Australian Customs Notice 1997 77

**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, this Notice of Objection remains in force for a period of two years from the commencement date shown or until, as indicated where applicable, the registration of the nominated trade mark expires.

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 September 1997

(Cargo Facilitation : C96/09360/ C97/07012) 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: 08 9430 1405  Fax: 08 9430 1751 | **South Australia** Inspector  Commerce Prohibitions and Restrictions Customs House  220 Commercial Road Port Adelaide SA 5015 Tel: 08 847 9378  Fax: 08 847 9349 |
| **Northern Territory** | **Tasmania** |
| Inspector | Inspector |
| Cargo Facilitation | Exports and Entry Processing |
| Customs House | 25 Argyle Street |
| 21 Lindsay Street | Hobart TAS 7000 |
| Darwin NT 0800 | Tel: 03 6230 1201 |
| Tel: 08 8946 9851 | Fax: 03 6230 1262 |
| Fax: 08 8946 9953 |  |

SCHEDULE TO ACN NO. 97/77

Gordon &amp; Rena Merchant Pty Ltd Customs File : C96/09360 **Trading as Billabong** Date of Effect : 21 July 1997

Contact : Intertrade Advisers Pty Ltd (07) 3257 3199

Trade Mark

Class

Goods

Expiry Date

|  |  |  |  |
| --- | --- | --- | --- |
|  |  |  |  |
| BILLABONG and  WAVE DEVICE | 14 | Horological and chronometric instruments; time clocks; watch bands; watch cases,  watch chains, watch straps, watches and clocks. |  |

**Bausch &amp; Lomb Incorporated** Customs File : C97/07012 Date of Effect : 8 August 1997

Contact : Sprusons : Solicitors Intellectual Property Law

(02) 9207 0888

|  |  |  |  |
| --- | --- | --- | --- |
| Trade Mark | Class | Goods | Expiry Date |
| BAUSCH &amp; LOMB | 3 | Preparations for use in cleaning ophthalmic lenses, including enzymatic cleaning tablets  and daily cleaning solutions. | 17 April 1999 |
| BAUSCH &amp; LOMB | 5 | Pharmaceutical preparations for use with and/or in the care of contact  lenses | 17 April 1999 |
| SOFT SENSE | 3 | Hand and body lotions for cosmetic  purposes. |  |
| WAYFARER | 9 | Optical apparatus and instruments including sunglasses, ophthalmic frames, and parts and accessories therefor in this  class. |  |

**Bausch &amp; Lomb Incorporated** Customs File : C97/07012 Date of Effect : 8 August 1997

|  |  |  |  |
| --- | --- | --- | --- |
| Trade Mark | Class | Goods | Expiry Date |
| RAY-BAN | 25 | Track suits, casual day clothing and sportswear; the foregoing goods | 21 May 1999 |

|  |  |  |  |
| --- | --- | --- | --- |
|  |  | including but not limited to long  sleeve t-shirts, short sleeve t-shirts, sweatshirts, sporting shoes and sporting socks, jeans, gloves, sporting hats, caps and belts. |  |
| XRAYS | 9 | Spectacles, spectacle frames,  spectacle cases, sunglasses and eye protection devices. |  |
| CHROMAX | 9 | Sunglasses, sunglass lenses and lens coatings sold as a component of  sunglass lenses. |  |
| SIDESTREET | 9 | Optical equipment; sunglasses. |  |
| RENU | 5 | Pharmaceutical preparations; pharmaceutical preparations for use  with or in the care of contact lenses. |  |
| ORBS | 9 | Optical apparatus and instruments; sunglasses |  |

**YKK Australia Pty Ltd** Customs File : C97/07379 Date of Effect : 22 August 1997

Contact : Greenways International Pty Ltd (02) 93134700

|  |  |  |  |
| --- | --- | --- | --- |
| Trade Mark | Class | Goods | Expiry Date |
| YKK | 26 | Slide Fasteners |  |

**Australian Broadcasting Corporation** Customs File : C97/00896 Date of Effect : 22 August 1997

Contact : Australian Broadcasting Corporation (02) 93335849

|  |  |  |  |
| --- | --- | --- | --- |
| Trade Mark | Class | Goods | Expiry  Date |
| BANANAS IN PYJAMAS | 3 | Sunscreens, soaps, perfumery, essential  oils, cosmetics, shampoos and hair lotions |  |
| BANANAS IN PYJAMAS | 9 | Video and audio tapes, compact discs, sound recordings, video discs, and devices in this class for the reproduction  of sound and/or visual images |  |
| BANANAS IN PYJAMAS | 16 | Books, publications, printed matter,  posters, friezes (being printed material), greeting cards, stationery, playing cards, teaching materials in this class, artists' supplies in this class, paper goods in this class. |  |
| BANANAS IN PYJAMAS | 25 | Clothing, footwear and headgear. |  |
| BANANAS IN PYJAMAS | 28 | Toys, games and playthings, including jigsaws and stuffed toys; sporting goods including balls |  |