



VERSION 1.1 2018

INDEX

Carpet Quality Names

Rules

1. Definitions

In these Rules the following terms shall have the respective meanings set out below:

Index shall mean the Index of Carpet Quality Names, a carpet industry register maintained and disseminated by the Carpet Institute of Australia Limited.

Institute shall mean the Carpet Institute of Australia Limited.

Participant shall mean a company authorised by the Committee of the Institute to have its carpet quality names registered in the Index and published in the Index.

The Rules shall mean the rules herein and any amended version from time to time published by the Institute.

2. Introduction

The Index of Carpet Quality Names has been published at least since early 1983.

It is a register of names given to carpet qualities. The Index system permits more than one name to be assigned to a particular carpet construction.

3. Purpose of the Index

3.1 The Index serves a number of purposes. These are set out in the Preface to the current edition of the Index as follows:

- (a) to provide a convenient method of preventing duplication of carpet quality names in the Australasian carpet market;
- (b) to enable industry members to determine the supplier of a named carpet quality;
- (c) to provide a trade standard so that the practice of registering carpet quality names is a matter of course for the industry.

3.2 In addition, the Index serves to record the Australian Carpet Classification Scheme (ACCS) ratings for carpet constructions.

3.3 Finally, the Index serves as a means by which a company may show, in an evidentiary sense, that a carpet name which it uses to market a particular quality has been attributed to it. This in no way gives a proprietary interest in that name. It would serve only to show that, for example, a company was marketing a carpet quality under a particular name and that another company may be engaging in misleading and deceptive conduct under Section 18 of the Australian Consumer Law, if it used the same name to market a carpet quality. The full circumstances of the marketing of a carpet with the same name or a similar name to that allocated to a Participant in the Index would need to be investigated in order to establish a breach of Section 18.

4. Institute Not Liable to Participants

- 4.1 Users of the Index should not rely upon the Index as providing legal protection against the use of a name by others. The protection, which is afforded by the operation of the Section 18 of the Australian Consumer Law will be specific to the particular circumstance of alleged use of an already registered name. Trademark registration is necessary to provide for a legally enforceable right to exclusive use of a name.
- 4.2 If a name is incorrectly attributed in the Index to a Participant other than the party with the legally enforceable right to exclusive use of the name, the Institute will correctly attribute the name in the Index as soon as practicable after the Institute is informed of the discrepancy.
- 4.3 The Participant agrees not to take action against the Institute for incorrectly attributing a name in the Index to a party who does not hold the legally enforceable right to exclusive use of the name.
- 4.4 The Participant agrees to indemnify and hold indemnified the Institute, its staff and its independent contractors against any costs or awards of damages incurred as a result of legal proceedings arising from a listing in the Index.

5. Duty of Participants to Check Name Status

- 5.1 It is not the responsibility of the Institute, its staff or agents to check as to whether there is a trademark or other registration or any other form of protection in a name which would prohibit the applicant Participant from use of a name in the marketplace. At all times it is the duty of a Participant to check such details.

6. Process for Registration

- 6.1 Subject to what has been stated in Section 3 of these Rules, the Index does and will continue to operate on a priority system. All inclusions in or deletions from the Index must be made in writing.
- 6.2 The Institute's staff will check that the name requested is available and that it complies with the Rules concerning admissible names set out in these Rules.
- 6.3 Once the Institute staff are satisfied that the name qualifies to be registered, in its absolute discretion the Institute may choose to register or reject the name for registration. If it decides to register the name, the Institute will confirm in writing to the applicant that the name has been admitted to the Index.
- 6.4 At the next six monthly or other interval for the publication of the Index, such date, which will be in the absolute discretion of the Institute to determine the name, will be shown in the printed copy of the Index. However, if through whatsoever cause including negligence of the Institute, the name does not appear in the Index, the Participant so affected agrees not to hold the Institute, its staff, independent contractors or any person associated with the Index and/or its administration liable in any regard.

7. Names: Characteristics Necessary for Registration

- 7.1 A name, which has already been registered by a Participant, will not be registrable by any other Participant unless that other Participant can demonstrate a superior propriety interest in the name.
- 7.2 Participants cannot register a name with a number before or after it, if a name without those numbers is already registered e.g. "Laser 240" is inadmissible if "Laser" is already registered to another Participant.
- 7.3 Participants cannot register a name, which is a variant of a currently registered name by reason of the addition, or subtraction of prefixes, suffixes, the singular or the plural to an already registered name.
- 7.4 Names which describe a production process or which denote accepted industry descriptions of particular types of carpets e.g. WILTON, BERBER, TUFTED, ALL NATIONS, WOOL TUFTED etc will not be registered unless the name is a registered trade mark. The inclusion of a name in the Index is also taken to cover the same name combined with any usual prefix e.g. EXTRA, SUPER, EXTRA-SUPER, and/or any similar suffix e.g. if "Laser" is registered to a Participant, then "Super Laser" is not available to any other Participant. However an adjective, adverb or noun which modifies a name, will be permitted unless it is deemed by the Institute in its absolute discretion to be misleading or inappropriate.
- 7.5 The Institute at its absolute discretion may refuse to register a name, which it deems to be sufficiently similar to a name already registered in the Index, unless the Participant seeking registration can demonstrate a superior interest in the name.
- 7.6 The Institute reserves the right to remove a name from the Index if, in the opinion of the Carpet Institute in its sole discretion, another person can demonstrate a superior interest in the name.
- 7.7 A name may only be registered where there is a product on the market at the time of application to register or where the Participant intends to market the carpet quality within eight weeks following the date of application.

8. Conditions to be placed on Participants.

- 8.1 It will be a condition of participation in the Index from the date of the adoption of these rules by the Members of the Institute that:
 - (a) Participants sign a copy of these Rules and agree to be bound by them; and
 - (b) Participants pay a joining fee determined by the Committee from time to time; and
 - (c) Participants agree to pay a fee for every carpet quality name registered to the Participant in the Index. The fee will be prescribed by the Committee from time to time and will be payable to the Institute immediately after the publication of each revision of the Index.

8.2 The Committee in its absolute discretion shall admit companies as Participants and may in its absolute discretion and without giving reasons therefore decline to admit any company as a Participant.

8.3 All applications to become a Participant in the Index must be in writing.

9. Fees and Administration

9.1 Once every six months the Institute will publish the Index.

9.2 The Institute will not be liable for any errors or omissions in respect of the compilation, production or distribution of the Index.

9.3 Prior to the six monthly publication, the Institute will send to each Participant, a copy of all names, which the Institute has entered on the Index in the particular Participant's name. Participants must within 14 days of receiving that list advise the Institute of any errors or omissions or deletions from the list. Following that period of 14 days, the Institute shall be entitled to rely upon the list so provided to the Participant as an accurate and true record of its entries in the Index.

9.4 If fees payable to the Institute in respect to these rules remain unpaid prior to the six monthly or other interval revision and publication of the Index, the Institute will upon giving notice to the Participant, remove all names which the Participant has registered in the Index. No action at law will be taken against the Institute for exercising its rights under this clause.