

WORLD TRADE ORGANIZATION

ORGANISATION MONDIALE DU COMMERCE

ORGANIZACIÓN MUNDIAL DEL COMERCIO

IP/N/1/AUS/D/1

31 July 1996

(96-3050)

**Council for Trade-Related Aspects
of Intellectual Property Rights**

Original: English/
anglais/
inglés

**MAIN DEDICATED INTELLECTUAL PROPERTY LAWS AND REGULATIONS
NOTIFIED UNDER ARTICLE 63.2 OF THE AGREEMENT**

Australia

The present document reproduces the Designs Act 1906 (Reprinted as at 31 August 1994)¹, as notified by Australia under Article 63.2 of the Agreement (see document IP/N/1/AUS/1/Rev.1).

**Conseil des aspects des droits de propriété
intellectuelle qui touchent au commerce**

**PRINCIPALES LOIS ET REGLEMENTATIONS CONSACREES
A LA PROPRIETE INTELLECTUELLE NOTIFIEES
AU TITRE DE L'ARTICLE 63:2 DE L'ACCORD**

Australie

Le présent document contient le texte de la Loi de 1906 sur les dessins et modèles (réimpression du 31 août 1994)¹, notifiée par l'Australie au titre de l'article 63:2 de l'Accord (voir le document IP/N/1/AUS/1/Rev.1).

**Consejo de los Aspectos de los Derechos de Propiedad
Intelectual relacionados con el Comercio**

**PRINCIPALES LEYES Y REGLAMENTOS DEDICADOS A LA
PROPIEDAD INTELECTUAL NOTIFICADOS EN VIRTUD
DEL PÁRRAFO 2 DEL ARTÍCULO 63 DEL ACUERDO**

Australia

En el presente documento se reproduce la Ley de Dibujos y Modelos de 1906 (reimpresión del 31 de agosto de 1994)¹, que Australia ha notificado en virtud del párrafo 2 del artículo 63 del Acuerdo (véase el documento IP/N/1/AUS/1/Rev.1).

¹English only/anglais seulement/inglés solamente.



DESIGNS ACT 1906

Reprinted as at 31 August 1994

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DESIGNS ACT 1906

An Act relating to designs

PART I—INTRODUCTORY

Short title

1. This Act may be cited as the *Designs Act 1906*.¹

Commencement

2. This Act shall commence on a day to be fixed by Proclamation.¹

Interpretation

4. (1) In this Act, unless the contrary intention appears:

“**article**” means any article of manufacture and includes a part of such an article if made separately, but does not include an integrated circuit, or part of an integrated circuit, within the meaning of the *Circuit Layouts Act 1989*, or a mask used to make such a circuit;

“**artistic work**” has the same meaning as in the *Copyright Act 1968*;

“**Australia**” includes each external Territory;

“**Australian continental shelf**” means the continental shelf, within the meaning of the *Seas and Submerged Lands Act 1973*, adjacent to the coast of Australia (including the coast of any island forming part of a State or Territory);

“**Convention country**” means a country in respect of which there is in force for the time being a Regulation under section 48 declaring that country to be a Convention country for the purposes of this Act;

“**corresponding design**” has the same meaning as in Division 8 of Part III of the *Copyright Act 1968*;

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“Deputy Registrar” means a Deputy Registrar of Designs holding office under this Act;

“design” means features of shape, configuration, pattern or ornamentation applicable to an article, being features that, in the finished article, can be judged by the eye, but does not include a method or principle of construction;

“Designs Office” means the Designs Office established by this Act;

“Federal Court” means the Federal Court of Australia;

“infringement proceedings” means an action or proceedings for the infringement of the monopoly in a registered design;

“legal personal representative”, in relation to a deceased person, means a person to whom probate of the will of the deceased person, letters of administration of the estate of the deceased person or other like grant has been granted, whether in Australia or elsewhere, but does not include such a person who, by reason of the terms of the grant, is not entitled to do an act in relation to which the expression is used;

“monopoly”, in relation to a registered design, means the exclusive right to apply the design to an article in respect of which the design is so registered;

“Official Journal” has the same meaning as in the *Patents Act 1990*;

“owner” means:

- (a) in relation to a design that is not a registered design—a person who is the owner of the design in accordance with section 19 or, if there are 2 or more persons who have an interest in the design in accordance with that section, each of those persons; or
- (b) in relation to a registered design—the person who is registered as the owner of the registered design or, if there are 2 or more such persons, each of those persons;

“prescribed court” means the Federal Court, the Supreme Court of a State, the Supreme Court of the Australian Capital Territory, the Supreme Court of the Northern Territory of Australia or the Supreme Court of Norfolk Island;

“register” means the Register of Designs under this Act;

“registered” means registered under this Act;

“registered design” means a design registered under this Act;

“Registrar” means the Registrar of Designs holding office under this Act;

“representation”, in relation to an article to which a design is applied, means a drawing, tracing or specimen of the article to which the design is applied or a photograph of such a drawing, tracing or specimen;

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“set of articles” means a number of articles that are of the same general character and ordinarily on sale, or intended to be used, together, being articles to each of which there is applied a design that is the same as, or that differs only in immaterial details or in features commonly used in the relevant trade from, the design applied to the other articles or to any of them;

“State”, in Part VIA, includes the Australian Capital Territory, the Northern Territory and Norfolk Island;

“State Designs Act” means any State Act relating to the registration of designs;

“statement of monopoly”, in relation to a design, means a statement relating to the representations of an article to which the design is applied that indicates:

- (a) those features of the representations in respect of which the applicant for registration of the design wishes to claim a monopoly; and
- (b) those features of the representations that are to be disregarded in considering the extent of the monopoly protection;

“statement of novelty”, in relation to a design, means a statement relating to the representations of an article to which the design is applied that indicates those features of the representations in respect of which novelty or originality is claimed;

“Territory” means a Territory in which this Act applies or to which this Act extends.

(2) A reference in this Act to an article shall be read as including a reference to:

- (a) a set of articles;
- (b) each article in a set of articles; or
- (c) both a set of articles and each article in that set;

as the case requires.

References to prescribed court

5. A reference in this Act to a prescribed court shall:

- (a) in relation to the institution of an appeal or other proceeding, be read as a reference to a prescribed court having jurisdiction with respect to matters arising under this Act in respect of which the appeal or other proceeding is instituted; and
- (b) in relation to the exercise of jurisdiction, be read as a reference to a prescribed court exercising jurisdiction in accordance with section 40G.