

LAWS OF TRINIDAD AND TOBAGO

PATENTS AND DESIGNS ACT

CHAPTER 82:83

Act
10 of 1900
Amended by
13 of 1905
35 of 1905
15 of 1913
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Corrigenda

- (a) At page 24, in section 60 (1) in line 2, for the word "rules" substitute the word "Rules".
- (b) At page 25, in section 60 (2) in line 1, for the word "rules" substitute the word "Rules".

Note

on

Adaptation

Certain fees in this Chapter were increased by the Commission under paragraph 4 of the Second Schedule to the Law Revision Act (Ch. 3:03). Where this occurs, a marginal reference in the form normally indicating an amendment is made to L.N. 51/1930 (the Legal Notice by which the President's approval was signified).

CHAPTER 82:83

PATENTS AND DESIGNS ACT

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60. Rules and fees.

SCHEDULE.

CHAPTER 82:83**PATENTS AND DESIGNS ACT****An Act relating to Patents for Inventions and Designs.**1950 Ed.
Ch. 31 No. 18.

10 of 1900.

Commencement.

[28TH MARCH 1900]

1. This Act may be cited as the Patents and Designs Act.

Short title.
[17 of 1959].

2. In this Act—

“certified” means certified in accordance with the provisions of Part V of the Evidence Act;

Interpretation.
[11 of 1955].

“class” means prescribed class;

Ch. 7:02.

“company” means any body of persons, corporate or unincorporate, and, in relation to a country, means any such body having its principal place of business in that country or controlled by the government of that country or by a national thereof or by any such body having its principal place of business in that country; and the expressions “British company”, “German company” and “Japanese company” shall be construed accordingly;

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

“Court” means the High Court;

“design” means any design applicable to any article of manufacture, or to any substance artificial or natural, or partly artificial and partly natural, whether the design is applicable for the pattern, or for the shape or configuration, or for the ornament thereof, or for any two or more of such purposes, and by whatever means it is applicable, whether by printing, painting, embroidering, weaving, sewing, modelling, casting, embossing, engraving, staining, or any other means whatever, manual, mechanical or chemical, separate or combined;

“enemy territory” means—

(a) any area which was enemy territory as defined by section 2(1) of the Trading with the Enemy Act;

(b) any area in relation to which the provisions of the said Act applied by virtue of an Order made under section 2(2), as they applied in relation to enemy territory as so defined; and

(c) any area which, by virtue of regulation 8 or regulation 9 of the Defence (Trading with the Enemy) Regulations 1940, or any Order made thereunder, was treated for any of the purposes of the said Act as enemy territory as so defined or as such territory as is referred to in paragraph (b);

“Germany” means territory comprised in the German State on the 1st March 1938;

“German national” does not include any person who at the relevant time was a German national by reason only of the incorporation of any territory in the German State after 1st March 1938, or was not an enemy for any of the purposes of the Trading with the Enemy Act;

“invention” means any manner of new manufacture the subject of letters patent and grant of privilege within section 6 of the Statute of Monopolies of the United Kingdom, and includes an alleged invention;

“Judge” means a Judge of the Court;

“patent” means certificate of registration in the Register of Patents, and includes all the rights conferred or evidenced by the registration;

“patentee” means the person for the time being registered as the proprietor of a patent;

“registered” means registered in the Register of Patents or the

Ch. 14:03.

21 Jac. I., c. 3
(U.K.).

Register of Designs, as the case may be; and “registration” has a corresponding meaning;

“Registrar” means the Registrar General, and includes any Deputy Registrar or person acting under the authority of the Registrar; and “registry” means the office of the Registrar General;

“specification” includes all tracings, drawings, diagrams, and other exhibits referred to in the specification;

“United Kingdom patent” means letters patent for an invention granted in the United Kingdom.

PART I

PATENTS

Local patents

3. (1) Any person may make an application for a patent.

Application for patent.

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

4. (1) The Registrar, on an application by or on behalf of any person claiming to be the inventor or proprietor of any invention, and on the delivery to the Registrar of a declaration in writing in the form set out as Form A in the Schedule together with a specification in duplicate signed by the applicant or his agent, particularly describing the nature of the invention and in what manner the same is to be performed, and on payment of the prescribed fee, shall deliver to such person or his agent a certificate in the form set out as Form B in the Schedule, hereinafter called a patent, and a copy of the patent shall be inserted by the Registrar in the *Gazette*.

On delivery of declaration and specification Registrar to issue patent. Form A Schedule.

Form B Schedule.

(2) All drawings, tracings, diagrams, plans, and other exhibits referred to in any specification shall be made on tracing linen or some other durable material to the satisfaction of the Registrar, and in no case on tracing paper.

Drawings.

(3) If, in lieu of the specifications as mentioned above, the applicant delivers a provisional specification describing the nature of the invention, and, if required by the Registrar, accompanied by plans, and, in lieu of the fees otherwise payable on application for a

Provisional specification. [51/1980].

Form D
Schedule.

patent, pays a fee of fifteen dollars or such other fee as may be prescribed, the Registrar may issue to the applicant a certificate in the form set out as Form D in the Schedule, and the invention may thereupon be used for a period of nine months or until within such period a patent has been granted for the same without prejudice to the patent, and in such case such patent shall be granted on delivery within such period of nine months of the complete specification as mentioned above, and on payment of the balance of the fee payable on application for a patent.

Specification
and drawings
not public.

(4) On an application for a patent, the specification or provisional specification and drawings, if any, accompanying or left in connection with the application shall not at any time be open to public inspection or be published by the Registrar, unless and until the patent has been granted.

Register of
Patents.

5. (1) The Registrar shall keep a book at the registry called "The Register of Patents," and shall record therein under a distinguishing number and in the order in which application has been duly made to him, every such invention, and the given name and surname of the inventor, and the day of the date of the patent, and shall cause every specification to be marked with the distinguishing number of the invention to which the specification refers.

(2) All assignments, charges, transmissions, amendments, extensions, and revocations of patents, and such other matters affecting the validity or proprietorship of patents as may from time to time be prescribed, shall be notified to the Registrar, who shall, on sufficient evidence thereof, and on payment of the prescribed fee, note the same in the Register of Patents.

Patent to vest
exclusive right
for fourteen
years.

6. Every patent shall vest in the patentee, his executors, administrators, or assigns and licensees, the sole right and benefit of using within Trinidad and Tobago the invention mentioned in the patent for and during the space of fourteen years next after the granting of the patent; but, at any time before the expiration of such period, the President may, in his discretion, extend the same for any period not exceeding seven years, and may in like manner extend such further period to a like extent as often as he deems right.

Disclaimer or
alteration.

7. (1) Subject to subsection (2), any patentee may, on payment of the prescribed fee, enter with the Registrar a disclaimer of any part of either the title of the invention or of the specification, stating the reasons for the disclaimer, or may enter a memorandum of any alteration in the title or specification, not being such dis-

claimer or such alteration as would make the patentee claim an invention substantially larger than, or substantially different from, that claimed by the specification as it stood before the amendment; and the disclaimer or memorandum of alteration being filed by the Registrar shall be deemed and taken to be part of the title or specification.

(2) This section shall not apply to a patent in respect of which an action for infringement or proceeding for revocation of a patent is pending.

8. Every amendment of a specification shall be advertised in the *Gazette*. Amendment of specification.

9. A patentee may restrain any person from infringing his patent, and may recover damages for the infringement by action in the Court. Infringement.

10. (1) Revocation of a patent may be obtained on petition to the Court on any of the following grounds: Revocation.

- (a) that the patent was obtained by fraud;
- (b) that the patentee was not the true inventor or proprietor of every invention included in his claim;
- (c) that anything claimed by the patentee as his invention was publicly manufactured, used, or sold within Trinidad and Tobago before the date of the patent, or included in some prior patent.

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

- (a) the Attorney General or Solicitor General, or any person authorised by them or either of them;
- (b) any person alleging that the patent was obtained in fraud of his rights, or of the rights of any person under or through whom he claims;
- (c) any person alleging that he, or any person under or through whom he claims, was the true inventor of any invention included in the claim of the patentee;
- (d) any person alleging that he, or any person under or through whom he claims an interest in any trade, business, or manufacture, had publicly manufactured, used, or sold within Trinidad and Tobago, before the date of the patent, anything claimed by the patentee as his invention.

Procedure.

11. (1) In any action or proceeding for the infringement or revocation of a patent, the plaintiff or petitioner must deliver with his statement of claim or petition particulars of the breaches complained of or the objections on which he means to rely, and a defendant must deliver with his statement of defence particulars of any objections on which he relies, and no evidence, except by leave of the Court or a Judge, shall be admitted in proof of any breach or objection of which particulars are not so delivered.

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

(3) When a patent has been revoked on the ground of fraud, the Registrar may, on the application of the true inventor, made in accordance with this Act, grant to him or his agent a patent in the form set out in the Schedule in lieu of and bearing the same date as the date of revocation of the patent so revoked, and a copy of the patent shall be inserted by the Registrar in the *Gazette*; but the patent so granted shall cease on the expiration of the term for which the revoked patent was granted.

Schedule.

(4) No proceeding shall lie for revocation of a patent vested in the Minister responsible for Defence, except by consent of the President.

Rights of the State.
[17 of 1966].

12. (1) Subject to subsection (2), a patent shall have to all intents the like effect against the State as it has against a subject.

(2) Officers or authorities administering any department of the service of the State may, by themselves, their agents, contractors or others, at any time after the application for a patent, use the invention in respect of which the patent is sought for the services of the State on terms to be agreed upon, with the approval of the President, between those officers or authorities and the patentee either before or after the use thereof, or, in default of such agreement on such terms as may be determined by the Court.

Court may order patentee to grant licences.

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

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

the Court may order the patentee to grant licences on such terms, and may enforce the order in such manner, as it thinks fit.

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

Loss or destruction of patent.

United Kingdom patents

15. (1) Any person being the grantee of a United Kingdom patent, or any person deriving his right from the grantee by assignment, transmission, or other operation of law, may apply within three years from the date of issue of the patent to have the patent registered in Trinidad and Tobago. Where any partial assignment or transmission has been made, all proper parties shall be joined in the application for registration.

Application for registration.

(2) Every application under subsection (1) shall be accompanied by two certified copies of the specification or specifications (including drawings, if any) of the United Kingdom patent and a certificate of the Comptroller-General of the United Kingdom Patent Office, giving full particulars of the issue of the patent on such specification or specifications.

Documents to accompany application.

(3) Upon such application being received, together with the documents mentioned in subsection (2) the Registrar shall issue a certificate of registration.

Issue of certificate of registration.

(4) The certificate of registration shall confer on the applicant privileges and rights, subject to all conditions established by the law of Trinidad and Tobago, as though the patent had been issued in the United Kingdom with an extension to Trinidad and Tobago.

Rights conferred by certificate.

(5) Privileges and rights so granted shall date from the date of the patent in the United Kingdom, and shall continue in force only so long as the patent remains in force in the United Kingdom; but no action for infringement shall be entertained in respect of any manufacture, use, or sale of the invention prior to the date of issue of the certificate of registration in Trinidad and Tobago.

Duration of rights conferred by certificate.

No action for infringement prior to issue of certificate.

16. (1) The Court shall have power, upon the application of any person who alleges that his interests have been prejudicially affected by the issue of a certificate of registration under section 15(3), to declare that the exclusive privileges and rights conferred by the certificate of registration have not been acquired on any of the grounds upon which the United Kingdom patent might be

Power of Court to adjudicate on privileges conferred by certificate of registration. [17 of 1959].

revoked under the law for the time being in force in the United Kingdom.

(2) The grounds upon which a United Kingdom patent might be revoked shall be deemed to include the manufacture, use or sale of the invention in Trinidad and Tobago before the priority date applicable to the patent in the United Kingdom, but not to include the manufacture, use or sale of the invention in Trinidad and Tobago by some person or persons on or after the priority date applicable to the patent in the United Kingdom and before the date of the issue of the certificate of registration under section 15(3).

(3) For the purposes of this section the expression "priority date" in its application to a patent in the United Kingdom has the meaning assigned to it in section 5 of the Patents Act 1949, of the United Kingdom.

12, 13 and 14
Geo. VI. c. 87.

Register of
Patents.

17. The Registrar shall record in the Register of Patents, in a special part to be set aside for United Kingdom patents, under a distinguishing number and in the order in which applications have been duly made to him, every application for the registration of a United Kingdom patent, and the given name and surname of the applicant, and the day of the date of the certificate of registration issued in respect thereof.

Amendment of
entries in
Register.

18. Whenever the specification or drawings of a United Kingdom patent registered in Trinidad and Tobago have been amended by way of disclaimer, correction, or explanation, according to the law of the United Kingdom, on request, accompanied by a copy of the specification and drawings, if any, as amended, duly certified by the Comptroller-General of the United Kingdom Patent Office, the Registrar shall substitute a copy of the specification and drawings as amended, for the specification and drawings originally filed.

Entry of
assignments in
Register.

19. Where a person becomes entitled by assignment, transmission, or other operation of law to the privileges and rights conferred by a certificate of registration or to any interest therein, he may make application in the prescribed manner to the Registrar for the entry on the Register of Patents of the assignment, transmission, or other instrument affecting the title, or giving an interest therein, and such entry shall be made accordingly.

PART II

DESIGNS

20. There shall be kept at the registry a book called "The Register of Designs," wherein shall be entered the names and addresses of proprietors of registered designs, and such other matters as may from time to time be prescribed.

Register of Designs.

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

Author of new design to be deemed proprietor thereof.

22. (1) The Registrar may, on application by or on behalf of any person claiming to be the proprietor of any new or original design not previously published in Trinidad and Tobago, and on payment of the prescribed fee, register the design under this Part.

Application for registration of designs.

(2) The application must be made in the form set out as Form C in the Schedule, or in such other form as may be from time to time prescribed, and must be left at the registry in the prescribed manner.

Form C Schedule.

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

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

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

(6) The Registrar may, if he thinks fit, refuse to register any design presented to him for registration, but any person aggrieved by any such refusal may appeal therefrom to a Judge in Chambers.

23. On application for registration of a design, the applicant shall furnish to the Registrar the prescribed number of drawings,

Drawings, etc., to be furnished on application.

photographs, or tracings of the design sufficient to enable him to identify the design, and suitable for the official records; or the applicant may, instead of such copies, furnish exact representations or specimens of the design.

Copyright on registration.

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

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

Marking registered designs.

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

Inspection of registered designs.

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

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

Information as to existence of copyright.

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

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

Ceasing of
copyright.

29. (1) During the existence of copyright in any design no person—

Penalty on
piracy of
registered
design.

- (a) shall, without the licence or written consent of the registered proprietor, apply or cause to be applied the design or any fraudulent or obvious imitation thereof, in the class or classes of goods in which the design is registered, for purposes of sale, to any article of manufacture or to any substance, artificial or natural, or partly artificial and partly natural;
- (b) shall publish or expose for sale any article of manufacture or any substance to which the design or any fraudulent or obvious imitation thereof has been so applied, knowing that the same has been so applied without the consent of the registered proprietor.

(2) Any person who acts in contravention of this section is liable for every offence to forfeit a sum not exceeding two thousand dollars to the registered proprietor of the design, and the registered proprietor may, by action brought in the Court, recover either such sum as a simple contract debt, or damages arising from any breach of the section; but the total sum forfeited in respect of any one design shall not exceed four thousand dollars.

PART III

[8TH MARCH 1929]

UNITED KINGDOM DESIGNS

30. Any person being the registered proprietor of a design registered in the United Kingdom under the Patents and Designs Acts, 1907 and 1919, of the United Kingdom or any Act amending or substituted for those Acts, or any person deriving his right from such registered proprietor by assignment, transmission, or other operation of law, may apply within three years from the date of registration of the design to have the design registered in Trinidad and Tobago. Where any partial assignment or transmission has been made all proper parties shall be joined in the application for registration.

Application for
registration.
7 Edw. 7
c. 29.
9 and 10
Geo. 5
c. 80.

Documents to accompany application.

31. An application for registration of a design under section 30 shall be made to the Registrar and accompanied by two representations of the design and a certificate of the Comptroller-General of the United Kingdom Patent Office giving full particulars of the registration of the design in the United Kingdom and stating the date at which the design became or will normally become open to public inspection.

Issue of certificate of registration.

32. Upon the application being lodged, together with the documents mentioned in section 31, the Registrar shall issue a certificate of registration.

Rights conferred by registration.

33. The certificate of registration shall confer on the applicant privileges and rights subject to all conditions established by the law of Trinidad and Tobago as though the certificate of registration in the United Kingdom had been issued with an extension to Trinidad and Tobago.

Duration of rights conferred by certificate.

34. Privileges and rights so granted shall date from the date of registration in the United Kingdom and shall continue in force only so long as the registration in the United Kingdom remains in force; no action for infringement of copyright in the design shall be entertained in respect of any use of the design prior to the date of issue of the certificate of registration in Trinidad and Tobago.

Power of Court to adjudicate on privileges conferred by certificate of registration.

35. The Court shall have power upon the application of any person who alleges that his interests have been prejudicially affected by the issue of a certificate of registration under section 32 to declare that the exclusive privileges and rights conferred by the certificate have not been acquired on any of the grounds upon which the United Kingdom registration might be cancelled under the law for the time being in force in the United Kingdom.

Such grounds shall be deemed to include the publication of the design in Trinidad and Tobago prior to the date of registration of the design in the United Kingdom, but not to include the publication of the design in Trinidad and Tobago by some person or persons after the date of the registration of the design in the United Kingdom and prior to the date of the issue of the certificate of registration under the said section 32.

Entry of assignment in Register.

36. Where a person becomes entitled by assignment, transmission, or other operation of law to the privileges and rights conferred by a certificate of registration under section 32, or to any interests therein, he may make application in the prescribed man-

ner to the Registrar for the entry on the register of the assignment, transmission, or other instrument affecting the title, or giving an interest therein.

37. The Registrar may make such general rules and do such things as he may think expedient, subject to this Act, for regulating procedure under this Part, and prescribing the fees to be paid in respect of proceedings thereunder.

Power to make rules for this Part.

38. Notwithstanding the provisions of sections 26 and 45, a design registered under this Part shall not be open to inspection (except by the proprietor or a person authorised in writing by him, or a person authorised by the Registrar or by the Court) before the date when the design became open to public inspection in the United Kingdom.

Inspection not permitted prior to date permitted in U.K.

39. All extensions of the period of copyright in the United Kingdom in a design registered under this Part shall be notified to the Registrar, who shall on sufficient evidence thereof and on payment of the prescribed fee enter the same in the register in the prescribed manner.

Registration of extensions granted in U.K.

40. With regard to designs registered under this Part, the Registrar may, on request in writing made by the registered proprietor, and on payment of the prescribed fee—

Cancellations, corrections and amendments to registrations.

- (a) cancel the registration of a design either wholly or in respect of any particular goods in connection with which the design is registered;
- (b) correct any clerical error in or in connection with any application under this Act or in any matter which is entered upon the register;
- (c) enter in the register any change in the name or address of the person who is registered as proprietor of a design.

PART IV

GENERAL

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

Trusts.

Scandalous patent or design. [11 of 1955].

42. The Registrar may refuse to grant a patent for an invention or to register a design which is, or of which the use would be, scandalous or contrary to law or morality.

When patent, etc., deemed to be registered. [11 of 1955].

43. Any patent or design shall be deemed to be registered when the name of any person is entered, as the proprietor thereof, in the Register of Patents or the Register of Designs, as the case may be.

Entry of assignments and transmissions. [11 of 1955].

44. Where a person becomes entitled by assignment, transmission, or other operation of law to a patent or to the copyright in a registered design, the Registrar shall, on request, and on proof of title, cause the name of the person to be entered as proprietor of the patent or of the copyright in the design in the Register of Patents or the Register of Designs, as the case may be. The person for the time being entered in the Register of Patents or the Register of Designs as proprietor for a patent or copyright in a design, as the case may be, shall, subject to this Act, and to any rights appearing from the register to be vested in any other person, have power absolutely to assign, grant licences as to, or otherwise deal with the same, and to give effectual receipts for any consideration for the assignment, licence, or dealing. Any equities in respect of the patent or design may be enforced in like manner as in respect of any other personal property, and the priority of all assignments and charges shall, as regards purchasers for value without notice, be determined by priority of registration.

Power of proprietor to assign.

Priority.

Inspection of and extracts from register.

45. Every register kept under this Act shall be *prima facie* evidence of all matters duly entered therein; and every such register and the specification of every registered patent shall be open to the inspection of the public on payment of the prescribed fee, subject to this Act and to such regulations as may be prescribed; and certified copies, sealed with the seal of the Registrar, of any entry in the register or of any such specification, shall be given to any person requiring the same on payment of the prescribed fee. Whenever any specification or extract includes any tracing, drawing, or diagram, an additional fee for any copy thereof shall be paid equal to the cost of preparing the tracing, drawing, or diagram.

Correction of errors, cancellations and amendment. [11 of 1955].

46. The Registrar may, on request in writing, accompanied by the prescribed fee—

- (a) correct any clerical error in or in connection with an application for a patent or for registration of a design;
- (b) correct any clerical error in the name, style, or address of the registered proprietor of a patent or design; or

- (c) permit an applicant for registration of a design to amend his application by omitting any particular goods or classes of goods in connection with which he has desired the design to be registered.

47. A certificate purporting to be under the hand of the Registrar as to any entry, matter, or thing which he is authorised by this Act, or by any general rules made thereunder, to make or do, shall be *prima facie* evidence of the entry having been made, and of the contents thereof, and of the matter or thing having been done or left undone.

Certificate of Registrar to be evidence.

48. An order requiring the Registrar to do or abstain from doing anything under this Act, may be made by a Judge on a summons in Chambers.

Order by a Judge.

49. In any proceedings under this Act, the Court or a Judge, as the case may be, may at any time make such orders for an injunction, inspection, or account, impose such terms, and give such directions as to the order in which the parties shall be heard, and the procedure under this Act generally, as the Court or Judge sees fit.

Powers of Court or Judge.

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

Persons under disability.

51. The Registrar shall cause to be published, during each quarter, in the *Gazette*, a list of all patents granted and designs registered, during the preceding quarter, and any further information that he may deem generally useful or important.

Publication of quarterly lists. [11 of 1955].

52. Copies of the specifications of all registered patents, and all registered amendments thereof, and of all published lists of regis-

Transmission of copies, etc., to England.

tered designs, shall be transmitted to the Comptroller of Patents, Designs, and Trade Marks in England.

Declarations.

53. Any declaration required to be made under this Act may be taken by the Registrar.

International and Commonwealth arrangements

International
and
Commonwealth
arrangements.
[11 of 1955].
46 & 47 Vict.
c. 57.
1 Edw. VII.
c. 18.

54. (1) Any person who has applied for protection for any invention or design in the United Kingdom, or in any foreign State between the Government of which and the Government of Trinidad and Tobago arrangements have been made under the provisions of section 103 of the Patents, Designs, and Trade Marks Act 1883, as amended by the Patents Act 1901, of the United Kingdom or any subsequent written law, for mutual protection of inventions and designs shall be entitled to a patent for his invention, or to registration of his design, as the case may be, under this Act, in priority to other applicants; and the patent or registration shall take effect from the same date as the date of the application in the United Kingdom or such foreign State, as the case may be.

(2) The application shall be made, in the case of a patent, within twelve months or, in the case of a design, within four months, from the person applying for protection in the United Kingdom or the foreign State with which the arrangement is in force.

(3) Nothing contained in this section shall entitle the patentee or proprietor of the design to recover damages for infringements happening prior to the date of the actual acceptance of his complete specification or the actual registration of his design, as the case may be, in Trinidad and Tobago.

(4) The publication in Trinidad and Tobago during the respective periods aforesaid of any description of the invention, or the use therein during such periods of the invention, or the exhibition or use therein during such periods of the design or the publication therein during such periods of a description or representation of the design shall not invalidate the patent granted for the invention or the registration of the design.

(5) The application for the grant of a patent or the registration of a design under this section shall be made in the same manner, and subject to the payment of the same fees, as an ordinary application under Parts I, II and III respectively.

(6) In the case of a patent, an application under this section shall be accompanied by a complete specification which if it is not accepted within the period of twelve months, shall with drawings, if any, be open to public inspection at the expiration of that period.

(7) The provisions of this section shall, in the case of foreign States, apply only in the case of those foreign States with respect to which the President, from time to time, by Order declares the provisions of the aforesaid section *103 of the said Patents, Designs, and Trade Marks Act, 1883, or any subsequent written law, to be applicable, and so long only in the case of each State as such Order continues in force with respect to that State.

55. (1) The President may, as respects any Convention country (as defined in section 91A of the Patents and Designs Acts 1907 to 1946 of the United Kingdom), if he is satisfied that provision substantially equivalent to the provision to be made by or under this section has been or will be made under the law of that country, make rules empowering the Registrar to extend the time for making application under section 54 of this Act for the granting, in priority to other applicants, of a patent for an invention, or for the registration, in priority to other applicants, of a design, in any case where the period specified in section 54(2) for the making of an application under the section expires during a period prescribed by the rules.

Extension of
time for
applications
under section
54 in certain
cases.
7 Edw. 7
c. 29.

(2) Rules made under this section—

(a) may, where any agreement or arrangement has been made between Her Majesty's government in the United Kingdom and the government of the Convention country for the supply or mutual exchange of information or articles, provide, either generally or in any class of case specified in the rules, that an extension of time shall not be granted under this section unless the invention or design has been communicated in accordance with the agreement or arrangement;

(b) may, either generally or in any class of case specified in the rules, fix the maximum extension which may be granted under this section and provide for reducing the term of any patent granted on an application made by virtue of this section, and (notwithstanding anything contained in rules made under this Act) vary

*Prior to independence various Orders in Council had been made by Her Majesty declaring this section applicable to certain foreign States.

- the times for the payment of renewal fees in respect of such a patent and the amount of such fees;
- (c) may prescribe or allow any special procedure in connection with applications made by virtue of this section;
 - (d) may empower the Registrar, as respects any application made by virtue of this section, to substitute for the period of twelve months specified in section 54(6) such other period as appears to him expedient;
 - (e) may empower the Registrar to extend, subject to such conditions, if any, as may be imposed by or under the rules, the time limited by or under the foregoing provisions of this Act for doing any act in relation to an application made by virtue of this section;
 - (f) may provide for securing that the rights conferred by a patent granted or registration made on an application made by virtue of this section shall be subject to such restriction or conditions as may be specified by or under the rules and in particular that where, otherwise than as the result of any communication made in accordance with such an agreement or arrangement as is mentioned in paragraph (a) and before the date of the application in question or such later date as may be allowed by the rules, either the invention has been made, used, exercised or vended, or the design applied, by any person (including a person acting on behalf of the State), or application for a patent for the invention or for registration of the design has been made by any such person as aforesaid, the rights conferred by a patent granted, or registration made, upon the first-mentioned application shall be subject to such conditions and reservations for the protection of that person as may be specified by or under the rules.

Provisions as to communication of inventions and designs under agreements with other countries.

56. Where an agreement or arrangement has been made between Her Majesty's government in the United Kingdom and the government of another country for the supply or mutual exchange of information or articles, and the President is satisfied that provision substantially equivalent to the provision to be made by or under this section has been or will be made under the law of that country, the President may make rules to secure that the communication, in accordance with the agreement or arrangement, of

an invention or design, or the publication, making, use, exercise or vending of an invention, or publication or application of a design, in consequence of the communication, shall not prejudice any application for a patent for the invention or registration of the design, being an application made by a person from whom the invention or design was so communicated or the legal representative or assignee of such a person, or invalidate the grant on such an application of a patent for the invention or the registration of such an application of the design.

57. (1) Any rules made in pursuance of sections 55 and 56 shall be laid before Parliament.

Provisions as to rules under sections 55 and 56.

(2) Any such rules and any order made, direction given, or other action taken under the rules by the Registrar, may be made, given or taken so as to have effect as respects things done or omitted to be done on or after such date, whether before or after the coming into operation of the rules, as may be specified in the rules.

58. (1) Whenever it appears to the President that the legislature of any Commonwealth territory has made satisfactory provision for the protection in such territory of inventions and designs patented or registered in Trinidad and Tobago, the President may, by Order, apply all or any of the provisions of section 57 relating to the protection of inventions and designs patented or registered in the United Kingdom, with such variations or additions, if any, as to the President seem fit, to inventions patented, and designs registered, in such Commonwealth territory.

Commonwealth arrangements.

(2) An Order under this section shall, from a date to be mentioned for the purpose in the Order, take effect as if its provisions had been contained in this Act.

59. (1) An application for a patent or for the registration of a design may be refused by the Registrar at any stage of the proceedings on the ground that the invention or design was, during the period beginning with 3rd September 1938, and ending with 31st December 1945, invented or designed in Germany or Japan or invented or designed by a German or Japanese national in any territory which was then enemy territory.

Inventions and designs made in Germany or Japan.

(2) The ground mentioned in subsection (1) shall be an additional ground for revoking a patent under section 10, and shall also, on infringement proceedings, be an additional ground of defence or for a counterclaim for the revocation of a patent or the cancellation of the registration of a design.

(3) The foregoing provisions of this section shall not apply in any case where—

- (a) the applicant, patentee, or proprietor of a registered design, as the case may be, proves that the invention or design was invented or designed in Germany before 3rd September 1938, or was invented or designed in Japan before 7th December 1941, and has at no time since the said 3rd September or, as the case may be, the said 7th December, been beneficially owned in whole or in part by a German or Japanese national or a German or Japanese company;
- (b) the application for the patent or for the registration of the design was made before 1st February 1946, and the applicant, patentee, or proprietor of the design, as the case may be, proves that the invention or design was independently invented or designed outside Germany and Japan by a person, other than a German or Japanese national, being either the applicant, patentee or proprietor or a person through whom he claims; or
- (c) the invention or design was invented or designed by a prisoner of war in German or Japanese hands, unless it is shown that it was subsequently obtained from him by any German or Japanese national before 1st January 1946.

(4) An appeal shall lie from any decision of the Registrar under this section to a Judge in Chambers.

(5) The Registrar, with the sanction of the President, may make rules under section 60 for carrying this section into effect and in particular for requiring applicants for a patent or for the registration of a design to furnish information as to matters arising under this section.

Rules and fees

Rules and fees.
[11 of 1955].

60. (1) The Registrar, with the sanction of the President, may from time to time make such general rules and do such things as he may think expedient, for regulating the practice of registration under this Act, for classifying goods for the purposes of designs, for prescribing the fees to be paid under this Act, or for any other purpose which may be or be deemed necessary for the carrying out of the provisions of this Act.

(2) Any rules made in pursuance of this section shall be laid before Parliament.

SCHEDULE

[11 of 1955].

FORM A

Application for Patent

Section 4(1).

I, of, do solemnly and sincerely declare that I am in possession of an invention for [*state the title of the invention*], which invention I believe will be of great public utility, and that the same is not in use by any person or persons in Trinidad and Tobago to the best of my knowledge and belief, and that the instrument in writing under my hand herewith delivered particularly describes and ascertains the nature of the said invention, and the manner in which the same is to be performed; and I humbly pray that a patent may be granted to me for the said invention.

I make this declaration conscientiously believing the same to be true and according to the Statutory Declarations Act, and I am aware that if there is any statement in this declaration which is false in fact which I know or believe to be false or do not believe to be true, I am liable to fine and imprisonment.

Declared at on the day of, 19.....

Before me,

FORM B

Patent

Section 4(1).

I, *A.B.*, Registrar do hereby certify that on the day of, 19....., has been delivered to me by [*or, on behalf of*] of, a declaration in writing signed by the said of a certain invention, whereof the said claims to be the inventor or proprietor, being an invention [*state the name of the invention*] together with a specification describing the nature of the said invention and the manner in which the same is to be performed, and that the name of the said has been entered in the Register of Patents as the proprietor of this patent.

In witness whereof I have hereunto subscribed my name at Port-of-Spain this day of, 19.....

FORM C

Application for Registration of Design

Section 22(2).

..... day of, 19.....

You are hereby requested to register the accompanying Design in Class in the name of of who claims to be the proprietor thereof and to return the same to

Statement of nature of Design

To the Registrar, Registrar General's Office, Port-of-Spain

(Signed)

Section 4(3).

FORM D

Certificate of Provisional Protection

I, *A.B.*, Registrar hereby certify that on the day of, 19....., has been delivered to me by [*or, on behalf of*] of a declaration in writing signed by the said of a certain invention whereof the said claims to be the inventor or proprietor, being an invention [*state the name of the invention*] together with a provisional specification describing the nature of the invention, and that the said is entitled to provisional protection from the consequences of the use and publication of such invention for the period of nine months from this date or until within that period a patent for the same shall have been granted.

A.B.,
Registrar General.

SUBSIDIARY LEGISLATION

PATENTS RULES

made under section 60

G.23.10.1930.
[91/1956
2/1963
45 of 1979
51/1980
4/1985
23/1985].

ARRANGEMENT OF RULES

RULE

1. Citation.
2. Classification.
3. Separate fee.
4. Representations.
5. Fees.

FIRST SCHEDULE

SECOND SCHEDULE

1. These Rules may be cited as the Patents Rules. Citation.
2. For the purposes of designs registration and of these Rules goods are classified in the manner appearing in the First Schedule. Classification.
First
Schedule.
If any doubt arises as to what class any particular description of goods belongs to, the doubt shall be determined by the Registrar.
3. A separate fee is payable in respect of each class in which registration of a design is applied for. Separate Fee.
4. Three representations of each design shall be supplied on application for its registration. Representations.
5. The fees in the Second Schedule shall be payable. Fees
Second
Schedule.

FIRST SCHEDULE

Rule 2.

Classification of Goods

Class 1.—Chemical substances used in manufactures, photography, or philosophical research, and anti-corrosives.

Class 2.—Chemical substances used for agricultural, horticultural, veterinary and sanitary purposes.

Class 3.—Chemical substances prepared for use in medicine and pharmacy.

Class 4.—Raw or partly prepared vegetable, animal and mineral substances used in manufactures, not included in other Classes.

Class 5.—Unwrought and partly wrought metals used in manufacture.

- Class 6.—Machinery of all kinds and parts of machinery except agricultural and horticultural machines and their parts included in class 7.
- Class 7.—Agricultural and horticultural machinery and parts of such machinery.
- Class 8.—Philosophical instruments, Scientific instruments and Apparatus for useful purposes. Instruments and Apparatus for teaching.
- Class 9.—Musical Instruments.
- Class 10.—Horological Instruments.
- Class 11.—Instruments, apparatus and contrivances, not medicated, for surgical or curative purposes or in relation to the health of men or animals.
- Class 12.—Cutlery and edge tools.
- Class 13.—Metal goods not included in other Classes.
- Class 14.—Goods of precious metals (including aluminium, nickel, Britannia metal, etc.) and jewellery and imitations, of such goods and jewellery.
- Class 15.—Glass.
- Class 16.—Porcelain and Earthenware.
- Class 17.—Manufactures from mineral and other substances for building or decoration.
- Class 18.—Engineering, architectural and building contrivances.
- Class 19.—Arms, ammunition, and stores not included in Class 20.
- Class 20.—Explosive substances.
- Class 21.—Naval architectural contrivances and naval equipments not included in other classes.
- Class 22.—Carriages.
- Class 23.—(a) Cotton yarn. (b) Sewing cotton.
- Class 24.—Cotton piece goods of all kinds.
- Class 25.—Cotton goods not included in other classes.
- Class 26.—Linen and hemp yarn and thread.
- Class 27.—Linen and hemp piece goods.
- Class 28.—Linen and hemp goods not included in other classes.
- Class 29.—Jute yarns and tissues and other articles made of Jute not included in other classes.
- Class 30.—Silk, spun, thrown, or sewing.
- Class 31.—Silk piece goods.
- Class 32.—Silk goods not included in other classes.
- Class 33.—Yarns of wool, worsted or hair.
- Class 34.—Cloths and stuffs of wool, worsted or hair.
- Class 35.—Woollen and worsted and hair goods not included in other classes.
- Class 36.—Carpets, floor-cloth and oil-cloth.
- Class 37.—Leather, skins unwrought and wrought and articles made of leather not included in other classes.
- Class 38.—Articles of clothing.
- Class 39.—Paper (except paper-hangings), stationery and book-binding.
- Class 40.—Goods manufactured from India-rubber and gutta-percha not included in other classes.
- Class 41.—Furniture and upholstery.
- Class 42.—Substances used as food or as ingredients in food.
- Class 43.—Fermented liquors and spirits.
- Class 44.—Mineral and aerated waters, natural and artificial, including ginger beer.
- Class 45.—Tobacco, whether manufactured or unmanufactured.
- Class 46.—Seeds for agricultural and horticultural purposes.
- Class 47.—Candles, common soap, detergents, illuminating, heating or lubricating oils; matches and starch, blue and other preparations for laundry purposes.
- Class 48.—Perfumery (including toilet articles, preparations for the teeth and hair, and perfumed soap).
- Class 49.—Games of all kinds and sporting articles not included in other classes.

Patents Rules

[Subsidiary]

Class 50.—Miscellaneous:

- (1) Goods manufactured from ivory, bone or wood, not included in other classes.
- (2) Goods manufactured from straw or grass not included in other classes.
- (3) Goods manufactured from animal and vegetable substances, not included in other classes.
- (4) Tobacco pipes.
- (5) Umbrellas, walking-sticks, brushes and combs.
- (6) Furniture cream, plate powder.
- (7) Tarpaulins, tents, rick-cloths, rope, twine.
- (8) Buttons of all kinds other than of precious metal or imitations thereof.
- (9) Packing and hose of all kinds.
- (10) Goods not included in the foregoing classes.

Rule 5.

SECOND SCHEDULE

[45 of 1979
51/1980].

FEES

Patents

On application for a patent or extension thereof—

	\$	c.
Foreign	1000	00
Local	300	00
On application for provisional protection ...	100	00
On registration for provisional protection ...	100	00
On registration for every disclaimer amendment etc., as in section 7	100	00
On registration of every assignment charge etc. under section 5(2)		
Foreign	100	00
Local	30	00
On application to correct any clerical error under section 46	100	00
On inspection of any specification	20	00

Designs

On application for registration of every design ...	100	00
On registration of every assignment, charge or transmission of a design	100	00
An amendment of application under section 46(1)	20	00
On application to correct any clerical error under section 46	20	00

General

On every search or inspection of any of the registers	20	00
Certifying the correctness of any document ...	50	00

On publication in the *Gazette* of any application declaration, disclaimer or other matter to be published 50 00