Australian Customs Notice 1997 08

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

The companies referred to in the attached Schedule have 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, these Notices of Objection remain 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 marks relate 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 Notices 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 marks 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 Notices 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 this Notice, should contact the Commerce Prohibitions and Restrictions Group in the Australian Customs Service Office in their nearest capital city.

(R.J. Mitchell) National Manager Cargo Facilitation

for

Chief Executive Officer CANBERRA ACT 2601

5 February 1997

(Cargo Facilitation : C96/13034; C96/09229; C96/08752; C97/00419) **SCHEDULE TO ACN NO. 97/08**

|  |  |  |
| --- | --- | --- |
| **Avon Products Pty Ltd** | Customs File : C96/13034 |  |
| Contact : Phillips Ormonde & Fitzpatrick Patent & Trade Mark Attorneys  (03) 9614 1944 | **Date of Effect : 17 December 1996** |

|  |  |  |
| --- | --- | --- |
| Trade Mark | Class | Goods |
| AVON | 3 | Soaps, perfumery, cosmetics, hair-lotions, dentifrices and cleaning products, all being for personal use, and all being goods included in Class 3 |
| AVON | 4 | Candles, being goods included in Class 4 |
| AVON | 14 | Cosmetic and perfumery containers, costume jewellery including ear rings, neck and bracelet wear being goods of precious or semi-precious material, b included in Class 14 |
| AVON | 16 | Printed promotional material |
| AVON | 18 | All goods in this Class |
| AVON | 21 | All goods in this Class |
| AVON | 23 | Needlework thread, needlework yarn and needlework silk for needlework kits |
| AVON | 24 | Cloths for needleworking |
| AVON | 26 | Buttons, press buttons, hooks, fasteners, needles,hoops, frames, bodkins and other instruments for use in needlework, laces and ribbons (except for cl being goods included in this class |
| AVON | 28 | Children's toys and games |
| AVON | 29 | All goods in this class |
| AVON | 30 | All goods in this class |

|  |  |  |
| --- | --- | --- |
| **Bosphorous Pty Ltd** | Customs File : C96/08752 |  |
| Contact : Mr Yilmaz Surucu (03) 95841939 | **Date of Effect : 13 January 1997** |

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| --- | --- | --- | --- |
| Trade Marks | Class | Goods |  |
| Tekel | 33 | Alcoholic beverages |

|  |  |  |
| --- | --- | --- |
| **Rocket Industries Pty Ltd** | Customs File : C96/09229 |  |
| Contact : Griffith Hack Intellectual Property Lawyers  (03) 92438340 | **Date of Effect : 17 December 1996** |

|  |  |  |
| --- | --- | --- |
| Trade Marks | Class | Goods |
| Auto Meter | 9 | Automotive equipment in this class including testing and measuring instruments namely, tachometers, speedometers and mechanical and electrical |

|  |  |  |
| --- | --- | --- |
| **United Distillers (Aust) Limited** | Customs File : C97/00419 |  |
| Contact : Freehill Hollingdale & Page  (02) 9225 5000 | **Date of Effect : 13 January 1997** |

|  |  |  |  |
| --- | --- | --- | --- |
| Trade Marks | Class | Goods |  |
| Moscovskaya | 33 | Alcoholic beverages |
| Stolichnaya Vodka | 33 | Alcoholic beverages |
| Stolichnaya (word) | 33 | Alcoholic beverages |
| Stoli (word) | 33 | Alcoholic beverages |

ATTACHMENT A

# COMMERCE PROHIBITIONS AND RESTRICTIONS

Regional Offices

FURTHER INFORMATION REGARDING CONTROLS ON THE INTELLECTUAL PROPERTY OF IMPORTED GOODS MAY BE OBTAINED BY CONTACTING:

# Canberra

Assistant Director

Intellectual Property Rights (Policy) Cargo Facilitation Branch

Customs House

5 Constitution Avenue

Canberra ACT 2600

Tel: 06 275 6571

Fax: 06 275 6997

# New South Wales

Chief Inspector

Commerce Prohibitions and Restrictions Level 3

ACS Link Road Office Mascot NSW 2020

Tel: 02 9317 7020

Fax: 02 9317 7156

# Victoria

Senior Inspector

Commerce Prohibitions and Restrictions 10th Floor

414 La Trobe Street Melbourne VIC 3000

Tel: 03 9244 8423

Fax: 03 9244 8440

# Queensland

Inspector

Import Clearance Australia House 363 Adelaide Street

Brisbane QLD 4000

Tel: 07 3835 3291

Fax: 07 3835 3337

# Western Australia

Senior Inspector

Commerce Prohibitions and Restrictions Customs House

2 Henry Street

Fremantle WA 6160

Tel: 09 430 1405

Fax: 09 430 1751

# South Australia

Inspector

Commerce Prohibitions and Restrictions Customs House

220 Commercial Road Port Adelaide SA %015

Tel: 08 47 9378

Fax: 08 47 9349

**Northern Territory**

**Tasmania**

Inspector Inspector

Cargo Facilitation Exports and Entry Processing

Customs House 25 Argyle Street

21 Lindsay St Hobart TAS 7000

Darwin NT 0800

Tel: 002 30 1231

Tel: 08 8946 9851

Fax: 002 30 1262

Fax: 08 8946 9953