Australian Customs Notice 1996 55

**NOTICES OF OBJECTION TO IMPORTATION TRADE MARKS ACT 1995**

The company referred to in the attached Schedule has given notice under Section 132 of the Trade Marks Act 1995 objecting to the importation of the goods listed in the Schedule which have applied to them, or in relation to them, a sign which infringes the relevant trade mark/s. Unless revoked, this Notice of Objection remains in force for a period of two years from the commencement date shown for the particular trade mark.

The references in the Schedule to particular classes of goods refer to the classes of goods prescribed in Schedule 1 in the Trade Marks Regulations. Unless the Schedule indicates to the contrary, the particular trade mark relates to the specific goods listed in regard to the trade mark/s in question. However, where certain objectors have lodged a Notice of Objection in regard to a variety of trade marks covering a diversity of goods, it has not been feasible to comprehensively reflect the intricacies of some of those Notices. The Schedule clearly indicates where that applies with an asterisk. In any case prospective importers should seek further advice regarding the coverage of the Notice of Objection from their local Customs office (in accordance with the final paragraph below).

Where goods of the kind referred to are manufactured outside Australia and are imported with a sign that is substantially identical with or deceptively similar to the relevant trade mark they are liable to be seized by Customs, unless it can be established that:

the goods are being imported otherwise than for the purposes of trade (sale, lease, hire, etc.); or the goods do not infringe the relevant trade mark.

Part 12 of the Trade Marks Act 1995 details the circumstances in which the use of a trade mark may, or may not, amount to an infringement. For example, a trade mark is not infringed where the mark in question has been applied to, or in relation to, goods with the consent of the registered owner of the trade mark.

People who have been planning commitments to import goods that may be liable to seizure under the provisions of the Trade Marks Act 1995 should consider seeking advice from Customs, or a suitably qualified legal practitioner, as to the implications of the trade marks legislation, and the meaning of terms such as "substantially identical with", "deceptively similar to" and "an infringement of" a trade mark. The trade mark owner's contact particulars have been included in the Schedule to assist importers who may wish to initiate negotiations regarding use of the trade marks in question.

Copies of the relevant Notice of Objection have been forwarded to the Customs office in the capital city of each State and Territory. Importers, or their advisers, who require further information regarding the Notice of Objection, or Customs' role in regard to the Notice, should contact the Commerce Prohibitions and Restrictions Group in the Australian Customs Service Office in their nearest capital city.

# (M.J. ROCHE)

**Deputy Chief Executive Officer ®** November 1996

(Cargo Facilitation : C96/12093, C96/12266) **SCHEDULE TO ACN NO. 96/55 Microsoft CorporationContact: Mallesons Stephen Jaques**

# Solicitors

**(02) 9296 2000**

# Trade MarksClassGoods

**MICROSOFT 9** Computer programs, magnetic discs and tapes containing computer programs, computer software, computer hardware, memory boards for use with computers, programmed chips, cartridges, embodying computer programs, computer software and firmware embodied in computers or designed to be used therewith, all being goods in this Class.

**16** Printed instructional and teaching material related to computers and computer software; books; paper and printed matter for use with computer equipment; computer hardware and software manuals; newsletters featuring information about computer hardware and software; paper, paper tape, cards for recordal of computer programs, all being goods in this Class.

**25** All goods included in Class 25 being clothing, footwear, headgear.

**XENIX 9** Computer software comprising computer programs recorded on disk read-only memories; and computer programs and programmers' reference and user manuals sold as a unit.

**16** Paper tapes and cards for the recordal of computer programs, instructional and teaching materials other than apparatus, office requisites except furniture.

**MULTIPLAN 9** Computer programs, programs recorded on tapes,

disk, or other media; magnetic disks, tapes or other media containing computer programs; magnetic disks, tapes or other media for recording computer programs thereon; programmed chips; computer equipment and parts and accessories therefore included in this Class.

# Trade MarksClassGoods

**MULTIPLAN 16** Reference manuals, instructional and teaching

material (except apparatus), user manuals; all being for computers, computer programs, word processors and similar equipment.

**MS-DOS 9** Computer programs pre-recorded on tapes, disks, diskettes, cartridges and cassettes; and computer

programs. Computer program; information pre- recorded on compact disk read-only memories; and computer programs and programmers' reference and user manuals sold as a unit.

**16** Books, computer documentation, namely

reference books, user and instructional manuals, data sheets, reference cards and templates; and periodicals and newsletters, featuring information about computer hardware and software and information relating to computers.

**TALKING WINDOWS 9** Computer software, data processing equipment and

computers, instruction aids for computers and data processing equipment in Class 9, and all other goods in this Class.

**BALLPOINT 9** Cursor control devices for use with computer

display systems; computer programs; and manuals for use therewith all sold as a unit and all other goods in this Class.

**16** Computer documentation, namely, reference and

instruction manuals for computer hardware and computer programs and all other goods in this class excluding pens, parts, fittings and refills therefore.

**OBJECTWINDOWS 9** All goods in Class 9.

**TELEWINDOWS 9** Computer software and all other goods in this Class. **Device (Fox Head) 9** Computer programs and program manuals all sold as a unit for use in the field of database management;

and all other goods in this Class.

**FOXPRO 9** Computer programs in the field of general purpose database programs and application development

programs.

# Trade MarksClassGoods

**WINDOWS WORLD 16** Publications such as magazines, newspapers, books and periodicals.

**Device (Graduated squares 9** Computers and components therefore, computer **extend from window,** peripherals, and computer programs and manuals **curved)** therefore, sold as a unit and all other goods in this

Class.

**16** Books, periodicals and other publications relating to computers and computer programs and all other goods in this Class.

**FACTORY WINDOW 9** Computer software. **AUTOMAP 9** Computer software.

**AUT ROUTE and device 9** Computer software; excluding computer software **(2 triangles stacked break** used to automatically route information or objects **circle)**

**ENCARTA 9** Computer program and general reference data in the

form of a multi-media encyclopedia on a variety of subjects, stored on a compact disc and all other goods in this Class.

**16** Instruction manuals, user guides and reference

guides for a multi-media encyclopedia on a variety of subjects and all other goods in this Class.

**CINEMANIA 9** Computer programs that provide an interactive

movie guide by accessing a database of movie reviews, movie credits, photographs, dialogue clips, awards lists, biographies of film personalities, and informational articles on film related topics and instructional manuals, sold as a unit and all other goods in this Class.

**16** Instruction manuals for interactive movie guide and all other goods in this Class.

**MCZEE 9** All goods in this Class including educational

computer programs for use by children and manuals therefore sold as a unit, computer programs for use in data communication applications used in the field of children's education and manuals therefore sold as a unit.

# Trade MarksClassGoods

**MCZEE 16** All goods in this Class including publications,

namely user manuals, newsletters, magazines relating to computer programs for use by children. **MCZEE and device (man 9** Educational computer programs for use by

**head, cartoon with cap,** children and manuals therefore sold as a unit **mouth open & big nose in** and all other goods in this Class. **annulus)**

**16** Publications; namely, user manuals, newsletters, magazines relating to computer programs for use by children and all other goods in this Class.

**25** Clothing; namely T-shirts, tank-tops, sweatshirts, shorts, socks, bandanas, sweaters, night shirts, night gowns, bath robes, dresses and all other goods in this Class.

**MICROSOFT OFFICE 9** Computer programs, namely application programs **COMPATIBLE & device** for business and instruction manuals therefore sold **(rectangle, wavy-sides,** as a unit.

# is flag)

**QUICKSHELF 9** Computer programs; namely, utility programs for

accessing reference material and manuals therefore sold as a unit and all other goods in this Class.

**BACKOFFICE 9** Computer programs for use on network servers

and for administering computer networks, namely operating system programs, network management tools and utility programs for use by network administrators, systems management tools for managing personal computer hardware and software over the network, communication programs for linking a network to another computer system, network server programs for processing client-server relational database requests by server clients and electronic mail and messaging programs for use on a network server and all other goods in this Class.

**16** Magazines and newsletters relating to computers, integrated information systems and computer programs, namely operating systems programs and application programs.

# Trade MarksClassGoods

**WHERE DO YOU 9** A full line of business and home software, CD-ROM **WANT TO GO TODAY?** reference works, computer mice and computer keyboards.

**16** Magazines, newspapers, newsletters, user guides, user manuals and books relating to computers and computer software.

# Commencement Date : 7 November 1996 Canberra Files : C96/12093, C96/12266)