

Serial Number 1947/70



**THE PATENTS AND DESIGNS (UNITED STATES OF AMERICA)
REGULATIONS 1947**

B. C. FREYBERG, Governor-General

ORDER IN COUNCIL

At the Government Buildings at Wellington, this 14th day of
May, 1947

Present :

THE RIGHT HON. P. FRASER PRESIDING IN COUNCIL

WHEREAS by reason of conditions arising out of the present war difficulties have been experienced by citizens of the United States of America in complying with the requirements of section 55 of the Patents, Designs, and Trade-marks Amendment Act, 1939, concerning applications for patents or for the registration of designs: And whereas the Governor-General is satisfied that provision has been made under the law of the United States of America which is substantially equivalent to the provision hereinafter made and which on the enactment of these regulations will be available for the benefit of citizens of New Zealand :

Now, therefore, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council of the Dominion of New Zealand, and in pursuance and exercise of the power and authority conferred by section 5 of the Patents, Designs, and Trade-marks Amendment Act, 1943, doth hereby make the following regulations.

REGULATIONS

1. These regulations may be cited as the Patents and Designs (United States of America) Regulations 1947.

2. In these regulations, unless the context otherwise requires,—

“Convention application” means an application for a patent or for the registration of a design made under the provisions of section 55 of the Patents, Designs, and Trade-marks Amendment Act, 1939 :

“ Designs Regulations ” means the regulations under the said Act relating to designs made on the 26th day of June, 1922, and published in the *Gazette* on the 27th day of the same month at page 1679 :

“ Patents Regulations ” means the regulations under the said Act relating to patents made on the 26th day of June, 1922, and published in the *Gazette* on the 27th day of the same month at page 1669 :

“ Said Act ” means the Patents, Designs, and Trade-marks Act, 1921-22.

PATENTS

3. (1) Upon request in writing, the Commissioner may extend the time for making a Convention application for the grant of a patent until a date not later than the 8th day of August, 1947, in any case where the first foreign application was filed in the United States of America not later than the 8th day of August, 1946, and the period specified in paragraph (a) of subsection (1) of section 55 of the Patents, Designs, and Trade-marks Amendment Act, 1939, expired on or after the 8th day of September, 1939, or will expire before the 8th day of August, 1947.

(2) The Commissioner may also extend, subject to such conditions (if any) as he may think fit to impose, the time limited by or under the said Act for doing any act in relation to a Convention application made by virtue of an extension of time under this regulation.

4. (1) Where an application for a patent has been made or is made not later than the 8th day of August, 1947, and the applicant desires to convert the application into a Convention application made by virtue of an extension of time granted under Regulation 3 hereof, the request for an extension of time under that regulation, accompanied by a request in writing for the conversion of the application into a Convention application, may be made, and the declaration and documents required by Regulations 14 and 15 of the Patents Regulations may be filed, at any time before the acceptance of the complete specification.

(2) If the Commissioner grants the extension requested, he may require a new application form in the prescribed form to be lodged in substitution for the application form previously filed, and may make or allow to be made such amendments in the application documents as are necessary to convert the application into a Convention application.

5. Where a Convention application made by virtue of an extension of time granted under Regulation 3 hereof is in order for the sealing of a patent thereon or the patent thereon has been sealed, and a patent for an identical invention has previously been applied for by or granted to the same applicant, the Commissioner may refuse to seal a patent on the previous application or may make an order for the revocation of the existing patent.

6. A patent granted upon an application made by virtue of an extension of time granted under Regulation 3 hereof shall not—

(a) In any way furnish a basis of claim against the Government of New Zealand :

- (b) In any way furnish a basis for any action or claim for infringement thereof which would affect the right of the Government of New Zealand or of any individual, firm, or corporation by itself or himself personally or by such agents or licensees as derived their rights from it or him before the 8th day of August, 1946, to manufacture, use, or sell an invention to the extent only that it is claimed or described in a patent or patent application, which patent or application for patent was lawfully in its or his possession before the 8th day of August, 1946 :
- (c) Affect the right of the Government of New Zealand or of any individual, firm, or corporation or its or his agent or agents, successor or successors in title, to continue or to resume any manufacture, use, or sale lawfully commenced by it or him in New Zealand before the 8th day of August, 1946, nor shall the further manufacture, use, or sale by it or him or its or his agents or successors in title or the use or sale of the articles resulting from such manufacture or use constitute an infringement.

7. The term of a patent granted upon an application made by virtue of an extension of time granted under Regulation 3 hereof shall not extend beyond a period of twenty years from the filing date of the first foreign application.

8. The limitations, conditions, and restrictions provided for in Regulations 6 and 7 hereof shall be inserted in the Form of Patent.

DESIGNS

9. (1) Upon request in writing, the Commissioner may extend the time for making a Convention application for the registration of a design until a date not later than the 8th day of August, 1947, in any case where the first foreign application was filed in the United States of America not later than the 8th day of August, 1946, and the period specified in paragraph (a) of subsection (1) of section 55 of the Patents, Designs, and Trade-marks Amendment Act, 1939, in the case of a design expired on or after the 8th day of September, 1939, or will expire before the 8th day of August, 1947.

(2) The Commissioner may also extend, subject to such conditions (if any) as he may think fit to impose, the time limited by or under the said Act for doing any act in relation to a Convention application made by virtue of an extension under this regulation.

10. (1) Where an application for registration of a design has been made or is made not later than the 8th day of August, 1947, and the applicant desires to convert the application into a Convention application made by virtue of an extension of time granted under Regulation 9 hereof, the request for an extension of time under that regulation, accompanied by a request in writing for the conversion of the application into a Convention application, may be made, and the declaration and document required by Regulation 65 of the Designs Regulations may be filed, at any time before the grant of the certificate of registration of the design.

(2) If the Commissioner grants the extension requested, he may require a new application form in the prescribed form to be lodged in substitution for the application form previously filed, and may make or allow to be made such amendments in the application documents as are necessary to convert the application into a Convention application.

11. Where a design forming the subject of a Convention application made by virtue of an extension of time granted under Regulation 9 hereof is about to be registered, or has been registered, and an application for registration of an identical design has previously been made by or a certificate of registration granted to the same applicant, the Commissioner may refuse to register the design previously applied for or may make an order for the cancellation of the existing registration.

12. The copyright in a design registered upon an application made by virtue of an extension of time granted under Regulation 9 hereof shall not—

- (a) In any way furnish a basis of claim against the Government of New Zealand :
- (b) In any way furnish a basis for any action or claim for infringement thereof which would affect the right of the Government of New Zealand or of any individual, firm, or corporation by itself or himself personally, or by such agents or licensees as derived their rights from it or him before the 8th day of August, 1946, to manufacture for sale or sell any article bearing a design forming the subject of a design registration or of an application for registration of a design which registration or application for registration was lawfully in its or his possession before the 8th August, 1946 :
- (c) Affect the right of the Government of New Zealand or of any individual, firm, or corporation, or its or his agent or agents, successor or successors in title, to continue or to resume any manufacture for sale or sale of any article bearing the registered design lawfully commenced by it or him in New Zealand before the 8th day of August, 1946, nor shall the further manufacture for sale or sale of such articles by it or him, or its or his agents or successors in title, or the sale of articles resulting from such manufacture, constitute an infringement.

13. The limitations, conditions, and restrictions provided for in Regulation 12 hereof shall be inserted in the certificate of registration.

W. O. HARVEY,
Clerk of the Executive Council.

Issued under the authority of the Regulations Act, 1936.
Date of notification in *Gazette* : 22nd day of May, 1947.
These regulations are administered in the Patent and Copyright Office.