



TRINIDAD AND TOBAGO.

No. 5—1947.

[L.S.]

I ASSENT,

B. E. H. CLIFFORD,
Governor.

30th January, 1947.

AN ORDINANCE to amend the Patents, Designs and Trade Marks Ordinance, Ch. 31. No. 18.

[31st January, 1947.]

Commencement.

ENACTED by the Governor of Trinidad and Tobago with the advice and consent of the Legislative Council thereof.

1. This Ordinance may be cited as the Patents, Designs and Trade Marks (Amendment) Ordinance, 1947, and shall be read as one with the Patents, Designs and Trade Marks Ordinance, hereinafter referred to as the Principal Ordinance.

Short title
Constructi
Ch. 31. No

Interpreta-
tion.

2. (1) In this Ordinance—

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

“enemy territory” means—

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

(b) any area in relation to which the provisions of the said Ordinance applied by virtue of an order made under subsection (1A) of the said section 2 (as amended by the Defence (Trading with the Enemy) Regulations, 1940), as they applied in relation to enemy territory as so defined; and

(c) any area which, by virtue of Regulation 8 or Regulation 9 of the said Regulations, or any order made thereunder, was treated for any of the purposes of the said Ordinance as enemy territory as so defined or as such territory as is referred to in the last foregoing paragraph;

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

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

(2) References in any Ordinance passed before this Ordinance to the Patents, Designs and Trade Marks Ordinance shall, unless the context otherwise requires, be construed as references to that Ordinance, as amended by this Ordinance.

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

Inventions
and designs
made in
Germany or
Japan.

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

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

(a) the applicant, patentee, or proprietor of a registered design, as the case may be, proves that the invention or design was invented or designed in Germany before the 3rd September, 1939, or was invented or designed in Japan before the 7th December, 1941, and has at no time since the 3rd September or, as the case may be, the said 7th December, been beneficially owned in whole or in part by a German or Japanese national or a German or Japanese company ; or

(b) the application for the patent or for the registration of the design was made before the 1st February, 1946, and the applicant, patentee, or proprietor of the design, as the case may be, proves that the invention or design was independently invented or designed outside Germany and Japan by a person, other than a German or Japanese national, being either the applicant, patentee or proprietor or a person through whom he claims ; or

(c) the invention or design was invented or designed by a prisoner of war in German or Japanese hands, unless it is shown that it was subsequently obtained from him by any German or Japanese national before the 1st January, 1946.

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

(5) The Registrar, with the sanction of the Governor, may make rules under section 66 of the Principal Ordinance for carrying this section into effect and in particular for requiring applicants for a patent or for the registration of a design to furnish information as to matters arising under this section.

Amendment
of enactments
providing for
extension of
time.
Ch. 42. No. 7.

4. (1) In exercising his powers under section 8 of the Patents, Designs, Copyright and Trade Marks (Emergency) Ordinance, to extend the time limited for the doing of any act, the Registrar may, without prejudice to his general discretion under that section and notwithstanding the provisions of subsection (3) of that section, treat as a sufficient ground for refusing to exercise those powers the fact that the act in question, if it had been done immediately before the expiration of the time so limited, would have been done by or on behalf of a German or Japanese national or a German or Japanese company or a national or company of any country in the case of which the Registrar is not satisfied that powers substantially equivalent to those conferred by the said section 8 are exercised under the law of that country for the benefit of British nationals and British companies.

(2) In subsection (1) of the said section 8 for the words "that the doing of the act within the time so limited was prevented by a person's being on active service or by" there shall be substituted the words "that the act was not done within the time so limited by reason that a person was on active service or by reason of".

(3) The following new sections to be numbered 64A, 64B and 64C are hereby inserted in the Principal Ordinance immediately after section 64 :—

"Extension of
time for
applications
under section
64 in certain
cases.

64A. (1) The Governor may, as respects any Convention country (as defined in section 91A of the Patents and Designs Acts 1907 to 1946, passed by the Imperial Parliament), if he is satisfied that provision substantially equivalent to the provision to be made by or under this section has been or will be made under the law of that country, make rules empowering the Registrar to extend the time for making application under section 64 of this Ordinance for the granting, in priority to other applicants, of a patent for an invention, or for the registration, in priority to other applicants, of a design, in any case where the period specified in subsection (2) of the said section 64 for the making of an application under the said section expires during a period prescribed by the rules.



(2) Rules made under this section—

- (a) may, where any agreement or arrangement has been made between His Majesty's government in the United Kingdom and the government of the Convention country for the supply or mutual exchange of information or articles, provide, either generally or in any class of case specified in the rules, that an extension of time shall not be granted under this section unless the invention or design has been communicated in accordance with the agreement or arrangement ;
- (b) may, either generally or in any class of case specified in the rules, fix the maximum extension which may be granted under this section and provide for reducing the term of any patent granted on an application made by virtue of this section, and (notwithstanding anything contained in rules made under this Ordinance or in the Second Schedule to this Ordinance) vary the times for the payment of renewal fees in respect of such a patent and the amount of such fees ;
- (c) may prescribe or allow any special procedure in connection with applications made by virtue of this section ;
- (d) may empower the Registrar, as respects any application made by virtue of this section, to substitute for the period of twelve months specified in subsection (6) of the said section 64 such other period as appears to him expedient ;
- (e) may empower the Registrar to extend, subject to such conditions, if any, as may be imposed by or under the rules, the time limited by or under the foregoing provisions of this Ordinance for doing any act in relation to an application made by virtue of this section ;
- (f) may provide for securing that the rights conferred by a patent granted or registration made on an application made by virtue of this section shall be subject to such restriction or conditions as may be specified by or under the rules and in particular that where,

otherwise than as the result of any communication made in accordance with such an agreement or arrangement as is mentioned in paragraph (a) of this subsection, and before the date of the application in question or such later date as may be allowed by the rules, either the invention has been made, used, exercised or vended, or the design applied, by any person (including a person acting on behalf of His Majesty), or application for a patent for the invention or for registration of the design has been made by any such person as aforesaid, the rights conferred by a patent granted, or registration made, upon the first-mentioned application shall be subject to such conditions and reservations for the protection of that person as may be specified by or under the rules.

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

64B. Where an agreement or arrangement has been made between His Majesty's government in the United Kingdom and the government of another country for the supply or mutual exchange of information or articles, and the Governor is satisfied that provision substantially equivalent to the provision to be made by or under this section has been or will be made under the law of that country, the Governor may make rules to secure that the communication, in accordance with the agreement or arrangement, of an invention or design, or the publication, making, use, exercise or vending of an invention, or publication or application of a design, in consequence of such communication, shall not prejudice any application for a patent for the invention or registration of the design, being an application made by a person from whom the invention or design was so communicated or the legal representative or assignee of such a person, or invalidate the grant on such an application of a patent for the invention or the registration of such an application of the design.

Provisions as to rules under sections 64A and 64B.

64c. (1) Any rules made in pursuance of the last two preceding sections shall be laid before the Legislative Council.

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

(4) The power conferred by subsection (2) of section 64C inserted by this section to specify, in rules made under the section 64A or 64B so inserted, a date before the coming into operation of the rules as the date from which the rules, and any such order, direction or action as is mentioned in the said subsection (2) will have effect includes power to specify a date before the commencement of this Ordinance.

Passed in Council this twenty-fourth day of January, in the year of Our Lord one thousand nine hundred and forty-seven.

G. E. CHEN,
Clerk of the Council.

