PROCEDURE

The Rules of the Supreme Court (No. 1), 1950

1950 No. 572 (L. 13)

Made - - - -	3*rd April*, 1950
Laid before Parliament	6*th April*, 1950
Coming into Operation	18*th April*, 1950

We, the Rule Committee of the Supreme Court, hereby make the following Rules:—

1.—(1) In Order V, the following Rule shall be substituted for Rule 9 (which relates to the distribution of business in the Chancery Division):—

"Distribution of business in the Chancery Division.

9.—(1) Subject to any order or direction made or given by the Lord Chancellor, every cause or matter which is commenced in the Chancery Division shall be assigned as hereinafter provided to Group A or Group B of that Division and shall be marked with the name of the group to which it is assigned.

(2) Every cause or matter commenced in the district registry of Liverpool or the district registry of Manchester shall be assigned to Group B.

(3) Except where these Rules otherwise provide:—

(i) where a cause or matter is commenced by writ, originating summons or notice of motion, the group to which it is assigned shall be determined by ballot in the Action Department of the Central Office, and the writ, summons or notice of motion, as the case may be, shall be marked in that department with the name of the appropriate group;

(ii) where a cause or matter is commenced by petition, the group to which it is assigned shall be determined by ballot in the Chancery Registrars' Office and the petition shall be marked in that office with the name of the appropriate group.

(4) Where a Judge has been nominated or selected by the Lord Chancellor under or in pursuance of any Act of Parliament to hear and determine a particular class of proceeding, every cause or matter in that class shall be assigned to the group of which the nominated or selected Judge is a member or, where that Judge is not a member of a group, then to such group as may be prescribed by these Rules or by any order or direction made or given by the Lord Chancellor or, in the absence of any such prescription, then to such group as may be determined in accordance with the foregoing provisions of this Rule.

(5) Where a cause or matter is commenced in pursuance of an authority or direction of a Judge given in any proceedings in the Chancery Division and the Judge considers that the cause or matter ought not to be dealt with by his group, the plaintiff or applicant, or his solicitor, shall produce at the Central Office a certificate to that effect signed by the Master and the cause or matter shall be assigned to the group other than that of which that Judge is a member.

(6) Where there have been any proceedings in the Chancery Division relating to a trust or the winding-up of a company, all subsequent proceedings relating to that trust or the winding-up of that company, or so connected therewith that they ought conveniently to be assigned to the group having the conduct of the first-mentioned proceedings, shall, if practicable, be assigned accordingly. If the party by whom the subsequent proceedings were commenced, or his solicitor, is aware of such relation or connection as aforesaid, he shall, at the time of commencing the proceedings, produce a certificate in Form 19 in Part I of Appendix A countersigned by a Master attached to the group having the conduct of the first-mentioned proceedings.

(7) Every writ, summons, petition, notice, pleading, affidavit or other document relating to any cause or matter in the Chancery Division shall, notwithstanding anything in these Rules or in the forms in the Appendices thereto, be headed with the name of the group to which the cause or matter is assigned and not with the name of a Judge.

(8) Every cause or matter which is assigned to Group A or Group B in accordance with this Rule shall be deemed to be assigned to the senior Judge for the time being of that group."

(2) Every cause or matter in the Chancery Division which is pending at the date on which this Rule comes into force shall be deemed to be assigned to the senior Judge for the time being of the group of which the Judge to whom the cause or matter was originally assigned was a member, and every summons, notice, pleading, affidavit or other document relating to the said cause or matter issued or filed after that date shall be headed with the name of the appropriate group.

(3) Rule 9A of Order V is hereby revoked.

2. The following amendments shall be made in Order XXXV (which relates to proceedings in district registries) that is to say:—

(1) In Rule 6A (which relates to the duties of the district registrars at Liverpool and Manchester in Chancery actions) there shall be substituted for the words " as a chief clerk of the Judge of the Chancery Division to whom the cause or matter is assigned or the Vacation Judge as the case may be, and as registrar and taxing master of the Supreme Court according to directions to be given from time to time by such Judge " the words " as a master attached to Group B and as registrar and taxing master of the Supreme Court."

(2) In Rule 12 (which relates to references and appeals in cases in the Chancery Division proceeding in district registries) there shall be substituted for the words "the Judge to whom the cause or matter is assigned" the words "the appropriate Judge of the group to which the cause or matter is assigned."

3. In Order XXXVI, Rule 14 (which relates to length of notice of trial) shall be amended by substituting for the words "ten days" the words "twenty-one days".

4. In Order XXXVIIA (which relates to the Court expert) after Rule 11 there shall be added the following Rule:—

"12.—(1) In any proceedings under the Patents Act 1949, or in proceedings for infringement of a patent, the Court or a Judge may, at any time, and whether or not an application has been made by any party for that purpose, appoint an independent scientific adviser to assist the Court or to inquire and report upon any question of fact or of opinion not involving questions of law or construction.

(2) The Court or Judge shall nominate the scientific adviser and shall settle the question or instructions to be submitted or given to him.

(3) The remuneration of the scientific adviser shall be fixed by the Court or Judge and shall include the costs of making a report and a proper daily fee for any day on which the scientific adviser may be required to attend before the Court, and such remuneration shall be defrayed out of public funds.

(4) The foregoing provisions of this Order (except Rules 4 and 7 thereof) shall apply to a scientific adviser appointed under this Rule as they apply to the Court expert."

5. The following amendments shall be made in Order XLIX (which relates to transfers and consolidation) that is to say:—

(1) The following Rule shall be substituted for Rule 1A:—

"Transfer from one group to another in Chancery Division.

1A. Causes or matters may be transferred from one group to another of the Chancery Division by order made by the senior Judge of the group to which the cause or matter is assigned with the consent of the senior Judge of the group to which the cause or matter is to be transferred."

(2) Rules 2, 4A and 6 are hereby revoked.

(3) The following Rule shall be substituted for Rule 7:—

"Assignment of causes or matters transferred to Chancery Division.

7. Any cause or matter transferred from any other Division to the Chancery Division shall, by the order directing the transfer, be assigned to Group A or Group B of that Division."

6. The following Order shall be substituted for Order LIIIA:—

"ORDER LIII A

Proceedings under the Patents Act, 1949

1. In this Order:—

"The Act" means the Patents Act, 1949;

"The Comptroller" means the Comptroller-General of Patents, Designs and Trade Marks.

2. Subject to any order or direction made or given by the Lord Chancellor, all proceedings in the High Court under the Act shall be assigned to the Chancery Division.

3. In the case of petitions for extension of the term of a patent under section 23 of the Act, the following provisions shall apply:—

(*a*) A party intending to apply by petition shall give public notice of his intention by advertising three times in the "London Gazette", and once at least in a London daily newspaper.

(*b*) If the applicant's principal place of business is situated in the United Kingdom at a distance of 15 miles or more from Charing Cross, he shall also advertise once at least in a local newspaper published or circulating in the town or district where his principal place of business is situated. If the applicant has no such place of business, then if he carries on the manufacture of anything made under his specification in the United Kingdom at a distance of 15 miles or more from Charling Cross, he shall advertise once at least in a local newspaper published or circulating in the town or district where he carries on such manufacture. If the applicant has no such place of business and carries on no such manufacture in the United Kingdom, then if he resides in the United Kingdom at a distance of 50 miles or more from Charing Cross, he shall advertise once at least in a newspaper published or circulating in the town or district where he resides.

(*c*) The advertisements shall state:—

(i) the object of the petition;

(ii) the day (being a day appointed for the purpose) on which the applicant intends to apply to the Court for the fixing of a day before which the petition shall not appear in the list for hearing (in this Rule called "the appointed day"), which first-mentioned day shall not be earlier than four weeks from the date of the publication of the third advertisement in the "London Gazette";

(iii) that notices of objection to the petition must be lodged at the Chancery Registrars' Office before the day on which the applicant intends to apply to the Court as aforesaid;

(iv) the applicant's address for service within the United Kingdom;

(*d*) The applicant shall at the same time as he sends the first advertisement to the "London Gazette" send a copy of the advertisement to the Solicitor to the Board of Trade who shall thereupon cause the advertisement to be inserted in the three following issues of the Official Journal (Patents).

(*e*) The petition, which shall name the Comptroller as respondent, shall be presented at the Chancery Registrars' Office within one week from the publication of the third advertisement in the "London Gazette" and a copy of the petition shall within the same time be served on the Solicitor to the Board of Trade. The petition shall be assigned to Group A and shall be made returnable for the day named in the advertisements as that on which the petitioner intends to apply to the court.

(*f*) The petition shall be accompanied by an affidavit or affidavits showing how the requirements of paragraphs (*a*), (*b*), and (*d*) of this Rule have been complied with.

(*g*) The petitioner shall also lodge at the Chancery Registrars' Office, not less than three weeks before the appointed day, two printed copies of the specification of the patent, together with two copies of the balance sheet of expenditure and receipts relating to the patent, being the accounts which are to be proved before the Court at the hearing. He shall at the same time send two printed copies of the specification and of the balance sheet to the Solicitor to the Board of Trade, and shall, upon receiving two days' notice, give the Solicitor to the Board of Trade, or any person deputed by him for the purpose, reasonable facilities for inspecting and taking extracts from the books of account by which the petitioner proposes to verify the balance sheet or from which the materials for making up the balance sheet have been derived.

(*h*) Any person who intends to oppose the prayer of the petition shall lodge notice of his intention at the Chancery Registrars' Office before the day named in the petitioner's advertisements as that on which he intends to apply to the Court for the fixing of the appointed day. The notice shall state an address for service within the United Kingdom. A copy of the notice shall at the same time be served upon the petitioner and upon the Solicitor to the Board of Trade.

(*i*) On receiving a notice under the last foregoing paragraph the petitioner shall forthwith serve a copy of his petition upon the person by whom the notice was given.

(*j*) Every person giving notice as aforesaid shall, within three weeks after service of the petition upon him, lodge at the Chancery Registrars' Office two copies of particulars of the objections upon which he intends to rely and shall at the same time serve one copy of such particulars on the petitioner and three copies thereof on the Solicitor to the Board of Trade.

(*k*) Any person who fails to comply with the provisions of the last foregoing paragraph shall be deemed to have abandoned his opposition.

(*l*) No person shall be entitled to oppose a petition on grounds not stated in his particulars of objection.

(*m*) Any person who has lodged notice of his intention to oppose the prayer of the petition shall be entitled to be heard on the application to fix the appointed day, and every person who has lodged and served particulars of objection shall be served by the petitioner with notice of the appointed day.

(*n*) The petition shall not be entered in the list for hearing until the expiration of the time limited for the lodging of particulars of objection, nor shall it be entered until there has been lodged at the Chancery Registrars' Office an affidavit by or on behalf of the petitioner that all persons who have served notice of intention to oppose the prayer of the petition and the Solicitor to the Board of Trade have been served with copies of the petition and with notice of the appointed day. Subject to any direction of the Court to

the contrary, the petition shall be set down in the same manner as if it had been a witness action and shall be placed in a list called the Patents List and shall be marked "Not before the of , 19 ", being the appointed day.

(*o*) Any person who has delivered particulars of objection shall be entitled, at his own expense, to obtain from the petitioner copies of the accounts which have been lodged by him.

(*p*) The Court may excuse the petitioner and any opponent of the petition from compliance with any of the requirements of this Rule and may give such directions in matters of practice and procedure as it may consider just and expedient.

(*q*) If the Comptroller elects or is directed to appear on the question of granting the prayer of any petition, he shall not be required to give notice of the grounds of any objection he may think fit to take or of any evidence which he may think fit to place before the Court.

(*r*) The Court may award costs to or against any opponent of the petition.

(*s*) If the Court refuses the prayer of the petition, it shall not, except in special circumstances, give more than one set of costs amongst all the opponents.

4.—(*a*) Every originating summons for extension of the term of a patent under section 24 or section 25 of the Act shall be intituled In the Matter of the Patents Act 1949, and In the Matter of the Letters Patent in question, and shall name the Comptroller as a respondent and shall be served on the Solicitor to the Board of Trade and shall be assigned to Group A.

(*b*) At least seven days before the day on which the originating summons is returnable the applicant shall file and serve on the Solicitor to the Board of Trade an affidavit stating all material facts on which the applicant relies.

(*c*) On the return of the summons, or on any adjournment thereof caused by the insufficiency of the applicant's evidence or otherwise, directions shall be given for advertisement of the application which shall, unless the Judge in Chambers shall otherwise specially direct, be by means of at least two advertisements in the Official Journal (Patents). The summons shall thereupon be adjourned to a day (in this Rule called "the appointed day") not less than four weeks from the estimated date of appearance of the first advertisement in the Official Journal (Patents).

(*d*) The form of advertisement shall be such as may be approved by the Judge in Chambers and shall state the object of the application and name the day fixed as the appointed day. The advertisement shall also state the applicant's address for service within the United Kingdom and that notices of objection must be lodged at the appropriate chambers of Group A of the Chancery Division at least seven days before the appointed day. Within three days from the day on which the form of the advertisement has been approved, a copy thereof shall be served by the applicant on the Solicitor to the Board of Trade who shall thereupon cause the advertisement to be inserted in the two following issues of the Official Journal (Patents)

(*e*) Except with the leave of the Judge in Chambers, no affidavit shall be filed by the applicant between the appearance of the first advertisement in the Official Journal (Patents) and the appointed day.

(*f*) Any person desirous of opposing the relief sought by the originating summons shall, at least seven days before the appointed day, lodge at the appropriate chambers of Group A a notice stating that he intends to oppose and giving an address for service within the United Kingdom, and shall at the same time serve a copy of the notice upon the applicant and upon the Solicitor to the Board of Trade. After lodging the notice, the opponent shall be entitled to be supplied on the usual terms with copies of the originating summons and of any affidavit filed by the applicant in support.

(*g*) On the appointed day, or on any adjournment, directions shall be given for the delivery by any opponent of particulars of objection and for the filing of any affidavits and the matter shall in general proceed and be heard and dealt with in the like manner as an originating summons in the Chancery Division in which the applicant is plaintiff and the Comptroller and any opponents are defendants.

(*h*) The Court may excuse the applicant and any opponents from compliance with any of the requirements of these Rules and may give such directions in matters of practice and procedure as it may consider just and expedient.

(*i*) If the Comptroller elects or is directed to appear upon the question of the relief sought by the originating summons, he shall not be required to give notice of the grounds of any objection he may think fit to take or of any evidence he may think fit to place before the Court.

(*j*) The Court may award costs to or against any opponent.

(*k*) If the Court refuses the relief sought by the originating summons, it shall not, except in special circumstances, give more than one set of costs amongst all the opponents.

(*l*) If any person desires to obtain relief under section 24 of the Act together with relief under section 23 thereof, it shall not be necessary for him to take out a separate originating summons but he shall be at liberty to make a combined application by petition, and in that case the provisions of Rule 3 of this Order shall apply to the application.

5. When an application for extension of the term of a patent has been made to the Comptroller under section 24 or section 25 of the Act and the Comptroller thinks fit to refer the application for decision by the Court, the following provisions shall apply:—

(*a*) The Comptroller shall give notice in writing to the applicant and to any opponent of his intention to refer the application to the Court.

(*b*) Within twenty-eight days of the receipt of such notice from the Comptroller the applicant may apply by originating notice of motion, to be assigned to Group A, for such order as he claims to be entitled to and shall serve a copy of the notice on any opponent and on the Solicitor to the Board of Trade on behalf of the Comptroller. The applicant shall also serve on the Solicitor to the Board of Trade two copies of all statutory declarations or affidavits filed in support of or in opposition to the application. The motion shall

in due course, unless for some special reason the Court or a Judge shall otherwise order, be directed to be heard before the Judge selected by the Lord Chancellor under section 84 of the Act.

(*c*) If the applicant fails to serve the notice of motion as required by the last foregoing paragraph, he shall be deemed to have abandoned his application for an extension.

(*d*) The Comptroller shall, within fourteen days from the service of the notice of motion on him, send his file of proceedings in the matter to the Chief Registrar of the Chancery Division, together with a Statement to the Court of his reasons for referring the application to the Court.

(*e*) The provisions of Rule 4 of this Order shall, so far as may be, apply to an application referred by the Comptroller to the Court in like manner as they apply to an application under that Rule.

6. If a defendant in an action for infringement of a patent intends to rely, as a defence to such action, on the insertion by the patentee in any contract or contracts of any condition which is void by virtue of section 57 of the Act, he shall deliver with his defence full particulars of the dates of, and parties to, all contracts on which he intends to rely as containing any such condition, and of the particular conditions on which he intends to rely as being void by virtue of that section. Any particulars delivered under this Rule may from time to time be amended by leave of the Court. A defendant shall not be entitled to rely on a defence available to him under subsection (2) of section 57 of which particulars have not been delivered in accordance with the provisions of this Rule.

7. Any person presenting a petition for the revocation of a patent under section 32 of the Act must deliver with his petition particulars of the objections to the validity of the patent on which he intends to rely and no evidence shall, except by leave of the Court, be admitted in proof of any objection of which particulars are not so delivered.

8. The respondent to a petition for the revocation of a patent under section 32 of the Act shall be entitled to begin and to give evidence in support of the patent and if the petitioner gives evidence impeaching the validity of the patent, the respondent shall be entitled to reply.

9. In an action for infringement of a patent the plaintiff must deliver with his statement of claim particulars of the breaches relied upon.

10. In an action for infringement of a patent the defendant, if he disputes the validity of the patent, must deliver with his defence particulars of the objections on which he relies in support of such invalidity.

11. A defendant in an action for infringement of a patent who counterclaims in the action for the revocation of the patent in accordance with section 61 of the Act shall, with his counterclaim, deliver particulars of any objection to the validity of the patent on which he relies in support of his counterclaim.

12. Particulars of breaches shall specify which of the claims in the specification of the patent sued upon are alleged to be infringed and shall give at least one instance of each type of infringement of which complaint is made.

13. Particulars of objection (whether delivered with the defence in an action for infringement of patent, or with a petition for revocation under section 32 of the Act, or with a counterclaim for revocation under section 61 of the Act) must state every ground upon which the validity of the patent is disputed and must give such particulars as will clearly define every issue which it is intended to raise.

14. If one of the objections taken in the particulars of objection is want of novelty, the particulars shall state the time and place of the previous publication or user alleged, and if it is alleged that the invention has been used prior to the date of the patent, the particulars shall also specify the names of the persons or person alleged to have made such prior user and whether such prior user is alleged to have continued down to the date of the patent and, if not, the earliest and latest dates on which such prior user is alleged to have taken place. The particulars shall also contain a description (accompanied by drawings if necessary) sufficient to identify such alleged prior user, and, if such user relates to any machinery or apparatus, shall specify whether the same is in existence and where the same can be inspected.

No evidence at variance with any statement contained in the particulars shall be given in support of any objection, and no evidence as to any machinery or apparatus which is alleged to have been used prior to the date of the patent and which is in existence at the date of the delivery of the particulars shall be receivable, unless it is proved that the party relying on such prior user has, if such machinery or apparatus is in his own possession, offered inspection of the same, or if not in his own possession, has used his best endeavours to obtain inspection of the same for the other parties to the proceedings.

15. Particulars of breaches and particulars of objection may from time to time be amended by leave of the Court upon such terms as may be just.

16. Further and better particulars of breaches or particulars of objection may at any time be ordered by the Court.

17. At the hearing of any action, petition or counterclaim relating to a patent, no evidence shall, except by leave of the Court (to be given upon such terms as the Court may think just) be admitted in proof of any alleged infringement or objection not raised in the particulars of breaches or objection respectively.

18. On taxation of costs in any action or counterclaim for infringement of a patent or in any petition for revocation of a patent under section 32 of the Act, or in any counterclaim for revocation or a patent under section 61 of the Act, the following provisions shall apply, that is to say:—

If the action, petition or counterclaim proceeds to trial on any patent, no costs shall be allowed to the parties delivering any particulars of breaches or particulars of objection in respect of any issues raised in those particulars and relating to that patent except in so far as such issues or particulars are certified by the Court to have been proven or to have been reasonable and proper, but subject as aforesaid the costs of the issues raised by the particulars of breaches and the particulars of objection shall be in the discretion of the Taxing Master.

19. Where an application is made by a patentee for leave to amend his specification under section 30 of the Act, the following provisions shall apply:—

(*a*) The applicant shall give notice of his intention to the Comptroller accompanied by a copy of a suitable advertisement of the proposed amendment and the Comptroller shall insert the advertisement once in the Official Journal (Patents). The advertisement shall give particulars of the amendment sought and shall state that any person desiring to oppose the amendment must, within fourteen days of the appearance of the advertisement, give notice in writing of his desire to the applicant, whose address for service within the United Kingdom shall be stated in the advertisement. Any person giving such notice shall be entitled to be heard upon the application, subject to any direction of the Court as to costs.

(*b*) The applicant shall, as soon as may be after the expiration of twenty-one days from the appearance of the advertisement, proceed by way of motion in the proceedings pending before the Court, and notice of such motion, together with a copy of the specification certified by the Comptroller showing in coloured ink the amendment proposed to be made, shall be served on the Comptroller, the parties to the proceedings, and such persons, if any, as shall have given notice of intention to oppose.

(*c*) On the hearing of the motion the Court shall decide whether, and on what terms as to costs or otherwise, the application shall be allowed to proceed and shall direct whether the application shall be heard on oral or affidavit evidence and, if on affidavit evidence, shall fix the times within which affidavits shall be filed by the parties and by any other person entitled to be heard under the Act or these Rules.

(*d*) In the case of an application directed to be heard on oral evidence, the applicant shall, as soon as he shall have complied with the requirements of these Rules, set the application down for hearing in the witness list. In the case of an application directed to be heard on affidavit evidence, the applicant shall, after such compliance as aforesaid and after the times fixed for filing evidence have expired, set the application down for hearing in the non-witness list.

(*e*) Where the Court allows a specification to be amended, the applicant shall forthwith lodge with the Comptroller an office copy of the order allowing the amendment, and the Comptroller shall advertise the same once at least in the Official Journal (Patents). The applicant shall also, if so required by the Court or by the Comptroller, leave at the Patent Office a new specification and drawings as amended, which shall be prepared so far as may be in accordance with the Rules of the Patent Office.

20.—(1) In any action for infringement of a patent or petition for the revocation of a patent, the plaintiff or petitioner shall, as soon as he becomes entitled to give notice of trial, apply as to the mode of trial, and if he fails to apply within fourteen days of becoming so entitled, the defendant or respondent, as the case may be, may make such application.

Any such application may be dealt with in chambers or in court as the Judge shall think fit.

(2) Upon any such application the Court or Judge may give such directions:—

(*a*) for the delivery of further pleadings or particulars;

(*b*) for the taking by affidavit of evidence relating to matters requiring expert knowledge, and for the filing of such affidavits and the delivery of copies thereof to the other parties;

(*c*) for the delivery to the other parties, by any party desiring to submit experimental proof, of full and precise particulars of the experiments proposed and of the facts which he claims to be able to establish thereby;

(*d*) for the making of experiments, tests, inspections or reports;

(*e*) for the hearing, as a preliminary question, of any question that may arise (including any question as to the construction of the specification or other documents),

and otherwise as the Court or Judge may think necessary or expedient for the purpose of defining and limiting the issues to be tried, restricting the number of witnesses to be called at the trial of any particular issue, and otherwise securing that the case shall be disposed of, consistently with adequate hearing, in the most expeditious manner.

Where evidence is directed to be taken by affidavit, the deponents shall attend at the trial for cross-examination unless, with the concurrence of the Court or a Judge, the parties otherwise agree.

(3) No action for infringement of a patent or petition for the revocation of a patent shall be set down for trial unless and until an application under this Rule has been made and disposed of.

21. All disputes referred to the Court under section 48 of the Act shall be commenced by originating notice of motion assigned to Group A. The motion shall in due course, unless for some special reason the Court or a Judge shall otherwise order, be directed to be heard before the Judge selected by the Lord Chancellor under section 84 of the Act. There shall be at least ten clear days between the service of a notice of motion under this Rule and the day named in the notice for hearing the motion."

7. After Order LIII E there shall be inserted the following Order:—

"ORDER LIII F

Proceedings under the Registered Designs Act, 1949

1. Subject to any order or direction made or given by the Lord Chancellor, all proceedings in the High Court under the Registered Designs Act 1949 (in this Order referred to as "the Act") shall be assigned to the Chancery Division.

2. All disputes referred to the Court under paragraph 3 of the First Schedule to the Act shall be commenced by originating notice of motion assigned to Group A. The motion shall in due course, unless for some special reason the Court or a Judge shall otherwise order, be directed to be heard before the Judge selected by the Lord Chancellor under section 27 of the Act. There shall be at least ten clear days between the service of a notice of motion under this Rule and the day named in the notice for hearing the motion.

3.—(1) A defendant in an action for infringement of the copyright in a registered design may, in regard to any registered design in issue, counterclaim for the rectification of the register of designs by the cancellation

of the registration of the design, and shall, within the time limited for the delivery of the counterclaim, serve a copy on the Comptroller-General of Patents, Designs and Trade Marks, who shall be entitled to take such part in the action as he may think fit, but shall not, unless ordered by the Court or a Judge, be required to deliver a defence or other pleading.

(2) The defendant shall, with his counterclaim, deliver particulars of any objection to the validity of the registration of the design on which he relies in support of his counterclaim."

8. Order LIV J (which relates to procedure on applications under Regulation 18AA of the Defence (General) Regulations, 1939) is hereby revoked.

9. Order LIV L (which relates to proceedings under the Allied Powers (Maritime Courts) Act, 1941) is hereby revoked.

10. In Order LV, Rule 11 (which relates to the marking of summonses in the Chancery Division) is hereby revoked.

11. In Order LVIII, the following Rule shall be substituted for Rule 22 (which relates to appeals to the Court of Appeal in certain matters relating to patents):—

"22. Where, on a petition for revocation of a patent under section 32 of the Patents Act, 1949 (in this Rule referred to as "the Act") or on a counterclaim for revocation of a patent under section 61 of the Act, the Court makes an order revoking the patent, and an appeal is brought to the Court of Appeal, the following provisions shall apply:—

(1) The notice of appeal shall be served upon the Comptroller-General of Patents, Designs and Trade Marks (in this Rule referred to as "the Comptroller").

(2) If, at any time before the appeal comes on for hearing, the respondent to the appeal decides not to appear on the appeal or not to oppose it, he shall forthwith serve notice of his decision upon the Comptroller and the appellant. Any such notice served upon the Comptroller shall be accompanied by a copy of the petition or of the pleadings in the action and the affidavits filed therein.

(3) The Comptroller shall, within 14 days after receiving notice of the respondent's decision, serve upon the appellant a notice stating whether or not he intends to appear upon the appeal.

(4) The Comptroller may appear and be heard in opposition to the appeal:—

(*a*) in any case where he has given notice under paragraph (3) of his intention to appear; and

(*b*) in any other case (including, in particular, a case where the respondent withdraws his opposition to the appeal during the hearing) if the Court so directs or allows.

(5) The Court of Appeal may make such orders for the postponement or adjournment of the hearing of the appeal as it may consider necessary for the purpose of giving effect to the provisions of this Rule."

12. After Order LVIII there shall be inserted the following Order:—

"ORDER LVIII A

Appeals from Patents Appeal Tribunal to Court of Appeal

1. Any party who desires to appeal to the Court of Appeal from a decision of the Appeal Tribunal constituted under section 85 of the

Patents Act, 1949 (in this Order referred to as " the Appeal Tribunal ") shall, within 14 days from the date of the decision, or within such further time as the Appeal Tribunal or the Court of Appeal may allow, file with the Registrar, Patents Appeal Tribunal, Room 174, Royal Courts of Justice (in this Order referred to as " the Registrar ") two copies of a notice of appeal in the form set out in the Second Schedule to the Patents Appeal Tribunal Rules, 1950.

2. The notice of appeal shall state whether the whole, or part only, and, if so, what part, of the decision is complained of and shall also state the grounds of the appeal.

3. The appellant shall send a copy of the notice of appeal to the Comptroller-General of Patents Designs and Trade Marks and to any other person or persons who appeared on the proceedings before the Appeal Tribunal.

4. On any appeal from a decision of the Appeal Tribunal any respondent may apply to the Appeal Tribunal for an order that the appellant do give security for the costs of and occasioned by his appeal.

5. The evidence used on appeal to the Court of Appeal shall be the same as that used before the Appeal Tribunal and no further evidence shall be given except by leave of the Court of Appeal upon application made for that purpose.

6. On receipt of the notice of appeal the Registrar shall set down the appeal by entering the same in the Chancery Registrars' Office in a list of appeals to be called Patents Tribunal Appeals and shall give to the appellant and to the said Comptroller-General and to any other respondent not less than seven days notice of the date appointed for the hearing of the appeal.

7. The appellant shall, on receiving notice of the time fixed for the hearing, lodge with the Registrar, for the use of the Court of Appeal, a signed copy of the decision of the Appeal Tribunal and two additional unsigned copies, together with three copies of the notice of appeal and of all the evidence used before the Appeal Tribunal.

8. The ordinary practice of the Court of Appeal shall, so far as it is applicable and is not inconsistent with the provisions of this Order, apply to an appeal from the Appeal Tribunal."

13. After Order LVIII A there shall be inserted the following Order:—

" ORDER LVIII B

Case stated by the Lands Tribunal

1. Any person who is aggrieved by a decision of the Lands Tribunal as being erroneous in point of law may, within six weeks of the date of the decision, by notice in writing addressed to the registrar of the Lands Tribunal require the Tribunal to state a case setting forth the facts on which the decision was based and the decision of the Tribunal thereon.

2. The member or members of the Lands Tribunal by whom the decision was given shall, as soon as may be, state and sign the case and shall cause it to be sent by registered post to the person aggrieved.

3. The person aggrieved shall, within 21 days after receiving the case, lodge it with the proper officer of the Court of Appeal, together with a notice of motion which shall state the grounds on which the decision of the Lands Tribunal is alleged to be erroneous in point of law. The case shall be entered by the proper officer of the Court of Appeal in a list to be kept for that purpose.

4. The notice of motion shall be served upon the registrar of the Lands Tribunal and, together with a copy of the case, upon every party to the proceedings before the Tribunal, at least 21 days before the day named in the notice for making the motion.

5. On the hearing of the case the Court of Appeal may, if it thinks fit, amend the case or order it to be sent back to the Lands Tribunal for amendment and shall have power to draw inferences of fact from the facts set forth in the case.

6. The proper officer of the Court of Appeal shall notify the registrar of the Lands Tribunal of the decision of the Court of Appeal on the case and of any directions given by the Court thereon.

7. The ordinary practice of the Court of Appeal shall, so far as it is applicable and is not inconsistent with the provisions of this Order, apply to a case stated by the Lands Tribunal."

14. In Order LXII, Rule 17 (which relates to the keeping of lists of causes and matters by the registrars of the Chancery Division) is hereby revoked.

15. In Order LXVI (which relates to notices, copies, office copies, etc.) there shall be inserted after paragraph (4) of Rule 3 the following paragraph:—

"(5) Copies of documents for use in court or for marking as office copies may, instead of being printed, written or type-written copies, be photographic copies of the same size as the original document."

16. The following form shall be substituted for Form 19 in Part I of Appendix A:—

"No. 19

Certificate as to assignment of cause or matter (O. 5 r. 9 (6))

[Heading as in Form 1]

I, [A.B., solicitor for] the above-named hereby certify that the writ [*or*, summons, *or*, petition] annexed hereto relates to or is so connected with the administration of the trust [*or*, the winding-up of the company] which is the subject of the proceedings entitled [*here insert title of previous proceedings*] which are assigned to Group [A *or* B] of the Chancery Division that it ought conveniently to be assigned to the same group.

(Signed)

[*To be countersigned by a Master attached to the group to which the previous proceedings are assigned.*]"

17. These Rules may be cited as the Rules of the Supreme Court (No. 1), 1950 and shall come into operation on the eighteenth day of April, 1950.

Dated the third day of April, 1950.

Jowitt, C.
Goddard, C.J.
Raymond Evershed, M.R
F. L. C. Hodson, J.
H. B. Vaisey, J.
G. Justin Lynskey, J.
Gerald R. Upjohn.
L. S. Holmes.