

Serial Number 1940/60.



**THE PATENTS, DESIGNS, TRADE-MARKS, AND COPYRIGHT
EMERGENCY REGULATIONS 1940.**

GALWAY, Governor-General.

ORDER IN COUNCIL.

At the Government House at Wellington, this 10th day of
April, 1940.

Present :

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL.

PURSUANT to the Emergency Regulations Act, 1939, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, doth hereby make the following regulations.

REGULATIONS.

REGULATION 1.—PRELIMINARY.

- (1) These regulations may be cited as the Patents, Designs, Trade-marks, and Copyright Emergency Regulations 1940.
- (2) In these regulations, unless inconsistent with the context,—
 - “Commissioner” in relation to patents, designs, and trade-marks, means the Commissioner of Patents, Designs, and Trade-marks, and, in relation to copyright, means the Registrar of Copyright :
 - “Copyright” has the meaning assigned to it by the Copyright Act, 1913 :
 - “Design”, “invention”, “patent”, and “patentee” have the meanings assigned to them respectively by the Patents, Designs, and Trade-marks Act, 1921-22 :
 - “Enemy” means—
 - (a) Any State, or Sovereign of a State, at war with His Majesty ;
 - (b) Any individual resident in enemy territory ;
 - (c) Any body of persons (whether corporate or unincorporate) carrying on business in any place, if and so long as the body is controlled by a person who, under this regulation, is an enemy ;

(d) Any body of persons constituted or incorporated in, or under the laws of, a State at war with His Majesty; or

(e) Any person, firm, or company declared to be an enemy trader under the provisions of the Enemy Trading Emergency Regulations 1939*,—

but does not include any person by reason only that he is an enemy subject :

“Enemy subject” means—

(a) An individual who, not being either a British subject or a British protected person, possesses the nationality of a State at war with His Majesty; or

(b) A body of persons constituted or incorporated in, or under the laws of, any such State :

“Enemy territory” means any area which is under the sovereignty of, or in the occupation of, a Power with whom His Majesty is at war, not being an area in the occupation of His Majesty or of a Power allied with His Majesty :

“Office” in relation to patents, designs, and trade-marks, means the Patent Office, and, in relation to copyright, means the Copyright Office.

(3) Where a patent has been granted to any person in respect of an invention communicated to him by some other person, that other person shall, for the purposes of these regulations, be deemed to have an interest in the patent unless the contrary is proved.

(4) It is hereby declared that the countries to which section 144 of the Patents, Designs, and Trade-marks Act, 1921-22, applied immediately before the commencement of the Patents, Designs, and Trade-marks Amendment Act, 1939 (being the countries declared to be convention countries by the Patents, Designs, and Trade-marks Convention Order 1940),† shall be deemed to have been convention countries from the time of the commencement of the Patents, Designs, and Trade-marks Amendment Act, 1939, in the same manner and to the same extent as if the said Order had come into force at that time.

REGULATION 2.—INVENTIONS, ETC., IN RELATION TO DEFENCE.

(1) Where, either before or after the coming into force of this regulation, an application has been made to the Commissioner for the grant of a patent or the registration of a design or of a copyright, the Commissioner, if satisfied that it is expedient in the interests of the defence of the realm so to do, may, notwithstanding anything in any Act, omit or delay the doing of anything which he would otherwise be required to do in relation to the application, and give directions for prohibiting or restricting the publication of information with respect to the subject-matter of the application, or the communication of such information to particular persons or classes of persons.

(2) No person shall, except under the authority of a written permit granted by, or on behalf of, the Commissioner, make any application for the grant of a patent, or the registration of a design or of a copyright, in any foreign country. The Commissioner may by notice in

* Statutory Regulations 1939, Serial number 1939/139, page 628.

† Statutory Regulations 1940, Serial number 1940/57.

the *Gazette* direct that a permit granted by such authority or person in any part of His Majesty's dominions (other than New Zealand), or in any foreign country or territory in which His Majesty has jurisdiction, as may be specified in the notice, shall be treated for the purpose of this clause as if it were a permit granted by the Commissioner himself.

(3) The Governor-General, if it appears to him to be necessary or expedient in the interests of the defence of the realm or the efficient prosecution of war so to do, may give directions to any person requiring him to furnish to such authority or person as may be specified in the directions any such information in his possession relating to any invention, design, or process as may be specified in the directions, or demanded of him by the said authority or person.

(4) The right of a person to apply for, or obtain, a patent in respect of an invention or registration in respect of a design shall not be prejudiced by reason only of the fact that the invention or design has previously been communicated to a person in compliance with clause (3) of this regulation, or used by a person in consequence of such communication, and a patent in respect of an invention, or the registration of a design, shall not be held to be invalid by reason only that the invention or design has been so communicated or used as aforesaid.

(5) In connection with the making, use, or exercise of any invention or design on behalf of, or for the services of, the Crown (whether by virtue of the Patents, Designs, and Trade-marks Act, 1921-22, or otherwise), the Governor-General may authorize the use of any drawing, model, plan, or other document or information in such manner as appears to him to be expedient in the interests of the defence of the realm or the efficient prosecution of war, notwithstanding anything to the contrary contained in any license or agreement; and any license or agreement, if and so far as it confers on any person, otherwise than for the benefit of the Crown, a right to receive any payment in respect of the use of any document or information in pursuance of such an authorization, shall be inoperative.

REGULATION 3.—CONTRACTS WITH ENEMIES AND ENEMY SUBJECTS RELATING TO PATENTS, ETC.

(1) Notwithstanding the provisions of the Enemy Trading Emergency Regulations 1939, or of any other enactment or rule of law relating to intercourse or dealings with or for the benefit of enemies, a license under a patent or for the application of a registered design or granting an interest in a copyright, being a license which would have been in force in favour of a person resident in New Zealand if neither the proprietor of the patent or registered design, or the owner of the copyright, as the case may be, nor any person otherwise interested therein, had been an enemy, shall not be invalid by reason of the fact that the proprietor or owner or any person otherwise interested therein is an enemy, nor shall any contract, in so far as it relates to any such license as aforesaid, be invalid by reason of the fact that any party to the contract is an enemy:

Provided that nothing in this regulation shall—

- (a) Render valid a grant or an assignment of any such license as aforesaid, or any contract relating to any such license, if that grant, assignment, or contract is made during the existence of a state of war and is unlawful by virtue of any provision of the Enemy Trading Emergency Regulations 1939, or of any such enactment or rule as aforesaid; or
 - (b) Authorize the performance of any contract relating to any such license as aforesaid in a manner inconsistent with any of the provisions of the Enemy Trading Emergency Regulations 1939, or of the Enemy Property Emergency Regulations 1939*, or of any other enactment relating to intercourse or dealings with or for the benefit of enemies, or to the property, rights, or capacity of enemies, or in a manner inconsistent with any rule of law relating to any of those matters.
- (2) In the case of any such license as aforesaid, where an enemy or an enemy subject is, or has at any time since the 2nd day of September, 1939, been, whether alone or jointly with any other person, the proprietor of the patent or registered design, or the owner of the copyright, as the case may be, or entitled to any other interest therein (not being merely the interest of a licensee), the Commissioner may, on the application of the licensee or any other person interested in the patent, registered design, or copyright, by order—
- (a) Revoke the license;
 - (b) Revoke or vary any conditions subject to which the license has effect; or
 - (c) Revoke or vary any of the provisions of a contract relating to the license in so far as they relate thereto.
- (3) An order for a variation made under the last preceding clause may be revoked or varied by a subsequent order made thereunder.

REGULATION 4.—GRANT OF LICENSES UNDER PATENTS, ETC., OF ENEMIES AND ENEMY SUBJECTS.

- (1) Where—
- (a) An enemy or an enemy subject is, or has at any time since the 2nd day of September, 1939, been, whether alone or jointly with any other person, the proprietor of a patent or registered design or the owner of a copyright, or entitled to any other interest in a patent, registered design, or copyright (not being merely the interest of a licensee); and
 - (b) The Commissioner is satisfied that it is in the interest of all or any of His Majesty's subjects that the rights conferred by the patent should be exercised, or that the design should be applied or the copyright exercised, as the case may be, and that a person who is not an enemy or an enemy subject desires to exercise the said rights or apply the said design or exercise the said copyright and is in a position so to do,—
- the Commissioner may, on the application of that person, make an order granting to him a license under the patent or for the application of the design or granting an interest in the copyright, as the case may be, either for the whole of the residue of the term of the patent, registration, or copyright, or for such less period as the Commissioner thinks fit.

* Statutory Regulations 1939, Serial number 1939/153, page 681.

(2) The power of the Commissioner under this regulation to make an order granting a license shall include the power—

- (a) To make an order granting an exclusive license ;
- (b) To make an order granting a license in relation to a patent, registered design, or copyright, notwithstanding that a license, whether exclusive or otherwise (not being an exclusive license granted by virtue of the powers conferred by this regulation), is in force in relation thereto ; and
- (c) To make an order granting a license on any terms that the Commissioner may think expedient.

(3) Where, under the power conferred by this regulation, the Commissioner makes an order granting a license in relation to a patent, registered design, or copyright in relation to which any other license has been granted otherwise than by an order made under this regulation, the Commissioner may, in relation to that other license, make any order which the Commissioner would have had power to make on an application under clause (2) of Regulation 3, and which appears to him to be expedient having regard to the order made under this regulation.

(4) An order granting a license under this regulation shall, without prejudice to any other method of enforcement, operate as if it were embodied in a deed granting the license which the patentee, the proprietor of the registered design, or the owner of the copyright, as the case may be, and all other parties having any interest therein, had executed with full capacity so to do, and the order shall accordingly operate to take away from any such party any right in relation thereto the exercise whereof would be inconsistent with the exercise of the license in accordance with and subject to the terms on which it is granted.

(5) A licensee under a license granted under this regulation may institute proceedings for infringement in his own name as though he were the patentee, the proprietor of the registered design, or the owner of the copyright, as the case may be, so, however, that any person other than an enemy who, whether alone or jointly with any other person, is the patentee, the registered proprietor of the registered design, or the owner of the copyright, as the case may be, shall, unless the Court in which the proceedings are taken thinks fit to direct otherwise, be made a party to the proceedings, either—

- (a) If he consents in writing thereto, as a plaintiff ; or
- (b) If he does not so consent, as a defendant.

Where any person is made defendant to any proceedings by virtue of this clause he shall not be liable for any costs unless he files a statement of defence and takes part in the proceedings.

(6) An order granting a license under this regulation shall give directions as to the person to whom or the manner in which the licensee is to pay or deal with any royalties or other payments to be paid in respect of the license. In framing any such directions the Commissioner shall have regard to the Enemy Property Emergency Regulations 1939, and to any order or warrant for the time being in force thereunder ; but any directions given by him under this clause shall, in so far as they may be inconsistent with the provisions of those regulations or of any such order or warrant, have effect to the exclusion of those provisions.

(7) An order under this regulation and a license granted by such an order may be varied by a subsequent order made by the Commissioner either—

- (a) Where the licensee makes application to the Commissioner for the variation thereof ; or
- (b) Where the Commissioner is of opinion that circumstances have arisen which make it just and equitable, or that the public interest requires, that it should be varied.

(8) An order under this regulation and a license granted by such an order may be revoked by a subsequent order made by the Commissioner in any of the following cases, that is to say :—

- (a) Where the licensee makes application to the Commissioner for the revocation thereof ;
- (b) Where it appears to the Commissioner that it was obtained by any misrepresentation, whether intentional or not, or was made or granted without the Commissioner's having full knowledge of the material facts ;
- (c) Where the licensee has failed to comply with any term on which the license was granted or with a direction given under clause (6) of this regulation, or has failed to exercise the license in such a manner as to satisfy the reasonable requirements of the public in relation to the invention, registered design, or work in which copyright subsists, as the case may be, or has charged unreasonable or excessive prices in respect of anything made or done in the exercise of the license ; or
- (d) Where the Commissioner is of opinion that circumstances have arisen which make it just and equitable, or that the public interest requires, that it should be revoked.

REGULATION 5.—SUSPENSION OF TRADE-MARK RIGHTS OF ENEMIES OR ENEMY SUBJECTS.

(1) Where it is made to appear to the Commissioner that it is difficult or impracticable to describe or refer to an article or substance without the use of a trade-mark registered in respect of that article or substance, being a trade-mark which is, or has at any time since the 2nd day of September, 1939, been, registered in the name of an enemy or an enemy subject, whether alone or jointly with another, or which is, or has at any such time as aforesaid been, in the proprietorship of an enemy or an enemy subject, whether alone or jointly with another, the following provisions of this regulation shall have effect.

(2) On the application of any person who proposes to deal in the course of trade in New Zealand with an article or substance which is or is intended to be the same as, or equivalent to or a substitute for, the article or substance in respect of which the trade-mark is registered, the Commissioner may order that the right to the use of the trade-mark given by the registration thereof shall be suspended—

- (a) So far as regards use thereof by the applicant and any such use thereof by any other person in relation to goods connected in the course of trade with the applicant as would not be an infringement of the said right if the applicant were the proprietor of the trade-mark :

(b) To such extent and for such period as the Commissioner may consider necessary for enabling the applicant to render well-known and established some description of, or means of reference to, the article or substance with which he proposes to deal in the course of trade, being a description or means of reference which does not involve the use of the trade-mark.

(3) Where an order has been made under clause (2) of this regulation, no action for passing off shall lie on the part of any person interested in the trade-mark in respect of any use thereof which, by virtue of the order, is not an infringement of the right to the use thereof given by the registration thereof.

(4) An order under this regulation may be varied or revoked by a subsequent order made by the Commissioner.

REGULATION 6.—EFFECT OF WAR ON GRANT OF PATENTS AND
REGISTRATION OF DESIGNS, ETC.

(1) Notwithstanding the provisions of the Enemy Trading Emergency Regulations 1939, or of any other enactment or rule of law relating to intercourse or dealings with or for the benefit of enemies, it shall be lawful, subject to the provisions of these regulations,—

(a) For a patent to be granted under the Patents, Designs, and Trade-marks Act, 1921–22 ;

(b) For a design to be registered under that Act ;

(c) For a trade-mark to be registered under that Act ; or

(d) For a copyright to be registered under the Copyright Act, 1913,—

on the application of an enemy :

Provided that, where such a grant or registration as aforesaid is effected on the application of an enemy,—

(i) The grantee or person registered shall not be entitled to require the delivery of the patent or the grant or issue of the certificate or notice of registration, as the case may be ; and

(ii) The patent, or the rights conferred by the registration, as the case may be, shall be subject to any relevant provisions of any regulations or enactment for the time being in force relating to the property of an enemy.

(2) A country which is a convention country within the meaning of the Patents, Designs, and Trade-marks Act, 1921–22, shall not cease to be a convention country by reason only that His Majesty is at war with that country. Section 144 of that Act shall not be deemed to have ceased to apply, at any time before its repeal, to any country by reason only that His Majesty was at war with that country.

(3) The Commissioner may, in any case in which in his opinion it is desirable in the public interest so to do, refuse to take, or suspend the taking of, any proceedings on or in relation to an application of an enemy for a patent or for the registration of a design or of a trade-mark or of a copyright.

(4) No act requisite for enabling such a grant or registration as aforesaid to be effected, in so far as it is done for that purpose and for that purpose only, shall, whether the grant or registration is effected

or not, be treated as a contravention of any of the provisions of the Enemy Trading Emergency Regulations 1939, or of any other enactment or rule of law relating to intercourse or dealings with or for the benefit of enemies.

(5) References in this regulation to an application of an enemy shall be construed as including references to an application of an enemy jointly with any other person, whether an enemy or not, and, in the case of an application for a patent, to an application made in respect of an invention communicated by an enemy, and, in the case of an application for the registration of a copyright, to an application made in respect of any copyright in which an enemy has any interest.

REGULATION 7.—EFFECT OF WAR ON INTERNATIONAL ARRANGEMENTS AS TO COPYRIGHT.

(1) When His Majesty is at war with a country in respect of which there was in force immediately before the commencement of the war an Order in Council made by the Governor-General under section 33 of the Copyright Act, 1913, then, unless and until the Order in Council is revoked under that Act, it shall be deemed for the purposes of that Act to have continued and to continue in force, notwithstanding the state of war, subject to any alteration or variation thereof under that Act.

(2) Notwithstanding the provisions of the Enemy Trading Emergency Regulations 1939, or of any other enactment or rule of law relating to intercourse or dealings with or for the benefit of enemies, any copyright that would have subsisted under the Copyright Act, 1913, by virtue of such an Order in Council as aforesaid if the owner of the copyright had not been an enemy shall be deemed to have subsisted and shall so subsist where an enemy is, whether alone or jointly with any other person, the owner thereof :

Provided that, subject to the provisions of these regulations, where an enemy, whether alone or jointly with any other person, is the owner of copyright subsisting under the Copyright Act, 1913, the provisions of the Enemy Trading Emergency Regulations 1939, and of the Enemy Property Emergency Regulations 1939, and of any other enactment relating to intercourse or dealings with or for the benefit of enemies, or to the property, rights, or capacity of enemies, and any rule of law relating to any of those matters, shall, as respects that enemy, have effect in relation to the copyright so subsisting.

REGULATION 8.—POWER OF COMMISSIONER TO EXTEND TIME-LIMITS.

(1) The Commissioner may, subject to such conditions, if any, as he thinks fit to impose, extend the time limited by or under the Patents, Designs, and Trade-marks Act, 1921–22, or by or under these regulations, for doing any act, where he is satisfied—

(a) That the doing of the act within the time so limited was prevented by a person's being on active service or by any other circumstances arising from the existence of a state of war, which, in the opinion of the Commissioner, justify an extension of the time so limited ; or

- (b) That, by reason of circumstances arising from the existence of a state of war, the doing of the act within the time so limited would have been or would be injurious to the rights or interests of the person by or on whose behalf the act is or was to be done or to the public interest.
- (2) An extension under this regulation of the time for doing any act—
- (a) May be for any period that the Commissioner thinks fit, notwithstanding that by or under the said Act or by or under these regulations power is conferred to extend the time for doing that act for a specified period only; and
- (b) May be granted notwithstanding that that time expired before any application or request for extension was made, or that, by reason of that act not having been done within that time, the relevant application, patent, registration, or proceeding has ceased or expired, or become void or invalid, or been treated as abandoned.
- (3) The powers conferred by this regulation may be exercised notwithstanding that the exercise thereof benefits, whether directly or indirectly, an enemy or an enemy subject.

REGULATION 9.—PAYMENT OF FEES IN ENEMY TERRITORY OR ON BEHALF OF ENEMIES.

- (1) Notwithstanding the provisions of the Enemy Trading Emergency Regulations 1939, or of any other enactment or rule of law relating to intercourse or dealings with or for the benefit of enemies, it shall be lawful, subject to the provisions of this regulation,—
- (a) For payment to be made on behalf of any person, not being an enemy, of any fees necessary for obtaining the grant of, or for obtaining the renewal of, patents or for obtaining the registration of designs, trade-marks, or copyright, or the renewal of such registration, in enemy territory, and for payment to be made to enemies of their charges and expenses in relation thereto; or
- (b) For payment to be made on behalf of an enemy of any fees necessary for obtaining the grant of, or for obtaining the renewal of, patents or for obtaining the registration of designs, trade-marks, or copyright, or the renewal of such registration, in any country not being enemy territory, and for payment to be made on behalf of an enemy to persons not being enemies of their charges and expenses in relation thereto, and for payment to be received from an enemy in relation thereto, and for any such renewal of a patent or of a registration to be effected; but the patentee or person registered shall not be entitled to require the delivery of a certificate or notice of renewal.
- (2) Any payment on behalf of an enemy under this regulation shall, unless it is made by a person who has an interest in or under the patent, design, trade-mark, or copyright in respect of which it is made, be made by the person making the same only out of moneys

remitted by or on behalf of such enemy or held for or on account of such enemy, and not by way of gift or by way of advancement or loan to or on account of such enemy.

(3) No act requisite for enabling any payment to be made under this regulation, in so far as it is done for that purpose and for that purpose only, shall, whether the payment is made or not, be treated as a contravention of any of the provisions of the Enemy Trading Emergency Regulations 1939 or of any other enactment or rule of law relating to intercourse or dealings with or for the benefit of enemies.

REGULATION 10.—EVIDENCE RELATING TO RESIDENCE AND DECISIONS AS TO ENEMY CHARACTER.

(1) For the purposes of these regulations—

- (a) The fact that the address of any person registered in any register kept under the Patents, Designs, and Trade-marks Act, 1921–22, or under the Copyright Act, 1913, is an address in enemy territory shall be *prima facie* evidence that that person is resident in that territory; and
- (b) The fact that in any such register a person is stated to be of a particular nationality shall be *prima facie* evidence that he is of that nationality.

(2) No order made by the Commissioner under these regulations shall be held to be invalid by reason only that any decision made for the purposes of the order that a particular person is an enemy or an enemy subject is wrong.

REGULATION 11.—PERSONS INTERESTED TO BE HEARD.

Before deciding as to the making of any order under these regulations the Commissioner shall, unless having regard to the circumstances he considers it inexpedient or impossible so to do, give to any person who appears to the Commissioner to be interested such opportunity of being heard as appears to him to be just.

REGULATION 12.—PROCEDURE AND GENERAL.

(1) The fees to be paid on applications and oppositions under these regulations shall be those specified in the First Schedule to these regulations.

(2) The forms hereinafter referred to are those contained in the Second Schedule to these regulations.

(3) All documents and copies of documents sent to or left at the office or otherwise furnished to the Commissioner shall conform to the requirements of the regulations for the time being in force under the Patents, Designs, and Trade-marks Act, 1921–22, or under the Copyright Act, 1913, as the case may require.

(4) Any application, notice, or other document authorized or required to be left, made, or given at the office, or to the Commissioner, or to any other person under these regulations, may be sent by a prepaid letter through the post, and if so sent shall be deemed to have been

left, made, or given at the time when the letter containing the same would be delivered in the ordinary course of post. In proving such sending it shall be sufficient to prove that the letter was properly addressed and put into the post. Any written communication addressed to a patentee or the registered proprietor of a design, trade-mark, or copyright or other person at his address for service in New Zealand furnished in connection with the patent or registration or at his address in non-enemy territory as it appears on the register of patents or the register of designs or the register of trade-marks or the appropriate register of copyright, or to any applicant or opponent in any proceedings under these regulations at the address appearing on the application or notice of opposition or given for service as hereinafter provided, shall be deemed to be properly addressed.

(5) All communications to the Commissioner under these regulations (except the applications set out in the next succeeding clause) may be signed by, and all attendances upon the Commissioner may be made by or through, an agent duly authorized to the satisfaction of the Commissioner, and resident or having a place of business in New Zealand. Service upon such an agent of any document relating to the proceeding or matter in which he is authorized shall be deemed to be service upon the person so appointing him, and all communications directed to be made to such person in respect of the proceeding or matter may be addressed to such agent. In any particular case the Commissioner may, if he thinks fit, require the personal signature or presence of an applicant, opponent, or other person. The Commissioner shall not be bound to recognize as such agent, or to receive communications in respect of any business under these regulations from, any person whom he is not bound to recognize as an agent under the Patents, Designs, and Trade-marks Act, 1921-22, or any regulations made thereunder.

(6) (a) An application under Regulation 3 for an order for the revocation of a license, or for the revocation or variation of any conditions of a license or any provisions of a contract relating to a license shall be made on and in accordance with Patents, &c., Emergency Form No. 1, and shall state the applicant's reasons for his request.

(b) An application under Regulation 4 for an order granting a license shall be made on and in accordance with Patents, &c., Emergency Form No. 2.

(c) An application under Regulation 5 for an order for the suspension of rights in connection with a trade-mark shall be made on and in accordance with Patents, &c., Emergency Form No. 3.

(d) An application for the revocation or variation of—

(i) An order varying a license or a contract relating to a license under Regulation 3 ; or

(ii) An order granting a license under Regulation 4 and the license granted thereby ; or

(iii) An order suspending rights in connection with a trade-mark under Regulation 5—

shall be made on and in accordance with Patents, &c., Emergency Form No. 4, and shall state the applicant's reasons for his request.

(7) An application made as prescribed in the last preceding clause shall, where necessary, be accompanied by a statement made on and in accordance with Patents, &c., Emergency Form No. 6, and by evidence in the form of or covered by a statutory declaration showing that any conditions laid down by, or requirements of, these regulations in connection with the application in question are satisfied. Where a license, or the variation of a license or of a contract relating to a license, is asked for, the application shall be accompanied by such a statement which shall set out the principal conditions upon which the applicant desires a license to be granted, or the variations which he desires shall be made in any conditions of the license or any provisions of the contract relating to a license, as the case may be.

(8) An application as aforesaid shall be accompanied by a copy thereof and by a copy of any evidence or statement accompanying it. A copy of the application and of any such evidence or statement shall, wherever possible, be sent by the Commissioner to the patentee, or the registered proprietor of the design or trade-mark, or the owner of the copyright, as the case may be, at his address for service in New Zealand, or at any other address that may appear to the Commissioner to be proper, to any licensee or other person whose name, with an address in New Zealand, appears upon the relevant register to indicate that he has an interest in the patent, design, trade-mark, or copyright in question, and to any other person who may appear to the Commissioner to be sufficiently interested in the matter.

(9) If any person to whom copies are sent under the last preceding clause, or any other person who may be considered by the Commissioner to be sufficiently interested in the matter, intends to oppose the application, he shall, within one month of the despatch of such copies, or such further time, not exceeding two months or in exceptional circumstances three months, as the Commissioner may, on good reason being shown, and whether or not the time extended had expired before the request for extension was made, allow, give notice of his opposition on and in accordance with Patents, &c., Emergency Form No. 5, setting out the grounds upon which he opposes the application. Such notice shall be accompanied by a copy thereof, and there may be filed therewith, in duplicate, any relevant evidence that the opponent desires to furnish. A copy of the notice and of any evidence accompanying it shall be sent by the Commissioner to the applicant. No further evidence shall be filed by any party except by leave, or on requisition, of the Commissioner. After such last-mentioned copies have been so sent, or if no notice of opposition is given, the Commissioner shall in due course appoint a hearing unless, having regard to the circumstances, he considers it unnecessary, inexpedient, or impossible so to do. The Commissioner shall give all the parties at least ten days' notice of such hearing unless in any case the parties agree to accept shorter notice or the Commissioner for any special reason otherwise directs. At any such hearing the applicant, and any person who has given notice of opposition as aforesaid, may appear and be heard :

Provided that, in any case in which it is proved to the satisfaction of the Commissioner that it is desirable in the public interest that any order to be made upon an application as aforesaid should be made at an early date, he may consider the application and, if he decides to make

an order thereon, make the order as soon as may be, without giving opportunity for the filing of a notice of opposition to the application and without considering any such notice that may have been filed or hearing any person who may have filed such a notice.

(10) Where—

(a) An application has been made for the grant of a patent in which, if granted, there would be a proprietorship or interest of an enemy or enemy subject within the meaning of paragraph (a) of Regulation 4 (1); or

(b) An application has been made for the registration of a trade-mark which, if granted, would satisfy the conditions of Regulation 5 (1) as regards the name of the person in which the trade-mark would be registered, or as to its proprietorship,—

and the application is in order for the sealing of the patent or the registration of the trade-mark, as the case may be, except that in the one case the sealing fee and in the other case the registration fee has not been paid, then, any person who proposes to apply under Regulation 4 for a license in respect of the patent when granted, or under Regulation 5 for the suspension of rights in connection with the trade-mark when registered, may pay the sealing fee or the registration fee, as the case may be, and the Commissioner may thereupon grant the patent or register the trade-mark in accordance with Regulation 6.

(11) Notwithstanding the provisions of the Censorship and Publicity Emergency Regulations 1939,* or of any other enactment or rule of law relating to intercourse or dealings with or for the benefit of enemies, any correspondence with enemies in respect of patents, designs, trade-marks, or copyright may be permitted by the Controller of Censorship if he so thinks fit and if it has the prior approval of the Commissioner. Any such correspondence shall be forwarded to the Commissioner (enclosed in a stamped open envelope addressed to an intermediary in a neutral country) under cover of a letter explaining the circumstances in which it is desired to send it.

* Statutory Regulations 1939, Serial number 1939/121, page 562.

SCHEDULES.

FIRST SCHEDULE.

LIST OF FEES.

Matter of Proceeding.	Amount.	Corresponding Form.
1. On application under Regulation 3 for an order for the revocation of a license, or for the revocation or variation of any conditions of a license or any provisions of a contract relating to a license—in respect of each patent, registered design, or copyright work	£ s. d. 1 10 0	Patents, &c., Emergency No. 1.
2. On application under Regulation 4 for an order granting a license—in respect of each patent, registered design, or copyright work	1 10 0	Patents, &c. Emergency No. 2.
3. On application under Regulation 5 for an order for the suspension of rights in connection with a trade-mark—in respect of each registration	1 10 0	Patents, &c., Emergency No. 3.
4. On application for the revocation or variation of— (a) An order varying a license or a contract relating to a license under Regulation 3; or (b) An order granting a license under Regulation 4 and the license granted thereby; or (c) An order suspending rights in connection with a trade-mark under Regulation 5— in respect of each patent, registered design, copyright work, or trade-mark registration	1 10 0	Patents, &c., Emergency No. 4.
5. On notice of opposition under Regulation 12 (9) to an application—in respect of each patent, registered design, copyright work, or trade-mark registration	1 10 0	Patents, &c., Emergency No. 5

SECOND SCHEDULE.

Patents, &c., Emergency Form No. 1.

In the Patent Office, New Zealand. Patents (<i>or</i> Designs) Division.	}	No. (a).....
Or (in the case of copyright) In the Copyright Office, New Zealand.	}	No. (a).....
Literary (including Dramatic and Musical) Division (<i>or</i> Fine Arts Division).	}	No. (a).....

In the matter of the Patents, Designs, Trade-marks, and
Copyright Emergency Regulations 1940;
and

In the matter of Letters Patent (*or* a Registration of Design or
Copyright) in the name of (b)..... and of an Appli-
cation for Revocation or Variation by (c).....

APPLICATION FOR REVOCATION OR VARIATION OF A LICENSE OR A CONTRACT
RELATING TO A LICENSE.*

APPLICATION is hereby made by (d)....., under Regulation 3 (2) of the above
Emergency Regulations, for an Order for the revocation (e) (*or* variation of the
conditions) of

Or,—

(e) (the revocation or variation of the provisions of a contract dated the day of, 19.., relating to) a license granted to by and dated the day of, 19.., in respect of No. (f).....

The reasons for making this request are as follows:.....

The address for service of the applicant(s) in the Dominion of New Zealand is

Dated this day of, 19..

(g)

To the Commissioner, &c.,
The Patent and Copyright Offices,
Wellington, C. 1, New Zealand.

(a) Here insert number of patent or registered design or copyright. (b) Here insert name (in full) of patentee or registered proprietor. (c) Here insert name (in full) of person or persons making the application. (d) Here insert (in full) name, address, calling, and nationality of person or persons applying. (e) Cancel any words not applicable. (f) Here insert number of patent or registered design or copyright, or (in the case of unregistered copyright) particulars of such copyright, as the case may be. (g) To be signed by the applicant or applicants.

* NOTE.—To be accompanied by a copy and (where necessary) by evidence and a statement, as in Regulation 12 (7) and (8), and copies thereof.

Patents, &c., Emergency Form No. 2.

In the Patent Office,
New Zealand.
Patents (or Designs)
Division. } No. (a).....

Or (in the case of copyright)
In the Copyright Office,
New Zealand.
Literary (including Dramatic
and Musical) Division (or
Fine Arts Division). } No. (a).....

In the matter of the Patents, Designs, Trade-marks, and Copyright Emergency Regulations 1940 ;
and
In the matter of Letters Patent (or a Registration of Design or Copyright) in the name of (b)..... and of an Application for License by (c).....

APPLICATION FOR LICENSE.*

APPLICATION is hereby made by (d)....., under Regulation 4 of the above Emergency Regulations, for an Order granting a license in respect of (e).....

The address for service of the applicant(s) in the Dominion of New Zealand is

Dated this day of, 19..

(f).....

To the Commissioner, &c.,
The Patent and Copyright Offices,
Wellington, C. 1, New Zealand.

(a) Here insert number of patent or registered design or copyright. (b) Here insert name (in full) of patentee or registered proprietor. (c) Here insert name (in full) of person or persons making application. (d) Here insert (in full) name, address, calling, and nationality of person or persons applying. (e) Here insert number of patent or registered design or copyright, or (in the case of unregistered copyright) particulars of copyright, as the case may be. (f) To be signed by the applicant or applicants.

* NOTE.—To be accompanied by a copy and (where necessary) by evidence and a statement, as in Regulation 12 (7) and (8), and copies thereof.

Patents, &c., Emergency Form No. 3.

In the Patent Office,
New Zealand. }
Trade-marks Division. } No. (a).....

In the matter of the Patents, Designs, Trade-marks, and
Copyright Emergency Regulations 1940 ;

and
In the matter of a Registration of Trade-mark in the name
of (b)..... and an Application for Suspension of
Rights by (c).....

APPLICATION FOR SUSPENSION OF RIGHTS IN CONNECTION WITH A TRADE-MARK.*

APPLICATION is hereby made by (d)....., under Regulation 5 of the above
Emergency Regulations, for an Order that the rights in connection with the
trade-mark registered in Class under No., and standing in the
name of, of, be suspended for years to the following
extent : (e).....

(f) It is proposed to deal in the course of trade with under the
description or reference

The address for service of the applicant(s) in the Dominion of New Zealand
is

Dated this day of, 19..

(g).....

To the Commissioner, &c.,
The Patent and Copyright Offices,
Wellington, C. 1, New Zealand.

(a) Here insert number of trade-mark. (b) Here insert name (in full) of registered
proprietor. (c) Here insert name (in full) of person or persons making the application.
(d) Here insert (in full) name, address, calling, and nationality of person or persons applying.
(e) Here insert particulars of the suspension desired. (f) Here insert particulars of the
article or substance with which the applicant proposes to deal and the description or reference
which he proposes to use in connection with it. (g) To be signed by the applicant or
applicants.

* NOTE.—To be accompanied by a copy and (where necessary) by evidence
and a statement, as in Regulation 12 (7) and (8), and copies thereof.

Patents, &c., Emergency Form No. 4.

In the Patent Office,
New Zealand. }
Patents (or Designs,
Trade-marks) Division. } No. (a).....
Or (in the case of copyright)
In the Copyright Office,
New Zealand. }
Literary (including Dramatic
and Musical) Division (or
Fine Arts Division). } No. (a).....

In the matter of the Patents, Designs, Trade-marks, and
Copyright Emergency Regulations 1940 ;

and
In the matter of Letters Patent (or a Registration of Design,
Trade-mark, or Copyright) in the name of (b)..... and
of an Application for Revocation or Variation of Com-
missioner's Order by (c).....

APPLICATION FOR REVOCATION OR VARIATION OF COMMISSIONER'S ORDER.*

It is hereby requested by (d) that the order of the Commissioner dated
the day of, 19..

(e) (and made under Regulation 3 (2) of the above Emergency Regulations in
favour of in connection with a license or a contract relating to a license in
respect of (f).....)

Or,—

(e) (granting a license under Regulation 4 of the above Emergency Regulations in favour of, and the license granted thereby, in respect of (f).....)

Or,

(e) (and made under Regulation 5 of the above Emergency Regulations suspending rights in connection with registered Trade-mark No. (f)..... in favour of) may be revoked (e) (or may be varied in the following manner:.....).

The reasons for making this request are as follows:

The address for service of the applicant(s) in the Dominion of New Zealand is

Dated this day of, 19..

(g).....

To the Commissioner, &c.,
The Patent and Copyright Offices,
Wellington, C. 1, New Zealand.

(a) Here insert number of patent or registered design, trade-mark, or copyright.
(b) Here insert name (in full) of patentee or registered proprietor. (c) Here insert name (in full) of person or persons making the application. (d) Here insert (in full) name, address, calling, and nationality of person or persons applying. (e) Cancel the words not applicable.
(f) Here insert number of patent or registered design or trade-mark or copyright, or (in the case of unregistered copyright) particulars of such copyright, as the case may be. (g) To be signed by the applicant or applicants for revocation or variation.

* NOTE.—To be accompanied by a copy and (where necessary) by evidence and a statement, as in Regulation 12 (7) and (8), and copies thereof.

Patents, &c., Emergency Form No. 5.

In the Patent Office,
New Zealand. } No. (a).....
Patents (or Designs,
Trade-marks) Division. }
Or (in the case of copyright)
In the Copyright Office,
New Zealand. }
Literary (including Dramatic
and Musical) Division (or
Fine Arts Division). }

In the matter of the Patents, Designs, Trade-marks, and Copyright Emergency Regulations 1940 ;
and

In the matter of Letters Patent (or a Registration of Design, Trade-mark, or Copyright) in the name of (b)..... and of a Notice of Opposition by (c).....

NOTICE OF OPPOSITION.*

NOTICE of opposition is hereby given by (d)....., to the application made by, of, on the day of, 19.., for (e)..... upon the grounds (f).....

The address for service of the opponent(s) in the Dominion of New Zealand is

Dated this day of, 19..

(g).....

To the Commissioner of Patents, &c.,
The Patent and Copyright Offices,
Wellington, C. 1, New Zealand.

(a) Here insert number of patent or registered design, trade-mark, or copyright.
(b) Here insert name (in full) of patentee or registered proprietor. (c) Here insert name (in full) of person or persons opposing the application. (d) Here insert (in full) name, address, calling, and nationality of the opponent or opponents. (e) Here insert particulars of the application opposed. (f) Here state the grounds upon which the application is opposed. (g) To be signed by the opponent or opponents, or his or their duly authorized agent.

* NOTE.—To be accompanied by a copy and (where necessary) by evidence in duplicate as in Regulation 12 (9).

Patents, &c., Emergency Form No. 6.

In the Patent Office, New Zealand. Patents (or Designs, Trade-marks) Division.	}	No. (a).....
Or (in the case of copyright) In the Copyright Office, New Zealand.		
Literary (including Dramatic and Musical) Division (or Fine Arts Division).	}	No. (a).....

In the matter of the Patents, Designs, Trade-marks, and
Copyright Emergency Regulations 1940 ;
and

In the matter of Letters Patent (or a Registration of Design,
Trade-mark, or Copyright) in the name of (b)..... and
of an Application for Revocation or Variation of a License
or a Contract relating to a License (or Application for
License) (or Application for Suspension of Rights in
connection with a Trade-mark) (or Application for
Revocation or Variation of Commissioner's Order) by
(c).....

STATEMENT OF CASE.

THE statement set forth hereunder is respectfully submitted for consideration
by the office with reference to the above matter :—

(1) (d).....

Dated this day of, 19..

Signature :

Address for service :

(a) Insert here the official number or numbers accorded the prior patent, design, copyright,
or trade-mark proceedings, as the case may be. (b) Here insert name (in full) of patentee
or registered proprietor. (c) Here insert name (in full) of person or persons making the
application. (d) Divide statement of case into paragraphs numbered consecutively, each
paragraph being, as nearly as may be, confined to a distinct portion of the subject.

C. A. JEFFERY,
Clerk of the Executive Council.

Issued under the authority of the Regulations Act, 1936.
Date of notification in *Gazette* : 11th day of April, 1940.
These regulations are administered in the Patent and Copyright Offices