

Opinion No. 59-88

July 30, 1959

BY: HILTON A. DICKSON, JR., Attorney General

TO: Mrs. Betty Fiorina Secretary of State Santa Fe, New Mexico

{*146} This is in reply to your recent letter in which you ask the following question:

What is the expiration date of trade-mark registrations issued after January 1, 1948 but prior to December 31, 1949? Are these certificates still in effect or should the proprietor of each such trade-mark or trade-name be notified to file application for renewal?

My answer to your question is: That trade-mark registrations issued after January 1, 1948 but prior to December 31, 1949, are still in effect and the holder of each such trade-mark or trade-name should be notified immediately to file application for renewal.

Chapter 345, Session Laws of 1959, specifically repeals Sections 49-4-1 through 49-4-6, N.M.S.A., 1953 Compilation, which prior to the passage of the 1959 law constituted all the New Mexico statutory law on the subject of trade-marks.

The 1959 law, supra, made but little actual change in the theretofore existing law except to raise the fee from \$ 5.00 to \$ 10.00, provide that registrations shall run for a period of 10 years (under the old law registrations existed indefinitely without renewal or payment of additional fees) and provide for notices to be mailed by the Secretary of State warning a registrant of the impending necessity of a renewal of registration.

Coming now to your question: The 1959 law provided in the third unnumbered paragraph of Section 4 of said Act as follows:

"Provided, further, that all registrations issued prior to January 1, 1948, remain in effect until December 31, 1959, and that the holders of all such registrations shall be notified of their expiration beginning June 30, 1959, as prescribed herein."

The phraseology of said paragraph covered all registrations issued prior to January 1, 1948, but made no provision whatsoever for registrations issued after January 1, 1948, but prior to December 31, 1949.

You are correct in your conclusion {*147} that the new statute did not include a provision requiring your office to notify registrants of record whose registration certificates were issued after January 1, 1948, but prior to December 31, 1949.

I suggest, however, that **all** registrants of record whose certificates were issued prior to December 31, 1949, be notified immediately of the impending expirations of their

respective registrations. Such notices should be given by your office in compliance with unnumbered paragraphs 2 and 3 of Section 4, Chapter 345, Session Laws of 1959.

In order that the recipients of such notices may be fully apprised of the urgency of timely renewals by virtue of the provisions of the new law, I suggest that a mimeographed copy of Chapter 345, Session Laws of 1959, be inserted in each envelope together with the notice referred to in the preceding paragraph herein.

By Carl P. Dunifon

Assistant Attorney General