

Trade-Marks—Registration— Secretary of State.

A design or form is a trade-mark as defined by section 4286, R.C.M. 1921, and may be registered separate and apart from a trade name.

Mr. W. E. Harmon,
Secretary of State,
Helena, Montana.

October 6, 1932.

My dear Mr. Harmon:

You have requested my opinion as to whether the Montana statute contemplates that a design or form may be registered as separate and apart from the name.

Under the provisions of section 4286, a trade mark is defined to include "every description of word, letter, device, emblem, stamp, imprint, brand, printed ticket, label, or wrapper usually affixed by any mechanic, manufacturer, druggist, merchant, or tradesman, to denote any goods to be goods imported, manufactured, produced, compounded, or sold by him, other than any name, word, or expression generally denoting any goods to be of some particular class or description, or the designation or name for any mill, hotel, factory, or other business."

And section 4287 R. C. M. 1921 provides that any person may record any trade-mark or name.

From the provisions of the two statutes above, it is my opinion that a design or form may be registered as separate and apart from the name since a design is clearly included within the definition of a trade-mark and either a trade-mark or a name is allowed to be registered and there is no limitation upon the number which may be registered by any one person.

Very truly yours,
L. A. FOOT,
Attorney General.