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Australian
Competition &
Consumer
Commission

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Our Ref: C2003/1468
Your Ref: TM120
Contact Officer: Liam Stewart
Contact Phone: (02) 6243 1275

6 October 2004

The Registrar of Trade Marks
IP Australia
PO Box 200
WODEN ACT 2606

Dear Registrar

**Certification Trade Mark Application No: 914767 lodged by Meat and Livestock
Australia**

The ACCC, in accordance with the provisions of the *Trade Marks Act 1995*, has completed its final assessment of the above Certification Trade Mark.

A certificate detailing the ACCC's assessment is attached, as well as a certified copy of the rules. The applicant has been notified.

If you have any queries on this matter, please contact Liam Stewart on (02) 6243 1275.

Yours sincerely

Scott Gregson
Director
Adjudication Branch





Final Assessment of Certification Trade Mark Application 914767 lodged by Meat and Livestock Australia Ltd.

The Australian Competition and Consumer Commission (the Commission), in accordance with the requirements of the *Trade Marks Act 1995*, has completed its Final Assessment of the above Certification Trade Mark (CTM) application.

The Commission's Final Assessment is that it is satisfied that:

- (a) the approved certifiers are competent to certify the Code of Practice in respect of which the CTM is to be registered
- (b) the rules governing the use of the CTM would not be to the detriment of the public and
- (c) the rules governing the use of the CTM are satisfactory having regard to the principles relating to restrictive trade practices set out in Part IV of the *Trade Practices Act 1974* (the Act); the principles relating to unconscionable conduct set out in Part IVA of the Act; and the principles relating to unfair practices, product safety and product information set out in Part V of the Act.

Signed.......... (Commissioner)

Date.....24 SEPTEMBER 2004.....

MEAT & LIVESTOCK AUSTRALIA LIMITED

ACN 081 678 364

(MLA)

Certification Trade Mark Rules

Certified copy
pursuant to section 175(2)(b)
of the Trade Marks Act 1995

Commissioner

Date

24-09-04

1. Rules

These rules govern the issue by MLA of certificates for the use of the Trade Mark.

2. Definitions

Where commencing with a capital letter:

Applicant means a Person applying to MLA for the issue of a certificate for the use of the Trade Mark;

Authorised User means a Person for the time being entered in the Register;

Certificate means any Certificate issued or renewed by MLA in the form set out in annexure A, in accordance with these rules;

Code means the *Fresh Australian Premium Lamb Code of Practice* as set out in annexure B;

Lamb means fresh Australian premium lamb meeting the specifications and procedures specified in the Code;

Licence Agreement means the agreement set out in annexure C;

Licence Year means any consecutive period of 12 months commencing on 1 July during the currency of a Certificate provided that where the date of issue of the Certificate is not 1 July, the first Licence Year is the period from the date of issue of the Certificate to the next 30 June;

Person means any individual, firm or body corporate, including Authorised Users;

Premises means Level 1, 165 Walker Street, North Sydney, New South Wales;

Register means the register kept by MLA of Authorised Users of the Trade Mark; and

Trade Mark means Australian Trade Mark No 914767 in class 29 in Part C in respect of Lamb as set out in annexure D.

3. Proprietorship

3.1 The Trade Mark is the property of MLA and may not be used by any Person otherwise than in accordance with these rules.

3.2 The power of issuing and renewing and withdrawing a Certificate is vested in MLA.

- (c) ensure that it only supplies goods bearing the Trade Mark to such importers in the USA and Canada as are specified by MLA from time to time.

9. Use of the Trade Mark

9.1 Authorised Users must:

- (a) only use the Trade Mark as a means of identifying Lamb;
- (b) only apply the Trade Mark to Lamb, or in relation to Lamb in accordance with these rules;
- (c) only use the Trade Mark in advertisements relating to Lamb;
- (d) not alter or modify the Trade Mark in any way;
- (e) not use any other trade mark in juxtaposition to the Trade Mark;
- (f) obtain the prior written approval of MLA for all proposed labels, packaging, advertising or other literature intended to bear the Trade Mark;
- (g) allow officers of MLA and authorised agents to enter the Authorised User's premises during regular business hours to inspect all goods bearing the Trade Mark, obtain samples of them and inspect the Authorised User's records to verify that these rules are being complied with;
- (h) identify the Authorised User's premises name and number on each package bearing the Trade Mark; and
- (i) distribute adhesive labels bearing the Trade Mark for affixing by retailers in the manner specified by MLA.

9.2 At MLA's request, an Authorised User must provide MLA with evidence to satisfy MLA that the Trade Mark is being applied in accordance with these rules.

10. Renewal of Certificate

10.1 Subject to 10.3, a Certificate will be renewed on payment of the fee prescribed in rule 8(b)(ii).

10.2 The renewal fee must be paid to MLA no later than the date of expiry of the term of the Certificate.

10.3 Subject to the provisions of rule 11, MLA may refuse to renew the Certificate of an Authorised User who has breached or has failed to comply with these rules.

11. Cancellation of Certificate

11.1 If an Authorised User:

- (a) breaches these rules;
- (b) uses the Trade Mark in an unauthorised or improper manner;
- (c) loses accreditation by MLA,

- (d) being a corporation, goes into liquidation, has a receiver or receiver and manager appointed to it or any part of its assets, enters into a scheme of arrangement with creditors or suffers any other form of external administration, or;
- (e) being an individual, commits any act of bankruptcy or enters into a scheme of arrangement with creditors,

MLA may by notice to the Authorised User, cancel the Authorised User's Certificate.

11.2 If:

- (a) MLA cancels or refuses to renew a Certificate; or
- (b) an Authorised User does not renew a Certificate,

the Authorised User must:

- (c) immediately stop using the Trade Mark, and deliver to MLA all items bearing or indicating the Trade Mark for the purpose of being destroyed; or
- (d) not sell, or expose for sale, any goods bearing the Trade Mark except with the consent of MLA.

12. **Appeals**

12.1 If MLA:

- (a) refuses to issue or renew a Certificate; or
- (b) cancels a Certificate,

(Cancellation) the Person concerned may, by notice no later than 30 days after the date of Cancellation or such further time as the President may allow, appeal to the President of the Law Society of New South Wales to appoint an independent expert to determine the appeal against such Cancellation.

12.2 At such time, MLA must be notified of the appeal.

12.3 The decision of the independent expert in any appeal, after submission to the independent expert of written or verbal representations as the parties desire to make or as the independent expert requires, will be final and binding on MLA and the Person concerned.

13. **Power to amend**

13.1 Provided that the Australian Competition and Consumer Commission consents, MLA may from time to time alter these rules or make new rules.

13.2 MLA will provide each Authorised User with 2 months' notice of any new or altered rules. After that time, any alteration or new rule will become effective.

4. Notices

14.1 A notice under these rules must be in writing and may be given to the addressee by:

- (a) delivering it to the address of the addressee notified by the addressee from time to time;
- (b) sending it by pre-paid registered post to the address of the addressee; or
- (c) sending it by fax to the fax number of the addressee,

and the notice will be deemed to have been received by the addressee on receipt.

14.2 A fax is deemed to have been received on production of a transmission report by the machine from which the fax was sent which indicates that the fax was sent in its entirety to the fax number of the addressee.

14.3 The address of MLA for the service of notices is at the Premises.

15. Governing law

These rules are governed by and must be construed in accordance with the laws of New South Wales.