Australian Customs Notice 1998 07

**NOTICE OF OBJECTION TO IMPORTATION TRADEMARKS 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.

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. 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 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 Notices of Objection, or Customs' role in regard to these Notices, 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 January 1998 **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: 02 6275 6571**  **Fax: 02 6275 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 8847 9378**  **Fax: 08 8847 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 98/07**

**Iomega Corporation** Contact:

Davies Collison Cave (03) 9254 2777

Customs File: C97/10531 Commencement date: 25 November 1997

|  |  |  |
| --- | --- | --- |
| **TRADEMARK** ZIP | **CLASS** 9 | **GOODS**  Computer memory storage devices, namely disk drives and magnetic disk; computer memory storage controllers; computer memory storage disks and cartridges; computer software all in class 9. |
|  |  |  |

|  |  |
| --- | --- |
| **Gillette Australia Pty Ltd** Contact:  Shelston Waters (02) 9777 1111 | Customs File: C97/08894 Commencement date: 8 October 1997 |
|  |  |

|  |  |  |
| --- | --- | --- |
| **TRADEMARK** PARKER | **CLASS** 16 | **GOODS**  Pencils and particularly mechanical pencils and fountain pens. |
| DUOFOLD | 16 | Fountain pens, pencils, especially mechanical pencils, and inks. |
| Parker Arrow Device | 16 | Pens, pencils, ink, desk sets and other writing accessories included in Class 16. |
| QUINK | 16 | Ink in liquid and solid form. |
| PARKER | 16 | Writing instruments in the nature of pencils, mechanical pencils, fountain pens, ball point pens. |
| Arrow through Circle Device | 16 | Writing instruments and parts thereof, fountain pens, ballpoint pens, mechanical pencils, leads, erasers, writing fluid cartridges, inks, desk sets, and all other articles of stationery. |
| SLINGER | 16 | All goods in Class 16 inclusive of pens, pencils, other writing and marking implements and office requisites. |
| Down Arrow Device | 16 | Writing instruments of all kinds, including fountain pens, ball point pens, soft tip pens, stylist pens and mechanical pencils. |
| DUOFOLD | 16 | Writing instruments and accessories in this class including ball pens, pens, ink, ink cartridges and ink refills. |
| INSIGNIA | 16 | Fountain pens, ball pens, pens, pencils, disk sets, ink cartridges and ink refills, ink, erasers, leads. |

|  |  |  |
| --- | --- | --- |
| GOLDEN TOUCH | 16 | Ink; ink cartridges and ink refills for fountain pens, ballpoint pens, pens and other writing instruments; refills for fibre tipped pens; leads for pencils; writing instruments, fountain pens, pens, ballpoint pens, pencils, desk sets, erasers. |
| Penman Device | 16 | Ink; ink cartridges and ink refills for fountain pens, ballpoint pens; pens and other writing instruments; refills for fibre tipped pens; leads for pencils; writing instruments, fountain pens, pens, ballpoint pens, pencils, desk sets, erasers. |
| Straight Arrow Device | 16 | Writing and drawing instruments and appliances; fountain pens, ball pens, soft tip pens, fibre tip pens, stylus pens, marking pens, correcting pens; ink; ink cartridges and ink refills; erasers; mechanical and non-mechanical pencils; leads for pencils, pen nibs; cases and holders for writing and drawing instruments and appliances; writing accessories; desk sets; parts and fittings for all the aforesaid goods. |
| SONNET | 16 | Writing and drawing instruments and appliances; fountain pens, ball pens, soft tip pens, fibre tip pens, stylus pens, marking pens, correcting pens; ink; ink cartridges and ink refills; erasers; mechanical and non-mechanical pencils; leads for pencils, pen nibs; cases and holders for writing and drawing instruments and appliances; writing accessories; desk sets; parts and fittings for all the aforesaid goods. |
| PARKER RIALTO | 16 | Writing instruments and refills and ink for such goods |
| JOTTER | 16 | Writing instruments being pens and pencils. |
| Down Arrow Device | 16 | Writing instruments and refills and ink for such goods. |
| FRONTIER | 16 | Stationery articles, office supplies, writing and drawing instruments, ink and refills for writing and drawing instruments; paper, cardboard and goods made from these materials, not included in other classes; printed matter; book binding material; photographs; adhesives for stationery or household purposes, artists' materials; paint brushes; typewriters and office requisites (except furniture); instructional and teaching material (except apparatus; playing cards; printers' type; printing blocks. |

|  |  |
| --- | --- |
| **Sony Computer Entertainment Australia Ltd** Contact:  Allen Allen &amp; Hemsley (02) 9230 4600 | Customs File: C97/09084 Commencement date: 14 October 1997 |
|  |  |

|  |  |  |
| --- | --- | --- |
| **TRADEMARK**  Playstation | **CLASS** 9 | **GOODS**  Computer game players combined with CD-ROM drives and software therefor. |
| PS (Device and Word) | 9 | Computer game players combined with CD-ROM drives and software therefor. |

|  |  |  |
| --- | --- | --- |
| PS (Word) | 14 | Tableware and domestic hand tools of precious metal, including nutcrackers, pepper pots, sugar bowls, salt shakers, egg cups, napkin holders, napkin rings, trays; toothpick holders; clothing emblems of precious metal; badges of precious metal; clothing emblems of precious metal; badges of precious metal; watches, clocks, parts and accessories thereof. |
| PS (Word) | 16 | Stationery, adhesives for stationery or household purposes, addressing machines, inking ribbons/typewriter ribbons, electric staplers, envelope sealing machines for offices, drawing instruments/drawing materials, typewriters, checkwriters, letterpress duplicating machines, paper shredders and franking machines, stickers. |
| PS (Word) | 18 | Umbrellas and parasols, luggage bags, pouches and cases |
| PS (Word) | 20 | Furniture. |
| PS (Word) | 21 | Domestic utensils and containers including pans, non-electric coffee-pots, kettles, tableware, ice pails, non-electric whisks for household purposes, strainers, pepper pots, sugar bowls and salt shakers, egg cups, napkins holders and napkin rings, trays for domestic purposes, toothpick holders, bamboo bowls, shakers, rice scoops, hand operated pepper mills, funnels, wooden pestles, earthenware mortars, dining trays/stands, bottle openers, graters, tart scoops, pan-mats/trivets, chopsticks, chopstick cases, ladles/dippers, sieves, sifters, chopping boards (cutting boards), rolling pins, grills, toothpicks, lemon squeezers and waffle irons (non-electric). |
| PS (Word) | 25 | Shoes and boots, hats and caps, hoods. |
| PS (Word) | 26 | Emblems for wear (not of precious metal), badges for wear (not of precious metal); brooches for clothing. |
| PS (Word) | 28 | Sporting and gymnastic implements, wax for skis |
| PS (Word) | 30 | Confectionery, bread and buns. |

|  |  |
| --- | --- |
| **National Basketball Association of Australia Ltd** Contact:  Chrysiliou Moore Martin (02) 9949 6544 | Customs File: C97/02152, c/97/02777 Commencement date: 7 November 1997 |
|  |  |

|  |  |  |
| --- | --- | --- |
| **TRADEMARK** PHOENIX SUNS | **CLASS** 25 | **GOODS**  Clothing, underwear, underpants, singlets, shirts, T-shirts, shorts, pants, trousers, tracksuits, clothing belts, knitwear, jumpers, cardigans, sweatshirts, neckwear, jackets, coats, scarves, rainwear, swimwear, sleepwear, pyjamas, nightshirts, dressing gowns, headwear, hats, caps, socks, hosiery, footwear, shoes, boots, slippers, and all other goods in Class 25. |

|  |  |  |
| --- | --- | --- |
| ORLANDO MAGIC | 25 | Clothing, underwear, underpants, singlets, shirts, T-shirts, shorts, pants, trousers, tracksuits, clothing belts, knitwear, jumpers, cardigans, sweatshirts, neckwear, jackets, coats, scarves, rainwear, swimwear, sleepwear, pyjamas, nightshirts, dressing gowns, headwear, hats, caps, socks, hosiery, footwear, shoes, boots, slippers, and all other goods in Class 25. |
| LAKERS | 25 | Clothing leisure wear, sports wear, underwear, underpants, singlets, shirts, T-shirts, shorts, pants, trousers, tracksuits, clothing belts, knitwear, jumpers, cardigans, sweatshirts, neckwear, jackets, coats, scarves, rainwear, swimwear, sleepwear, pyjamas, nightshirts, dressing gowns, headwear, hats, caps, socks, hosiery, footwear, shoes, boots, slippers and all other goods in Class 25. |
| CHICAGO BULLS | 25 | Clothing, underwear, underpants, singlets, shirts, T-shirts, shorts, pants, trousers, tracksuits, clothing belts, knitwear, jumpers, cardigans, sweatshirts, neckwear, jackets, coats, scarves, rainwear, swimwear, sleepwear, pyjamas, nightshirts, dressing gowns, headwear, hats, caps, socks, hosiery, footwear, shoes, boots, slippers, and all other goods in Class 25. |
| CHARLOTTE HORNETS | 25 | Clothing, underwear, underpants, singlets, shirts, T-shirts, shorts, pants, trousers, tracksuits, clothing belts, knitwear, jumpers, cardigans, sweatshirts, neckwear, jackets, coats, scarves, rainwear, swimwear, sleepwear, pyjamas, nightshirts, dressing gowns, headwear, hats, caps, socks, hosiery, footwear, shoes, boots, slippers, and all other goods in Class 25. |
| SEATTLE SONICS | 25 | Clothing, leisure wear, sportswear, uniforms, babywear, underwear, underpants, boxer shorts, singlets, leotards, shirts, sports shirts, blouses, T-shirts, sweatshirts, tank tops, polo shirts, skivvies, rugby tops, grandpa tops, shorts, board shorts, tracksuits, warm-up suits, clothing belts, knitwear, jumpers, sweaters, guernseys, jerseys, cardigans, vests, neckwear, cravats, neckties, scarves, jackets, bomber jackets, blazers, formal wear suits, coats, parkas, anoraks, rainwear, raincoats, swimsuits, sleepwear, pyjamas, nightshirts, night gowns, dressing gowns, both robes, cloth bibs, aprons, gloves, mittens, headwear, hats, caps, berets, beanies, ear muffs, clothing hoods, visors, headbands, wristbands, socks, stockings, hosiery, footwear, shoes, boots, sandals and slippers. |
| HOUSTON ROCKETS | 25 | Clothing, underwear, underpants, singlets; shirts, T-shirts, shorts, pants, trousers, tracksuits, clothing belts, knitwear, jumpers, cardigans, sweatshirts, neckwear, jackets, coats, scarves, rainwear, swimwear, sleepwear, pyjamas, nightshirts, dressing gowns, headwear, hats, caps, socks, hosiery, footwear, shoes, boots, slippers, and all other goods in Class 25. |
| KNICKS | 25 | Clothing, underwear, underpants, singlets; shirts, T-shirts, shorts, pants, trousers, tracksuits, clothing belts, knitwear, jumpers, cardigans, sweatshirts, neckwear, jackets, coats, scarves, rainwear, swimwear, sleepwear, pyjamas, nightshirts, dressing gowns, headwear, hats, caps, socks, hosiery, footwear, shoes, boots, slippers, and all other goods in Class 25 |