Australian Customs Notice 1997 14

**NOTICE 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 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 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 this Notice, should contact the Commerce Prohibitions and Restrictions Group in the Australian Customs Service Office in their nearest capital city (see Attachment A).

(R.J. Mitchell) National Manager Cargo Facilitation

for Chief Executive Officer CANBERRA ACT 2601

13 February 1997

(Cargo Facilitation : C96/08420, C96/09961, C96/13076, C96/13175, C97/00643, C97/00704)

**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 5015 Tel: 08 47 9378

Fax: 08 47 9349

**Northern Territory** Inspector

Cargo Facilitation Customs House 21 Lindsay Street

Darwin NT 0800

Tel: 08 8946 9851

Fax: 08 8946 9953

**Tasmania** Inspector

Exports and Entry Processing 25 Argyle Street

Hobart TAS 7000

Tel: 002 30 1231

Fax: 002 30 1262

# SCHEDULE TO ACN NO. 97/14

Coca Cola Holdings (Overseas) Limited

Customs Files : C96/08420, C96/09961, C96/13076, C96/13175, C97/00643, C97/00704

Contact : Legal Secretary (02) 9259 6870 Date of Effect : 19 December 1996

|  |  |  |
| --- | --- | --- |
| Trade Mark | Class | Goods |
|  |  |  |
| Always | 32 | All goods in Class 32 including non-alcoholic drinks and beverages, mineral and aerated waters; soda water, dry ginger ale, tonic water, lemon squash, bitter lemon, lemo |
| Coca- |  | orangeade; fruit juices, fruit juice drinks and beverages containing fruit juice and fruit juice flavouring, including mineral and aerated waters containing fruit juice or fruit |
| Cola |  | flavouring, dietetic and low calorie forms of all the foregoing goods; concentrates, syrup and other preparations and other substances for making all the foregoing goods. |
| Logo |  |  |
|  |  |  |
| Always Coca- Cola | 32 | All goods in Class 32 including non-alcoholic drinks and beverages, mineral and aerated waters; soda water, dry ginger ale, tonic water, lemon squash, bitter lemon, lemo orangeade; fruit juices, fruit juice drinks and beverages containing fruit juice and fruit juice flavouring, including mineral and aerated waters containing fruit juice or fruit flavouring, dietetic and low calorie forms of all the foregoing goods; concentrates, syrup and other preparations and other substances for making all the foregoing goods. |
| (Bottle on Disc) |  |  |
|  |  |  |
| Coca- Cola (block)\* | 15 | All goods in Class 15, including musical instruments and musical dioramas. |
|  |  |  |
| Coca- Cola (script) | 30 | Iced confections, sherbets, and preparations for making the same all being goods containing cola-nut extract. |
|  |  |  |
| Coca- Cola (script) | 32 | Syrups, concentrates, essences, extracts, beverages and preparations for making beverages or for use as ingredients in beverages included in Class 32. |
|  |  |  |
| Coca- Cola (script)\* | 25 | All goods in this Class. |
|  |  |  |
| Coca- Cola (script)\* | 16 | All goods in this Class. |

|  |  |  |
| --- | --- | --- |
| Trade Mark | Class | Goods |
|  |  |  |
| Coca-Cola | 6 | Cans, boxes and containers of metal; and all goods in Class 6. |

|  |  |  |
| --- | --- | --- |
| (script) |  |  |
|  |  |  |
| Coca-Cola (script)\* | 9 | All goods in this Class. |
|  |  |  |
| Coca-Cola (script)\* | 11 | All goods in this Class. |
|  |  |  |
| Coca-Cola (script)\* | 14 | All goods in this Class. |
|  |  |  |
| Coca-Cola (script)\* | 16 | All goods in this Class. |
|  |  |  |
| Coca-Cola (script)\* | 18 | All goods in this Class. |
|  |  |  |
| Coca-Cola (script)\* | 20 | All goods in this Class. |
|  |  |  |
| Coca-Cola (script)\* | 21 | All goods in this Class. |
|  |  |  |
| Coca-Cola (script)\* | 24 | All goods in this Class. |
|  |  |  |
| Coca-Cola (script)\* | 25 | All goods in this Class. |
|  |  |  |
| Coca-Cola (script)\* | 26 | All goods in this Class. |
|  |  |  |
| Coca-Cola (script)\* | 27 | All goods in this Class. |
|  |  |  |
| Coca-Cola (script)\* | 28 | All goods in this Class. |
|  |  |  |
| Coca-Cola (script/old) | 32 | Aerated non-intoxicating beverages. |
|  |  |  |
| Coca-Cola Bottle | 32 | Mineral and aerated waters and other non-alcoholic drinks; syrups and other preparations for making beverages. |
|  |  |  |
| Coca-Cola Bottle (3D) | 32 | Beverages and syrups for the manufacture of such beverages. |
|  |  |  |
| Coca-Cola Classic (block) | 32 | Aerated non-intoxicating beverages; non-alcoholic beverages in this class; mineral and aerated waters and other non-alcoholic drinks; syrups, concentrates, essenc and preparations for making beverages or for use as ingredients in beverages, being goods included in Class 32. |

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| Trade Mark | Class | Goods |
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| --- | --- | --- |
| Coca Cola Landor (shaded) | 32 | All goods in Class 32 including aerated non-intoxicating beverages; non-alcoholic beverages in this class; mineral and aerated waters and other non-alcoholic drin concentrates, essences, extracts, and preparations for making beverages or for use as ingredients in beverages. |
|  |  |  |
| Coca-Cola Light (script) | 32 | Non-alcoholic beverages (including dietetic and/or low calorie non-alcoholic beverages) and preparations for making such beverages being goods included in Cla |
|  |  |  |
| Coke (block) | 29 | Substances used as food or as ingredients in food. |
|  |  |  |
| Coke (block) | 30 | Substances used as food or as ingredients in food. |
|  |  |  |
| Coke (block) | 31 | Substances used as food or as ingredients in food. |
|  |  |  |
| Coke (block) | 32 | Substances used as food or as ingredients in food included in this class including non-aerated non-alcoholic beverages and preparations for making aerated and no alcoholic beverages; mineral and aerated waters, natural and artificial including ginger beer. |
|  |  |  |
| Coke (block) | 6 | Cans, boxes and containers of metal; and all other goods in Class 6. |
|  |  |  |
| Coke (block)\* | 9 | All goods in this Class. |
|  |  |  |
| Coke (block) | 11 | All goods in Class 11 excluding furnaces and other coke-fired appliances. |
|  |  |  |
| Coke (block)\* | 14 | All goods in this Class. |
|  |  |  |
| Coke (block) | 15 | All goods in Class 15 including musical instruments, musical dioramas. |
|  |  |  |
| Coke (block)\* | 16 | All goods in this Class. |
|  |  |  |
| Coke (block)\* | 18 | All goods in this Class. |
|  |  |  |
| Coke (block)\* | 20 | All goods in this Class. |

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| --- | --- | --- |
| Trade Mark | Class | Goods |
|  |  |  |
| Coke (block)\* | 21 | All goods in this Class. |
|  |  |  |
| Coke (block)\* | 22 | All goods in this Class. |
|  |  |  |
| Coke (block)\* | 24 | All goods in this Class. |
|  |  |  |
| Coke (block)\* | 25 | All goods in this Class. |
|  |  |  |
| Coke (block)\* | 26 | All goods in this Class. |

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|  |  |  |
| Coke (block)\* | 27 | All goods in this Class. |
|  |  |  |
| Coke (block)\* | 28 | All goods in this Class. |
|  |  |  |
| Coke (block)\* | 34 | All goods in this Class. |
|  |  |  |
| Coke Classic (block) | 32 | Aerated non-intoxicating beverages; non-alcoholic beverages in this class; mineral and aerated waters and other non-alcoholic drinks; syrups, concentrates, essences, e preparations for making beverages or for use as ingredients in beverages, being goods included in Class 32. |
|  |  |  |
| Diet Coke/Coca- Cola (trade dress) | 32 | All goods in Class 32 including non-alcoholic drinks and beverages, mineral and aerated waters; soda water, dry ginger ale, tonic water, lemon squash, bitter lemon, le orangeade; fruit juices, fruit juice drinks and beverages containing fruit juice and fruit juice flavouring, including mineral and aerated waters containing fruit juice or f flavouring, dietetic and low calorie forms of all the foregoing goods; concentrates, syrup and other preparations and other substances for making all the foregoing goo |
|  |  |  |
| Diet Coca- Cola (script) | 32 | Non-alcoholic beverages (including dietetic and/or low calorie non-alcoholic beverages) and preparations for making such beverages, being goods included in Class 32. |
|  |  |  |
| Diet Coke (block) | 32 | Non-alcoholic beverages (including dietetic and/or low calorie non-alcoholic beverages) and preparations for making such beverages, being goods included in  Class 32. |

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| Trade Mark | Class | Goods |
|  |  |  |
| Diet Coke (series) | 32 | All goods in Class 32 including non-alcoholic drinks and beverages, mineral and aerated waters; soda water, dry ginger ale, tonic water, lemon squash, bitter lemon, le orangeade; fruit juices, fruit juice drinks and beverages containing fruit juice and fruit juice flavouring, including mineral and aerated waters containing fruit juice or fr flavouring dietetic and low calorie forms of all the foregoing goods; concentrates, syrup and other preparations and other substances for making all the foregoing goods |
|  |  |  |
| Dynamic Ribbon Device | 32 | Non-alcoholic beverages and syrups for making such beverages. |
|  |  |  |
| Fanta (block) | 5 | Non-alcoholic drinks and beverages, mineral and aerated waters; soda water, dry ginger ale, tonic water, lemon squash, bitter lemon, lemonade; syrups and other prepa making all the foregoing goods; all the foregoing foods being dietary foods, infants' and invalids' foods or low-calorie foods included in Class 5. |
|  |  |  |
| Fanta (block) | 30 | Flavourings for beverages, coffee, coffee substitutes, condiments, honey, ices, mate, pastries, sugar, syrup, tea. |
|  |  |  |
| Fanta (block) | 32 | Mineral and aerated waters, natural and artificial, including ginger beer; syrups, concentrates, and other preparations for the making of beverages. |
|  |  |  |
| Fanta (block) | 33 | Wines, spirits, liqueurs, alcoholic essences, alcoholic fruit extracts, aperitifs, cider, cocktails, cordials, distillations of fruits for use as drinks, quinine wine and other alc beverages. |
|  |  |  |
| Fanta (stylised with leaf and 3 dots) | 32 | All goods in Class 32 including non-alcoholic drinks and beverages, mineral and aerated waters; soda water, dry ginger ale, tonic water, lemon squash, bitter lemon, le orangeade; fruit juices, fruit juice drinks and beverages containing fruit juice and fruit juice flavouring, including mineral and aerated waters containing fruit juice or fr flavouring, dietetic and low calorie forms of all the foregoing goods; concentrates, syrup and other preparations and other substances for making all the foregoing good |

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| Trade Mark | Class | Goods |
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| Fruitopia  (block) | 32 | All goods in Class 32 including non-alcoholic drinks and beverages, mineral and aerated waters; soda water, dry ginger ale, tonic water, lemon squash, bitter lemon, lemo  orangeade; fruit juices, fruit juice drinks and beverages containing fruit juice and fruit juice flavouring, including mineral and aerated waters containing fruit juice or frui flavouring, dietetic and low calorie forms of all the foregoing goods; concentrates, syrup and other preparations and other substances for making all the foregoing goods. |
|  |  |  |
| Fruitopia (block)\* | 30 | All goods in this Class. |
|  |  |  |
| Lift (block) | 32 | Non-alcoholic drinks and beverages, mineral and aerated waters; soda water, dry ginger ale, tonic water, lemon squash, bitter lemon, lemonade; low calorie forms of all t goods, syrups and other preparations for making all the foregoing goods; all being goods in Class 32 and all other goods in Class 32. |
|  |  |  |
| Minute Maid (block) | 32 | Readily prepared mineral and aerated waters and other non-alcoholic drinks. |
|  |  |  |
| Obey Your Thirst (block) | 32 | All goods in Class 32 including non-alcoholic drinks and beverages, mineral and aerated waters; soda water, dry ginger ale, tonic water, lemon squash, bitter lemon, lemo orangeade; fruit juices, fruit juice drinks and beverages containing fruit juice and fruit juice flavouring, including mineral and aerated waters containing fruit juice or frui flavourings, teas, dietetic and low calorie forms of all the foregoing goods; carbonated and non-carbonated soft drinks and concentrates for making same, including beve containers; concentrated syrups, powders and other preparations and substances for making foregoing goods. |

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| Trade Mark | Class | Goods |
|  |  |  |
| Powerade (block) | 32 | All goods in Class 32 including non-alcoholic drinks and beverages, mineral and aerated waters; soda water, dry ginger ale, tonic water, lemon squash, bitter lemon, lem orangeade; fruit juices, fruit juice drinks and beverages containing fruit juice and fruit juice flavouring, electrolyte replacement beverages for sport; dietetic and low calo all the foregoing goods; concentrates, syrups, powders and other preparations and other substances for making all the foregoing goods. |
|  |  |  |
| Powerade (trade dress) | 32 | All goods in Class 32 including non-alcoholic drinks and beverages, mineral and aerated waters; soda water, dry ginger ale, tonic water, lemon squash, bitter lemon, lem orangeade; fruit juices, fruit juice drinks and beverages containing fruit juice and fruit juice flavouring, electrolyte replacement beverages for sport; dietetic and low calo all the foregoing goods; concentrates, syrups, powders and other preparations and other substances for making all the foregoing goods. |
|  |  |  |
| Sprite (block) | 3 | Perfumery, essential oils, cosmetics, hair lotions and dentifrices. |
|  |  |  |
| Sprite (block) | 5 | Dietetic foods and dietetic beverages. |
|  |  |  |
| Sprite (block) | 29 | Meat, fish, poultry and game, meat extracts, preserves, dried and cooked fruits and vegetables, jellies, jams, eggs, milk and other dairy products, edible oils and fats, pre pickles. |
|  |  |  |
| Sprite (block)\* | 30 | All goods in this Class. |
|  |  |  |
| Sprite (block) | 33 | Wines, spirits and liqueurs. |
|  |  |  |
| Sprite (block) | 32 | Mineral and aerated waters and other non-alcoholic drinks; syrups and other preparations for making beverages. |
|  |  |  |
| Sprite (block) | 34 | Tobacco, raw or manufactured; smokers' articles; matches. |

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| Trade Mark | Class | Goods |
|  |  |  |
| Sprite (stylised initialised cap) | 32 | Non-alcoholic drinks and beverages, mineral and aerated waters; soda water, dry ginger ale, tonic water, lemon squash, bitter lemon, lemonade; low calorie form foregoing foods, syrups and other preparations for making all the foregoing foods; and all other goods in Class 32. |
|  |  |  |