

Lt. Br. No. 68 of 1960 (58)

IN THE HIGH COURT OF AUSTRALIA

IN THE MATTER OF LETTERS PATENT

NOS. 134761, 128411, 136148 and

136296 GRANTED TO

HENRY GEORGE MARTIN

REASONS FOR JUDGMENT

Oral Judgment delivered at Melbourne

on Friday, 5th June 1964

A. C. Brooks, Government Printer, Melbourne

C.7639/60

IN THE MATTER OF LETTERS PATENT
NOS. 134761, 128411, 136148 AND
136296 GRANTED TO
HENRY GEORGE MARTIN

JUDGMENT
(ORAL)

McTIERNAN J.

IN THE MATTER OF LETTERS PATENT
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This is a difficult case. I have considered the evidence adduced before me as showing what the position was in the case of each patent although the evidence deals with the four patents in globo. It must depend upon the circumstances of each case whether such a principle ought to be adopted or not. On the whole I have come to the conclusion that by reason of hostilities between Her Majesty and a foreign State each applicant here as patentee has suffered some loss or damage including some loss of opportunity of dealing in or developing his invention and therefore there is a statutory basis on which I have a discretion. I think there is no circumstance which precludes me from exercising my discretion in favour of the applicant in each case and that in all the circumstances an order should be made for the extension of the term of each patent for a period of two years.

The applicant will pay the Commissioner's costs. I make no order as to the costs of the objector.

The extension will be by way of re-grant under the provisions of s. 95. It is a condition of the re-grant in the case of Letters Patent Nos. 136148 and 136296 that the re-grant in each case is subject to proviso (1) appearing in the original Letters Patent for each of these two inventions. Mr. King agrees to this condition.

I make the Celotex order in this case.