Australian Customs Notice 1997 26

**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](https://borderauthor.border.gov.au/busi/cust/aust/Australian-Customs-Notice-1997-26#Attachment%20A) in the Australian Customs Service Office in their nearest capital city.

(R.J. Mitchell) National Manager Cargo Facilitation for

Chief Executive Officer

5 March 1997

(Cargo Facilitation : C96/05088; C97/00705)

# SCHEDULE TO ACN NO. 97/26

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| **Calvin Klein Trademark Trust** |  |  | Customs File : C97/00705 |

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| --- | --- | --- | --- |
| **Contact : Phillips Ormonde &amp; Fitzpatrick** |  |  | Date of Effect : 6 February 1997 |

Patent &amp; Trade Mark Attorneys (03) 9614 1944

|  |  |  |
| --- | --- | --- |
| Trade Mark | Class | Goods |
|  |  |  |
| CALVIN KLEIN | 9 | Eye glasses and sunglasses; parts and fittings for all the aforesaid goods, all included in Class 9. |
| CALVIN KLEIN\* | 25 | All goods in Class 25. |
| CK CALVIN KLEIN | 18 | Handbags, wallets, key cases, change purses, cosmetic bags and pouches, portfolios, suit bags, trunks, suit cases, toilet kits, umbrellas, billfolds, duffle bags, tote bags, brief cases and attache cases, luggage, overnight cases, credit card holders, business card holders. |
| CK CALVIN KLEIN\* | 25 | All goods in Class 25. |

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| **Hugo Boss AG** |  |  | Customs File : C96/05088 |
| **Contact : Freehill Hollingdale &amp; Page** |  |  | Date of Effect : 30 January 1997 |

(03) 9288 1234

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| --- | --- | --- |
| Trade Mark | Class | Goods |
| BOSS | 9 | Spectacles and parts and accessories therefore, all being goods in Class 9. |
| BOSS | 14 | Articles made of or coated with precious metals and precious metal alloys; jewellery; clocks and watches;all goods in Class 14. |
| BOSS | 18 | Leather goods, cases in Class 18; umbrellas and parasols, belts made of leather. |
| BOSS | 24 | Textiles and textile goods, including cloths, curtains, blinds, household linen, table linen, bed linen, bed covers and table covers, all the aforesaid goods being goods in Class 24. |
| BOSS | 25 | Clothing, clothing accessories, headgear, headgear, footwear, all being goods in Class 25 and all other goods in Class 25. |
| BOSS | 28 | Gymnastic and sports articles in this Class; games, toys and playthings; all goods in Class 28. |
| BOSS | 35 | Tobacco products; cigarette papers, cigarette holders; smokers' articles, including lighters; matches; all goods in Class 34. |
| HUGO BOSS | 9 | Spectacles and parts and accessories therefore, all being goods in Class 9. |
| HUGO BOSS | 14 | Articles made of or coated with precious metals and precious metal alloys; jewellery; clocks and watches; all goods in Class 14. |
| HUGO BOSS | 18 | Leather goods, cases in Class 18; bags in Class 18; umbrellas and parasols, belts made of leather. |
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| HUGO BOSS | 25 | Clothing, clothing accessories, headgear, footwear, all being goods in Class 25 and all other goods in Class 25. |
| HUGO BOSS | 28 | Gymnastic and sports articles in this Class; games, toys and playthings; all goods in Class 28. |
| HUGO BOSS | 34 | Tobacco products; cigarette papers; cigarette holders; smokers' articles, including lighters; matches; all goods in Class 34. |
| BALDESSARINI HUGO BOSS | 25 | Articles of clothing for men, women and children, socks and stockings; headgear; belts; scarves and shawls; accessories, namely head scarves, neck scarves, shoulder scarves, pocket kerchiefs, ties, gloves; shoes. |
| HUGO HUGO BOSS | 9 | Spectacles and parts therefore. |
| HUGO HUGO BOSS | 18 | Leather and imitations of leather, and goods made therefrom (as far as included in Class 18), in particular small articles of leather; trunks and travelling bags; handbags; umbrellas and parasols; belts made of leather. |

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 St

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