

Wisconsin's personal receivership statute--evaluation and recommendations. Davey, 1968 WLR 210.

128.25 History: 1941 c. 282; Stats. 1941 s. 128.25; 1951 c. 261 s. 10.

Editor's Notes: (1) This section takes effect Jan. 1, 1942, "but shall not apply to contracts and transactions already existing upon that date". See ch. 282, sec. 2, Laws 1941.

(2) For foreign decisions construing the "Uniform Secured Creditor's Dividends in Liquidation Proceedings Act" consult Uniform Laws, Annotated.

CHAPTER 130.

Auctions and Auctioneers.

130.06 History: 1856 c. 124 s. 1, 2; R. S. 1858 c. 54 s. 8; 1869 c. 170; R. S. 1878 s. 1590; 1883 c. 160; 1885 c. 291 s. 6; 1887 c. 334 s. 2; Ann. Stats. 1889 s. 1590; 1897 c. 20; Stats. 1898 s. 1590; 1923 c. 27; 1923 c. 291 s. 3; Stats. 1923 s. 130.06; 1943 c. 110; 1961 c. 164; 1969 c. 241.

130.065 History: 1953 c. 509; Stats. 1953 s. 130.065; 1955 c. 247 ss. 3 to 8; 1969 c. 336 s. 176.

130.07 History: 1931 c. 264; Stats. 1931 s. 130.07; 1939 c. 281; 1951 c. 261 s. 10.

See note to sec. 1, art. I, on exercises of police power, citing *Doering v. Swoboda*, 214 W 481, 253 NW 657.

130.08 History: 1931 c. 264; Stats. 1931 s. 130.08; 1933 c. 135; 1943 c. 317.

CHAPTER 132.

Trade-Marks, Badges and Labeled Products.

132.01 History: 1891 c. 280; 1893 c. 14, 104; 1895 c. 151 s. 1, 3; Stats. 1898 s. 1747a; 1909 c. 127; 1917 c. 495 s. 1; 1923 c. 288; 1923 c. 291 s. 3; Stats. 1923 s. 132.01; 1945 c. 259; 1947 c. 358; 1965 c. 163; 1969 c. 154.

The trade-marks law does not authorize the registration of plans or systems of doing business. 1908 Atty. Gen. 997.

Words in common use, when used for advertising purposes, cannot be registered as a label or trade-mark. 1912 Atty. Gen. 993.

To entitle trade-marks, trade-names, etc., to registration, there must be strict compliance with the law. 1912 Atty. Gen. 997.

A trade-mark which may be appropriated by others in the same business with equal truth cannot be registered as a trade-mark. 3 Atty. Gen. 898.

The secretary of state has no authority to record an assignment of a trade-mark. 4 Atty. Gen. 482.

A foreign corporation, not licensed to do business in this state, cannot file a trade-mark. 5 Atty. Gen. 522.

A trade-mark can be registered but once, and such registration will protect the assignee or vendor thereof as well as the original owner. 5 Atty. Gen. 588.

A trade-mark cannot be used to designate the person or corporation transacting the business. 7 Atty. Gen. 141.

The name "Lincoln," being a fanciful or historical name, may be registered as a trade-mark. 7 Atty. Gen. 338.

Whether a trade-mark may be registered is to be determined from the application to register it. 9 Atty. Gen. 108.

The secretary of state may reject only such proposed trade-mark as is likely to be mistaken for a mark previously registered, upon goods of the same descriptive properties; phonograph records are not of the same descriptive properties as phonographs. 11 Atty. Gen. 173.

Trade-marks may be registered by trustees of common-law trusts resident in another state, being persons as designated in sec. 1747a, Stats. 1921. Such a trust is not required to be licensed to do business in Wisconsin. 11 Atty. Gen. 839.

"The Eastsider" may be registered as a trade-name for protection of a magazine. 17 Atty. Gen. 334.

The secretary of state cannot refuse to file a trade-mark consisting of crescent and star if necessary papers are filed and necessary fees are paid; he cannot thereafter revoke such filing upon the theory that it violated federal statutes. 17 Atty. Gen. 639.

A company registering the words "Checker and the checkered band extending around the top of the body of the vehicle" as a trade-mark is protected in its use throughout the state; protection is not limited to Kenosha, where the company was located at the time of registration. 18 Atty. Gen. 500.

The secretary of state in considering an application for registration of a trade-mark may deny the same if made by an officer of an unlicensed foreign corporation for the benefit of such corporation. 19 Atty. Gen. 390.

The word "Co-op" cannot be registered as a trade-mark in face of 185.22, Stats. 1933, which expressly regulates the use of that word. 22 Atty. Gen. 660.

The secretary of state must accept all applications for registration of labels, etc., irrespective of whether they are identical or similar to others previously filed. In case of conflict the remedy is that provided in 132.01 (8), Stats. 1945. A firm name may be registered under 132.01 (1) as amended by ch. 259, Laws 1945. The secretary of state may not require as a condition of registration of a firm name that the applicant furnish proof of compliance with 343.722. A sworn statement or application for registration under ch. 132 may be made by an agent or attorney. The secretary of state is entitled to demand proof of the agent's or attorney's appointment and authority before filing such sworn statement or application. The secretary of state has no authority to set up classes of commodities as to which trade marks may be registered and require separate applications for each class of commodity. 34 Atty. Gen. 198.

A trade-mark, in which is included a reproduction of the official seal of a state, registered in the office of the secretary of state in 1897, may be renewed as provided by 132.01 (6), Stats. 1945, if application for renewal is timely made and necessary fees are paid. 132.01 (5) does not apply where application is made to renew a trade-mark registered before the ef-

fective date of ch. 259, Laws 1945. 35 Atty. Gen. 245.

132.02 History: 1909 c. 127; Stats. 1911 s. 1747am; 1923 c. 291 s. 3; Stats. 1923 s. 132.02.

In an action for infringement of a trademark and for unfair competition by simulating the plaintiff's trade label, findings that the defendants and the plaintiff were proprietors of neighboring orchards, that until recently the plaintiff had marketed the defendants' apples as well as its own, that recently the defendants had adopted a label for their apples which was so nearly an exact duplication of the plaintiff's label that it required an effort at recollection to say which was which, that the defendants adopted such label at the suggestion of a large buyer that thereby buyers and customers would believe they were buying the plaintiff's apples, and that the defendants' acts were calculated to deceive the public and buyers, were sufficient to warrant an accounting for profits. *Kickapoo Development Corp. v. Kickapoo Orchard Co.* 231 W 458, 285 NW 354.

132.03 History: 1909 c. 127; Stats. 1911 s. 1747an; 1923 c. 291 s. 3; Stats. 1923 s. 132.03; 1955 c. 366.

132.031 History: 1895 c. 151 s. 3; Stats. 1898 s. 1747b; 1923 c. 291 s. 3; Stats. 1923 s. 132.09; 1945 c. 259; 1955 c. 366 s. 23; Stats. 1955 s. 132.031; 1969 c. 154.

132.032 History: 1895 c. 151 s. 3; Stats. 1898 s. 1747c; 1923 c. 291 s. 3; Stats. 1923 s. 132.10; 1955 c. 366 s. 23; Stats. 1955 s. 132.032.

132.033 History: 1901 c. 140 s. 1; Supl. 1906 s. 1747dd; 1923 c. 291 s. 3; Stats. 1923 s. 132.12; 1955 c. 366 s. 23; Stats. 1955 s. 132.033.

132.04 History: 1901 c. 360 s. 1; Supl. 1906 s. 1747a—1; 1911 c. 663 s. 313; 1923 c. 288; 1923 c. 291 s. 3; Stats. 1923 s. 132.04; 1965 c. 163, 252; 1969 c. 154.

Statements of marks of ownership of bottles, cans, etc., filed with the secretary of state need not be recorded, as the statutes only require that they be filed with the secretary of state. 3 Atty. Gen. 897.

More than one mark of ownership may be contained in a written statement or description filed by the owner with the secretary of state. 20 Atty. Gen. 351.

The secretary of state has no authority to file or record assignments of registrations made pursuant to 132.04 and 132.11, Stats. 1949. 38 Atty. Gen. 263.

132.05 History: 1901 c. 360 s. 2; Supl. 1906 s. 1747a—2; 1919 c. 679 s. 79; 1923 c. 291 s. 3; Stats. 1923 s. 132.05.

132.06 History: 1901 c. 360 s. 3; Supl. 1906 s. 1747a—3; 1911 c. 663 s. 314; 1923 c. 291 s. 3; Stats. 1923 s. 132.06.

132.07 History: 1901 c. 360 s. 4; 1903 c. 196 s. 1; Supl. 1906 s. 1747a—4; 1911 c. 663 s. 313; 1923 c. 291 s. 3; Stats. 1923 s. 132.07.

132.08 History: 1901 c. 360 s. 5; Supl. 1906 s. 1747a—5; 1911 c. 663 s. 313; 1923 c. 291 s. 3; Stats. 1923 s. 132.08; 1929 c. 262 s. 14.

132.11 History: 1878 c. 302; R. S. 1878 s. 4470a; Stats. 1898 s. 1747d; 1917 c. 495 s. 2; 1923 c. 291 s. 3; Stats. 1923 s. 132.11; 1969 c. 154. See note to 132.04, citing 38 Atty. Gen. 263.

132.13 History: 1897 c. 155 s. 1, 2; Stats. 1898 s. 4960a; 1919 c. 78 s. 15; Stats. 1919 s. 1747dd—1; 1923 c. 291 s. 3; Stats. 1923 s. 132.13; 1935 c. 178; 1969 c. 276 s. 584 (1) (a); 1969 c. 392 s. 87 (19).

Editor's Note: 132.13, Stats. 1933, was held invalid, because arbitrary and discriminatory in respect to commerce, in *State v. Whitfield*, 216 W 577, 257 NW 601; and in 1935 it was replaced by a revised section.

Ch. 178, Laws 1935, is not to be construed so as to restrict rights of the state. Prison-made binder twine must be labeled as such on each ball of twine. 24 Atty. Gen. 442.

132.16 History: 1933 c. 129; Stats. 1933 s. 132.16; 1949 c. 262; 1965 c. 163.

132.17 History: 1887 c. 401; 1889 c. 360; Ann. Stats. 1889 s. 4423b, 4423c; Stats. 1898 s. 4423a; 1907 c. 8; 1919 c. 666; 1921 c. 330; 1923 c. 199; 1925 c. 4, 123; Stats. 1925 s. 343.251; 1949 c. 50; 1951 c. 629; 1953 c. 568; 1955 c. 696 s. 87; Stats. 1955 s. 132.17; 1967 c. 211 s. 21(2); 1969 c. 276 s. 587.

132.17, Stats. 1957, does not prohibit the use of a name where such use began before the enactment of the statute. *Red Cedar Lodge, I.O.O.F. Bldg. Asso. v. Trustees*, 7 W (2d) 500, 96 NW (2d) 828.

132.18 History: 1939 c. 136; Stats. 1939 s. 343.33; 1955 c. 696 s. 93; Stats. 1955 s. 132.18.

132.19 History: 1901 c. 201 s. 1; Supl. 1906 s. 4463a; 1925 c. 4; Stats. 1925 s. 343.651; 1955 c. 696 s. 130; Stats. 1955 s. 132.19.

132.20 History: 1861 c. 155 s. 2; R. S. 1878 s. 4464; 1891 c. 280; 1893 c. 14, 104; 1895 c. 151 s. 1 to 3; Stats. 1898 s. 4464; 1925 c. 4; Stats. 1925 s. 343.66; 1955 c. 696 s. 132; Stats. 1955 s. 132.20.

CHAPTER 133.

Trusts and Monopolies.

133.01 History: 1893 c. 219 s. 1, 2, 5; Stats. 1898 s. 1747e; 1921 c. 458; 1921 c. 590 s. 102; 1923 c. 291 s. 3; Stats. 1923 s. 133.01; 1945 c. 33; 1947 c. 263; 1955 c. 696 s. 29; 1957 c. 397; 1969 c. 276.

Editor's Note: *Murray v. Buell*, 74 W 14, 41 NW 1010, which had to do with a conspiracy to control and monopolize the sale of coal in Milwaukee and to drive the plaintiff out of the business, was decided prior to the enactment of ch. 219, Laws 1893.

On co-operative contracts see notes to 185.41. Under the patent laws the patentee has the right to make stipulations regarding the sale of a patented article; and this right cannot be interfered with by a state. *Butterick P. Co. v. Rose*, 141 W 533, 124 NW 647.

A condition in a deed "that the premises hereby conveyed be used for saloon purposes at all future times when the same may be legally maintained, and the beer sold therein shall be beer which has been manufactured