

WESTERN AUSTRALIA

ANNO QUADRAGESIMO OCTAVO

VICTORIÆ REGINÆ

No. 7

An Act to regulate the Registration of Designs and of Trade Marks in the Colony of Western Australia.

[Assented to 27th August, 1884.]

BE it enacted by His Excellency the Governor of Western Australia and its Dependencies, by and with the advice and consent of the Legislative Council thereof, as follows:—

PART I.—PRELIMINARY

1. This Act may be cited as 'The Designs and Trade Marks Act, 1884.' Short title
2. This Act is divided into parts, as follows:— Division of Act into parts
 - PART I.—PRELIMINARY;
 - PART II.—DESIGNS;
 - PART III.—TRADE MARKS;
 - PART IV.—GENERAL.
3. This Act shall come into operation on the first day of January, 1885. Commencement of Act

PART II.—DESIGNS

REGISTRATION OF DESIGNS

4. (1) The Colonial Secretary may, on application by or on behalf of any person claiming to be the proprietor of any new or original design not previously published in Western Australia, register the design under this part of this Act. Application for registration of designs
 - (2) The application must be made in the form set forth in the Schedule to this Act, or in such other form as may be from time to time prescribed, and must be left at or sent by post to the Colonial Secretary's Office in the prescribed manner.
 - (3) The application must contain a statement of the nature of the design and the class or classes of goods in which the applicant desires that the design be registered.

Designs and Trade Marks

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

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

(6) The Colonial Secretary may, if he thinks fit, refuse to register any design presented to him for registration; but any person aggrieved by any such refusal may appeal therefrom to the Governor in Executive Council.

(7) The Governor in Council shall, if required, hear the appeal, and may make an order determining whether, and subject to what conditions, if any, registration is to be permitted.

Drawings, &c., to
be furnished on
application

5. (1) On application for registration of a design, the applicant shall furnish to the Colonial Secretary the prescribed number of copies of drawings, photographs, or tracings of the design, sufficient in the opinion of the Colonial Secretary for enabling him to identify the design; or the applicant may, instead of such copies, furnish exact representations or specimens of the design.

(2) The Colonial Secretary may, if he thinks fit, refuse any drawing, photograph, tracing, representation, or specimen which is not in his opinion suitable for the official records.

Certificate of
registration

6. (1) The Colonial Secretary shall grant a certificate of registration to the proprietor of the design, when registered.

(2) The Colonial Secretary may, in case of loss of the original certificate, or in any other case in which he deems it expedient, grant a copy or copies of the certificate.

COPYRIGHT IN REGISTERED DESIGNS

Copyright on
registration

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

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

Marking regis-
tered designs

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

Inspection of
registered
designs

9. (1) During the existence of copyright in a design, the design shall not be open to inspection except by the proprietor or by a person authorised in writing by the proprietor, or by a person authorised by the Colonial Secretary or by the Court, and furnishing such information as may enable the Colonial Secretary to identify the design; nor except in the presence of the Colonial Secretary or of an officer acting under him; nor except on payment of the prescribed fee; and the

Designs and Trade Marks

person making the inspection shall not be entitled to take any copy of the design or of any part thereof.

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

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

Information as to existence of copyright

11. If a registered design is used in manufacture in any foreign country or colony and is not used in this Colony within six months of its registration in this Colony, the copyright in the design shall cease.

Cesser of copyright in certain events

REGISTER OF DESIGNS

12. (1) There shall be kept at the Colonial Secretary's Office a book called the Register of Designs, wherein shall be entered the names and addresses of proprietors of registered designs, notifications of assignments and of transmissions of registered designs, and such other matters as may from time to time be prescribed.

Register of designs

(2) The register of designs shall be *prima facie* evidence of any matters by this Act directed or authorised to be entered therein.

FEES

13. There shall be paid, in respect of applications and registration and other matters under this part of this Act, such fees as may be from time to time prescribed, and such fees shall be levied and paid to the account of Her Majesty's Colonial Government, in such manner as the Governor shall from time to time direct.

Fees on registration, &c.

INDUSTRIAL AND INTERNATIONAL EXHIBITIONS

14. The exhibition at an industrial or international exhibition, or the exhibition elsewhere during the period of the holding of the exhibition, without the privity or consent of the proprietor of a design, or of any article to which a design is applied, or the publication during the holding of any such exhibition of a description of a design, shall not prevent the design from being registered, or invalidate the registration thereof; provided that both the following conditions are complied with, namely:—

Exhibition at industrial or international exhibition not to prevent or invalidate registration

- (a) The exhibitor must, before exhibiting the design or article, or publishing a description of the design, give the Colonial Secretary the prescribed notice of his intentions to do so; and
- (b) The application for registration must be made before or within six months from the date of the opening of the exhibition.

Designs and Trade Marks

LEGAL PROCEEDINGS

Penalty on piracy of registered design

15. During the existence of copyright in any design—

- (a) It shall not be lawful for any person, without the license or written consent of the registered proprietor, to apply such design or any fraudulent or obvious imitation thereof, in the class or classes of goods in which such design is registered, for purposes of sale, to any article of manufacture, or to any substance, artificial or natural, or partly artificial and partly natural; and
- (b) It shall not be lawful for any person to publish or expose for sale any article of manufacture or any substance to which such design or any fraudulent or obvious imitation thereof shall have been so applied, knowing that the same has been so applied without the consent of the registered proprietor.

Any person who acts in contravention of this section shall be liable for every offence to forfeit a sum not exceeding Fifty pounds to the registered proprietor of the design, who may recover such sum as a simple contract debt by action in any court of competent jurisdiction.

Action for damages

16. Notwithstanding the remedy given by this Act for the recovery of such penalty as aforesaid, the registered proprietor of any design may (if he elects to do so) bring an action for the recovery of any damages arising from the application of any such design, or of any fraudulent or obvious imitation thereof, for the purpose of sale, to any article of manufacture or substance, or from the publication, sale, or exposure for sale by any person of any article or substance to which such design or any fraudulent or obvious imitation thereof shall have been so applied, such person knowing that the proprietor has not given his consent to such application.

DEFINITIONS

Definition of 'design,' 'copy-right'

17. In and for the purposes of this Act—

'Design' means any design applicable to any article of manufacture, or to any substance, artificial or natural, or partly artificial and partly natural, whether the design is applicable for the pattern or for the shape or configuration, or for the ornament thereof, or for any two or more of such purposes and by whatever means it is applicable, whether by printing, painting, embroidering, weaving, sewing, modelling, casting, embossing, engraving, staining, or any other means whatever, manual, mechanical, or chemical, separate or combined, not being a design for a sculpture or other thing within the protection of the Sculpture Copyright Act of the year 1814 (54th George III. chapter 56).

'Copyright' means the exclusive right to apply a design to any article of manufacture or to any such substance as aforesaid in the class or classes in which the design is registered.

Designs and Trade Marks

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

Definition of
'proprietor'

PART III.—TRADE MARKS

REGISTRATION OF TRADE MARKS

19. (1) The Colonial Secretary may, on application by or on behalf of any person claiming to be the proprietor of a trade mark, register the trade mark.

Application for
registration

(2) The application must be made in the form set forth in the First Schedule to this Act, or in such other form as may be from time to time prescribed, and must be left at or sent by post to the Colonial Secretary's Office in the prescribed manner.

(3) The application must be accompanied by the prescribed number of representations of the trade mark, and must state the particular goods or classes of goods in connection with which the applicant desires the trade mark to be registered.

(4) The Colonial Secretary may, if he thinks fit, refuse to register a trade mark; but any such refusal shall be subject to appeal to the Governor in Council, who shall, if required, hear the case, and may make an order determining whether, and subject to what conditions, if any, registration is to be permitted.

(5) The Governor in Council may, however, if it appears expedient, refer the appeal to the Court; and in that event the Court shall have jurisdiction to hear and determine the appeal, and may make such order as aforesaid.

20. Where registration of a trade mark has not been or shall not be completed within twelve months from the date of the application, by reason of default on the part of the applicant, the application shall be deemed to be abandoned.

Limit of time for
proceeding with
application

21. (1) For the purposes of this Act, a trade mark must consist of or contain at least one of the following essential particulars:—

Conditions of
registration of
trade mark

- (a) A name of an individual or firm printed, impressed, or woven in some particular and distinctive manner; or
- (b) A written signature or copy of a written signature of the individual or firm applying for registration thereof as a trade mark; or
- (c) A distinctive device, mark, brand, heading, label, ticket, or fancy word or words not in common use.

(2) There may be added to any one or more of these particulars, any letters, words, or figures, or combination of letters, words, or figures, or of any of them.

Designs and Trade Marks

- 22.** A trade mark must be registered for particular goods or classes of goods.
- 23.** When a person, claiming to be the proprietor of several trade marks which, while resembling each other in the material particulars thereof, yet differ in respect of (a) the statement of the goods for which they are respectively used or proposed to be used, or (b) statements of numbers, or (c) statements of price, or (d) statements of quality, or (e) statements of names of places, seeks to register such trade marks, they may be registered as a series in one registration. A series of trade marks shall be assignable and transmissible only as a whole; but, for all other purposes, each of the trade marks composing a series shall be deemed and treated as registered separately.
- 24.** A trade mark may be registered in any colour, and such registration shall (subject to the provisions of this Act) confer on the registered owner the exclusive right to use the same in that or any other colour.
- 25.** Every application for registration of a trade mark under this part of this Act shall, as soon as may be after its receipt, be advertised in the 'Government Gazette' by the Colonial Secretary.
- 26.** (1) Any person may, within two months of the first advertisement of the application, give notice, in duplicate, at the Colonial Secretary's Office of opposition to registration of the trade mark, and the Colonial Secretary shall send one copy of such notice to the applicant.
- (2) Within two months after receipt of such notice, or such further time as the Colonial Secretary may allow, the applicant may send to the Colonial Secretary a counter statement, in duplicate, of the grounds on which he relies for his application, and if he does not do so shall be deemed to have abandoned his application.
- (3) If the applicant sends such counter statement, the Colonial Secretary shall furnish a copy thereof to the person who gave notice of opposition, and shall require him to give security in such manner and to such amount as the Colonial Secretary may require for such costs as may be awarded in respect of such opposition; and if such security is not given within fourteen days after such requirement was made, or such further time as the Colonial Secretary may allow, the opposition shall be deemed to be withdrawn.
- (4) If the person who gave notice of opposition duly gives such security as aforesaid, the Colonial Secretary shall inform the applicant thereof in writing, and thereupon the case shall be deemed to stand for the determination of the Court.
- 27.** A trade mark when registered shall be assigned and transmitted only in connection with the good-will of the business concerned in the particular goods or classes of goods for which it has been registered, and shall be determinable with that good-will.
- 28.** Where each of several persons claims to be registered as proprietor of the same trade mark, the Colonial Secretary may refuse to register any of them until their rights have been determined according to law, and the Colonial Secretary may himself submit, or require the claimants to submit their rights to the Court.
- 29.** (1) Except where the Court has decided that two or more persons are entitled to be registered as proprietors of the same trade

Connection of
trade mark with
goods
Registration of a
series of marks.

Trade marks may
be registered in
any colour

Advertisement
of application

Opposition to
registration

Assignment and
transmission of
trade mark

Conflicting
claims to regis-
tration

Restrictions on
registration

Designs and Trade Marks

mark, the Colonial Secretary shall not register in respect of the same goods or description of goods a trade mark identical with one already on the register with respect to such goods or description of goods.

(2) The Colonial Secretary shall not register, with respect to the same goods or description of goods, a trade mark so nearly resembling a trade mark already on the register, with respect to such goods or description of goods, as to be calculated to deceive.

30. It shall not be lawful to register, as part of, or in combination with a trade mark, any words the exclusive use of which would, by reason of their being calculated to deceive or otherwise, be deemed disentitled to protection in a court of justice, or any scandalous design.

Further restriction on registration

31. (1) Nothing in this Act shall be construed to prevent the Colonial Secretary entering on the register, in the prescribed manner and subject to the prescribed conditions, as an addition to any trade mark, any distinctive word or combination of words though the same is common to the trade in the goods with respect to which the application is made.

Saving for power to provide for entry on register of common marks as additions to trade marks

(2) The applicant for entry of any such common particular or particulars must, however, disclaim in his application any right to the exclusive use of the same, and a copy of the disclaimer shall be entered on the register.

(3) Any word or combination of words which was or were, before the commencement of this Act, publicly used by more than three persons on the same or a similar description of goods shall, for the purposes of this section, be deemed common to the trade in such goods.

EFFECT OF REGISTRATION

32. Registration of a trade mark shall be deemed to be equivalent to public use of the trade mark.

Registration equivalent to public use

33. The registration of a person as proprietor of a trade mark shall be *prima facie* evidence of his right to the exclusive use of the trade mark, and shall after the expiration of five years from the date of the registration be conclusive evidence of his right to the exclusive use of the trade mark, subject to the provisions of this Act.

Right of first proprietor to exclusive use of trade mark

34. A person shall not be entitled to institute any proceedings to prevent, or to recover damages for, the infringement of a trade mark, unless, in the case of a trade mark capable of being registered under this Act, it has been registered in pursuance of this Act.

Restrictions on actions for infringement, and on defence to action in certain cases

REGISTER OF TRADE MARKS

35. There shall be kept at the Colonial Secretary's Office a book called the Register of Trade Marks, wherein shall be entered the names and addresses of proprietors of registered trade marks, notifications of assignment and of transmissions of trade marks, and such other matters as may be from time to time prescribed.

Register of trade marks

36. (1) At a time not being less than two months nor more than three months before the expiration of fourteen years from the date of registration of a trade mark, the Colonial Secretary shall send notice to the registered proprietor that the trade mark will be removed from the

Removal of trade mark after fourteen years unless fee paid

Designs and Trade Marks

register unless the proprietor pays to the Colonial Secretary before the expiration of such fourteen years (naming the date at which the same will expire) the prescribed fee, and if such fee be not previously paid he shall, at the expiration of one month from the date of the giving of the first notice, send a second notice to the same effect.

(2) If such fee be not paid before the expiration of such fourteen years, the Colonial Secretary may, after the end of three months from the expiration of such fourteen years, remove the mark from the register, and so from time to time at the expiration of every period of fourteen years.

(3) If before the expiration of the said three months the registered proprietor pays the said fee, together with the additional prescribed fee, the Colonial Secretary may, without removing such trade mark from the register, accept the said fee as if it had been paid before the expiration of the said fourteen years.

(4) Where after the said three months a trade mark has been removed from the register for non-payment of the prescribed fee, the Colonial Secretary may, if satisfied that it is just so to do, restore such trade mark to the register, on payment of the prescribed additional fee.

(5) Where a trade mark has been removed from the register for non-payment of the fee or otherwise, such trade mark shall, nevertheless, for the purposes of any application for registration during the five years next after the date of such removal, be deemed to be a trade mark which is already registered.

FEES

Fees for registration, &c.

37. There shall be paid, in respect of applications and registration and other matters under this part of this Act, such fees as may be from time to time prescribed, and such fees shall be levied and paid to the account of Her Majesty's Colonial Government, in such manner as the Governor shall from time to time direct.

PART IV.—GENERAL

Trust not to be entered on registers

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

Refusal to register in certain cases

39. The Colonial Secretary may refuse to register a design or trade mark of which the use would, in his opinion, be contrary to law or morality.

Entry of assignments and transmissions in registers

40. Where a person becomes entitled by assignment, transmission, or other operation of law to the copyright in a registered design or to a registered trade mark, the Colonial Secretary shall, on request and on proof of title to his satisfaction, cause the name of such person to be entered as proprietor of the copyright in the design or trade mark in the register of designs or trade marks, as the case may be. The person for the time being entered in the register of designs or trade marks as proprietor of a copyright in a design or trade mark, as the case may be, shall, subject to any rights appearing from such register to be vested in any other person, have power absolutely to

Designs and Trade Marks

assign, grant licenses as to, or otherwise deal with the same, and to give effectual receipts for any consideration for such assignment, license, or dealing. Provided that any equities in respect of such design or trade mark may be enforced in like manner as in respect of any other personal property.

41. Every register kept under this Act shall at all convenient times be open to the inspection of the public, subject to such regulations as may be prescribed, and certified copies, sealed with the public seal of the Colony, of any entry in any such register shall be given to any person requiring the same, on payment of the prescribed fee.

Inspection of
and extracts
from registers.

42. Printed or written copies or extracts purporting to be certified by the Colonial Secretary and sealed with the seal of the Colony of or from registers and other books kept there shall be admitted in evidence in all courts in the Colony and in all proceedings without further proof or production of the originals.

Sealed copies to
be received in
evidence

43. (1) The Court may, on application of any person aggrieved by the omission, without sufficient cause, of the name of any person from any register kept under this Act or by any entry made without sufficient cause in any such register, make such order for making, expunging, or varying the entry as the Court thinks fit; or the Court may refuse the application, and in either case may make such order with respect to the costs of the proceedings as the Court thinks fit.

Rectification of
registers by
Court

(2) The Court may in any proceedings under this section decide any question that it may be necessary or expedient to decide for the rectification of a register, and may direct an issue to be tried for the decision of any question of fact, and may award damages to the party aggrieved.

(3) Any order of the Court rectifying a register shall direct that due notice of the rectification be given to the Colonial Secretary.

44. The Colonial Secretary may, on request in writing, accompanied by the prescribed fee—

Power for Colo-
nial Secretary to
correct clerical
errors

- (a) Correct any clerical error in or in connection with an application for a registration of a design or trade mark; or
- (b) Correct any clerical error in the name, style, or address of the registered proprietor of a design or trade mark; or
- (c) Cancel the entry or part of the entry of a trade mark on the register. Provided that the applicant accompanies his request by a statutory declaration made by himself stating his name, address, and calling, and that he is the person whose name appears on the register as the proprietor of the said trade mark.

45. (1) The registered proprietor of any registered trade mark may apply to the Court for leave to add to or alter such mark in any particular, not being an essential particular, within the meaning of this Act, and the Court may refuse or grant leave on such terms as it may think fit.

Alteration of
registered marks

(2) Notice of any intended application to the Court under this section shall be given to the Colonial Secretary by the applicant, and the Colonial Secretary shall be entitled to be heard on the application.

(3) If the Court grants leave, the Colonial Secretary shall on

Designs and Trade Marks

proof thereof, and on payment of the prescribed fee, cause the register to be altered in conformity with the order of leave.

Falsification of entries in registers

46. If any person makes or causes to be made a false entry in any register kept under this Act, or a writing falsely purporting to be a copy of an entry in any such register, or produces or tenders or causes to be produced or tendered in evidence any such writing, knowing the entry or writing to be false, he shall be guilty of a misdemeanour, and shall be liable on conviction thereof to be imprisoned for any term not exceeding 12 months.

Exercise of discretionary power by Colonial Secretary

47. Where any discretionary power is by this Act given to the Colonial Secretary, he shall not exercise that power adversely to the applicant for registration of a trade mark or design without (if so required within the prescribed time by the applicant) giving the applicant an opportunity of being heard personally or by his agent.

Power of Colonial Secretary to take directions of Law Officers

48. The Colonial Secretary may, in any case of doubt or difficulty arising in the administration of any of the provisions of this Act, apply to the Attorney General or to the Crown Solicitor for advice in the matter.

Certificate of Colonial Secretary to be evidence

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

Applications and notices by post

50. (1) Any application, notice, or other document authorised or required to be left, made, or given at the Colonial Secretary's Office or to the Colonial Secretary, or to any other person under this Act, may be sent by a prepaid letter through the post, and if so sent shall be deemed to have been left, made, or given respectively at the time when the letter containing the same would be delivered in the ordinary course of post.

(2) In proving such service or sending, it shall be sufficient to prove that the letter was properly addressed and put into the post.

Provision as to days for leaving documents at offices

51. Whenever the last day fixed by this Act or by any rule for the time being in force for leaving any document or paying any fee at the Colonial Secretary's Office shall fall on any bank holiday or any day observed as a day of public fast or thanksgiving (herein referred to as excluded days), it shall be lawful to leave such document or to pay such fee on the day next following such excluded day or days if two or more of them occur consecutively.

Declaration by infants, lunatic, &c.

52. If any person is by reason of infancy, lunacy, or any other inability incapable of making any declaration or doing anything required or permitted by this Act, or by any rules made under the authority of this Act, then the guardian or committee (if any) of such incapable person, or if there be none, any person appointed by any Court or Judge possessing jurisdiction in respect of the property of incapable persons, upon the petition of any person on behalf of such incapable person or of any other person interested in the making such declaration or doing such thing, may make such declaration or a declaration as nearly corresponding thereto as circumstances permit and do such thing in the name and on behalf of such incapable

Designs and Trade Marks

person; and all acts done by such substitute shall for the purpose of this Act be as effectual as if done by the person for whom he is substituted.

53. (1) The Governor in Executive Council may from time to time make such general rules and do such things as he may think expedient, subject to the provisions of this Act :—

Power for Governor to make general rules for classifying goods and regulating business of Registry Office

- (a) For regulating the practice of registration and the fees payable under this Act.
- (b) For classifying goods for the purpose of designs and trade marks.
- (c) Generally for regulating the business of the Office of Registry and all things by this Act placed under the direction or control of the Colonial Secretary.

(2) Any of the forms in the First Schedule to this Act may be altered or amended by rules made by the Governor as aforesaid.

(3) General rules made under this section shall (subject as hereinafter mentioned) be of the same effect as if they were contained in this Act, and shall be judicially noticed.

(4) Any rules made in pursuance of this section shall be laid before the Legislative Council, if the said Council be in Session at the time of making thereof, or if not then as soon as practicable after the beginning of the then next Session; and they shall also be advertised twice in the 'Government Gazette' of the said Colony.

(5) If the Council, within the next forty days after any rules have been so laid before it, resolves that such rules or any of them ought to be annulled, the same shall after the date of such resolution be of no effect, without prejudice to the validity of anything done in the meantime under such rules or rule, or to the making of any new rules or rule.

54. The Colonial Secretary shall in every year cause a report respecting the execution by or under him of this Act to be laid before the Legislative Council, and therein shall include for the year to which each report relates all general rules made in that year under or for the purposes of this Act and an account of all fees, salaries and allowances, and other money received and paid under this Act.

Annual reports of Colonial Secretary

55. [*Repealed by 58 Vic., No. 4.*]

Registration of designs and trade marks already registered in other countries

OFFENCES

56. (1) Any person who describes any design or trade mark applied by him to any article sold by him as registered which is not so registered shall be liable for every offence, on summary conviction thereof before any Resident or Police Magistrate, or before any two or more Justices of the Peace in Petty Sessions, to a penalty not exceeding Five pounds, recoverable according to the provisions of the Acts in that behalf.

Penalty for falsely representing articles to be patented

(2) A person shall be deemed for the purposes of this enactment to represent that a design or trade mark is registered if he sells the article with the word 'registered,' or with any word or

Designs and Trade Marks

words expressing or implying that a registration has been obtained for the article, stamped, engraved, or impressed on, or otherwise applied to the article.

GENERAL DEFINITIONS

General definitions

57. In and for the purposes of this Act, unless the context otherwise requires—

‘Person’ includes a corporation.

‘The Court’ means the Supreme Court of Western Australia.

‘Prescribed’ means prescribed by general rules under or within the meaning of this Act.

F. NAPIER BROOME,
GOVERNOR.

SCHEDULE

FORM A

Form of Application for Registration of Design

You are hereby requested to register the accompanying design in Class _____ of _____ day of _____ 18____ design in the name of _____ of _____ who claims to be the proprietor thereof, and to return the same to _____
Statement of nature of Design
Registration Fees enclosed £ _____ s. _____ d.

(Signed)

To the Honourable the Colonial Secretary, Perth.

FORM B

Form of Application for Registration of Trade Mark

(One representation to be fixed within this square and two others on separate sheets of foolscap of same size.)

(Representations of a larger size may be folded, but must be mounted on linen and affixed hereto.)

You are hereby requested to register the accompanying trade mark [In Class _____ Iron in bars, sheets, and plates; in Class _____ Steam engines and boilers; and in Class _____ Warming apparatus] in the name of _____ who claims to be the proprietor thereof.

Registration Fees enclosed £ _____

(Signed)

To the Honourable the Colonial Secretary, Perth.