

THE AUSTRALIAN DESIGN AWARD AND AUSTRALIAN DESIGN MARK

TRADE MARK CERTIFICATION

RULES GOVERNING THE SCHEME

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8/5/02

THE AUSTRALIAN DESIGN MARK SCHEME

INTRODUCTION

The Australian Design Award and the Australian Design Mark are certification Trade Marks owned by Standards Australia. They are granted under Licence to manufacturers whose products have reached an appropriate standard of design, manufacture and general business practice. Assessment is by examination and granting is at the discretion of the Associate Director in charge of the program.

As certification Trade Marks, the Australian Design Award and the Australian Design Mark are governed by a set of rules lodged with the Australian Trade Mark Office, a division of IP Australia. For your information, these rules, as they apply to product assessment and business quality, are set out in this document. Their intention is to protect the integrity of the Australian Design Award and the Australian Design Mark as a symbol of good design. By doing this, the rules also enhance the value of the Australian Design Award and the Australian Design Mark symbol to the Licensee.

The Australian Design Award and the Australian Design Mark were taken over by Standards Australia from the Industrial design Council of Australia.

Rules governing the use of the Australian Design Award and the Australian Design Mark certification Trade Marks

1. GENERAL

- 1.1 The Standards Association of Australia, an independent organisation incorporated by Royal Charter trading as Standards Australia, is the owner of a registered certification Trade Marks known as the Australian Design Award and the Australian Design Mark. The Australian Design Award and the Australian Design Mark are defined and set out in Schedule 1.
- 1.2 The Australian Award division within Standards Australia has been set up to administer the certification scheme and the use of the Trade Marks for the Australian Design Award and the Australian Design Mark. The Associate Director for the program (known as the Australian Design Authority) has the responsibility for authorising the granting of licences to use the Australian Design Award and the Australian Design Mark.

2. POWERS AFFECTING THE ISSUE FOR CONTINUANCE OF THE LICENCE

2.1 Powers of the Australian Design Authority

The Australian Design Authority may, at its discretion, and subject to the provisions of clauses 3 and 4:

- (a) refuse to grant or renew a Licence or extends its scope, or
- (b) revoke a Licence or alter a Licence so as to reduce its scope, or
- (c) suspend a Licence,

Such decisions shall be communicated to the applicant or Licensee in writing.

2.2 Suspension of Licence

The Australian Design Authority may authorise particular persons or bodies to suspend a Licence. Where a Licence is suspended, the grounds for doing so shall be examined by Australian Design Authority which in its discretion may either:-

- (a) reinstate the Licence, or
- (b) refer the matter to Standards Australia to determine whether the circumstances which led to the suspension merit the exercise of any of its powers under Clause 2.1.

2.3 Potential Grounds for Exercise of Powers

Without limiting the generality of the powers of the Australian Design Authority and Standards Australia in relation to a Licence, such powers may be exercised if the Licensee:

- (a) uses the Australian Design Award and the Australian Design Mark in connection with any goods not complying with the appropriate Program; or
- (b) uses the Australian Design Award or the Australian Design Mark in a form that, in the opinion of Australian Design Authority, might be misleading to the public; or
- (c) fails to pay any fees, costs or charges payable under the licensing agreement; or
- (d) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors or makes any arrangement or composition with its creditors, or, if a company enters into liquidation (whether compulsory or voluntary, but not including voluntary liquidation for the purposes of reconstruction) or has a receiver appointed of its business.

7. NOTICES

Any notice or other communication to be given or sent to the applicant or Licensee hereunder shall be deemed to be duly given or sent if sent by post, telex or facsimile transmission to the address last known to Australian Design Authority and shall be deemed to be given at the time when the same would ordinarily have been received depending upon the method employed.

The address for the Australian Design Authority shall be :- 1 The Crescent, Homebush, New South Wales 2140. PO Box 1055 Strathfield 2135. Telephone 9746 4700

8. MISCELLANEOUS

8.1 The identity of applicants shall be treated by the Australian Design Authority as confidential. All information of a confidential nature given by applicants or Licensees to the Australian Design Authority shall be treated as confidential unless the Australian Design Authority has received written permission from the applicant or Licensee that any such information may be divulged.

8.2 A Licence is non-exclusive and non-transferable.

8.3 A list of the Licensees for the time being shall be kept by the Australian Design Authority and be open to inspection.

8.4 In these Rules, words importing the singular import the plural and vice versa.

9 APPLICATIONS

9.1 Set out below in Schedule 2 are the following documents in respect of the Australian Design Award and Australian DesignMark :-

- Terms of Licensing
- Competition Overview
- Entry Form
- Logo Use

3. RIGHT OF RECONSIDERATION OF DECISION

In the event of applicant or Licensee wishing for a decision under clause 2 to be reconsidered, it shall, within 14 days of having received written notification of such decision, give notice in writing to the Secretary of Standards Australia of its desire to have the decision reconsidered, whereupon it shall be furnished, within one month of receipt of this notice, with the grounds of such decision in writing, and a meeting with a senior executive of Standards Australia responsible for the administration of Trade Marks shall be held on a date not less than 14 days nor more than 30 days after the delivery of such grounds, and the applicant or Licensee shall be given at least 7 days notice of the time and place of such meeting. At such meeting the applicant or Licensee shall be entitled to appear and be heard against the decision for which it is requesting reconsideration. The senior executive of Standards Australia shall provide the applicant or Licensee within 30 days of the meeting with its decision in writing together with reasons.

4. RIGHT OF APPEAL

In the event of an applicant or Licensee wishing to appeal against any decision of the senior executive of Standards Australia arising from any reconsideration under Clause 3 hereof it shall, within 14 days of having received written notification of such decision, give notice in writing to the Secretary of Standards Australia, seeking determination by an Independent Body.

The Licensee (or applicant) and Standards Australia shall agree upon the appointment of a suitable qualified person or body to be the Independent Body. The Independent Body shall agree a process for both parties to make submissions in respect of the Appeal. The Independent Body shall notify the parties in writing of its decision together with reasons. The parties agree to each bear half the costs of the Independent Body in hearing the Appeal. The Appeal shall be scheduled as quickly as possible after notification by the Licensee (or applicant) to Standards Australia. The decision of the Independent Body shall be final.

5. RESTRICTIONS ON USE OF AUSTRALIAN DESIGN AWARD AND THE AUSTRALIAN DESIGN MARK

A Licensee shall only use the Australian Design Award and the Australian Design Mark or claim by implication an entitlement to use the Australian Design Award and the Australian Design Mark in relation to the goods which are covered by the Licence and which comply with the appropriate standard.

6. RELINQUISHMENT OF LICENCE

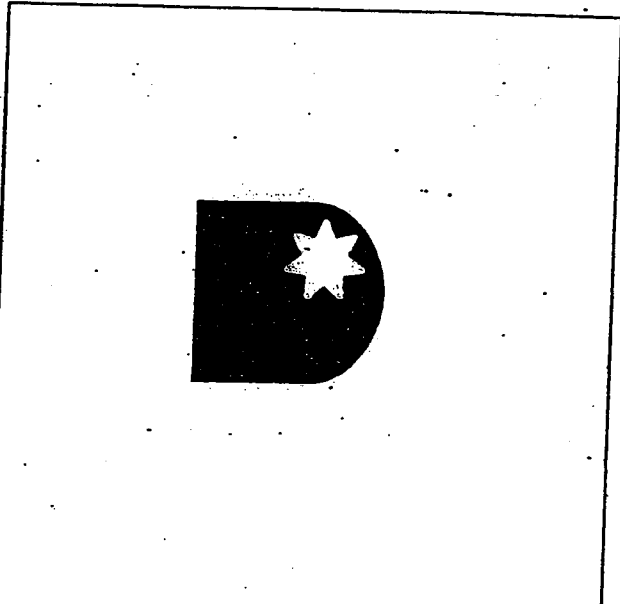
A Licence may be relinquished by a Licensee at any time by advice in writing to Australian Design Authority and by the return of the Licence.

SCHEDULE 1

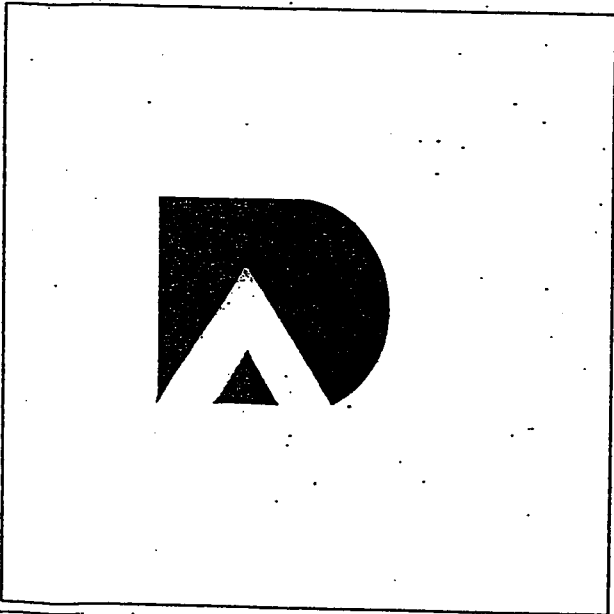
Trade mark



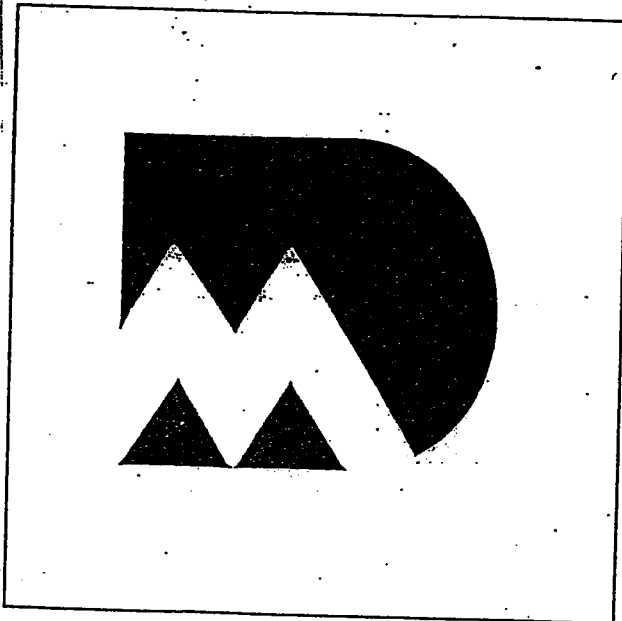
Trade mark



Trade mark



Trade mark



SCHEDULE 2