of the default of the patentee to manufacture to an adequate extent and supply on reasonable terms the patented article, or any parts thereof which are necessary for its efficient working, or to carry on the patented process to an adequate extent or to grant licenses on reasonable terms, any existing trade or industry or the establishment of any new trade or industry in British India is unfairly prejudiced, or the demand for the patented article or the article produced by the patented process is not reasonably met; or
- (b) if any trade or industry in British India is unfairly prejudiced by the conditions attached by the patentee before or after the commencement of this Act to the purchase, hire or use of the patented article or to the using or working of the patented process.

(6) An order of the Governor General in Council or of the High Court directing the grant of any license under this section shall, without prejudice to any other method of enforcement, operate as if it were embodied in a deed granting a license and made between the parties to the proceeding.

Revocation
of patents
worked
outside
British India.

23. (1) At any time not less than four years after the date of a patent granted under this Act, any person may apply¹ to the Governor General in Council for the revocation of the patent on the ground that the patented article or process is manufactured or carried on exclusively or mainly outside British India.

(2) The Governor General in Council shall consider the application, and, if after inquiry, he is satisfied—

- (a) that the allegations contained therein are correct; and
- (b) that the applicant is prepared, and is in a position, to manufacture or carry on the patented article or process in British India; and
- (c) that the patentee refuses to grant a license on reasonable terms,

then, subject to the provisions of this section, and unless the patentee proves that the patented article or process is manufactured or carried on to an adequate extent in British India, or gives satisfactory reasons why the article or process is not so manufac-

¹ Fee, Rs. 10. Forms and procedure are not prescribed.

tured or carried on, the Governor General in Council may make an order revoking the patent either—

- (i) forthwith; or
- (ii) after such reasonable interval as may be specified in the order, unless in the meantime it is shown to his satisfaction that the patented article or process is manufactured or carried on within British India to an adequate extent.

(3) No order revoking a patent shall be made under the last sub-section which is at variance with any treaty, convention, arrangement or engagement with any foreign country or British possession.

(4) The Governor General in Council may, on the application of the patentee, extend the time limited in any order made under sub-section (2), clause (ii), for such period not exceeding two years as he may specify in a subsequent order, or revoke any order made under sub-section (2), clause (ii), or any subsequent order if sufficient cause is in his opinion shown by the patentee.

24. A patentee may at any time, by giving notice in the prescribed manner to the Controller, offer to surrender his patent, and the Controller may, if after giving notice of the offer and hearing all parties who desire to be heard he thinks fit, accept the offer, and thereupon make an order for the revocation of the patent.

Power of Controller to revoke surrendered patent.

25. A patent shall be deemed to be revoked if the Governor General in Council declares, by notification in the Gazette of India, the patent or the mode in which it is exercised to be mischievous to the State or generally prejudicial to the public.

Revocation of patent on public grounds

Legal proceedings.

26. (1) Revocation of a patent in whole or in part may be obtained on petition to a High Court on all or any of the following grounds, namely:—

Petition for revocation of patent

- (a) that any invention included in the statement of claim is of no utility;
- (b) that any invention included in the statement of claim was not, at the date of the application for a patent, a new invention within the meaning of this Act;
- (c) that the applicant was not the true and first inventor thereof or the assign or legal representative of such inventor thereof;
- (d) that the original or any amended application or specification does not fulfill the requirements of this Act;
- (e) that the applicant has knowingly or fraudulently included in the application for a patent or in the original or any amended specification, as his invention, something which was not new or whereof he was neither the inventor nor the assign nor the legal representative of such inventor;

- (f) that the original or any subsequent application relating to the invention, or the original or any amended specification, contains a wilful or fraudulent mis-statement;
- (g) that a part of the invention or the manner in which a part is to be made and used as described in the original or any amended specification, is not thereby sufficiently described, and that this insufficiency was fraudulent or is injurious to the public.
- (2) A petition for revocation of a patent may be presented—
- (a) by the Advocate General or any person authorized by him; or
- (b) by any person alleging—
- (i) that the patent was obtained in fraud of his rights, or of the rights of any person under or through whom he claims; or
- (ii) that he, or any person under or through whom he claims, was the true and first inventor of any invention included in the claim of the patentee; or
- (iii) 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 British India, before the date of the patent, anything claimed by the patentee as his invention.

(3) The High Court may, irrespective of any provisions of the Code of Civil Procedure, 1908, in this behalf, require any person, other than the Advocate General or any person authorized by him, applying for the revocation of a patent to give security for the payment of all costs incurred or likely to be incurred by any person appearing to oppose the petition. V of 1908.

Notice of proceedings to persons interested.

27. (1) Notice of any petition for revocation of a patent under section 26 shall be served on all persons appearing from the register¹ to be proprietors of that patent or to have shares or interests therein, and it shall not be necessary to serve the notice on any other person.

(2) The notice shall be deemed to be sufficiently served if a copy thereof is sent by post in a registered letter directed to the person and place for the time being stated in the register.¹

Framing issue for trial before other Courts.

28. (1) A High Court may, if it thinks fit, direct and issue for the trial, before itself or any other High Court, or any District Court, of any question arising upon a petition to itself under section 26, and the issue shall be tried accordingly.

(2) If the issue is directed to another High Court, the finding shall be certified by that Court to the High Court directing the issue.

(3) If the issue is directed to a District Court, the finding of that Court shall not be subject to appeal, but the evidence taken

¹ See Section 20.

upon the trial shall be recorded and a copy thereof, certified by the Judge of the Court, shall be transmitted, together with any remarks which he may think fit to make thereon, to the High Court directing the issue, and the High Court may thereupon act upon the finding of the District Court, or dispose of the petition upon the evidence recorded, or direct a new trial, as the justice of the case may require.

29. (1) A patentee may institute a suit in a District Court having jurisdiction to try the suit against any person who, during the continuance of a patent acquired by him under this Act in respect of an invention, makes, sells or uses the invention without his license, or counterfeits it, or imitates it.

Suits for infringement of patents.

(2) Every ground on which a patent may be revoked under this Act¹ shall be available by way of defence to a suit for infringement.

30. A patentee shall not be entitled to recover any damages in respect of any infringement of a patent granted after the commencement of this Act from any defendant who proves that at the date of the infringement he was not aware, nor had reasonable means of making himself aware, of the existence of the patent, and the marking of an article with the word "patent," "patented," or any word or words expressing or implying that a patent has been obtained for the article, stamped, engraved, impressed on, or otherwise applied to the article, shall not be deemed to constitute notice of the existence of the patent unless the word or words are accompanied by the year and number of the patent.

Exemption of innocent infringer from liability for damages.

Provided that nothing in this section shall affect any proceedings for an injunction.

31. In a suit² for infringement of a patent, the Court 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 may see fit.

Order for inspection, etc. in suit.

32. In a suit² for infringement of a patent the Court may certify that the validity of the patent came in question, and if the Court so certifies, then in any subsequent suit in that Court for infringement of the same patent the plaintiff, on obtaining a final order or judgment in his favour, shall, unless the Court trying the suit otherwise directs, have his full costs, charges and expenses of and incidental to the said suit properly incurred.

Certificate of validity questioned and costs thereon.

33. A Court making a decree in a suit under section 29 or an order on a petition under section 26 shall send a copy of the decree or order, as the case may be, to the Controller, who shall cause an entry thereof and reference thereto to be made in the register of patents.³

Transmission of decrees and orders to the Controller.

34. A High Court to which a petition has been presented under section 26 may stay proceedings on or dismiss the petition if in

Power of High Court.

¹ See Sections 22, 23 and 26.

² See Section 29.

³ See Section 20.

to stay proceedings,
etc.

Hearing with
assessor.

its opinion the petition would be disposed of more justly or conveniently by another High Court.

35. (1) In a suit or proceeding for infringement¹ or revocation² of a patent, the Court may, if it thinks fit, and shall on the request of either of the parties to the proceedings, call in the aid of an assessor specially qualified, and try the case wholly or partially with his assistance.

(2) A Court exercising appellate jurisdiction in respect of such suit or proceeding may, if it thinks fit, call in the aid of an assessor as aforesaid.

(3) The remuneration, if any, to be paid to an assessor under this section shall in every case be determined by the Court and be paid by it as part of the expenses of the execution of this Act.

Remedy in
case of
groundless
threats of
legal proceedings

36. 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 infringement of the patent, any person aggrieved thereby may bring a suit against him in a District Court having jurisdiction to try the suit, and may obtain an injunction against the continuance of such threats, and may recover such damage (if any) as he has sustained thereby, if the alleged infringement 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 a suit for infringement of his patent.

Miscellaneous.

Grant of
patents to
two or more
persons.

37. Where, after the commencement of this Act, a patent is granted to two or more persons jointly, they shall, unless otherwise specified in the patent, be treated for the purpose of the devolution of the legal interest therein as joint tenants, but, subject to any contract to the contrary, each of such persons shall be entitled to use the invention for his own profit without accounting to the others, but shall not be entitled to grant a license without their consent, and, if any such person dies, his beneficial interest in the patent shall devolve on his legal representatives.

Novelty of
invention.

38. (1) An invention³ shall be deemed a new invention within the meaning of this Act—

- (a) if it has not, before the date of the application for a patent thereon, been publicly used in any part of British India, or been made publicly known in any part of British India, and
- (b) if the inventor has not by secret or experimental user made direct or indirect profits from his invention in excess of such an amount as the Court or the Governor

¹ See Section 29

² See Sections 22 & 26.

³ For definition see Section 2 (1)

General in Council, as the case may be, may, in consideration of all the circumstances of the case, deem reasonable.

(2) The public use or knowledge of an invention before the date of the application for a patent thereon shall not be deemed a public use or knowledge within the meaning of this Act if the knowledge has been obtained surreptitiously or in fraud¹ of the true and first inventor or has been communicated to the public in fraud of such inventor or in breach of confidence:

Provided that such inventor has not acquiesced in the public use of his invention, and that, within six months after the commencement of that use, he applies for a patent.

39. If a patent is lost or destroyed, or its non-production is accounted for to the satisfaction of the Controller, the Controller may at any time, on payment of the prescribed fee,² seal a duplicate thereof. Loss or destruction of patent.

40. (1) The exhibition of an invention at an industrial or international exhibition, certified as such by the Governor General in Council, or the publication of any description of the invention during the period of the holding of the exhibition, or the use of the invention for the purpose of the exhibition in the place where the exhibition is held, or the use of the invention during the period of the holding of the exhibition by any person elsewhere, without the privity or consent of the inventor, shall not prejudice the right of the inventor to apply for and obtain a patent in respect of the invention or the validity of any patent granted on the application: Provisions as to exhibitions.

Provided that—

- (a) the exhibitor, before exhibiting the invention, gives the Controller the prescribed notice³ of his intention to do so; and
- (b) the application⁴ for a patent is made before or within six months from the date of the opening of the exhibition.

(2) The Governor General in Council may, by notification in the Gazette of India, apply this section to any exhibition mentioned in the notification in like manner as if it were an industrial or international exhibition certified as such by the Governor General in Council, and any such notification may provide that the exhibitor shall be relieved from the condition of giving notice to the Controller of his intention to exhibit, and shall be so relieved either absolutely or upon such terms and conditions as may be stated in the notification.

41. The trustees of the Indian Museum may at any time require a patentee to furnish them with a model or sample of his invention on payment to the patentee of the cost of the manufacture of the Models to be furnished to Indian Museum.

¹ See also Section 13 (2).

² Fee, Rs. 10; Form 12.

³ Form 13; Fee, Rs. 5.

⁴ Section 3.

model or sample, the amount to be settled, in case of dispute, by the Governor General in Council.

Foreign
vessels in
British
Indian
waters.

42. (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 Court in British India, 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 British India.

(2) This section shall not extend to vessels of any foreign State of which the laws do not confer corresponding rights with respect to the use of inventions in British vessels while in the ports of that State, or in the waters within the jurisdiction of its Courts.

PART II.

DESIGNS.

Registration of Designs.

Application
for registra-
tion of
designs.

43. (1) The Controller may, on the application of any person claiming to be the proprietor¹ of any new or original design¹ not previously published in British India, register the design under this Part.

(2) The application must be made in the prescribed form² and must be left at the Patent Office in the prescribed manner³ and must be accompanied by the prescribed fee.⁴

(3) The same design may be registered in more than one class⁵ and, in case of doubt as to the class in which a design ought to be registered, the Controller may decide⁶ the question.

(4) The Controller may,⁷ if he thinks fit, refuse to register any design presented to him for registration; but any person aggrieved by any such refusal may appeal⁸ to the Governor General in Council.

(5) An application which, owing to any default or neglect on the part of the applicant, has not been completed so as to enable registration to be effected within the prescribed time⁹ shall be deemed to be abandoned.

(6) A design when registered shall be registered as of the date of the application for registration.

Registration
of designs in
new classes.

44. Where a design has been registered in one or more classes of goods, the application of the proprietor of the design to register

¹ For definitions, see section 2.

² Form 14.

³ Rules 3 and 26—29.

⁴ Rs. 3 in classes 1 to 6 and class 16; Annas 8 in classes 7 to 15.

⁵ For classification see Rule 26 and Schedule 4, page 73.

⁶ Rule 26 (2).

⁷ Rules 30—34.

⁸ Section 70; Rule 41; Form 24; Fee, Rs. 30.

⁹ Six months, Rule 34. The documents are not open to inspection, Section

it in some one or more other classes shall not be refused, nor shall the registration thereof be invalidated—

- (a) on the ground of the design not being a new and original design, by reason only that it was so previously registered; or
- (b) on the ground of the design having been previously published in British India, by reason only that it has been applied to goods of any class in which it was so previously registered.

45. (1) The Controller shall grant a certificate¹ of registration of the proprietor of the design when registered. Certificate of registration.

(2) The Controller may, in case of loss of the original certificate, or in any other case in which he deems it expedient, furnish one or more copies of the certificate.²

46. (1) There shall be kept at the Patent Office a book called the Register of Designs³ wherein shall be entered the names and addresses of proprietors of registered designs, notifications of assignments and of transmissions⁴ of registered designs, and such other matters as may be prescribed. Register of Designs.

(2) The register of designs existing⁴ at the commencement of this Act shall be incorporated with and form part of the register of designs under this Act.

(3) The register of designs shall be *prima facie* evidence⁵ of any matters by this Act directed or authorized to be entered therein.

Copyright in Registered Designs.

47. (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) If within the prescribed time before the expiration of the said five years application for the extension of the period of copyright is made to the Controller in the prescribed manner⁶ the Controller shall, on payment of the prescribed fee,⁷ extend the

¹ The usual form of certificate is as follows :—The Patent Office, Designs Branch. Certificate of Registration of Designs. Design No. ———, date ——— Certified that the design of which a copy is annexed hereto has been registered as of the number and date given above in class ——— in the name of ——— who claims to be the proprietor thereof.

Subject to the provisions of the Indian Patents and Designs Act (II of 1911) the proprietor shall have copyright in the design during five years from the date of registration. Signature of Controller ———. Date of issue of certificate ———.

² Procedure and fees not prescribed by rules. Form 19 may be used.

³ See Sections 58-64, rules 39 and 40. No entry can be made before the Controller has determined that the design shall be registered.

⁴ See Inventions and Designs Act V of 1888, Sections 52 and 61.

⁵ Certified copies of entries are supplied on request on Form 19. See Section 71 and note on page 100.

⁶ Rule 35; Form 16.

⁷ Fee, Rs. 10.

period of copyright for a second period of five years from the expiration of the original period of five years.

(3) If within the prescribed time before the expiration of such second period of five years application for the extension of the period of copyright is made to the Controller in the prescribed manner¹ the Controller may, subject to any rules¹ under this Act, on payment of the prescribed fee,² extend the period of copyright for a third period of five years from the expiration of the second period of five years.

Requirements
before deli-
very on sale.

48. (1) Before delivery on sale of any articles to which a registered design has been applied, the proprietor shall—

- (a) (if exact representations or specimens were not furnished on the application for registration), furnish to the Controller the prescribed number of exact representations or specimens of the design; and, if he fails to do so, the Controller may erase his name from the register, and thereupon the copyright in the design shall cease; and
- (b) cause each such article to be marked³ with the prescribed mark, or with the prescribed words or figures, denoting that the design is registered; and, if he fails to do so, the proprietor shall not be entitled to recover any penalty or damages in respect of any infringement of his copyright in the design unless he shows that he took all proper steps to ensure the marking of the article, or unless he shows that the infringement took place after the person guilty thereof knew or had received notice of the existence of the copyright in the design.

(2) Where a representation is made to the Governor General in Council by or on behalf of any trade or industry that in the interest of the trade or industry it is expedient to dispense with or modify as regards any class or description of articles any of the requirements of this section as to marking, the Governor General in Council may, if he thinks fit, by rule under this Act, dispense with or modify such requirements as regards any such class or description of articles to such extent and subject to such conditions as he thinks fit.

Effect of
disclosure
on copy-
right.

49. The disclosure of a design by the proprietor to any other person in such circumstances as would make it contrary to good faith for that other person to use or publish the design, and the disclosure of a design in breach of good faith by any person other than the proprietor of the design, and the acceptance of a first and confidential order for goods bearing a new or original textile design intended for registration, shall not be deemed to be a publication of the design sufficient to invalidate the copyright thereof if registration thereof is obtained subsequently to the disclosure or acceptance.

¹ Rule 35, Form 16.

² Fee, Rs. 10.

³ Rule 36.

50. (1) During the existence of copyright in a design, or such shorter period not being less than two years from the registration of the design as may be prescribed¹ the design shall not be open to inspection except by the proprietor or a person authorized in writing by him² or a person authorized by the Controller or by the Court, and furnishing such information as may enable the Controller to identify the design, and shall not be open to the inspection of any person except in the presence of the Controller, or of an officer acting under him, and on payment of the prescribed fee³ and the person making the inspection shall not be entitled to take any copy of the design, or of any part thereof:

Inspection of registered designs.

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) After the expiration of the copyright in a design, or such shorter period as aforesaid, the design shall be open to inspection, and copies thereof may be taken by any person on payment of the prescribed fee.

(3) Different periods may be prescribed under this section for different classes of goods.

51. On the request⁴ of any person furnishing such information as may enable the Controller to identify the design, and on payment of the prescribed fee, the Controller shall inform such person whether the registration still exists in respect of the design, and, if so, in respect of what classes of goods, and shall state the date of registration, and the name and address of the registered proprietor.

Information as to existence of copyright.

Industrial and International Exhibitions.

52. (1) The exhibition at an industrial or international exhibition certified as such by the Governor General in Council, 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:

Provisions as to exhibitions.

Provided that—

- (a) the exhibitor, before exhibiting the design or article, or publishing a description of the design, gives the Controller the prescribed notice⁵ of the intention to do so; and

¹ Rule 37 prescribes five years.

² Form 17.

³ Fee, Re. 1.

⁴ Rule 38; Form 18; Fee, Rs. 2 or Rs. 4.

⁵ Form 13; Fee, Rs. 5.

(b) the application¹ for registration is made before or within six months from the date of the opening of the exhibition.

(2) The Governor General in Council may, by notification in the *Gazette of India*, apply this section to any exhibition mentioned in the notification in like manner as if it were an industrial or international exhibition certified as such by the Governor General in Council, and any such notification may provide that the exhibitor shall be relieved from the condition of giving notice to the Controller of his intention to exhibit, and shall be so relieved either absolutely or upon such terms and conditions as may be stated in the notification.

Legal Proceedings.

Piracy of registered design.

53. (1) During the existence of copyright² in any design it shall not be lawful for any person—

- (a) for the purpose of sale to apply or cause to be applied to any article in any class of goods in which the design is registered the design or any fraudulent or obvious imitation thereof, except with the license or written consent of the registered proprietor² or to do anything with a view to enable the design to be so applied; or,
- (b) knowing that the design or any fraudulent or obvious imitation thereof has been applied to any article without the consent of the registered proprietor, to publish or expose or cause to be published or exposed for sale that article.

(2) If any person acts in contravention of this section, he shall be liable for every contravention—

- (a) to pay to the registered proprietor of the design a sum not exceeding five hundred rupees recoverable as a contract debt, or
- (b) if the proprietor elects to bring a suit for the recovery of damages for any such contravention, and for an injunction against the repetition thereof, to pay such damages as may be awarded and to be restrained by injunction accordingly:

Provided that the total sum recoverable in respect of any one design under clause (a) shall not exceed one thousand rupees.

(3) When the Court makes a decree in a suit under sub-section (2), it shall send a copy of the decree to the Controller, who shall cause an entry thereof to be made in the register of designs.³

Application of certain provisions of

54. The provisions of this Act with regard to certificates of the validity of a patent,⁴ and to the remedy in case of groundless

¹ Section 43.

² For definition of copyright and proprietor, see Section 2.

³ Section 46.

⁴ Section 32.

threats of legal proceedings by a patentee¹ shall apply in the case of registered designs in like manner as they apply in the case of patents, with the substitution of references to the copyright in a design for references to a patent, and of references to the proprietor of a design for references to the patentee, and of references to the design for references to the invention. the Act as to patents to designs.

PART III.

GENERAL.

Patent Office and Proceedings thereat.

55. (1) The Governor General in Council may provide, for the purposes of this Act, an office which shall be called, and is in this Act referred to as, the Patent Office. Patent Office.

(2) The Patent Office shall be under the immediate control of the Controller of Patents and Designs, who shall act under the superintendence and direction of the Governor General in Council.

(3) There shall be a seal for the Patent Office.

(4) Any act or thing directed to be done by or to the Controller may be done by or to any officer authorized by the Governor General in Council.

56. The Governor General in Council may appoint the Controller, and so many officers and clerks, with such designations and duties, as he thinks fit. Officers and clerks.

Fees.²

57. (1) There shall be paid in respect of the grant of patents and the registration of designs, and applications therefor, and in respect of other matters with relation to the patents and designs under this Act, such fees as may be prescribed by the Governor General in Council, so however that the fees prescribed in respect of the instruments and matters mentioned in the schedule shall not exceed those there specified. Fees.

(2) A proceeding in respect of which a fee is payable³ under this Act or the rules made thereunder shall be of no effect unless the fee has been paid.

Provisions as to Registers⁴ and other Documents in the Patent Office.

58. There shall not be entered in any register kept under this Act, or be receivable by the Controller, any notice of any trust, expressed, implied or constructive. Notice of trust not to be entered in registers.

¹ Section 36.

² Rule 4 and Schedule, page 50.

³ For detailed list of fees see the first Schedule to the Rules, page 50

⁴ Register of Patents, Section 20; Register of Designs, Section 46; Rules 39 and 40.

Inspection of
and extracts
from regis-
ters.

59. 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 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.¹

Privilege of
reports of
Controller

60. Reports of or to the Controller made under this Act shall not in any case be published or be open to public inspection.

Prohibition
of publica-
tion of speci-
fication,
drawings,
etc., where
application
abandoned,
etc

61. (1) Where an application for a patent has been abandoned or become void² the specifications and drawings (if any), accompanying or left in connection with such application, shall not, save as otherwise expressly provided by this Act, at any time be open to public inspection or be published by the Controller.

(2) Where an application for a design has been abandoned or refused³ the application and any drawings, photographs, tracings, representations or specimens left in connection with the application shall not at any time be open to public inspection or be published by the Controller.

Power for
Controller to
correct
clerical
errors

62. The Controller may, on request in writing accompanied by the prescribed fee⁴—

- (a) correct any clerical error in or in connection with an application for a patent or in any patent or any specification;
- (b) cancel⁵ the registration of a design either wholly or in respect of any particular goods in connection with which the design is registered;
- (c) correct any clerical error in the representation of a design or in the name or address of the proprietor of any patent or design, or in any other matter which is entered upon the register of patents or the register of designs.

Entry of
assignments
and trans-
missions in
registers.

63. (1) Where a person claims to be entitled by assignment, transmission or other operation of law to a patent, or to the copyright in a registered design, the Controller shall, on request⁶ and on proof of title to his satisfaction, register his interest in such patent or design.

(2) Where any person claims to be entitled as mortgagee, licensee or otherwise to any interest in a patent or registered design, the Controller shall, on request⁶ and on proof of title to his satisfaction, cause notice of the interest to be entered in the prescribed manner in the register of patents or designs, as the case may be.

¹ Form 19. Fee, Rs. 2 plus annas four for every 100 words in excess of 400

² Section 5 (4).

³ Section 43 (4 and 5).

⁴ Form 20, Fee, Rs. 3; but Form 22 (Fee of Re. 1) shall be used if only an alteration of address in the Register is required. For amendments of applications and specifications by way of disclaimer, correction or explanation see Section 17, Rules 21—23 and Form 10.

⁵ The Controller will only deal with a request by the proprietor. Other persons should proceed under Section 64.

⁶ Rule 39; Form 21; Fee, Rs. 5. For disability when not registered see Section 20 (4).

(3) The person registered as the proprietor of a patent or design shall, subject to the provisions of this Act and to any rights appearing from the register to be vested in any other person, have power absolutely to assign, grant licenses as to, or otherwise deal with, the patent or design and to give effectual receipts for any consideration for any such assignment, license or dealing:

Provided that any equities in respect of the patent or design may be enforced in like manner as in respect of any other moveable property.

64. (1) A High Court may, on the application in the prescribed manner of any person aggrieved by the non-insertion in or omission from the register of patents or designs of any entry, or by any entry made in either such register without sufficient cause, or by any entry wrongly remaining on either such register, or by an error or defect in any entry in either such register, make such order for making, expunging or varying such entry as it may think fit.¹

Rectification
of register by
Court

(2) The Court may in any proceeding under this section decide any question that it may be necessary or expedient to decide in connection with the rectification of a register.

(3) The prescribed notice² of any application under this section shall be given to the Controller, who shall have the right to appear and be heard thereon.

(4) Any order of the Court rectifying a register shall direct that notice of the rectification be served on the Controller in the prescribed manner³ who shall upon the receipt of such notice rectify the register accordingly.

(5) A High Court to which an application has been made under this section may stay proceedings on or dismiss the application if in its opinion the application would be disposed of more justly or conveniently by another High Court.

Powers and Duties of Controller.

65. Subject to any rules in this behalf, the Controller in any proceedings before him under this Act shall have the powers of a Civil Court for the purpose of receiving evidence and administering oaths and enforcing the attendance of witnesses and compelling the production of documents and awarding costs.

Powers of
Controller in
proceedings
under Act.

66. The Controller shall issue periodically a publication⁴ of patented inventions containing such information as the Governor General in Council may direct.

Publication
of patented
inventions.

¹ This section may be regarded as providing an appeal from a decision of the Controller affecting the Registers under sections 58, 62 and 63. From decisions of the Controller in respect of the grant, refusal, restoration, or amendment of patents, or the registration of designs, under sections 5 (3), 9 (3), 16 (5), 17 (5) and 43 (4), the appeal lies to the Governor General in Council under Section 70.

² Rule 40, ten clear days' notice is required.

³ Form 23; Fee, Rs. 3.

⁴ Notifications appear weekly in the Gazette of India, Part II, and are also published separately as an extract. Subscription Rs. 3 annually for the extract. The Patent Office Journal is published quarterly and annually (price eight annas and one rupee).

Exercise of discretionary power by Controller.

67. Where any discretionary power is by or under this Act given to the Controller, he shall not exercise that power adversely to the applicant for a patent, or for amendment of an application or of a specification, or for registration of a design, without (if so required within the prescribed time¹ by the applicant) giving the applicant an opportunity of being heard.

Power of Controller to take directions of Governor General in Council.

68. The Controller may, in any case of doubt or difficulty arising in the administration of any of the provisions of this Act, apply to the Governor General in Council for directions in the matter.

Refusal to grant patent, etc., in certain cases.

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

Appeals to the Governor General in Council.

70. (1) Where an appeal is declared by this Act² to lie from the Controller to the Governor General in Council, the appeal shall be made within two months of the date of the order passed by the Controller, and shall be in writing, and accompanied by the prescribed fee.³

(2) In calculating the said period of two months the time (if any) occupied in granting a copy of the order appealed against shall be excluded.

(3) The Governor General in Council may, if he thinks fit, obtain the assistance of an expert in deciding such appeals, and the decision of the Governor General in Council shall be final.

Evidence, etc.

Certificate of Controller to be evidence.

71. A certificate⁴ purporting to be under the hand of the Controller, as to any entry, matter or thing which he is authorized by this Act, or any 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.

Transmission of certified printed copies of specifications, etc.

72. 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 as soon as may be, after they have been accepted or allowed at the Patent Office, to the Governor of Fort St. George in Council, the Governor of Bombay in Council, the Lieutenant-Governor of Burma and to such other authorities as the Governor General in Council may appoint in this behalf, and shall be open to the inspection of any person at all reasonable times at places to be appointed by those authorities.⁵

Applications and notices by post.

73. Any application, notice or other document authorized or required to be left, made or given at the Patent Office or to the

¹ One month, Rules 43 and 44.

² Section 5 (g), 9 (f), 16 (f), 17 (e) and 43 (4).

³ Rule 41; Form 24; Fee, Rs. 30.

⁴ Request for certificate, Form 19.

⁵ See page vi.

Controller, or to any other person under this Act, may be sent by post.¹

74. (1) If any person is, by reason of infancy, lunacy or other disability, incapable of making any statement or doing any thing required or permitted by or under this Act, the lawful guardian, committee or manager (if any) of the person subject to the disability, or, if there be none, any person appointed by any Court possessing jurisdiction in respect of his property, may make such statement or a statement as nearly corresponding thereto as circumstances permit, and do such thing in the name and on behalf of the person subject to the disability.

Declaration
by infant,
lunatic, etc.

(2) An appointment may be made by the Court for the purposes of this section upon the petition of any person acting on behalf of the person subject to the disability or of any other person interested in the making of the statement or the doing of the thing

Agency.

75. The following documents, namely,—

- (1) applications for a patent,²
- (2) notices of opposition,³
- (3) applications for extension of term of a patent,⁴
- (4) applications for the restoration of lapsed patents,⁵
- (5) applications for leave to amend,⁶
- (6) applications for compulsory license or revocation,⁷ and
- (7) notices of surrenders of patent,⁸

Subscription
and verifica-
tion of
certain docu-
ments.

shall be signed and verified, in the manner prescribed,⁹ by the person making such applications or giving such notices :

Provided that, if such person is absent from British India, they may be signed and verified on his behalf by an agent, resident in British India authorized by him in writing in that behalf.

76. (1) All other applications and communications to the Controller under this Act may be signed by, and all attendances upon the Controller may be made by or through a legal practitioner or by or through an agent¹⁰ authorized to the satisfaction of the Controller.

Agency.

(2) The Controller may, if he sees fit, require—

- (a) any such agent to be resident in British India;
- (b) any person not residing in British India to employ an agent residing in British India;
- (c) the personal signature or presence of any applicant, opponent or other person.

¹ Rule 2.

² Section 3

³ Section 9

⁴ Section 15.

⁵ Section 16.

⁶ Section 17.

⁷ Sections 22 and 23.

⁸ Section 24.

⁹ See the various Forms and Rules 7 and 8.

¹⁰ Rule 9; Forms 26 and 27.

Powers, etc., of Governor General in Council.

Power for Governor General in Council to make rules.

77. (1) The Governor General in Council may make such rules as he thinks expedient, subject to the provisions of this Act—¹

- (a) for regulating the practice of registration under this Act;
- (b) for classifying goods for the purposes of designs;
- (c) for making or requiring duplicates of specifications, drawings and other documents;
- (d) for securing and regulating the publishing and selling of copies, at such prices and in such manner as the Governor General in Council thinks fit, of specifications, drawings 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) generally for regulating the business of the Patent Office, the conduct of proceedings before the Controller, and all things by this Act placed under the direction of Controller or of the Governor General in Council; and
- (g) generally for the purpose of carrying into effect the provisions of this Act.

(2) The power to make rules under this section shall be subject to the condition of the rules being made after previous publication.

(3) All rules made under this section shall be published in the Gazette of India, and on such publication shall have effect as if enacted in this Act.

Offences.

Wrongful use of words "Patent Office."

78. If any person uses on his place of business, or on any document issued by him, or otherwise, the words "Patent Office," or any other words suggesting that his place of business is officially connected with, or is, the Patent Office, he shall be punishable with fine which may extend to two hundred rupees, and, in the case of a continuing offence, with further fine of twenty rupees for each day on which the offence is continued after conviction therefor.

¹ The power to make rules under this Act is extended by the Indian Copyright Act III of 1914 as follows :—

- (1) This Act shall not apply to designs capable of being registered in the Indian Patents and Designs Act, 1911, except designs which, though capable of being so registered, are not used or intended to be used as models or patterns to be multiplied by any industrial process.
- (2) General rules under section seventy-seven of the Indian Patents and Designs Act, 1911, may be made for determining the conditions under which a design shall be deemed to be used for such purposes as aforesaid.

No rules have yet been made.

Savings and Repeal.

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

V of 1888.

80. The Inventions and Designs Act, 1888, is hereby repealed :¹ Repeal.

Provided that this repeal shall not affect any application under the said Act pending at the commencement of this Act, and all proceedings on such application shall be continued as if this Act had not been passed.

V of 1888.

81. (1) At any time within two years² from the commencement of this Act, any person possessing an exclusive privilege under the Inventions and Designs Act, 1888, may, by request in writing left at the Patent Office and on payment of the prescribed fee, seek leave to convert his exclusive privilege under the said Act into a patent under this Act. Substitution of patents for rights under repealed Act.

(2) Notice of any application under this section shall be sent to all persons appearing from the address book kept under the said Act to have any shares or interest in the exclusive privilege.

(3) Save as aforesaid, the procedure prescribed by section 17 in the case of applications under that section shall, so far as may be, apply to every application under this section.

(4) Every patent granted under this section shall be dated as of the date of the exclusive privilege for which it is substituted.

THE SCHEDULE.³

(See section 57.)

FEES.

	Rs
On application for a patent	10
Before sealing a patent	30
Before the expiration of the 4th year from the date of the patent.	50

¹ For saving *see* General Clauses Act, X of 1897, Section 6. "Where this Act, or any Act of the Governor General in Council or Regulation made after the commencement of this Act, repeals any enactment hitherto made or hereafter to be made, then, unless a different intention appears, the repeal shall not—

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

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

² The two years ended on 31st December 1913. Conversion was effected in 148 cases. The section has been repealed by the Repealing and Amending Act, 1920 (XXXI of 1920).

³ This Schedule, gives the maximum fees payable under the Act. The actual fees now charged are set forth in the first Schedule to the Rules, page 50.

THE SCHEDULE—*contd.*

(See section 57.)

FEES.

	Rs
Before the expiration of the 5th year from the date of the patent.	50
Before the expiration of the 6th year from the date of the patent	50
Before the expiration of the 7th year from the date of the patent	50
Before the expiration of the 8th year from the date of the patent	50
Before the expiration of the 9th year from the date of the patent	100
Before the expiration of the 10th year from the date of the patent	100
Before the expiration of the 11th year from the date of the patent	100
Before the expiration of the 12th year from the date of the patent	100
Before the expiration of the 13th year from the date of the patent	100
Provided that the fees for two or more years may be paid in advance	
On application to extend term of a patent	50
Before the expiration of each year of the extended term of a patent or of a new patent granted under section 15	100
On application for registration of a design	3 ¹

¹ The fees prescribed by the rules are three rupees in classes 1 to 6 and class 16; and eight annas in classes 7 to 15

THE INDIAN PATENTS AND DESIGNS (TEMPORARY RULES) ACT.

ACT No VI OF 1915 ¹

An Act to extend the powers of the Governor General in Council during the continuance of the present war to make rules under the Indian Patents and Designs Act, 1911

1. (1) This Act may be called the Indian Patents and Designs Short title,
extent, etc.
(Temporary Rules) Act, 1915.

(2) It extends to the whole of British India including British Baluchistan and the Santhal Parganas.

(3) This Act and the rules made thereunder shall be in force during the continuance of the present war and for a period of six months thereafter ²

2. In this Act the expression 'subject of any State at war with His Majesty' includes— Definitions.

(i) any person resident and carrying on business in the territory of a State at war with His Majesty; and

(ii) with reference to a company, any company the business whereof is managed or controlled by such subjects, or is carried on wholly or mainly for the benefit or on behalf of such subjects, notwithstanding that the company may be registered within His Majesty's dominions.

3. (1) The power of the Governor General in Council under Power to
make rules.
section 77 of the Indian Patents and Designs Act, 1911, to make make rules.
rules shall include power to make rules—

(a) for avoiding or suspending in whole or in part any patent or license, the person entitled to the benefit of which is the subject of any State at war with His Majesty;

(b) for avoiding or suspending the registration, and all or any rights conferred by the registration, of any design the proprietor whereof is a subject as aforesaid;

(c) for avoiding or suspending any application made by any such person under the said Act;

(d) for enabling the grant, in favour of persons other than such persons as aforesaid, on such terms and conditions, and either for the whole term of the patent or registration or for such less period, as may be thought fit, of

¹ Act VI of 1915 received the assent of the Governor General on the 22nd March 1915.

For statement of Objects and Reasons, see *Gazette of India*, 1915, Part V, page 16; and for Proceedings in Council, see *ibid.*, 1915, Part VI, pages 309 and 310

² Duration extended to eighteen months beyond the continuance of the war by Act XXVIII of 1920, see p. 36.

Date fixed for termination of the war, 31st August 1921, by Order in Council, dated 10th August 1921 with reference to the Termination of the War (Definition) Act, 1919. See *Gazette of India*, 1921, Part I, p. 361.

licenses to make, use, exercise, or vend, patented inventions and registered designs so liable to avoidance or suspension as aforesaid; and

(e) for extending the time within which any act or thing may be or is required to be done under the said Act.

(2) If the rules made under this Act so provide, the rules or any of them shall have effect from the passing of this Act.

(3) All rules made under this Act shall be published in the *Gazette of India*, and on such publication shall have effect as if enacted in this Act.

Power in case of exclusive privileges under Act V of 1888.

4. The power to make rules conferred by section 3 (I) (a) and (d) of this Act shall be exercisable in respect of any exclusive privilege acquired under the Inventions and Designs Act, 1888, as if V of 1888. such exclusive privilege had been a patent granted under the Indian Patents and Designs Act, 1911; and the power to make rules conferred by section 3 (I) (e) of this Act in respect of anything to be done under the Indian Patents and Designs Act, 1911, shall be exercisable in respect of anything to be done under the Inventions and Designs Act, 1888. II of 1911. II of 1911. V of 1888.

THE INDIAN PATENTS AND DESIGNS (TEMPORARY RULES) AMENDMENT ACT, 1920.

(XXVIII of 1920.)¹

An Act to extend the operation of the Indian Patents and Designs (Temporary Rules) Act, 1915.

WHEREAS it is expedient to extend the operation of the Indian Patents and Designs (Temporary Rules) Act, 1915; It is hereby I of 1915. enacted as follows :—

Short title.

1. This Act may be called the Indian Patents and Designs (Temporary Rules) Amendment Act, 1920.

Amendment of section 1, Act VI of 1915.

2. In sub-section (3) of section 1 of the Indian Patents and Designs (Temporary Rules) Act, 1915, for the words "six months" VI of 1915. the words "one year and six months" shall be substituted.

¹ Act XXVIII of 1920 of the Indian Legislative Council received the assent of the Governor General on the 2nd of September 1920. For Statement of Objects and Reasons, see *Gazette of India*, dated 28th August 1920, Part V, pp. 166 to 167.

**THE INDIAN PATENTS AND DESIGNS (AMENDMENT)
ACT, 1920.**

(XXIX of 1920.)¹

An Act further to amend the Indian Patents and Designs Act, 1911.

II of 1911. WHEREAS it is expedient further to amend the Indian Patents and Designs Act, 1911 ; It is hereby enacted as follows:—

1. This Act may be called the Indian Patents and Designs Short title. (Amendment) Act, 1920.

II of 1911. 2. After section 78 of the Indian Patents and Designs Act, 1911, the following heading and section shall be inserted, namely:—

Insertion of
new section
78-A in Act
II of 1911.

*Reciprocal arrangements with the United Kingdom and other parts
of His Majesty's dominions.*

7 Edw. VII,
c. 29. “ 78A. (1) If His Majesty is pleased by Order in Council to apply such of the provisions of section 91 of the Patents and Designs Act, 1907, as relate to inventions or designs to British India, then any person who has applied for protection for any invention or design in the United Kingdom, shall be entitled to a patent for his invention or to registration of his design under this Act, in priority to other applicants; and the patent or registration shall have the same date as the date of the application in the United Kingdom:

Reciprocal
arrangement
with the
United King-
dom and
other parts of
His Majesty's
dominions.

Provided that—

(a) the application is made in the case of a patent within twelve months, and, in the case of a design, within four months from the application for protection in the United Kingdom; and

(b) nothing in this section shall entitle the patentee or the proprietor of the design to recover damages for infringements happening prior to the actual date on which, in the case of a patent, his application is accepted, or, in the case of a design, the design is registered, in British India.

(2) The patent granted for an invention or the registration of a design shall not be invalidated—

(a) in the case of a patent, by reason only of the publication of a description of, or use of the invention, or

(b) in the case of a design, by reason only of the exhibition or use of, or the publication of a description or representation of, the design,

in British India during the period specified in this section as that within which the application may be made.

¹ Act XXVIII of 1920 of the Indian Legislative Council received the assent of the Governor General on the 2nd of September 1920. For Statement of Objects and Reasons, see *Gazette of India*, dated 28th August 1920, Part V, pp. 165 to 167.

(3) The application for the grant of a patent or the registration of a design under this section must be made in the same manner as an ordinary application under this Act :

Provided that, in the case of a patent, if the application is not accepted within twelve months from the date of the application for protection in the United Kingdom the specification and the drawings (if any) supplied therewith shall be open to public inspection at the expiration of that period.

(4) Where it is made to appear to the Governor General in Council that the legislature of any other part of His Majesty's dominions has made satisfactory provision for the protection of inventions or designs, patented or registered in British India, the Governor General in Council may, by notification in the *Gazette of India*, direct that the provisions of this section, with such variations or additions, if any, as may be set out in such notification, shall apply for the protection of inventions or designs patented or registered in that part of His Majesty's dominions.

EXTENSION OF INDIAN PATENTS AND DESIGNS ACT TO SHAN STATES.

NOTE.—Under section 1 (2) of the Indian Patents and Designs Act, 1911 (see p. 4) the Act extends to the whole of British India including British Baluchistan and the Santhal Parganas. It has now been extended to the Shan States by the following notice which has been published in the "Burma Gazette," dated 6th September 1919, Part I, p. 696, and the "Gazette of India," dated 18th October 1919, Part II, p. 1778.

No. 38.—In exercise of the powers conferred by section 10 of the Burma Laws Act, 1898, as amended by Regulation II of 1910, the Lieutenant-Governor is pleased to extend to the Shan States the Indian Patents and Designs Act, 1911 and the Rules thereunder, subject to the following modification :—

Modification.

If any proceeding is taken in respect of an infringement in the Shan States of a patent, which antedates the extension of the Indian Patents and Designs Act, 1911, to the said Shan States, against any person who may have availed himself of the subject matter of that patent before the lapse of one year from the date of the extension, the Court before which the proceeding is taken, may, if it thinks fit, refuse to award any damages in respect of such infringement.

By order,

C. M. WEBB,

Chief Secy. to the Govt. of Burma.

RANGOON,
The 5th September 1919.

**RECIPROCAL ARRANGEMENT WITH THE UNITED
KINGDOM AND OTHER PARTS OF HIS MAJES-
TY'S DOMINIONS.**

NOTIFICATION No. A.-33, dated the 26th November 1920.¹

The following Order of His Majesty in Council applying to British India the provisions of section 91 of the United Kingdom Patents and Designs Acts, 1907 and 1919, so far as relates to Patents and Designs, is republished for general information:—

“ At the Court at Buckingham Palace, the 13th day of October, 1920.

Present,

The King's Most Excellent Majesty in Council.

Whereas by section 91 of the Patents and Designs Acts, 1907 and 1919 (7 Edw. 7, c. 29 and 9 and 10 Geo. 5, c. 80), it is in regard to International and Colonial Arrangements relating to the registration of Patents and Designs, provided, *inter alia*, as follows:—

“ (5) Where it is made to appear to His Majesty that the Legislature of any British possession has made satisfactory provision for the protection of Inventions, Designs or Trade Marks, patented or registered in this country, it shall be lawful for His Majesty by Order in Council, to apply the provision of this section to that Possession, with such variations or additions, if any, as may be stated in the order.”

And whereas it is made to appear to His Majesty that the Legislature of British India has made satisfactory provision for the protection of Inventions and Designs patented or registered in the United Kingdom:

Now, therefore, His Majesty, by and with the advice of His Privy Council, by virtue and in pursuance of the provision of the above-recited sub-section, and of every other power Him thereunto enabling, doth order, and it is hereby ordered, that the provisions of section 91 of the Patents and Designs Act, 1907 and 1919, so far as relates to Patents and Designs shall apply to British India.

This Order shall take effect from the 2nd September 1920.

ALMERIC FITZROY.”

NOTIFICATION No. A.-342, dated the 27th February 1922.²

Whereas it appears to the Governor General in Council that the Government of the Island of Ceylon has made satisfactory provision for the protection of inventions patented in British India.

¹ See *Gazette of India*, 1920, Part I, p. 2241.

² See *Gazette of India*, 1922, Part I, p. 223.

Now therefore, in pursuance of the provisions of sub-section (4) of section 78-A of the Indian Patents and Designs Act, 1911 (II of 1911), the Governor General in Council is pleased to direct that the provisions of the said section shall apply for the protection of inventions patented in the Island of Ceylon.

NOTIFICATION No. A.-342, dated Simla, the 13th April 1922¹

Whereas it appears to the Governor General in Council that the Legislature of New Zealand is making satisfactory provision for the protection of inventions or designs patented or registered in British India.

Now, therefore, in pursuance of the provisions of sub-section (4) of section 78-A of the Indian Patents and Designs Act, 1911 (II of 1911), the Governor General in Council is pleased to direct that the provisions of the said section shall, with effect from the 15th July 1922, apply for the protection of inventions or designs patented or registered in the dominion of New Zealand.

NOTIFICATION No. A.-342, dated Simla, the 2nd May 1922.²

Whereas it appears to the Governor General in Council that the Legislature of the Union of South Africa has made satisfactory provision for the protection of inventions or designs patented or registered in British India.

Now, therefore, in pursuance of the provisions of sub-section (4) of section 78-A of the Indian Patents and Designs Act, 1911 (II of 1911), the Governor General in Council is pleased to direct that the provisions of the said section shall apply for the protection of the inventions or designs patented or registered in the Union of South Africa.

¹ See *Gazette of India*, 1922, Part I, p. 480.

² See *Gazette of India*, 1922, Part I, p. 564.

INDIAN PATENTS AND DESIGNS RULES, 1912.

In exercise of the powers conferred by sections 57 and 77 (1) of the Indian Patents and Designs Act, 1911 (II of 1911), the Governor General in Council is pleased to make the following rules¹ :—

CHAPTER I.

PRELIMINARY.

1. These rules may be called the Indian Patents and Designs Rules, 1912. Short title and commencement.

They shall come into force on the first day of January, 1912.

2. In the rules, unless there is anything repugnant in the subject or context,— Definitions.

(a) The Act means the Indian Patents and Designs Act, 1911.

(b) Office means the Patent Office provided under section 55 of the Act.

(c) Controller means the Controller of Patents and Designs appointed under section 56 of the Act, and includes any officer appointed to act for him.

3. Any application, notice or other document, and any fee, authorised or required to be left, made, given or paid at the Office, or to the Controller, may be sent by hand or through the post addressed to the Controller of Patents and Designs, 1, Council House Street, Calcutta, and, if so sent, shall be deemed to have been left, made, given or paid on the day of receipt. Communications to the Office.

4. (1) The fees to be paid under the Act shall be those specified in the first Schedule to these rules, hereinafter described as the prescribed fees. Fees.

(2) Fees may be paid in cash at the office, or may be sent by money order or postal order or cheque payable to the Controller at Calcutta. Cheques not carrying the correct addition for commission, and other cheques on which the full value cannot be collected in cash within the time allowed for payment of the fee, will only be accepted at the discretion² of the Controller. Stamps will not be received in payment of fees.

¹ These rules were published in the *Gazette of India*, Part II, pages 1441—1463, dated 23rd September 1911. Amendments of Rules were published in the *Gazette of India*, Part I, pages 1914-15, dated 16th October 1915. The rules have effect as if enacted in the Indian Patents and Designs Act.

² Rule amended to give to the Controller discretionary power to accept cheques. See *Gazette of India*, Part I, p. 1914, dated 16th October 1915.

Application,
etc., to be
accompanied
by the pre-
scribed fee
Forms.

5. All applications, notices, requests, appeals or documents or which a fee is leviable under these rules shall be accompanied by the prescribed fee.¹

6. The forms set forth in the second Schedule to these rules, with such variations as the circumstances of each case require, shall be used for the respective purposes therein mentioned, and if used shall be sufficient.

Size, etc., of
documents.

7. (1) All documents and copies of documents, except drawings² sent to or left at the Office or otherwise furnished to the Controller shall be written, typewritten, lithographed, or printed in the English language (unless otherwise directed) in large and legible characters with deep permanent ink upon strong white paper, and on one side only, of a size approximately of 13 inches by 8 inches, leaving a margin of at least one inch and a half on the left-hand part thereof. Signatures thereto must be written in a large and legible hand, and a vernacular signature must be accompanied by a transliteration in English.

(2) Duplicate documents shall be filed at the Office, if at any time required by the Controller.

(3) Names, and addresses of applicants and other persons shall be given in full, together with such other particulars of nationality, caste or calling as are necessary for identification.

Signatures
and verifica-
tion of docu-
ments speci-
fied in section
75 of the Act

8. The documents specified in section 75 of the Act shall be dated and signed at the foot, and shall contain a statement that the facts and matters stated therein are true to the best of the knowledge, information and belief of the person signing them.

Agency.

9. (1) For all matters falling under the provisions of section 76 of the Act, any person may, unless otherwise directed by the Controller, authorise, under his personal signature, any other person to act as his agent and to receive all notices, requisitions and communications. The authority may be given on Form 26.³

(2) If he does not desire to authorise any other person to act as his Agent, but wishes notices, requisitions and communications to be sent to a particular address, he may notify the same to the Controller on Form 27.

CHAPTER II.—PATENTS.

APPLICATIONS FOR GRANT OF PATENT.

Application.

10. (1) An application,⁴ under section 3 of the Act, for a patent shall be made on Form 1 or Form 2, and shall be accompanied by a specification, prepared in duplicate in accordance with Form 3.

¹ Or the proceeding is of no effect, see Act, section 57 (g).

² See Rule 13.

³ This form is liable to stamp duty, see footnote on form page 72.

⁴ A fee of Rs. 10 must accompany the application.

(2) Applications shall, as far as may be practicable, be numbered and dated in the order of their receipt.

(3) If the true and first inventor, or any other applicant is in the service of the Crown, he shall disclose that fact in the application and shall state the office he holds.

(4) If the true and first inventor does not wish to be a party to the application, the applicant shall produce the original deed of assignment or other document under which he is enabled to apply for a patent, unless the application itself is endorsed by the true and first inventor in the presence of two witnesses with a statement that the said inventor agrees that the application shall be made without his name as an applicant for a patent.

(5) If the application is made by the legal representative of a deceased inventor, the legal representative shall produce for inspection the probate of the will or the letters of administration of the estate of the inventor, or a certified copy of such probate or letters, or such other evidence of his title as the Controller may require.

SPECIFICATION,¹

11. (1) The specification shall commence with the title of the invention and the name of the applicant as in the application. It shall terminate with a clear and succinct statement of the invention claimed, distinct from the body of the specification, and shall be signed by the applicant or his agent. Specification.

(2) Where the invention is capable of representation by drawings, such drawings shall be prepared in accordance with rule 13 and shall be supplied with, and referred to in detail in, the specification.

(3) Irrelevant or other matter, not necessary, in the opinion of the Controller, for elucidation of the invention, shall be excluded from the title, description, claims and drawings.

12. (1) When the specification, or any drawing accompanying it is defective and requires amendment,² one copy shall be returned to the applicant or his agent and all alterations shall be made thereon as far as possible. Additional matter may be interpolated if necessary by re-writing such pages as are required to form a continuous document. Amendments shall not be made by slips pasted on, or as footnotes, or by writing in the margin. The amended documents shall be returned to the Controller together with the cancelled pages or drawings, if any, and with a duplicate of any pages or drawings that have been amended or added. Amendments
how to be
made.

¹ Form 3 should be used. Under sections 4 and 5 of the Act, the specification must particularly describe and ascertain the nature of the invention and the manner in which the same is to be performed. It must be confined to one invention which *prima facie* must be a new manufacture or improvement. The title must sufficiently indicate the subject-matter of the invention and the claim must sufficiently define the invention. For guidance in drafting the specification, see page 83.

² Unless the requirements are satisfactorily met so as to allow acceptance within 12 months of the date of the application (or 15 months with an extra fee of Rs. 20), the application becomes void, see Act, section 5 (4).

(2) Amendments, alterations or additions shall be initialled by the applicant or his agent.

(3) No amendments, alterations or additions shall be made in a document returned for amendment beyond those necessary to comply with the requirements of the Controller.

(4) When a specification comprises more than one invention, and it is considered by the Controller or the applicant that the application should be restricted to one invention, the additional inventions may be made the subject matter of additional applications. Any such applications, if made before the acceptance of the original application, shall, on the request of the applicant, bear date of the original application, and shall be proceeded with as substantive applications of that date.¹

DRAWINGS² WITH APPLICATIONS FOR PATENTS.

Size of drawings, etc.

13. (1) Drawings shall be supplied in duplicate on sheets 13 inches in height and either 8 or 16 inches in width. A clear margin of half an inch shall be left round each sheet. The figures of the drawing shall be numbered consecutively Fig. 1, Fig. 2, etc., and shall be placed upright on the sheets. Reference figures and letters shall be clear and bold, not less than $\frac{1}{8}$ th of an inch in height, and the same letters shall be used for the same parts in different views or drawings. The sheets of drawings, when more than one, shall be numbered consecutively, the number of each sheet being shown in the right-hand top corner. Each sheet shall be signed by the applicant or his agent in the bottom right-hand corner.

(2) No written description of the invention shall appear on the sheets of drawings.

(3) At least one copy of the drawings shall be suitable for reproduction and, for that purpose, shall be prepared on tracing cloth or on smooth white paper which is not opaque. All lines and lettering shall be executed with Indian ink of good quality. Coloured lines and washes shall not be used. The lines and lettering shall be firm and even, and section lines shall not be closely drawn. The scale adopted shall be large enough to show the invention clearly.

(4) Drawings shall be delivered flat or rolled so as to be free from creases.

OPPOSITION³ TO GRANT OR AMENDMENT, ETC.

Notice of opposition.

14. Notice of opposition to the grant, or to the amendment, etc., of a patent shall be given in duplicate on Form 5. The duplicate notice shall be sent by the Controller to the applicant or his agent.

¹ Rule 12 (4) was added by publication in the *Gazette of India*, pages 1914-15, dated 16th October 1915.

² For sample drawing and instructions, page 96

³ Notice of opposition (fee Rs 5) may be given under sections 9, 16 and 17 of the Act. When the opposition is under section 9 to the grant of a patent, the notice should state the ground or grounds in the terms set forth in that section. Preferably the full statement, which may be required under Rule 15 (1), should accompany the notice. Statements, replies and rejoinders should be drawn up in clear and temperate language, avoiding personalities and side issues which have no bearing on the matter.

15. (1) Within 14 days of giving notice of opposition the opponent may, and shall, if at any time so required by the Controller, leave at the office a full written statement in duplicate of the reasons for, and extent of, his opposition, and of the grounds upon which he relies in support of his opposition. Filing of statements.

(2) If the written statement referred to in clause (1) is supplied the Controller shall furnish the applicant or his agent with the duplicate copy thereof, and the applicant or his agent may leave at the Office a reply in writing within a time to be specified by the Controller. Such reply shall deal in full with the statement of the opponent and shall be in duplicate.

(3) If the reply referred to in clause (2) is supplied by the applicant, the Controller shall furnish the opponent or his agent with the duplicate copy thereof, and the opponent or his agent may again leave at the Office a rejoinder in writing within a time to be specified by the Controller. Such rejoinder shall be confined strictly to matters in reply, and shall be in duplicate. The duplicate copy shall be sent by the Controller to the applicant or his agent.

(4) The Controller may require at any time that any written statement, reply or rejoinder shall be in the form of an affidavit.

(5) The time ordinarily allowed for filing a reply or rejoinder shall be one month.

16. (1) On completion of these proceedings, if any, or at such other time as he may see fit, the Controller shall appoint a time for the hearing of the case, and shall give the parties not less than ten days' notice of such appointment. If either party does not desire to be heard he shall as soon as possible notify the Controller to that effect. If either party desires to be heard, he must leave a notice of his intention to attend the hearing on Form 6, together with a fee of Rs. 10, at the Office. The Controller may refuse to hear any party who has not left such notice and fee at least two clear days before the date fixed for the hearing. Hearing.

(2) After hearing the party or parties desirous of being heard or if neither party desires to be heard, then without a hearing, the Controller shall decide the case and notify his decision to the parties.

SEALING OF PATENTS.¹

17. (1) If an applicant desires to have a patent sealed on his application, he shall within the period allowed by section 10, subsection 2 of the Act leave at the Office an application on Form 7. Sealing.

¹ A patent cannot be sealed before three months after the date of the advertisement in the *Gazette of India* of the acceptance of the application. If notice of opposition to the grant has been given, there may be a further delay. When the time for sealing is due, a notification is inserted in the *Gazette of India* and notice is sent, with a copy of Form 7, to the applicant or his agent. This form should then be filled in and returned to the Patent Office accompanied by the fee Rs 30. Attempts to obtain sealing prematurely are useless. Until the patent is sealed, the invention is not "a patent" and the inventor cannot bring a suit under section 29 of the Act. The applicant should also note that the time, within which sealing can be effected, is limited with certain exceptions to 18 months after the date of application under section 10.

(2) Where the applicant neglects or fails to pay the fee prescribed within the time allowed, the time may be extended for a period not exceeding three months. An application for such extension of time shall be made on Form 4, and shall be accompanied by a fee of Rs. 10, Rs. 20, or Rs. 30 for an extension of one, two, or three months respectively.

Form of patent.

18. The patent shall be in the form given in the third Schedule¹ to these rules, with such modifications as the circumstances of each case require.

RESTORATION OF A LAPSED PATENT.

Restoration of lapsed patent.

19. (1) Application under section 16 of the Act for the restoration of a lapsed patent shall be made on Form 9.²

(2) If the Controller entertains the application, he shall advertise it in the *Gazette of India*.

Opposition.

20. Notice of opposition to the restoration may be given on Form 5³ within six weeks of the advertisement and the procedure for the disposal of such opposition shall be regulated by the provisions of Rules 14, 15 and 16.

AMENDMENT.

Amendment

21. A request under section 17 of the Act for the amendment of an application, specification or drawings (not being a request⁴ under section 62 of the Act for correction of a clerical error) shall be made on Form 10⁵ and shall be accompanied by a copy of the application, specification, or drawings showing in red ink the proposed amendment in such a manner as to indicate clearly the alteration desired.

Procedure when patent has been accepted.

22. If the request relates to an application for a patent which has been accepted, the request and the nature of the proposed amendment shall be advertised by notification in the *Gazette of India* and in such other manner, if any, as the Controller may in each case direct under Rule 45. The Controller shall also notify all persons whose names are entered at the time of the request on the Register as claiming an interest in the patent.

Opposition.

23. Notice of opposition to the amendment may be given on Form 5³ within three months of the date of the notification, and the procedure for the disposal of such opposition shall be regulated by the provisions of Rules 14, 15 and 16.

SURRENDER OF PATENTS.

Surrender of patent.

24. Notice of an offer under section 24 of the Act to surrender a patent shall be made on Form 11.⁶ The Controller shall adver-

¹ See page 72.

² Fee Rs. 100.

³ Fee Rs. 5.

⁴ On Form 20 with a fee of Rs. 3.

⁵ Fee Rs. 10 before acceptance of application, Rs. 20 afterwards.

⁶ Fee Rs. 10.

tise the offer in the *Gazette of India*, and shall notify all persons whose names are entered at the time of the offer on the Register as claiming an interest in the patent.

25. Within six weeks of the advertisement any person may give notice¹ of opposition to such surrender. After the expiration of such six weeks the Controller may, if a notice of opposition has been given, appoint a hearing if he sees fit, and shall decide whether the patent shall be revoked. Opposition.

CHAPTER III.—DESIGNS.

26. (1) For the purposes of the registration of design and of these Rules, goods shall be classified in the manner specified in the fourth Schedule² hereto. Classification of goods.

(2) If any doubt arises as to the class to which any particular description of goods belongs, it shall be determined by the Controller.

27. An address for service in British India shall be given in all applications and other communications to the Controller in connection with designs. Unless such an address is given the Controller need not proceed with the examination of an application, nor send any notice that may be required by the Act or these rules. Address for service.

APPLICATION TO REGISTER A DESIGN.

28. (1) An application under section 43 of the Act for the registration of a design shall be made on Form 14³ and shall be accompanied by four copies of the design and shall be dated and signed by the applicant or his agent. Application.

(2) The application shall state the class⁴ in which the design is to be registered, and the article or articles to which the design is to be applied. Where it is desired to register the same design in more than one class, a separate application shall be made in each class.

(3) If so required by the Controller, the applicant shall state the purpose for which the article is used and the material or predominating material of which the article is made, and shall give a brief statement of the novelty claimed for the design.

29. (1) The four copies of the design which in accordance with rule 28 must accompany the application shall be exactly similar drawings, photographs, tracings, or other representations of the design or shall be specimens of the design. Copies and specimens of design.

(2) Each representation shall show the complete design and shall be on paper, or mounted on paper of a size of 13 by 8 inches, and on one side only. Drawings or tracings shall be made in black ink.

¹ * Form not prescribed. No fee.

² * See page 73.

³ * Fee Rs. 3 for classes 1 to 6 and 16; annas eight for classes 7 to 15.

⁴ * See page 73.

(3) When the specimens are not, in the opinion of the Controller, suitable for record in the Office, they shall be replaced by representations."

(4) If the Controller in any case so requires, he shall be supplied with one or more representations or specimens of the design in addition to those supplied with the application.

(5) Where words, letters, or numerals are not of the essence of the design, they shall be removed from the representations or specimens

PROCEDURE ON RECEIPT OF APPLICATION.

- Acceptance** **30.** (1) Upon receipt of an application for registration, the Controller shall consider it, and if he thinks there is no objection to the design being registered, he may accept it.
- Objections** **31.** If after consideration of the application any objections appear to the Controller, a statement of these objections shall be sent to applicant or his agent in writing, and unless within one month the applicant or his agent applies for a hearing,¹ he shall be deemed to have withdrawn his application.
- Decision of Controller** **32.** The decision of the Controller at such hearing as aforesaid shall be communicated to the applicant or his agent in writing and if he objects to such decisions, he may within one month, should he consider it necessary for the purpose of appeal, apply upon Form 15,² requiring the Controller to state in writing the grounds of his decision and the materials used by him in arriving at the same.
- Date for appeal.** **33.** Upon receipt of such form, the Controller shall send to the applicant or his agent such statement as aforesaid in writing, and the date when such statement is sent shall be deemed to be the date of the Controller's decision for the purpose of appeal.
- Non-completion within six months.** **34.** An application which, owing to any neglect or default of an applicant, has not been completed so as to enable registration to be effected within six months of the date of application, shall be deemed to be abandoned.
- Extension of period of copyright in registered design** **35.** Applications under section 47, sub-sections (2) and (3) of the Act for the extension of the period of copyright in registered designs may be made at any time not more than six months and not less than one month before the time of the expiry of the copyright. The application shall be made on Form 16.³
- Marking of articles before delivery on sale.** **36.** Before delivery on sale of any article to which a registered design has been applied the proprietor of such design shall cause each such article to be marked with the word REGISTERED or with the abbreviation REGD. or with the abbreviation RD. as he may choose, and also (except in the case of articles to which have been applied designs registered in classes 9, 13, 14 and 15) with the number appearing in the certificate of registration :

¹ No form of application is prescribed and no fee is required.

² Fee Rs. 5.

³ Fee Rs. 10.

Provided that the requirements of this rule and of sub-clause (b) of clause (I) of section 48 of the Act shall be dispensed with as regards printed cotton piece-goods except handkerchiefs.¹

37. Registered designs shall not, except as provided in section 50 of the Act, be open to inspection until five years after the date of application for registration. Inspection of designs.

38. A request for information under section 51 of the Act may be made on Form 18.² If the number of the registered design is not known, two copies of the design, in respect of which inquiry is made, shall accompany the application. Requests for information.

CHAPTER IV.—GENERAL.

REGISTERS OF PATENTS AND DESIGNS.

39. Requests under section 63 of the Act to enter a claim to any interest in a patent or registered design shall be made on Form 21,³ accompanied by the document under which the claim is made, and an attested copy thereof. If, however, the document is a matter of record, an official or certified copy thereof may be produced unless the Controller otherwise directs. Requests under section 63 of the Act.

40. Ten clear days' notice of every application to the Court under section 64 of the Act for rectification of the register shall be given to the Controller.⁴ Rectification of the Register.

APPEALS.

41. (1) An appeal to the Governor General in Council from the decision of the Controller shall be made on Form 24⁵ and shall be left at the Office in duplicate and shall show fully the reasons for appealing and the grounds on which objection is taken to the decision. Appeals.

(2) The Controller shall forward one copy to the Governor General in Council through the Secretary in the Department of Commerce and Industry, who shall notify the appellant of its receipt.⁶

CONVERSION OF EXCLUSIVE PRIVILEGE INTO A PATENT.

42. (Rule omitted as requests under section 81 of the Act for the conversion of an exclusive privilege into a patent ceased to be received after 31st December 1913.) Conversion of exclusive privilege into a patent.

¹ Proviso added 1916, see *Gazette of India*, 1916, Part I, page 610.

² Fee Rs. 2 or 4, see instruction on Form 18.

³ Fee Rs. 5. A separate request and fee is required in respect of each entry to be made; but if the document, under which the claim is made, refers to more than one patent, or to more than one design, only one certified copy will be required, provided that requests to enter all the cases, referred to therein, are received together.

⁴ An order of the Court, when obtained, should be sent with Form 23, Fee Rs. 3

⁵ Fee Rs. 30.

⁶ No procedure has been prescribed but generally the appeal will be decided in view of the written reasons and grounds furnished by the appellant.

MISCELLANEOUS POWERS OF THE CONTROLLER.

Exercise of discretionary power of Controller

43. Before exercising any discretionary power given to the Controller by the Act or these rules adversely to the applicant for a patent, or for amendment of an application or specification, the Controller shall (under section 67 of the Act) give notice to the applicant or his agent and shall, if so required within 1 month of the date of such notice, appoint a date for a hearing in the matter and shall give ten days' notice thereof.

Controller may require statement.

44. Whether an applicant or agent desires to be heard or not, the Controller may at any time require him to submit a statement in writing within a time to be notified by the Controller, or to attend before him and make explanation with respect to such matters as the Controller may require.

Controller may direct advertisement in newspapers.

45. Applications for extension of the term of a patent under section 15, or for amendment under section 17, shall, if so directed by the Controller, be advertised by the applicant in not less than two newspapers published in British India. Copies of the newspapers containing those advertisements shall be supplied to the Controller.

Advertisement of such applications shall be made by the Controller by notification in the *Gazette of India*.

General powers of amendment.

46. Any document for the amending of which no special provision is made by the Act may be amended, and any irregularity in procedure which, in the opinion of the Controller, may be obviated without detriment to the interests of any person, may be corrected if the Controller thinks fit, and upon such terms as he may direct.¹

General power to enlarge time.

47. The time prescribed by these Rules for doing any act or taking any proceeding thereunder may be enlarged by the Controller, if he thinks fit, and upon such terms as he may direct.¹

SCHEDULES.

I.—Fees, section 57 and Rule 4

II.—Forms, Rule 6

III.—Model form of patent, section 12 (2) and Rule 18

IV.—Classification of goods for designs, sections 43 (3) and 77 (1) (b) and Rule 26

THE FIRST SCHEDULE

(Vide section 57 and rule 4.)

FEES.

Number of entry.	On what payable.	Number of Form.	Proper Fee.
			R a. p.
1	On application for a patent under section 3 .	1 or 2	10 0 0
2	For extension of time to accept application under section 5 (4) .	4	25 0 0

¹ The power given by this rule does not extend to the enlargement of time presented by the Act, e.g., in sections 5 (4), 9 (1), 10 (2), 14 (2), 15 (1), etc.

Number of entry.	On what payable	Number of Form.	Proper Fee.
			<i>R a p</i>
3	On notice of opposition under section 9 (1)	5	5 0 0
4	On hearing by Controller under section 9 (2) By applicant and opponent respectively .	6	10 0 0
5	Before sealing under section 10 (1)	7	30 0 0
6	On extension of time for sealing under section 10 (2) (d)	4	
	One month		10 0 0
	Two months		20 0 0
	Three „		30 0 0
7	On certificate of renewal under section 14	8	
	Before expiration of 4th year in respect of the 5th year		50 0 0
	Before expiration of 5th year in respect of the 6th year		50 0 0
	Before expiration of 6th year in respect of the 7th year		50 0 0
	Before expiration of 7th year in respect of the 8th year		50 0 0
	Before expiration of 8th year in respect of the 9th year . . . . .	...	50 0 0
	Before expiration of 9th year in respect of the 10th year . . . . .	...	100 0 0
	Before expiration of 10th year in respect of the 11th year . . . . .	...	100 0 0
	Before expiration of 11th year in respect of the 12th year . . . . .	..	100 0 0
	Before expiration of 12th year in respect of the 13th year . . . . .	.	100 0 0
	Before expiration of 13th year in respect of the 14th year . . . . .	...	100 0 0
	<i>Note.</i>		
	<i>The fees for two or more years may be paid in advance</i>		
8	On enlargement of time for payment of renewal fees under section 14 (2)	4	.
	One month . . . . .	...	10 0 0
	Two months . . . . .	...	20 0 0
	Three „ . . . . .	...	30 0 0

Number of entry.	On what payable	Number of Form	Proper Fee.
			£ s. p.
9	On petition for extension of term of patent under section 15 . . . . .	...	50 0 0
10	On certificate of renewal in respect of each year under section 15 . . . . .	...	100 0 0
11	On application for restoration of lapsed patent under section 16	9	100 0 0
12	On opposition to restoration under section 16	5	5 0 0
13	On hearing by Controller under section 16. By applicant and opponent, respectively .	6	10 0 0
14	On application to amend under section 17 .	10	...
	Before acceptance . . . . .	...	10 0 0
	After „ . . . . .	...	20 0 0
15	On opposition to amendment under section 17 (3)	5	5 0 0
16	On hearing by Controller under section 17 (4). By applicant and opponent, respectively .	6	10 0 0
17	On petition for compulsory license or revocation under sections 22 and 23 . . . . .	...	10 0 0
18	On offer to surrender a patent under section 24	11	10 0 0
19	For duplicate of a patent under section 39 .	12	10 0 0
20	On notice to Controller of intended exhibition of an invention or design under section 40 or 52	13	5 0 0
21	On request to register design under section 43	14	.
	In classes 1 to 6 and class 16 . . . . .	...	3 0 0
	In classes 7 to 15 . . . . .	...	0 8 0
22	On request for written decision under Rule 32	15	5 0 0
23	On request to extend copyright under section 47	16	10 0 0
24	On request to inspect under section 50 .	17	1 0 0
25	On request for information under section 51.	18	...
	When number is given . . . . .	...	2 0 0
	When number is not given . . . . .	...	4 0 0
26	On inspection of the register under section 59	...	1 0 0

Number of entry.	On what payable	Number of Form.	Proper Fee.		
			₹	a.	p.
27	On request for certificate under section 59 . An additional fee of 4 annas for every 100 words in excess of 400 words will be charged. Drawings will be charged according to agreement.	19	2	0	0
28	On request to correct or cancel entry in register under section 62	20	3	0	0
29	On request to enter claim in register under section 63	21	5	0	0
30	On request to alter address in register .	22	1	0	0
31	On entry of order of court under section 64 (4)	23	3	0	0
32	On appeal from the Controller to the Governor General in Council under section 70	24	30	0	0
33	On application for a patent in place of an exclusive privilege under section 81	25	3	0	0
34	On opposition to grant thereof under section 81	5	5	0	0
35	On hearing by Controller under section 81 (3). By applicant and opponent, respectively .	6	10	0	0

THE SECOND SCHEDULE.

FORMS.

List of forms.

Form No.	Act, section.	Title.	Fee.
*1	3	Application for patent	₹ 10
*2	3	" " "	10
*3	4	Specification . . . . .	...
*4	5 (A), 10 (A), 14 (E).	Application for extension of time	10, 20, 30
*5	9 (1), 16, 17, 81.	Notice of opposition	5

* The forms marked with an asterisk are printed and kept in stock. A copy of any of them will be supplied on request accompanied by a stamped and addressed envelope.

Form No.	Act, section.	Title.	Fee.
*6	9 (2), 16, 17, 81.	Notice of intention to attend hearing	₹ 10
7	10	Request for sealing	30
8	14	Request for certificate of renewal	50 or 100
9	16	Application for restoration of patent	100
10	17	Application to amend	10 or 20
11	24	Offer to surrender patent	10
12	39	Application for duplicate patent	10
13	40 and 52	Notice of intended exhibition	5
DESIGNS.			
*14	43	Application for registration	Annas 8 or ₹ 3
15	—	Request for grounds of decision	5
16	47	Application for extension of copyright	10
17	50	Request to inspect design	1
18	51	„ for information	2 or 4
GENERAL.			
19	59	Request for certificate	2
20	62	„ to cancel or correct	3
*21	63	„ for entry in register	5
22	63	„ for entry of address	1
23	64	Entry of order of court	3
24	5 (2), 9 (2), 16 (2), 17 (2), 43 (2), 70.	Appeal	30
26	76	Power of authority to agent	—
27	76	Statement of address	—

* The forms marked with an asterisk are printed and kept in stock. A copy of any of them will be supplied on request accompanied by a stamped and addressed envelope.

Forms 1, 2, 3, 4, 5, 6, 14 and 21 are printed and kept in stock. A copy of any of them will be supplied on request accompanied by a stamped and addressed envelope. Forms 8 to 13, 15 to 20, and 22 to 27, inclusive, are not separately printed and must be prepared by the user. Form 7 is only supplied when a sealing fee is due.

FEE
R 10.

FORM 1.

[Form to be used when the true and first inventor is sole or joint applicant.]

INDIAN PATENTS AND DESIGNS ACT, 1911.

mut of
APPLICATION FOR PATENT, SECTION 3.

✓ To be accompanied by the specification on Form 3 in duplicate.

I (or we)¹_____ ¹ Insert name, calling and address.

do hereby declare :-

(I) that I am (or we are) in possession of an invention of which the title is²_____ ² Insert title.

(II) that I (or we) (or the said³_____). claim to be the true and first inventor thereof. ³ Insert name.

(III) that the invention is not in use by any other person.

(IV) that the specification filed with this application is, or any amended specification which may hereafter be filed in this behalf will be, true of the invention to which this application relates.

(V) that the facts and matters stated herein are true to the best of my (or our) knowledge, information and belief.

I (or we) humbly pray that a patent may be granted to me (or us) for the said invention.

Dated this _____ day of _____ 19____ Date and Sign.

(Signed)_____ ✓

To the

Controller of Patents,
1, Council House Street, Calcutta.

FEE
R 10.

FORM 2.

[Form to be used when the true and first inventor is NOT a party to application.]

INDIAN PATENTS AND DESIGNS ACT, 1911.

APPLICATION FOR PATENT, SECTION 3.

To be accompanied by the specification on Form 3 in duplicate.

I (or we)¹_____ ¹ Insert name, calling and address.
do hereby declare :-
(I) that I am (or we are) in possession of an invention of which the title is²_____ ² Insert title.

¹ Insert name.

² Insert full name, address and calling of true and first inventor. See note.

(II) that I (or we) (or the said¹————) claim to be the assign of (or the legal representative of)²————

————who claims and is believed to be the true and first inventor thereof.

(III) that the invention is not in use by any other person.

(IV) that the specification filed with this application is, or any amended specification which may hereafter be filed in this behalf will be, true of the invention to which this application relates.

(V) that the facts and matters stated herein are true to the best of my (or our) knowledge, information and belief.

Date and Sign.

I (or we) humbly pray that a patent may be granted to me (or us) for the said invention.

Dated this————day of————19——

(Signed)————

To the

Controller of Patents,
1, Council House Street, Calcutta.

On reverse of Form 2.

Note 1.

If the inventor does not wish to be a party to the application, the applicant shall produce for inspection by the Controller the original deed of assignment or other document under which he is enabled to apply for a patent and shall supply a copy thereof, to be retained by the Controller, unless the application itself is endorsed in the following form signed by the inventor.

³ Insert full name, calling, and address.

————referred to on the reverse of this document as claiming to be the true and first inventor agree that the said application shall be made without my name as an applicant for a patent.

Dated this————day of————19——.

(Signed)————

Signature of two witnesses————

To the

Controller of Patents,
1, Council House Street, Calcutta.

Note 2.

If the application is made by the legal representative of a deceased inventor, the legal representative shall produce for inspection the probate of the will or the letters of administration granted to the estate and effects of the inventor, or an official copy of such probate or letters, or such other evidence of his title as the Controller may require.

FEE ₹10, 20 or 30 See note below

FORM 4

INDIAN PATENTS AND DESIGNS ACT, 1911

APPLICATION FOR EXTENSION OF TIME, SECTIONS 5, 10 OR 14

¹ Insert name, calling and address

I (or we)¹ _____

² a, b, c, strike out when not applicable. Quote number and year of application or patent

do hereby apply for _____ months' extension of time --

- | | |
|---|---|
| { | a Under section 5 (4) for the acceptance of the application for a patent
No _____ of _____ |
| | b Under section 10 (2) (d) for the sealing of a patent on application
No _____ of _____ |
| | c Under section 14 (2) for payment of renewal fees on patent No - -
-of _____ |

³ Insert reasons

The reasons for making this application are as follows³ -

⁴ Insert address

My (or our) address for service in British India is⁴ -

Date and Sign

Dated this _____ day of _____ 19 _____

(Signed) _____

To the

Controller of Patents,

1, Council House Street, Calcutta

Note—Time allowed and fees payable—

a Three months, ₹20

b. or c One month, ₹10; two months, ₹20, three months, ₹30

FEE ₹5.

FORM 5.

INDIAN PATENTS AND DESIGNS ACT, 1911

NOTICE OF OPPOSITION, SECTIONS 9, 16 OR 17.

(To be supplied in duplicate)

¹ Insert name, calling and address.

I (or we)¹ _____

do hereby give notice of my (or our) intention to oppose--

- ¹ { a. Under section 9, the grant of a patent.
- b. Under section 16, the restoration of lapsed patent.
- c. Under section 17, the amendment.

¹ a, b, c, strike out when not applicable.

upon application for patent No.² _____ of 19 _____

² Insert number, date and title.

applied for by³ _____

³ Insert name of person making application which is opposed.

The grounds of opposition are as follows⁴ :—

⁴ Insert grounds.

I (or we) declare that the facts and matters stated herein are true to the best of my (or our) knowledge, information and belief.

My (or our) address for service in British India is⁵ :—

⁵ Insert address.

Dated this _____ day of _____ 19 _____

Date and Sign.

(Signed) _____

To the
Controller of Patents,
1, Council House Street, Calcutta.

FORM 6.

INDIAN PATENTS AND DESIGNS ACT, 1911.

FEE

R10.

NOTICE OF INTENTION TO ATTEND HEARINGS OF OPPOSITION, SECTION 9, 16 AND 17.

I (or we)¹ _____

¹ Insert name, calling and address.

hereby give notice that the hearing in reference to² _____

² Insert particulars.

will be attended by myself (or ourselves) or by some person on my (or our) behalf.

Dated this _____ day of _____ 19 _____

Date and Sign.

(Signed) _____

To the
Controller of Patents,
1, Council House Street, Calcutta.

Note.—The Controller may refuse to hear any party who has not left this notice and paid the prescribed fee at least two clear days before the date fixed for the hearing.

FEE R30.

Form 7.

(This form is only supplied when the sealing fee is due.)

INDIAN PATENTS AND DESIGNS ACT, 1911.

REQUEST FOR SEALING, SECTION 10.

¹ Insert
name, calling
and address.

I (or we)¹ _____

² Insert
number and
date.

desire to have a patent sealed on my (or our) application No ² _____
of _____

³ Insert
address for
service.

and request that the following address in British India may be entered on the
Register as my (or our) address for service in British India³ _____

Date and
Sign.

Dated this _____ day of _____ 19____.

(Signed) _____

To the

Controller of Patents,
1, Council House Street, Calcutta.

NOTE.—If a patent is to be sealed, so that rights may accrue under section 12 of the Act, this request, together with the fee of R30, must be received in the Patent Office before the expiration of 18 months from the date of the application or within such extended times as are allowed in section 10 (F). An extension of time not exceeding three months shall be allowed under section 10 (F) (d) on application being made on Patents Form No. 4 accompanied by the fee of R10 for one month, R20 for two months, or R30 for three months.

FEE
₹50
or
₹100.

FORM 8.

INDIAN PATENTS AND DESIGNS ACT, 1911

REQUEST FOR CERTIFICATE OF PAYMENT OF RENEWAL, SECTION 14.

I (or we) transmit the fee of ₹ _____ by _____ in payment of the renewal fee ¹ State whether cash, note, money order or postal order
on patent No _____ of _____ granted to _____
and request that the usual certificate may be granted

Dated this _____ day of _____ 19____

Signature _____

Address _____

To the
Controller of Patents,
1, Council House Street, Calcutta

FEE
₹100.

FORM 9

INDIAN PATENTS AND DESIGNS ACT, 1911

RESTORATION OF PATENT, SECTION 16.

I (or we)¹ _____ ¹ Insert name, calling and address.

hereby apply for an order of the Controller for the restoration of the patent ² Insert number and date.
No.² _____ of _____ granted to _____

The circumstances which have led to the omission to pay the fee of ₹³ _____ on ³ Insert amount.
or before the⁴ _____ day of _____ are as follows⁵ .— ⁴ State last date when fee was due.

I (or we) declare that the facts and matters stated herein are true to the best of ⁵ The circumstances must be stated in detail.
my (or our) knowledge, information and belief.

My (or our) address for service in British India is⁶ :—

Dated this _____ day of _____ 19____

(Signed) _____

To the
Controller of Patents,
1, Council House Street, Calcutta.

Form 10.

FEE R10 before acceptance. R20 after acceptance.

INDIAN PATENTS AND DESIGNS ACT, 1911.

AMENDMENT, SECTION 17.

¹ Insert name, calling and address.

I (or we)¹ _____

² State whether application, specification or drawings.

seek leave to amend the² _____

_____ of application for patent

³ Insert number and date.

No ³ _____ dated _____

⁴ If the specification has been printed, an officially printed copy shall be used.

as shown in red ink in the copy⁴ hereunto annexed

⁵ Strike out this paragraph if a patent has not been sealed.

⁵ I (or we) declare that no suit for infringement or proceedings before a court for revocation of the patent in question is pending.

⁶ Insert reasons.

My (or our) reasons for making this amendment are as follows⁶ :—

I (or we) declare that the facts and matters stated herein are true to the best of my (or our) knowledge, information and belief.

⁷ Insert address.

My (or our) address for service in British India is⁷ :—

Date and Sign.

Dated this _____ day of _____ 19____.

(Signed) _____

To the

Controller of Patents,
1, Council House Street, Calcutta.

FEE
R10.

FORM 11.

INDIAN PATENTS AND DESIGNS ACT, 1911

SURRENDER OF PATENT, SECTION 24.

I (or we)¹ _____ - ¹ Insert name, calling and address

 hereby offer to surrender the patent No ² _____ dated _____ granted ² Insert number and date
 to _____ date _____

 No suit for infringement or proceedings for revocation of the patent is pending
 My (or our) reasons for making this offer are as follows³ - ³ Insert reasons

 I (or we) declare that the facts and matters stated herein are true to the best of
 my (or our) knowledge, information and belief
 My (or our) address for service in British India is⁴ - ⁴ Insert address

 Dated this _____ day of _____ 19____ Date and Sign

 (Signed, _____)

To the
 Controller of Patents,
 1, Council House Street, Calcutta

FEE
R10

FORM 12

INDIAN PATENTS AND DESIGNS ACT, 1911

APPLICATION FOR DUPLICATE PATENT, SECTION 39.

I (or we)¹ _____ - ¹ Insert name, calling and address

 regret to have to inform you that the patent No ² _____ - ² Insert number and date
 dated _____ date _____
 granted to³ _____ - ³ Insert name of original grantee.
 has been⁴ _____ - ⁴ Insert the word "lost" or "destroyed" as the case may be and state fully the circumstances. Also state the interest possessed by the applicant or applicants in the patent.

 I (or we) declare that the facts and matters stated herein are true to the best of
 my (or our) knowledge, information and belief
 I (or we) beg therefore to apply for the issue of a duplicate of such patent.
 Dated this _____ day of _____ 19____

 (Signed) _____

To the
 Controller of Patents,
 1, Council House Street, Calcutta

FEE
R5.

FORM 13.

INDIAN PATENTS AND DESIGNS ACT, 1911.

NOTICE OF INTENDED EXHIBITION, SECTION 40 AND SECTION 52.

¹ Insert name, calling and address.

I (or we)¹ _____

² Insert short description of invention or design.

hereby give notice that I (or we) intend to exhibit my (or our) invention (or design)² _____

³ Insert name.

at the³ _____ exhibition certified or notified by the Governor General in Council under section 40 of the Indian Patents and Designs Act, 1911, as an international or industrial exhibition.

Date and Sign.

Dated this _____ day of _____ 19____

(Signed) _____

To the
Controller of Patents and Designs,
1, Council House Street, Calcutta.

FEE
ANNAS 8
or R3
according
to classi-
fication.

FORM 14.

INDIAN PATENTS AND DESIGNS ACT, 1911.

APPLICATION FOR REGISTRATION OF DESIGN, SECTION 43.

¹ Insert number of class.

You are requested to register the accompanying design in Class No. ¹ _____ in the

Insert name, calling and address.

name of² _____

who claims to be the proprietor thereof.

Four exactly similar³ _____ of the design accompany this request

³ State whether drawings, photographs, tracings, or specimens.

The design is to be applied to⁴ _____

⁴ Insert name of article or articles to which design is to be applied.

Address for service in British India is⁵ _____

⁵ Unless an address for service in British India is given, the request will not be considered. Date and Sign

Dated this _____ day of _____ 19 _____

(Signed) _____

To the

Controller of Designs,

1, Council House Street, Calcutta

NOTE—Trade or property marks are not registered under the Patents and Designs Act, 1911

FORM 15

FEE
Rs.

INDIAN PATENTS AND DESIGNS ACT, 1911

REQUEST UNDER RULE 32.

Application for design No _____

Class _____

You are hereby requested under Rule 32 of the Patents and Designs Rules to state in writing the grounds of your decision and the materials used by you in arriving at such decision.

Address for service in British India is _____

Dated this _____ day of _____ 19 _____

(Signed) _____

To the

Controller of Designs,

1, Council House Street, Calcutta.

FEE
R 10

FORM 16

INDIAN PATENTS AND DESIGNS ACT, 1911.

APPLICATION TO EXTEND COPYRIGHT, SECTION 47.

You are requested by the undersigned who is the registered proprietor of the Design No _____ registered in class _____ to extend the period of copyright for a period of five years

Address for service in British India is _____

Dated this _____ day of _____ 19____.

(Signed) _____

To the

Controller of Designs,

1, Council House Street, Calcutta

FEE
R1.

FORM 17.

INDIAN PATENTS AND DESIGNS ACT, 1911

INSPECTION OF DESIGN, SECTION 50.

Insert number and class.
Insert name of nominee who must also sign the application.

You are requested by the undersigned who is the registered proprietor of the Design No _____ registered in Class No _____ to allow him or his nominee _____ to inspect the design

Dated this _____ day of _____ 19____.

(Signed) _____

Address _____

Signature of Nominee _____

To the

Controller of Designs,

1, Council House Street, Calcutta.

FORM 18.

FEE
R2
OR
R4.

INDIAN PATENTS AND DESIGNS ACT, 1911.

REQUEST FOR INFORMATION, SECTION 51.

You are requested to give to the undersigned such information as he may be entitled to under section 51 of the Act in respect of the Design No ————— *

Address for service is —————

Dated this ——— day of ——— 19——.

(Signed) —————

To the
Controller of Designs,
1, Council House Street, Calcutta

* NOTE —If the number cannot be given and information is required regarding a design, two samples of the design may be attached to this form which must then be accompanied by a fee of R4

FORM 19.

FEE
R2
See foot-
note.

INDIAN PATENTS AND DESIGNS ACT, 1911

REQUEST FOR CERTIFICATE, SECTION 59.

In the matter of { Patent No ¹ ——— of ———
Design No ——— class ———

I (or we)² —————

hereby request you to furnish me (or us) with your certificate to the effect that³ ———

and to send the certificate to⁴ —————

Dated this ——— day of ——— 19——

(Signed) —————

To the
Controller of Patents and Designs,
1, Council House Street, Calcutta.

¹ Insert number and date.
² Insert name, calling and address.
³ Here set out the particulars which the Controller is requested to certify.
⁴ Insert name and address. Date and Sign.

Note.—An extra charge of annas four will be charged for every 100 words in excess of 400. The certificate will not be supplied until the charge is paid.

FEE

R3

FORM 20

INDIAN PATENTS AND DESIGNS ACT, 1911.

REQUEST FOR CORRECTION OR CANCELLATION, SECTION 62 OF ACT.

¹ Insert
number and
date

In the matter of { Patent No. ¹ _____ of _____
Design No. _____ class _____

² Insert
name, calling
and address

I (or we)² _____

³ Insert
particulars.

hereby request you under the power given by section 62 of the Indian Patents and
Designs Act, 1911, to³ _____

⁴ Insert
address.

My (or our) address for service in British India is⁴ _____

Date and
Sign.

Dated this _____ day of _____ 19 _____

(Signed) _____

To the

Controller of Patents and Designs,
1, Council House Street, Calcutta.

FEE

R5

FORM 21.

INDIAN PATENTS AND DESIGNS ACT, 1911.

REQUEST FOR ENTRY IN REGISTER, SECTION 63.

¹ Insert
number and
date.

In the matter of { Patent No. ¹ _____ of _____
Design No. _____ class _____

² Insert
name, calling
and address.

I (or we)² _____

claim to be entitled by (or as)? _____

³ Insert ground of claim whether by assignment, transmission, etc., or as mortgagee, licensee or otherwise.

to the following interest⁴ _____

⁵ { in the Patent No _____ of _____
in the registered Design No _____ class _____

⁴ Insert nature of interest.
⁵ Insert number and date of patent, or number and class of the registered design.

granted to⁶ _____

In proof whereof I (or we) transmit the accompanying⁷ _____

⁶ Insert name.
⁷ Insert nature of document

together with an attested copy thereof and I (or we) request that an entry may be made in the Register

My (or our) address for service in British India is⁸ _____

Dated this _____ day of _____ 19 _____

⁸ Insert address Date and Sign.

(Signed) _____

To the
Controller of Patents and Designs,
1, Council House Street, Calcutta



FORM 22

INDIAN PATENTS AND DESIGNS ACT, 1911.

ENTRY OF ALTERATION OF ADDRESS.

In the matter of { Patent No _____ of _____
Design No _____ class _____

I (or we)¹ _____

¹ Insert name, calling and address.

hereby request that the following address in British India may be entered in the Register, viz.,² _____

¹ Insert address to be entered.

¹ Insert address to be cancelled.

and request that the existing address which is as follows may be cancelled³ :—

Date and Sign.

Dated this _____ day of _____ 19__.

(Signed) _____

To the

Controller of Patents and Designs,
1, Council House Street, Calcutta.

NOTE.—This form may only be used for a request to correct a name or alter an address upon the Register. It may not be used as a request to register any change of interest in patent or registered design.

FORM 23.

FEF
R3.

INDIAN PATENTS AND DESIGNS ACT, 1911.

ENTRY OF ORDER OF COURT, SECTION 64.

¹ Insert name, calling and address.

I (or we)¹ _____

² Insert purport of order.

hereby transmit an office copy of an order of the Court with reference to² _____

and request that the register may be rectified.

Date and Sign.

Dated this _____ day of _____ 19__.

(Signed) _____

To the

Controller of Patents and Designs,
1, Council House Street, Calcutta.

FEE
R30.

FORM 24.

INDIAN PATENTS AND DESIGNS ACT, 1911.

Appeal to Governor General in Council under sections 5, 9, 16, 17, 43 or 70.

I (or we)¹ _____

hereby appeal to the Governor General in Council from the decision (or that part of the decision)² of the Controller, dated the³ _____ day of _____ 19____ whereby he—

- (a) refused to accept an application for a patent under section 5.
- (b) required an amendment under section 5.
- (c) decided an opposition under section 9.
- (d) restored a lapsed patent under section 16.
- (e) refused to restore a lapsed patent under section 16.
- (f) allowed an amendment under section 17.
- (g) refused to allow an amendment under section 17.
- (h) refused to register a design under section 43.

¹ Insert name, calling and address.

² Strike out if not applicable.

³ Insert date of decision. The appeal must be made within 2 months of that date.

⁴ Strike out parts not applicable.

The reasons for appealing, and the full statement of the grounds upon which I (or we) rely for objecting to the decision, are as follows⁵ :—

⁵ State fully continuing on further sheets and on one side only. The last page must be dated and signed

NOTE.—This form in duplicate should be sent to the Controller of Patents and Designs 1, Council House Street, Calcutta, who will proceed under Rule 41.

FORM 25.—Not in use.

STAMP
to be attached.
See foot-note.

FORM 26.

INDIAN PATENTS AND DESIGNS ACT, 1911.

POWER OF AUTHORITY TO AGENT.

In connection with¹ _____

¹ State particulars.

I (or we), the undersigned hereby authorise² _____ of _____

² Insert name and address of Agent.

to act as my Agent³ and to receive all notices, requisitions and communications until further notice.

³ See foot-note.

⁴ Cancel if not required.

⁴ And I (or we) revoke the previous authority given by me (or us) to⁵

⁵ Insert name

of Agent whose

authority is cancelled.

⁶ Insert date, signature and address.

in this matter.

⁶ Dated this _____ day of _____ 19____.

Signature _____

Address _____

To the

Controller of Patents and Designs,
1, Council House Street, Calcutta.

NOTE.—The power of authority is liable to stamp duty under the Indian Stamp Act, 1899 (II of 1899), as amended by the Bengal Stamp (Amendment) Act, 1922 (Bengal Act III of 1922). When power is given to one or more persons as Agents to act in a single transaction it will be sufficient if the form bears a special adhesive label of the value of one rupee eight annas only. When power is given to not more than five persons to act jointly or severally in more than one transaction, or generally in respect of several patents or designs applications, then a special adhesive label of seven rupees eight annas value should be affixed.

FORM 27.

INDIAN PATENTS AND DESIGNS ACT, 1911.

STATEMENT OF ADDRESS.

¹ State particulars.

In connection with _____

I (or we) the undersigned request that until further notice all notices, requisitions, etc., may be sent to² _____ at _____

² Insert name and address. Date and Sign.

Dated this _____ day of _____ 19____.

Signature _____

To the

Controller of Patents and Designs,
1, Council House Street, Calcutta.

THE THIRD SCHEDULE.

Model Form of Patent.

GOVERNMENT OF INDIA.

PATENT.

No. _____ of _____ 19____.

Whereas A. B. of _____ hath declared that he is in possession of an invention for _____ (quote title) _____ and that he is the true and first inventor thereof (or the legal representative or assign of the true and first inventor) and that the same is not in use by any other person to the best of his knowledge, information and belief.

And whereas he hath humbly prayed that a patent might be granted to him for the said invention.

And whereas he hath by and in his specification (of which a copy is hereunto annexed) particularly described and ascertained the nature of the invention and the manner in which the same is to be performed.

The Governor General in Council is pleased to order by these presents that the above said petitioner (including his legal representatives and assigns or any of them) shall, subject to the provisions of the Indian Patents and Designs Act, 1911, as patentee have the exclusive privilege of making, selling and using the invention throughout British India (including British Baluchistan and the Sonthal Parganas) and of authorizing others so to do for the term of 14 years from the _____ day of _____ 19____ subject to the condition that the validity of this patent is not guaranteed by Government¹ (and that Government shall have the right¹ For Government Ser-
to use the invention either without payment or on such terms as it may consider vants only.
reasonable) and also provided that the fees prescribed for the continuation of this patent are duly paid.

In witness whereof the Governor General in Council has caused this patent to be sealed as of the _____ day of _____ 19____.

Signature of Controller_____

Date of sealing_____

NOTE—Renewal fees will be due on this patent, if it is to be continued, on the _____ day of _____ 19____ and on the same day in each year thereafter.

THE FOURTH SCHEDULE.

CLASSIFICATION OF GOODS.¹

CLASS 1.—Articles composed wholly of metals or in which metal predominates not included in Class 2.

CLASS 2.—Jewellery.

CLASS 3.—Articles composed wholly of wood, bone, ivory, papier-mâché, or other solid substances not included in other classes, or of materials in which such substances predominate.

CLASS 4.—Articles composed wholly of glass, earthenware, or porcelain, bricks, tiles, or cement, or in which such materials predominate.

CLASS 5.—Articles composed wholly of paper (except paper hangings), card-boards, mill-board or straw-board, or in which such materials predominate

CLASS 6.—Articles composed wholly of leather or in which leather predominates, and bookbinding of all materials.

CLASS 7.—Paper hangings.

CLASS 8.—Carpets and rugs in all materials, floorcloths, and oilcloths

CLASS 9.—Lace.

CLASS 10.—Hosiery.

CLASS 11.—Millinery and wearing apparel, including boots and shoes.

CLASS 12.—Ornamental needlework on muslin or other textile fabrics.

CLASS 13.—Printed or woven designs on textile piece-goods (other than checks or stripes).

CLASS 14.—Printed or woven designs on handkerchiefs and shawls (other than checks or stripes).

CLASS 15.—Printed or woven designs (on textile piece-goods or on handkerchiefs or shawls) being checks or stripes.

CLASS 16.—Goods not included in other classes.

¹ The fee payable on an application to register in any one class, Nos 1 to 6 or 16, is Rs. 8, and in any one class, Nos. 7 to 15 is annas eight. Separate applications are required when the design is to be registered in more than one class.

INDIAN PATENTS AND DESIGNS (TEMPORARY) RULES, 1915.

In exercise of the powers conferred by sections 3 and 4 of the Indian Patents and Designs (Temporary Rules) Act, 1915, the Governor General in Council is pleased to make the following rules.¹

1. These rules may be called the Indian Patents and Designs (Temporary) Rules, 1915.

2. The Controller of Patents and Designs may, on the application² of any person, and subject to such terms and conditions, if any, as he thinks fit, order the avoidance or suspension, in whole or in part, of any patent or license and of the registration of any design, and of all or any right in a registered design the person entitled to the benefit of which is a subject of any State at war with His Majesty, and the Controller before granting any such application may require to be satisfied—

- (a) that the person entitled to such benefit is the subject of a State at war with His Majesty;
- (b) that the person applying intends to manufacture, or cause to be manufactured, the patented article; or to carry on, or cause to be carried on, the patented process; or to manufacture, or cause to be manufactured, the goods or any of them, in respect of which the design is registered;
- (c) that it is in the general interest of the country, or of a section of the community, or of a trade, that such avoidance or suspension should be ordered.

3. The fee to be paid on any such application shall be Rs. 20.

4. The application shall be filed with the Controller of Patents and Designs, who shall notify any person whose name appears on the Registers of Patents or Designs as having an interest and shall appoint a date for hearing the application. The application and the date of the hearing shall be notified in the *Gazette of India*. The applicant shall produce evidence at the hearing to satisfy the Controller in respect of (a), (b) and (c) of Rule 2 and that he himself is not a subject of any State at war with His Majesty. The patentee, or proprietor of the design, or anyone interested, may appear at the hearing in opposition to the application, provided that notice of his intention is given to the Controller at the Patent Office before the date of hearing.

5. In any case in which the Controller makes an Order under these rules avoiding or suspending in whole or in part, a patent, or license, or avoiding or suspending the registration, and all or any rights conferred by the registration, of any design, the Controller may in his discretion grant in favour of any person or per-

¹ See *Gazette of India*, 1915, Part I, pages 634—635.

² The application should be addressed to the Controller of Patents and Designs at the Patent Office, 1, Council House Street, Calcutta, and should be accompanied by the fee, Rs. 20. It should contain full particulars of what is sought and of the reasons therefor. A special form of application has not been prescribed.

sons other than the subject of any State at war with His Majesty, licenses to make, sell or use, the patented invention or registered design so avoided or suspended, upon such terms and conditions, and either for the whole term of the patent or registration of the design, or for such less period, as the Controller may think fit.

6. The decision of the Controller shall be subject to appeal¹ to the Governor General in Council.

7. The Governor General in Council may at any time, in his absolute discretion, revoke or vary any avoidance or suspension or license ordered under these rules.

8. The Controller may avoid or suspend any proceedings on any application made under the Indian Patents and Designs Act, 1911, by a subject of any State at war with His Majesty.

9. The Controller may extend any time prescribed by the Indian Patents and Designs Act, 1911, for doing any act or filing any document upon such terms and subject to such conditions as he may think fit—

(a) where it is shown to his satisfaction that the applicant, patentee or proprietor, as the case may be, was prevented from doing the said act or filing the said document, by reason of active service or enforced absence from this country, or any other circumstances arising from the present state of war, which in the opinion of the Controller, would justify such extension;

(b) where the doing of any act would, by reason of the circumstances arising from the present state of war, be prejudicial or injurious to the rights or interests of any applicant, patentee or proprietor, as aforesaid.

10. Save as otherwise provided in these rules, the procedure prescribed by the Indian Patents and Designs Act, 1911, and the rules made thereunder shall, so far as the same can be made applicable, apply to all proceedings taken under these rules.

11. These rules shall apply to any exclusive privilege acquired under the Inventions and Designs Act, 1888, as if such exclusive privilege had been a patent granted under the Indian Patents and Designs Act, 1911.

¹ For the manner of appealing, see Rule 41 of the Indian Patents and Designs Rules, 1912, page 46.

**AMENDMENTS TO THE INDIAN PATENTS AND DESIGNS
RULES, 1912.¹**

Notification No. A.-197, dated Delhi, the 24th January 1921.

In exercise of the powers conferred by section 57 and sub-section (1) of section 77 of the Indian Patents and Designs Act, 1911 (II of 1911), the Governor General in Council is pleased to make the following amendments to the Indian Patents and Designs Rules, 1912:—

AMENDMENTS.

1. To rule 2 of the said rules, the following clauses shall be added, namely:—

- “ (d) “ British application ” means an application by any person for protection of his invention in any part of His Majesty’s dominions for the protection of which invention in British India the provisions of section 78A of the Act are for the time being applicable;
- (e) “ Reciprocity application ” means an application in British India under section 78A of the Act.”

2. After rule 10 of the said rules, the following rule shall be inserted, namely:—

- “ 10A. Every reciprocity application shall be made on Form 2A and shall contain a declaration that a British application has been made for protection of the invention to which such reciprocity application relates and shall specify every part of His Majesty’s dominions in which any such British application has been made and the official date or dates thereof. The reciprocity application shall be accompanied by a specification prepared in duplicate in accordance with Form 3.”

3. After rule 11 of the said rules, the following rule shall be inserted, namely:—

- “ 11A. (1) In addition to the specification left with every reciprocity application, a copy or copies of the specification or specifications, and drawings or documents filed or deposited by the applicant in respect of the first British application, duly certified by the official chief or head of the Patent Office in which they were filed or deposited, or otherwise verified to the satisfaction of the Controller, shall be left at the office at the same time as the reciprocity application or within such further time, not exceeding three months, as the Controller may allow.

- (2) If any specification or other document relating to the application is in a foreign language a translation there-

¹ Published in the *Gazette of India*, 1922, Part I, pp. 170-172.

of shall be annexed thereto and shall be verified to the satisfaction of the Controller.

- (3) An application for an extension of time for leaving the copy or copies of the specification or specifications, drawings or documents, filed or deposited in respect of the first application, shall be made on Form 4A."

4. In Chapter IV of the said rules, before rule 39 the following rule shall be inserted, namely:—

" 38A. The patent granted on any reciprocity application shall be entered in the register of patents as dated of the official date of the first British application, but the date of the reciprocity application shall also be entered in the register."

5. In the First Schedule to the said rules, after entries Nos. 1 and 6, respectively, the following entries shall be inserted, namely:—

No. of entry.	On what payable.	No. of Form	Proper fee.
			Rs.
1-A . .	On application for a patent under Section 78-A	2-A.	10
6-A. . .	On extension of time for filing documents under rule 11-A.	4 A.	...
	One month . . . . .	...	10
	Two months . . . . .	...	20
	Three months . . . . .	...	30

6. In the Second Schedule to the said rules (a) in the List of Forms, after entries relating to Forms 2 and 4, respectively, the following entries shall be inserted, namely:—

Form No.	Act Section.	Title.	Fee.
			Rs.
.2-A.	78-A.	...	10
4-A.	78-A.	...	10, 20, 30

and (b) after Forms 2 and 4, respectively, the following forms shall be inserted, namely:—

INDIAN PATENTS AND DESIGNS ACT, 1911.

Form 2A
Fee
Rs. 10.

Application for patent under reciprocal arrangements with the United Kingdom or other parts of His Majesty's dominions.

(To be accompanied by the specification on Form 3 in duplicate.)

¹ Insert name, calling and address.

I (or we)¹ _____

do hereby declare:—

(I) that I (or we) have made application(s) for the protection of an invention of which the title² is _____

² Insert title.

in the United Kingdom of Great Britain and Ireland and the Isle of Man on the following official date,³

viz. _____

and in the following British Possession or Possessions⁴ and on the following official dates, *viz.* _____

³ Insert date of application in the United Kingdom.

⁴ Insert name of each British possession followed by the date of application in each respectively.

⁵ Insert date of earliest of the above applications

(II) that the invention was not in use in British India by any other person before the⁵ _____

(III) that the specification filed with this application is, or any amended specification which may hereafter be filed in this behalf will be, true of the invention to which this application relates.

(IV) that the facts and matters stated herein are true to the best of my (or our) knowledge, information and belief.

I (or we) humbly pray that a patent may be granted to me (or us) for the said invention in priority to other applicants, and that such patent shall have the date⁶ _____.

⁶ Insert date as at 5.

Date and Sign.

Dated this _____ *day of* _____ *19* .

Signed _____

To

The Controller of Patents,
1, Council House Street,
Calcutta.

INDIAN PATENTS AND-DESIGNS ACT, 1911.

Form 4A.
Fee
Rs. 10, 20 or
30. See
note below.

Application for extension of time for leaving documents in connection with the reciprocal arrangements with the United Kingdom or other parts of His Majesty's dominions.

I (or we)¹ _____

¹ Insert name, calling and address.

do hereby apply for _____ month's (or months') extension of time for leaving copy (or copies) of the British specification (or specifications), drawings or documents in respect of application No.² _____ of _____.

² Quote No. and year of application for patent.

The reasons for making this application are as follows:—³ _____

³ Insert reasons.

My (or our) address for service in British India is:—⁴ _____

⁴ Insert address.

Dated _____ day of _____ 19....

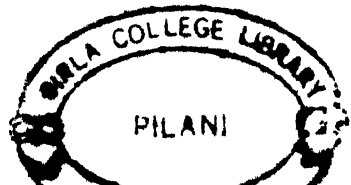
Date and sign.

Signed _____

The Controller of Patents,
1, Council House Street,
Calcutta.

NOTE—Time allowed and fee payable—

One month Rs 10, two months Rs 20, three months Rs 30



**AMENDMENTS TO THE INDIAN PATENTS AND DESIGNS
(TEMPORARY) RULES, 1915.**

NOTIFICATION No. A -33, dated Delhi, the 10th February 1921.¹

In exercise of the powers conferred by clause (e) of sub-section (1) of section 3 of the Indian Patents and Designs (Temporary Rules) Act, 1915 (VI of 1915), the Governor General in Council is pleased to direct that the following amendments shall be made in the Indian Patents and Designs (Temporary) Rules, 1915, namely:—

Rule 9 of the said rules shall be re-numbered 9 (1) and to the said rule as re-numbered the following sub-rule shall be added, namely:—

“(2) the Controller may also extend at his discretion the period prescribed by clause (a) of the proviso to sub-section (1) of section 78A of the Indian Patents and Designs Act, 1911, for the making of an application under that sub-section, in the case of any invention for the protection of which an application was made in the United Kingdom on or after the *1st day of June 1914*, in which it is shown to his satisfaction that the applicant was prevented from filing an application under section 3 of the said Act by circumstances arising from the state of war.”

NOTIFICATION No. A.—304, dated Delhi, the 22nd February 1922.²

In exercise of the powers conferred by clause (e) of sub-section (1) of Section 3 of the Indian Patents and Designs (Temporary Rules) Act, 1915 (VI of 1915), the Governor General in Council is pleased to direct that in sub-rule (2) of rule 9 of the Indian Patents and Designs (Temporary) Rules, 1915, for the figures and words “1st day of June 1914” the words and figures “1st day of August 1913” shall be substituted.

¹ See *Gazette of India*, 1921, Part I, p. 241.

² See *Gazette of India*, 1922, Part I, p. 199.

**LICENSE TO PAY PATENTS AND DESIGNS FEES UNDER THE
TRADING WITH THE ENEMY PROCLAMATION.**

DATED 9TH JANUARY 1915.¹

No. 149.—Whereas, by paragraph 5 (1) of Trading with the Enemy Proclamation No. 2 of 9th September 1914 as amended and extended by Proclamation, dated the 5th of November 1914, payment of any sum of money to or for the benefit of persons or a body of persons resident in the territories of the German Empire or in the Dual Monarchy of Austria-Hungary or in the respective colonies and dependencies thereof or in the territories of the Sultan of Turkey other than any territory in the occupation of the British Government or its colonies, in this license and in the said Proclamations referred to as “enemy country” is prohibited; and

Whereas, by paragraph 8 of the said Proclamation it is provided that nothing in the Proclamation shall be taken to prohibit anything which shall be expressly permitted by license whether such license be granted to individuals or be announced as applying to persons; and

Whereas, by paragraph 3 of Proclamation, dated 8th October 1914, power to grant such licenses on behalf of the Crown may be exercised by the Governor General;

Now, therefore, I, Charles, Baron Hardinge of Penshurst, hereby authorise all persons residing, being, or carrying on business in British India to pay any fees necessary for obtaining the grant, or for obtaining the renewal, of patents, or for obtaining the registration of trade marks or designs, or the renewal of such registrations in an “enemy country;”

And also to pay on behalf of an “enemy” any fees payable in British India on application for, or renewal of, the grant of a patent or on application for the registration of designs or the renewal of such registration.

HARDINGE OF PENSHURST,
Viceroy and Governor General.

REVOCATION OF THE ABOVE LICENSE.

DATED 7TH DECEMBER 1918.²

No. 528.-D.—Whereas by a license, dated the 9th day of January 1915, the Governor General authorised all persons residing, being, or carrying on business in British India to pay any fees necessary for obtaining the grant, or for obtaining the renewal, of patents, or for obtaining the registration of trade marks or designs, or the renewal of such registrations in an “enemy country;”

¹ See *Gazette of India*, 1915, Part I, page 39.

² See *Gazette of India*, 1918, Part I, page 1911.

And also to pay on behalf of an "enemy" any fees payable in British India on application for, or renewal of, the grant of a patent or on application for the registration of designs or the renewal of such registration;

And whereas it appears to the Governor General in Council that such payments should no longer be authorised.

Now, therefore I, Frederick John Napier Thesiger, Baron Chelmsford, hereby revoke the said license and give notice that all such payments as aforesaid are from the date hereof prohibited under the Proclamations relating to Trading with the Enemy.

CHELMSFORD,
Viceroy and Governor General

NOTICE BY PATENT OFFICE.

DATED 21ST DECEMBER 1918.¹

In view of this order, no further proceedings of any kind will be permitted in connection with applications for Patents, or applications for the Registration of Designs by Alien Enemies

LICENSE TO PAY FEES FOR PATENTS AND DESIGNS.

DATED THE 4TH OCTOBER 1919.²

No. 7880.—I, Frederick John Napier Thesiger, Baron Chelmsford, in pursuance of the powers reserved in the Trading with the Enemy Proclamations do hereby give and grant license:—

- (1) To all persons residing, carrying on business or being in British India to pay
 - (a) on their own behalf or on behalf of any person or persons residing, carrying on business or being in British India;
 - (b) on behalf of any person or persons residing, carrying on business or being in any part of His Majesty's dominions outside British India who have been authorised to make such payments by the Government of that part of His Majesty's dominions; and
 - (c) on behalf of any other person who has been authorised or is permitted to make such payments by the Government of the country in which such person resides, carries on business or is,

¹ See *Gazette of India*, 1918, Part II, p. 2200.

² See *Gazette of India*, 1919, Part I, p. 1990.

any fees necessary for obtaining the grant, or for obtaining the renewal, of patents, or for obtaining the registration of designs, or trade marks, or the renewal of such registration, in an enemy country and to pay to enemy agents their charges and expenses in relation to the matters aforesaid; -

(2) To all persons residing, carrying on business or being in British India to pay on behalf of an enemy any fees payable on application for, or renewal of, the grant of patents, or on application for the registration of designs or trade marks or the renewal of such registration.

(a) in British India;

(b) in any part of His Majesty's dominions outside British India where the payment of such fees on behalf of an enemy has been authorised by the Government of that part of His Majesty's dominions; and

(c) in any other country where the payment of such fees on behalf of an enemy has been authorised or is permitted by the Government of that country; and to pay

(i) agents in British India (including themselves);

(ii) agents in any part of His Majesty's Dominions outside British India who have been authorised by the Government of that part of His Majesty's dominions to act on behalf of enemies in connection with the matters aforesaid; and

(iii) agents in any other country who have been authorised or are permitted by the Government of that country to act on behalf of enemies in connection with the matters aforesaid their charges and expenses, if any, in relation to the matters aforesaid

CHELMSFORD,

Viceroy and Governor General of India.

NOTICE BY PATENT OFFICE.

DATED 18th OCTOBER 1919.¹

This license rescinds the order of the Viceroy and Governor General of India, dated the 7th December 1918, and the direction thereunder which appeared in the Notices of the Patent Office in the *Gazette of India*, Part II, dated the 21st December 1918.

¹ See *Gazette of India*, 1919, Part II, page 2200.

PATENTS AND GOVERNMENT SERVANTS.

As a rule a patent is only granted to a Government servant on the condition that Government shall have the right to use the invention either without payment or on such terms as it may consider reasonable. For persons in the military and marine services, leave to apply for a patent has to be obtained from the commanding officer or head of the department concerned before the Patent Office can be addressed. (See special rules below.) Other persons in the service of the Crown may apply to the Patent Office direct, the only condition being that they must disclose their position on their application.

(See Rule 10(4) of the Indian Patents and Designs Rules, page 39.)

In view of the conditions of their tenure of office, and of the special facilities often enjoyed by them, Government servants cannot be expected to be placed on equal terms, as regards patents, with persons not employed by Government. All patentees are limited in their rights by Section 21 of the Patents and Designs Act, and the limitation, in respect of Government servants, is emphasized by the special mention of the condition on patents granted to them. Generally it may be said that the patentee, who is a Government servant, should not possess any such private interests in matters with which his public duties are concerned as would be likely to embarrass or influence him in the discharge of those duties.

Special Patent Rules for the Military and Marine Services.

The Government of India have had under consideration the question of the revision of the rules regarding the taking out of patents by officers and subordinates in Military employ and of the rules relating to persons who desire to submit any invention for the Military and Marine Services for consideration. In supersession of previous rules the Government of India have approved the revised rules attached, which are applicable also to civilians and other persons employed in the Military and Marine Departments of the Government of India.¹

A.

REGULATIONS REGARDING PATENTS AND INVENTIONS.

No officer, Warrant Officer, Non-Commissioned Officer, or soldier of the regular forces, and no civilian or other person

¹ Resolution of the Government of India, Army Department, No. 2265-1 (O. 4), dated Simla, 19th April 1912. *Gazette of India*, 1912, Part I, pages 493-496, Army Regulations, India, Volume II, Appendix I.

employed in the Military or Marine Departments of the Government of India, is permitted to apply for, or obtain, a patent, except in the manner laid down in these regulations.

1A. Officers and others subject to Military Law who wish to take out a patent in the United Kingdom must obtain the permission of the Army Council in accordance with the instructions laid down in the King's Regulations. Applications for British patents should be forwarded direct to the War Office by the General Officer Commanding the Division or Independent Brigade concerned.

2. Should permission to apply for, or obtain, a patent be granted it will be subject to these regulations from which there will be no appeal by the applicant or patentee.

3. The inventor must in the first instance apply to his Commanding Officer, or the Head of his Department, for permission to apply at the Patent Office for a patent.

Application for permission is to be made *in triplicate* on the form prescribed in paragraph 5 which gives the conditions on which such permission is granted. At this stage the inventor will not be required to give more than the title of his invention.

Such application may be made confidentially direct to the inventor's Commanding Officer, or the Head of his Department, who will take steps to see that the application and all subsequent steps in the matter are dealt with confidentially so as to safeguard the inventor's interests as well as those of the Government of India.

4. In order that the inventor may not be prejudiced in any way by delay in making his application at the Patent Office, Commanding Officers and Heads of Departments are authorised to approve of applications made in the form prescribed unless they have reason to doubt that the applicant is the true inventor. One copy of the form approved by them is to be forwarded at once to the Secretary to the Government of India in the Army or Marine Departments as the case may be. The other two copies of the form approved by them should be returned to the inventor, one for his retention and the other for him to forward to the Patent Office together with his application.

5. The following is the form of agreement referred to in the preceding paragraphs. It is to be prepared locally and must be signed and approved before the application is made at the Patent Office.

AGREEMENT.

NOTE.—This form is to be made out in triplicate by the inventor and sent to his Commanding Officer or the Head of his Department for approval.

The Commanding Officer or Head will sign the three copies and send one to the Secretary to the Government of India in the Army or Marine Department, and will return both the others to the inventor.

The inventor will then enclose one copy with his application to the Patent Office, 1, Council House Street, Calcutta.

INVENTION SOUGHT TO BE PATENTED.

Address _____

Date _____

I hereby request permission to apply at the Patent Office (India) for a patent for an invention of (quote title of invention) on the following conditions:

1. Within 48 hours of the despatch by me to the Patent Office of my application, I will forward a copy of the application, and of the specification accompanying the application, to the Secretary to the Government of India in the Army or Marine Department as the case may be through my Commanding Officer or Head of my Department.

2. I will, if so ordered, withdraw my application for a patent.

3. I will, if so ordered, assign to the Governor General in Council on behalf of the Government of India, as may be required, the benefit of the invention and any patent that may be granted, or enter into such agreement for its use by the Government of India or its contractors as may be directed by the Governor General in Council.

4. I will not assign or deal with the invention or patent, or grant any licenses or rights to the use of it, to any one except with the previous authority of the Governor General in Council, or under the terms of my agreement (if any) with the Governor General in Council.

5. I fully understand that the terms of payment (if any) for the assignment of the invention or patent to the Governor General in Council, or for its use by the Government of India, will be decided by the Governor General in Council, and that regard will be paid to any facilities in originating, working out, and perfecting the invention which I may have enjoyed by reason of my official position, and that all payments will be made subject to the approval of the Government of India.

6. I will not apply for a patent in any foreign country, or in any British colony or dependency, without the authority of the Governor General in Council.

Signature

Rank

Approved.

I have informed the inventor that he may apply for an Indian patent for his invention and have furnished him with two copies of this agreement.

Signature

Rank

Date

B.

MEMORANDUM FOR INVENTORS DEALING WITH THE ARMY OR MARINE DEPARTMENT OF THE GOVERNMENT OF INDIA.

1. Instructions how to submit.—Persons who desire to submit any invention for the consideration of the Government of India should do so by letter addressed to the Secretary to the Government of India in the Army or Marine Department through the Director General of Ordnance in India.

2. The letter should state the nature of the invention and give sufficient particulars to enable its merits to be fully considered, and adduce any evidence there may be of the usefulness of the invention, obtained by actual previous experiment. Any drawings, models, or samples which it is desired to submit should either accompany the letter or be sent separately at the same time, or if bulky, particulars should be given as to the place at which the samples or models can be inspected if necessary. All designs, plans, drawings, models, samples or papers submitted are at the owner's risk, and the Army or Marine Department cannot accept any responsibility for damage to them, should such occur.

3. The letter should also state whether the inventor has acquired an exclusive privilege under the Inventions and Designs Act, V of 1888 or a patent under the Indian Patents and Designs Act, II of 1911, or whether application has been made for a patent under the latter Act. If the invention is not so covered the fact should be stated.

4. Terms.—The letter should also state what remuneration or terms the inventor would ask if the Government of India should desire:—

- (i) to acquire exclusive use of the invention;
- (ii) to acquire unrestricted use of the invention but also allowing the inventor a free hand to let others use it.

If no remuneration is desired the fact should be stated.

5. Should the Government of India consider it desirable to try an invention the inventor will, as a general rule, be required to bear the expense of the provision of the article, its carriage, fitting up and removal, but the question whether such expenses shall, in special cases, be finally borne by the Government of India, or be the inventor, will be decided by the Governor General in Council according to the circumstances of the case.

6. Retention of description.—The Government of India reserve the right to retain for future reference any designs, plans, drawings, models, samples or papers forming an essential part of the description of the invention which may be forwarded; but if the inventor desires their return the Government of India will not refuse it unless they think there is good reason for doing so. It is desirable, however, that the inventor should keep copies.

7. Adoption of invention.—Should the invention be adopted for Military or Marine services, terms for its use will be fixed by subsequent agreement and such terms will include the supply of two copies of all designs, drawings, patterns and particulars relating to the invention which may be considered necessary by the Government of India; and it is to be understood that all such designs, drawings, patterns and particulars will be absolutely at the disposal of the Government of India for all purposes whatever, and that for them reasonable prices only will be paid to cover the cost of draughtsmanship and manufacture.

8. No claim for remuneration for an invention will be held to be established unless the invention has been adopted into the service.

9. All claims for remuneration will be carefully considered, but any award which may be made will only be payable to the claimant when approved by the Government of India.

TRADE MARK.

There is no provision of law in British India for the Registration of Trade Marks, but protection for them is obtained under section 3 of the Indian Merchandise Marks Act, IV of 1889, which enacts the following sections 478—489 of Chapter XVIII of the Indian Penal Code, XLV of 1860. The Patent Office does not in any way deal with these marks, but, as inquiries are so often made, the sections are given in this Handbook for ready reference. For further information "The Merchandise Marks Manual," Price Annas four, published under the authority of the Government of India, should be consulted. This book is on sale at the office of the Superintendent, Government Printing, India, 8, Hastings Street, Calcutta.

Trade mark.

478. A mark used for denoting that goods are the manufacture or merchandise of a particular person is called a trade mark, and for the purposes of this Code the expression 'trade mark' includes any trade mark which is registered¹ in the register of trade marks kept under the Patents, Designs and Trade Marks Act, 1883, and any trade mark which, either with or without registration, is protected by law in any British possession or foreign State to which the provisions of the one hundred and third section of the Patents, Designs and Trade Marks Act, 1883, are, under Order in Council, for the time being applicable.

Property mark.

479. A mark used for denoting that moveable property belongs to a particular person is called a property mark.

Using a false trade mark.

480. Whoever marks any goods or any case, package or other receptacle containing goods, or uses any case, package or other receptacle with any mark thereon, in a manner reasonably calculated to cause it to be believed that the goods so marked, or any goods contained in any such receptacle so marked, are the manufacture or merchandise of a person whose manufacture or merchandise they are not, is said to use a false trade mark.

Using a false property mark.

481. Whoever marks any moveable property or goods or any case, package or other receptacle containing moveable property or goods, or uses any case, package or other receptacle having any mark thereon, in a manner reasonably calculated to cause it to be

¹ The registration, here referred to, is effected in the United Kingdom. There is no provision for registration of these marks in the Indian Patent Office or in any other Government Office in India.

believed that the property or goods so marked, or any property or goods contained in any such receptacle so marked, belong to a person to whom they do not belong, is said to use a false property mark.

Punishment for using a false trade mark or property mark.

482. Whoever uses any false trade mark or any false property mark shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Counterfeiting a trade mark or property mark used by another.

483. Whoever counterfeits any trade mark or property mark used by any other person shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Counterfeiting a mark used by a public servant.

484. Whoever counterfeits any property mark used by a public servant, or any mark used by a public servant to denote that any property has been manufactured by a particular person or at a particular time or place or that the property is of a particular quality or has passed through a particular office or that it is entitled to any exemption, or uses as genuine any such mark knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Making or possession of any instrument for counterfeiting a trade mark or property mark.

485. Whoever makes or has in his possession any die, plate or other instrument for the purpose of counterfeiting a trade mark or property mark, or has in his possession a trade mark or property mark for the purpose of denoting that any goods are the manufacture or merchandise of a person whose manufacture or merchandise they are not, or that they belong to a person to whom they do not belong, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Selling goods marked with a counterfeit trade mark or property mark.

486. Whoever sells, or exposes or has in possession for sale or any purpose of trade or manufacture, any goods or things with a counterfeit trade mark or property mark affixed to or impressed upon the same or to or upon any case, package or other receptacle in which such goods are contained, shall, unless he proves—

(a) that, having taken all reasonable precautions against committing an offence against this section, he had at the

time of the commission of the alleged offence no reason to suspect the genuineness of the mark, and

(b) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things, or

(c) that otherwise he had acted innocently,

be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Making a false mark upon any receptacle containing goods.

487. Whoever makes any false mark upon any case, package or other receptacle containing goods, in a manner reasonably calculated to cause any public servant or any other person to believe that such receptacle contains goods which it does not contain, or that it does not contain goods which it does contain, or that the goods contained in such receptacle are of a nature or quality different from the real nature or quality thereof, shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Punishment for making use of any such false mark.

488. Whoever makes use of any such false mark in any manner prohibited by the last foregoing section shall, unless he proves that he acted without intent to defraud, be punished as if he had committed an offence against that section.

Tampering with property mark with intent to cause injury.

489. Whoever removes, destroys, defaces or adds to any property mark, intending or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

THE INDIAN COPYRIGHT ACT.

The Patent Office in India, though frequently addressed on the subject, cannot in any way register copyright in books, pictures, etc. Literary, dramatic and artistic works, works of sculpture, architectural works of art, engravings, photographs, cinematographs, collective works, performances, plates, and lectures, are protected under the Indian Copyright Act, III of 1914. No provision is made for the registration of copyright; but the rights accrue automatically on or before publication to the extent specified in the Act, which should be consulted before further enquiries are made. It is priced at 10 annas and may be obtained from the Government Book Depôts.

A catalogue of books printed in British India is kept by Local Governments and copies of every book have to be supplied by the printer to the officer appointed for the purpose in accordance with the Printing Presses and Books Act, XXV of 1867, but the latter part of section 18, which used to deal with copyright, has now been repealed.

Only copyright in designs is dealt with under the Indian Patents and Designs Act, 1911, at the Patent Office and these designs are excluded from protection under the Indian Copyright Act by the following section:—

- (1) This Act shall not apply to designs capable of being registered under the Indian Patents and Designs Act, 1911, except designs which, though capable of being so registered, are not used or intended to be used as models or patterns to be multiplied by any industrial process.
- (2) General rules under section seventy-seven of the Indian Patents and Designs Act, 1911, may be made for determining the conditions under which a design shall be deemed to be used for such purposes as aforesaid.

Up to the present, rules have not been made under this section.

HINTS FOR THE PREPARATION OF THE SPECIFICATION.

The specification must, in the language of the Act, particularly describe and ascertain the nature of the invention and the manner in which the same is to be performed. With its aid, any person of reasonable intelligence, skill and knowledge, should be able to make the device or conduct the process without further assistance from the inventor. The disclosure of the invention must therefore be sufficiently full and free from vagueness to satisfy a person who is ordinarily skilled in the art under consideration, but it need not contain elementary descriptions of matters which may be supposed to be within public knowledge. Also, care should be taken to see that the specification does not lend colour to the idea that the applicant is trying to monopolise anything that is old and not novel. It should also be noted that mere ideas, without a description of means for carrying them into effect, and unworkable things, such as perpetual motions, are not patentable. If the specification is found to be materially informal or otherwise objectionable when it is received in the Patent Office and examined under section 5 of the Act, it is returned to the applicant or his agent for amendment, together with the instructions and warning shown on page 93.

THE TITLE.

The title must sufficiently indicate the subject-matter of the invention. For this purpose it should be brief, free from fancy, expressions, and as definite as possible, but it need not go into detail as long as it is not ambiguous. Such a title as "The Jones and Bose Universal Efficient Patent Chair called Resteasy" is not acceptable. In this title all the words except 'Chair' are separately and collectively superfluous; and 'Chair' alone is ambiguous, as it might indicate a furniture chair or a railway rail chair. The referred type of title is shown by the following examples:—

- Improved folding chair.
- Railway rail chair.
- Improvements in pneumatic tyres.
- Motor car differential gear.
- Filaments for electric lamps.

THE DESCRIPTION.

Preferably the description should begin with a short general statement of the invention so as to show its scope and objects. Then the detailed description should follow and as the description has generally to be supplemented by drawings, this part may start with reference to them in the following terms:—

The Invention is illustrated on the accompanying sheet of drawings, throughout which like reference letters indicate corresponding parts in the various figures. In this drawing Fig. 1 is a plan; Fig. 2 a cross section on the line A B of Fig. 1; Fig. 3 is a front elevation; etc., etc.

The written description of the invention, as illustrated in the drawings, should be full and complete. It is not sufficient to say that the mechanism for doing so and so is shown so clearly on the drawings that it is not necessary to describe it in detail. The drawings must in fact be regarded as accessory to the description and not as replacing it; but at the same time, they need not be of the kind called "working drawings" which are fully dimensioned for use in the shop or factory. A sample drawing and instructions are given on page 91.

After the invention, as illustrated in the drawings, has been thus described, an account of modifications and variations, if any, which fall within the scope of the claim, may follow, and then the invention has to be claimed.

As the specification is not to be regarded as a means of advertisement, long statements of advantages should not be included in the description. Nor is any discussion of the state of public knowledge necessary in the majority of cases.

THE CLAIM.

The statement of claim must sufficiently define the invention, and it must be clear and succinct. It must be placed after the description and must not exceed anything contained therein.

Statements of the form given immediately below are not to be regarded as claims, inasmuch as they do not define the invention:—

I claim to be the inventor of this appliance.

I claim a patent and that no one else shall use my invention without leave.

I claim that the machine described above is quite new and has never been seen or used before.

I claim that this device is better and cheaper and more effectual than anything known.

I claim that my process or machine will do such and such things.

I claim the following advantages.

I claim some reward.

The only permissible claims are those that really define the invention which the inventor considers to be his property, *i.e.*, some thing or entity which he could sell and another person could buy. They have of course to be read in the light afforded by the description, but they should be drafted so as to demarcate, as explicit as possible, the boundary within which no other person may trespass by way of infringement. To aid the applicant or his agent in drawing up the claims the following samples of claims, which have been accepted by the Patent Office, are given. They must, however, be regarded merely as samples of varying quality—selected more or less at random—and no guarantee can be given that they would be effectual in a Court of Law.

SAMPLE CLAIMS.

A. SINGLE CLAIMS.

Specification No. 181 of 1912. Title:—Kitchen “chula.”

I claim:—

A kitchen “chula” of masonry structure of bricks, mortar, lime, cement, etc., having a chimney and four or more or less holes for cooking, fitted with a wrought iron oven and a cast iron fire bar, substantially as described and illustrated.

Specification No. 304 of 1912. Title:—Tea Gathering Machine.

We claim:—

A machine of the type specified in combination with a tray-like receptacle formed by the lower of two movably attached plates, said lower plate having attached or integrally formed raised edges along the back and sides, substantially as described and for the purposes set forth.

Specification No. 571 of 1912. Title:—Water-lift.

I claim:—

A water-lift of the pycola type constructed with two arms connected by rungs and mounted on pivots arranged for two men to walk abreast and provided with two bucket rods and two buckets.

B. MULTIPLE CLAIMS.

Specification No. 294 of 1912. Title:—Talking Machines.

I claim:—

1. A stylus bar mounting for the soundboxes of talking machines comprising two distanced posts integral with or rigidly attached to the stylus bar, tapered so as to have opposite converging surfaces and present an axis of oscillation for the stylus bar in one and the same line.

2. A stylus bar mounting as claimed in Claim 1, in which in addition to the tapering on either side of the axis of oscillation the posts are further tapered on their remaining sides, or all round to increase the resiliency of the supports.

3. A stylus bar mounting as claimed in Claim 1 or 2, provided with a stop to limit the relative movement of the lower and upper portion of the stylus bar mounting, so that the limit of elasticity of the tapered portions will not be overpassed.

Specification No. 1274 of 1913. Title:—Boots and Shoes.

I claim:—

1. The use of three or four separate pieces of wood attached together by means of staples for forming the sole of a boot or shoe, substantially as described and illustrated.

2. The use in a boot or shoe of a wooden sole in pieces attached to the uppers by means of an inner sole of fibrous material or flexible metal strips, substantially as described and illustrated.

3. A boot or shoe made up of uppers of woven material and a wooden sole in separate pieces joined together by means of staples, substantially as described and illustrated.

Instructions for the Preparation of Drawings supplied with applications for Patents.

Drawings, prepared in accordance with the rules, should be used, wherever possible, to illustrate an invention. They should be sent to the Patent Office together with the application to which they relate. When the application for a patent is accepted, the drawings are reproduced by the Vandyke process. To facilitate reproduction it is essential that the rules should be adhered to closely, and attention is directed to the following points:—

The "original" drawing, from which the reproduction is to be made, should preferably be on white or light blue tracing cloth. Paper which has a yellowish tinge or is opaque cannot be accepted. The sheets may be either 13 inches in height by 8 or 16 inches wide, but the smaller size, *viz*, 13 by 8 inches, is preferred with a clear blank margin of $\frac{1}{2}$ inch in width all round. All the lines, letters, figures, etc., must be clearly and sharply drawn, and it is essential that good black Indian ink should be employed throughout. Drawings containing coloured and defective lines and washes, or showing erasures and patches, cannot be printed satisfactorily. Slips must not be pasted on to correct errors.

The "duplicate" drawing may be a blue print or the like, provided that it is permanent, legible and an exact copy of the "original."

The number of sheets employed should be as few as is possible without sacrificing clearness. The invention must be shown clearly, but it is not necessary to reduplicate figures with slight variations, or to show the whole of a machine when only a part is involved.

Photographs are not acceptable.

Sketches or drawings should not be inserted in the letter-press.

The same type of reference letters and figures, *i.e.*, italic or roman, should be used on the drawing and in the letter-press. The following types are suitable:—

* *A B C D a b c d 1 2 3 4.*

In complicated drawings or when there is not room to write the letters in their proper places, the letters should be shown outside the figures and connected with the parts referred to by fine lines.

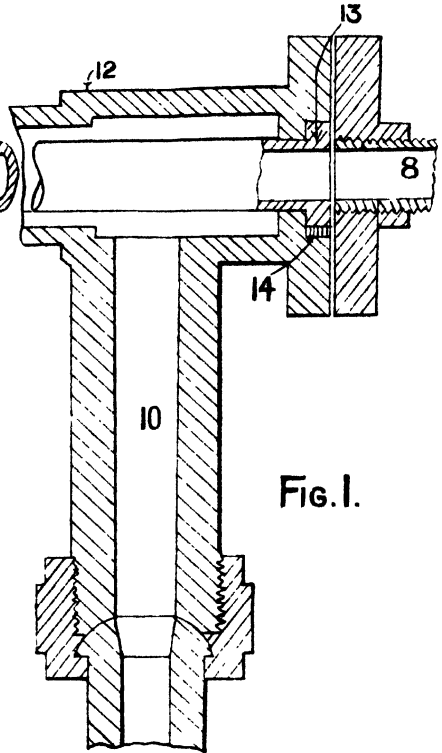
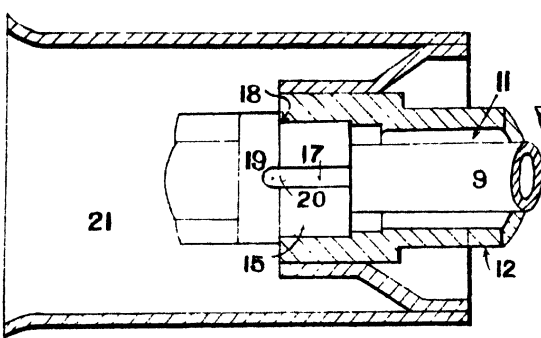


FIG. 1.

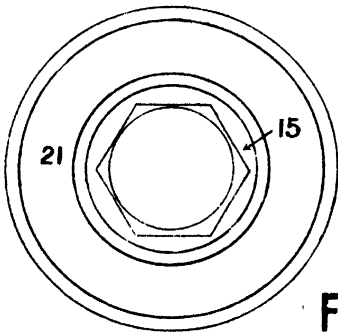


FIG. 2.

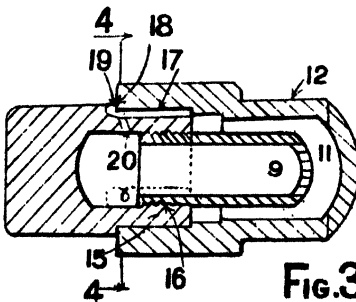


FIG. 3.

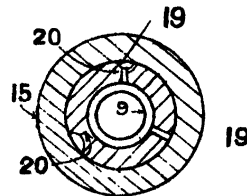


FIG. 4.

Signed.....

•

For the convenience of every one who has to inspect the drawings, the figures should be placed in consecutive order and the right way up on the sheets so that they can be found with facility, and read without turning the sheets sideways or upside down.

Extract from the Indian Patent and Designs Rules, 1912.

13. (1) Drawings shall be supplied in duplicate on sheets 13 inches in height and either 8 or 16 inches in width. A clear margin of half an inch shall be left round each sheet. The figures of the drawings shall be numbered consecutively fig. 1, fig. 2, etc., and shall be placed upright on the sheets. Reference figures and letters shall be clear and bold, not less than $\frac{1}{8}$ th of an inch in height, and the same letters shall be used for the same parts in different views or drawings. The sheets of drawings, when more than one, shall be numbered consecutively, the number of each sheet being shown in the right hand top corner. Each sheet shall be signed by the applicant or his agent in the bottom right hand corner.

(2) No written description of the invention shall appear on the sheets of drawings.

(3) At least one copy of the drawings shall be suitable for reproduction and, for that purpose, shall be prepared on tracing cloth or on smooth white paper which is not opaque. All lines and lettering shall be executed with Indian ink of good quality. Coloured lines and washes shall not be used. The lines and lettering shall be firm and even, and section lines shall not be closely drawn. The scale adopted shall be large enough to show the invention clearly.

(4) Drawings shall be delivered flat or rolled so as to be free from creases.

Instructions and warning respecting papers returned for amendment after examination under section 5 of the Act.

Attention is directed to the following extract from the rules:—

When the specification, or any drawing accompanying it, is defective and requires amendment, one copy shall be returned to the applicant or his agent and all alterations shall be made thereon as far as possible. Additional matter may be interpolated if necessary by re-writing such pages as are required to form a continuous document. Amendments shall not be made by slips pasted on, or as footnotes, or by writing in the margin. The amended documents shall be returned to the Controller together with the cancelled pages or drawings, if any, and with a duplicate of any pages or drawings that have been amended or added.

Amendments, alterations or additions shall be initialled by the applicant or his agent.

No amendments, alterations or additions shall be made in a document returned for amendment beyond those necessary to comply with the requirements of the Controller.

WARNING is given that the application will become void under section 5 (4) of the Act unless the requirements in the accompanying letter are satisfactorily complied with and the papers returned to the office in sufficient time to allow of re-examination. Section 5 (4) of the Act is as follows:—

Unless an application is accepted within twelve months from the date of the application, the application shall (except where an appeal has been lodged) become void:

Provided that where an application is made for an extension of time for the acceptance of an application the Controller shall, on payment of the prescribed fee, grant an extension of time to the extent applied for but not exceeding three months.

Letters should be addressed as follows:—

*CONTROLLER OF PATENTS,
1, Council House Street,
Calcutta.*

Designs.

The word “design” embraces so many and such varied classes of things and ideas that it is not always easy to say, whether and where any particular novelty in the way of a design can be protected. All designs cannot be registered under Part II of the Indian Patents and Designs Act, but only those which comply with the definition in section 2 (5):—

“Design” means any design, applicable to any article, 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, but does not include any trade or property mark as defined in sections 478 and 479 of the Indian Penal Code.

In order to ascertain whether a design can be registered under this Act the following questions should be answered in the affirmative:—

- A. Is the design applicable to an article?
- B. Is the article an article of manufacture? or is the article any substance?
- C. Is the design applicable for the pattern? or is the design applicable for form or configuration? or is the design applicable for ornament?—or is the design applicable for two or more of these purposes?
- D. Is the design new or original?
- E. Is it clear that the design is not a trade or property mark as defined in the Merchandise Marks Act?

- F. Is it clear that the design is not preferably to be considered as a new invention patentable under Part I of the Indian Patents and Designs Act?
- G. Is it clear that the design is not a picture, photograph or other matter which is copyrighted under the Indian Copyright Act?

It will be noticed that the stress is laid on the pattern form or configuration, or ornament, all of which are concerned with appearance only, or in other words, with something that appeals to the eye. There is a fine distinction, which can, however, permissibly be drawn, between (1) the appearance of the article, (2) the article itself, and (3) the object and utility of the article. Broadly it may be said that Part II of the Act affords protection for the first item, ignores the last, and only indirectly protects the article itself as long as it has substantially the designed appearance which results from the application of the design. There is no mention of use or utility, and that feature is not considered in dealing with the application for the registration of the design, or subsequently in determining the proprietorship or other questions arising out of the registration. If utility is involved, in the sense that a mechanical appliance or a process is useful for doing something or attaining some result, then protection may be obtainable for the novelty under Part I of the Act, provided there had been an exercise of inventive faculty in the production.

Although an isolated member of a machine, or even a simple tool, might be registered as a design on account of its particular form or configuration, the protection is so limited that it would have to be regarded as *nil* in the case of the machine as a whole. The object of a machine is not its particular shape but the result obtained by the motion of its constituent parts.

It is necessary to emphasize the fact that trade and property marks (*see* page 89), cannot in any way be registered as designs. Hence applications are refused when they relate to labels, tickets, wrappers, coverings, marks, brands, and so forth, capable of being applied to articles such as cakes of soap or bottles of medicine for purposes of trade description.

Endeavours are sometimes made to register pictures and photographs under the Indian Patents and Designs Act, but such a proceeding is not effective. The picture or photograph itself is protected under the Indian Copyright Act (III of 1914) for a considerable term of years. If registered as a design it is only protected in so far as its application to specified articles in specified classes is concerned for a period of 5, 10 or 15 years. Without permission of the owner of the copyright in a picture if such copyright exists, or in any case if the copyright has expired or never existed, it is not open to any person to endeavour to monopolise the more limited copyright as a design under the Patents and Designs Act.

When a copyright in a design is registered, the proprietor's rights lapse after 5 years, or after 10 or 15 years if extended under section 47. Then the copyright ceases and the design

becomes public property. It has been held that attempts to prolong rights under a Patent or Design by indirect means are not effective and an attempt to do so might reflect deleteriously on the copyright or other property otherwise held in an invention or picture, or trade mark.

Letters, numerals, printed or written words *per se* are not capable of being registered as designs. They are public property, but arrangements of them in the form of books, circulars, tables and so forth may be copyrighted under the Indian Copyright Act.

A design is not to be regarded as a trade mark as is shown by the following judgment given on 18th March 1914 in the Court of the Judicial Commissioner of Sind in the case of *Narunal Khemchand v. The Bombay Company, Limited*.

“ The complainant firm have alleged that they for a long time imported chintz printed with a particular design or pattern, that the accused firm has recently imported similar chintz printed similarly. It has been alleged that the design of the pattern amounted to a trade mark, and that it did not amount to a trade description, and that copying the design of pattern amounted to an offence either under section 486, Indian Penal Code, or under section 7 of the Merchandise Marks Act. Now the design or pattern covers the whole body of the goods and it appears to us to be part and parcel of the goods, and to fall within the definition of the design given in section 2 (5) of the Inventions and Designs Act, 1911. It does not appear to us to satisfy the ordinary conception of a trade mark. It is not a mark apart and different from the goods applied to them for denoting the goods to be the manufacture or merchandise of a particular person within the meaning of section 478 of the Indian Penal Code. The copying of the design or pattern could not, therefore, be treated as a counterfeiting of a trade mark within the meaning of section 456, Indian Penal Code, nor do we think that the design or pattern can properly be brought within the definition of trade description contained in section 2 (2) of the Merchandise Marks Act. We are therefore of opinion that no offence has been disclosed by the allegation.”

Proceedings in a Court and Certificates of the Controller.

As legal proceedings in respect of patents and designs may be instituted in any High Court or District Court throughout India, it is manifestly impossible for the Controller, either personally or by representative, to attend, or to produce Registers or other matters which have to be maintained for inspection in the Patent Office. Section 71 of the Act however provides that:—

“ A certificate purporting to be under the hand of the Controller as to any entry, matter or thing which he is authorised by this Act, or any 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.”

When a patent is in question, a copy of the specification of the invention (price one rupee if it has been printed) should be obtained from the Patent Office, and it should be ascertained whether the patent has been granted and is in force at the time.

When a design is in question, the design can only be inspected under the provisions of section 50, but section 51 provides for information as to the existence of the copyright.

It should be noted that under sections 60 and 61, reports of or to the Controller and documents connected with uncompleted applications cannot be publicly inspected. Except in so far as he is required to do so by the Act, the Controller cannot undertake to give legal or technical advice, or to act for either party as an expert, in any matter before a Court.

Instead therefore of issuing a summons to the Controller, or a commission to examine him, the easier and cheaper course should be taken of obtaining the necessary information, certified, if so required, by use of Form 17, 18 or 19.

Hints for Searchers.

For information as to whether an invention is patented, or as to the progress of an application for a patent, the searcher should consult the following publications of the Patent Office:—

	Rs	A.	P.
<i>Gazette of India</i> , Weekly Notifications of the Patent Office	0	1	0
Annual subscription with postage	3	0	0
Inventions (Consolidated Subject Matter Index, 1900-1908, and Chronological Lists, 1900-1904)	2	0	0
Inventions (Consolidated Subject Matter Index, 1900-1911, and Chronological Lists, 1905-1911)	3	0	0
Patent Office Journal (issued quarterly)	each	0	8 0
Patent Office Journal, 1914, 1915, 1916, 1917, 1918, etc.	each	1	0 0
Specifications of Inventions (printed since 1912)	each	1	0 0

These may be purchased, or inspected, free of charge, at the Patent Office, and may also be seen, free of charge, at the following places:—

AHMEDABAD	R. C. Technical Institute.	KARACHI	Office of City Deputy Collector.
ALAHABAD	Public Library	LAHORE	Punjab Public Library.
BANGALORE	Indian Institute of Science.	LONDON	The Patent Office, 25, Southampton Buildings, W. C.
BARODA	Department of Commerce and Industries.	MADRAS	Record Office, Egmore.
BOMBAY	Record Office.	"	College of Engineering.
"	Victoria Jubilee Technical Institute, Byculla.	MYSORE	Office of the Secretary to Government, General and Revenue Department.
"	The Bombay Textile and Engineering Association, No. 1A, Sussex Road, Park.	NAGPUR	Victoria Technical Institute.
CALCUTTA	Patent Office, No. 1, Council House Street.	PATNA	Secretariat Library, Government of Bihar and Orissa.
"	Bengal Engineering College, Shibpur.	POONA	College of Engineering.
CANNING	Office of the Director of Industries, United Provinces.	RANCHI	Office of the Director of Industries, Bihar and Orissa.
CUTTACK	Office of the Commissioner, Burdwan Division.	RANGOON	Office of the Revenue Secretary, Government of Burma.
CHITTAGONG	Office of the Commissioner, Chittagong Division.	ROORKEE	Thomason College.
DACCA	Office of the District Board, Dacca.	SOLAPUR	Office of the Collector.
DELHI	Office of the Deputy Commissioner.	WASHINGTON (U. S. A.)	The Patent Office.
HYDERABAD	Industries and Commerce Department of His Highness the Nizam's Government.		

The Patent Office cannot undertake to make searches in respect of information thus available to any member of the public, but, in cases of doubt, assistance will be given to guide the inquirer as far as possible. Any inquiry should be accompanied by the fullest available information as to the supposed name of the inventor or patentee, the approximate date, and the nature of the invention in question. When a machine or process is in question, a sketch or description should be appended, if available. The inquiry should be made as definite and precise as possible and a search fee of one Rupee should be sent. The address of any applicant or patentee, or the stage reached by any application or patent, will also be given at any time on a request which is accompanied by a stamped and addressed envelope.

The Weekly Notification contains lists of applications for patents made and accepted weekly, giving the names of the applicants and titles of the inventions. It also shows whether patents are due for sealing and whether they have been sealed and whether they have been continued in force or not; in addition it includes other matters of current interest in respect of patents and designs. The essential part of this information is condensed in the annual issue of the Patent Office Journal, to which is appended name and subject matter indexes. A provisional issue of this journal is made for the first, second, and third quarters of the year only, but these are replaced by the annual volumes at the end of the year.

The two consolidated volumes contain a Chronological list of all inventors and inventions in the years 1900 to 1904 and 1905 to 1911, respectively, the latter having also a subject matter index for 1900 to 1911 inclusive. Their continuation up to the present time is found in the annual, quarterly, and weekly publications mentioned above. Before 1900, there were a number of printed indexes extending back to 1888, but these are mostly out of print and can best be seen at the Patent Office. For earlier patents, from 1856 to 1888, recourse would have to be had to the Registers. As, however, the normal life of a patent does not exceed 14 years, the indexes from 1900 will mainly be consulted.

In order to ascertain details of any particular invention, the number and year found from the indexes leads to the particulars given in the Chronological lists. If they are insufficient, the specification itself should be read. Printed specifications of Indian specifications are only available since January 1, 1912. Before that date they were not printed but the lists show when there was a corresponding British specification. For fuller information, the prefatory note in the consolidated volumes and in the annual Patent Office Journals should be perused. The Journals since 1915 contain lists of patents in force at the end of the year.

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