

AUSTRALIAN CUSTOMS NOTICE No. 2001/26

**NOTICES 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 mark relates 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 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 mark 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. However, where the trade mark is applied by, or with the consent of, an overseas owner of the trademark and the goods are imported into Australia without the consent of the Australian trade mark owner, this may still represent an infringement.

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 those Notices, should contact the Commerce Prohibitions and Restrictions Group in the Australian Customs Service Office in their nearest capital city. – see Attachment A

Jeff Buckpitt National Manager

Import/Export Management Branch for

Chief Executive Officer April 2001

**SCHEDULE TO ACN NO 2001/26**

**TRADE MARK NOTICES OF OBJECTION**

***Avon Products Pty Ltd Contact : Phillips Ormonde & Fitzpatrick (03) 9614 1944***

|  |  |  |
| --- | --- | --- |
| *Trade Marks* | *Class* | *Goods* |
| AVON | 3 | Soaps, perfumery, cosmetics, hair lotions, dentifrices and cleaning products, all being for personal use, and al being goods included in class 3. |
| AVON | 3 | Sunscreens, tanning lotions, and anti-perspirants, being goods included in Class 3. |
| AVON | 4 | Candles, being goods included in class 4. |
| AVON | 5 | Medicated creams and lotions; deodorants; medicated hair preparations; and sunburn ointment; all being for personal use, being goods included in Class No. 5. |
| AVON | 14 | Cosmetics and perfumery containers, costume jewellery including ear rings, neck and bracelet wear being goods of precious or semi-precious material, being goods included in class 14. |
| AVON | 16 | Printed promotional material. |
| AVON | 18 | All goods in class 18. |
| AVON | 21 | All goods in class 21. |
| AVON | 21 | Cosmetic and perfumery containers and utensils (none being goods of precious or semi-precious material). |
| AVON | 23 | Needlework thread, needlework yarn and needlework silk for needlework kits (not being kits for the needleworking or articles of clothing). |
| AVON | 24 | Cloths for needleworking (not being for articles of clothing). |
| AVON | 25 | Casual clothing, sleepwear, underwear, scarves, socks, and babywear; and all other goods in class 25 but excluding footwear. |
| AVON | 25 | Hosiery, lingerie and underwear. |

|  |  |  |
| --- | --- | --- |
| AVON | 25 | Clothing including boots, shoes and slippers. |
| AVON | 25 | Belts. |
| AVON | 26 | Buttons, press buttons, hooks, fasteners, needles, hoops, frames, bodkins and other instruments for use in needlework, laces and ribbons (except for clothing) all being goods included in this class. |
| AVON | 26 | Ear-rings, neck and bracelet wear (not being goods of precious or semi-precious material). |
| AVON | 28 | Children’s toys and games. |
| AVON | 29 | All goods included in this class. |
| AVON | 30 | All goods included in this class. |
| AVON – Arabesque around octagon, extended sides. | 3 | Cologne, talcum powder, baby powder, sachets, perfumes, toilet waters, lotions, bath salts and oils. |
| A AVON – Greek character, Alpha | 25 | Casual clothing, sleepwear, underwear, scarves, socks, and babywear; and all other goods in class 25 but excluding footwear. |

***Effective Date : 4 April 2001 File No : C01/02890***

***Fendi Adele S.R.L. Contact : FB Rice & Co (02) 9810 7133***

|  |  |  |
| --- | --- | --- |
| *Trade Marks* | *Class* | *Goods* |
| FENDI | 14 | Precious metals and their alloys and goods in precious metals or coated therewith (except cutlery, forks and spoons); jewellery; precious stones; horological and other chronometric instruments and all other goods in this class. |
| FENDI | 18 | Luggage, beauty cases, shirt cases, desk accessories and brief cases, all included in this class; hand and shoulder bags, trunks, travel bags, rucksacks, key cases, attache cases, wallets (pocket), purses (not of precious metal), card cases, umbrellas and parasols; and all other products included in class 18. |

|  |  |  |
| --- | --- | --- |
| FENDI | 24 | Shirt cases manufactured wholly or principally of textile material. |
| FENDI | 25 | Fur coats, fur stoles, fur pieces, rainwear, coats, jackets, trousers, dresses, hosiery, shirts, blouses, headwear, scarves, foulards, gloves, ties, neckwear, socks, stockings, lingerie, footwear, belts, swimwear and bedwear, all the foregoing being goods in class 25, and all other goods in this class. |
| FF FENDI | 3 | Soaps, anti-perspiration soaps, anti-perspiration toilet articles, essential oils, bath-salts not for medical purposes, bath preparations in this class, beauty masks, detergent milk, make-up sets, cosmetics, cosmetic cotton, tooth-paste, deodorant soap, depilatory products, detergents other than for use in manufacturing operations or for medical purposes, shadows, make-up, fard, eau-de-cologne, eye make-up, eye pencils, hair tinctures, hair lotions, perm preparations, lip- sticks, cosmetic lotions, make-up powder, make-up detergents, nail polish enamels, perfumes, shampoo, shaving preparations. |
| FF FENDI | 9 | Eyeglasses, spectacles and their cases, chains, cords and frames. |
| FF FENDI | 14 | Precious metals and their alloys and goods in precious metals or coated therewith (except cutlery, forks and spoons); jewellery; precious stones; horological and other chronometric instruments and all other goods in this class. |
| FF FENDI | 18 | Leather and imitations of leather and articles made from these materials and not included in other classes; skins, hides; trunks and travelling bags; umbrellas, parasols and walking sticks; whips, harness and saddlery; and all other goods included in this class. |
| FF FENDI |  | Clothing, including boots, shoes and slippers; and all other goods included in this class. |
| FF | 14 | Precious metals and their alloys and goods in precious metals or coated therewith (except cutlery, forks and spoons); jewellery; precious stones; horological and other chronometric instruments and all other goods in this class. |
| FF | 18 | Luggage, beauty cases, shirt cases, desk accessories and brief cases, all included in this class; hand and shoulder bags, trunks, travel bags, rucksacks, key cases, attached cases, wallets (pocket), purses (not of precious metal), card cases, umbrellas and parasols; and all other products included in class 18. |

|  |  |  |
| --- | --- | --- |
| FF | 24 | Shirt cases manufactured wholly or principally of textile material. |
| FF | 25 | Clothing, including boots, shoes and slippers, being goods included in class 25. |
| FF | 26 | Lace and embroidery, ribands and braid; buttons, hooks and eyes, pins and needles, artificial flowers. |
| FF – Rectangle, rounded corners | 25 | Footwear and all other goods in this class. |
| FENDISSIME | 25 | All goods in this class including aprons; baby pants; bath robes; bath sandals; bath slippers; bathing caps; bathing drawers; bathing suits; bathing trunks; beach clothes; beach shoes; belts; boots; coats; cuffs; dressing gowns; footwear; fur stoles; furs; galoshes; gloves; gymnastic shoes; half- boots; hats; headgear for wear; hosiery; knitwear; neckties; overalls; overcoats; pants; pelerines; pockets for clothing; pullovers; pyjamas; sandals; sashes for wear; scarves; shawls; shirts; shoes; skirts; slippers; socks; sports shoes; stocking suspenders; stockings; suits; sweaters; swimsuits; trouser straps; trousers; underwear; vests; waistcoats; wristbands. |

***Effective Date : 22 March 2001 File No : C01/02711***

***Fox Racing USA, Inc Contact : Davies Collison Cave Solicitors***

***(03) 9254 2888***

|  |  |  |
| --- | --- | --- |
| *Trade Marks* | *Class* | *Goods* |
| Fox Head Grotesque | 25 | Clothing, including jackets, raincoats, sweatshirts, jerseys, shirts, blouses, pants, unitards, tights, shorts, hats, caps, sweatbands, headbands, gloves, belts, shoes, boots, socks, aprons. |

***Effective Date : 18 April 2001 File No : C01/02947***

***The Goodyear Tire & Rubber Company Contact : Sprusons: Solicitors (02) 9207 0888***

|  |  |  |
| --- | --- | --- |
| *Trade Marks* | *Class* | *Goods* |
| GOODYEAR | 7 | Belts and belting in this class including conveyor belting. |
| GOODYEAR | 12 | Tyres of india rubber or in which india-rubber is the predominating material, and india-rubber inner tubes therefor. |
| GOODYEAR | 12 | Wheel weights. |
| GOODYEAR | 12 | Belts and belting in this class for vehicles. |
| GOODYEAR – winged foot | 7 | Rubber belting; mechanical rubber goods not for vehicles; being goods included in this class. |
| GOODYEAR – winged foot | 12 | Rubber tyres for automobiles, motor trucks, and other vehicles including tyres for aeroplanes, automobile accessories made of rubber, aeroplane supplies and accessories of rubber and rubberized fabric, rubber bumpers, rubber springs; rubber cushions; mechanical rubber goods for vehicles; being goods included in this class. |
| GOODYEAR - winged foot | 12 | Fuel tanks for aeroplanes and the like. |
| GOODYEAR - winged foot | 17 | Hose. |
| GOODYEAR - winged foot | 17 | Rubber horseshoe pads, buffers of rubber, rubber valves and other moulded rubber articles being goods included in this class. |
| GOODYEAR – Flag,  winged foot | 7 | Rubber and rubber and fabric belting of all kinds. |
| GOODYEAR – Flag,  winged foot | 12 | Tyres and tubes and rubber accessories therefor for use on vehicles. |
| GOODYEAR – Flag,  winged foot | 17 | All goods manufactured from india rubber and gutta percha included in this Class. |
| GOODYEAR SURE GRIP | 12 | Tyres. |

***Effective Date : 6 April 2001 File No : C01/02948***

***John Marvin Spencer & Fay Lynette Spencer Contact : Roadnet Australia***

***(07) 5445 7949***

|  |  |  |
| --- | --- | --- |
| *Trade Mark* | *Class* | *Goods* |
| SYSTEM4 | 1 | Fuel catalyst. |

***Effective Date : 26 March 2001 File No :C01/02297***

***S.A. Ancienne Fabrique Corrs Chambers Westgarth***

***Georges Piaget et Cie (Piaget) (03) 9672 3000***

Trade Marks Class Goods

|  |  |  |
| --- | --- | --- |
| PIAGET | 3 | Soaps, perfumery, essential oils, cosmetics, hair lotions, dentifrices being goods included in class no. 3. |
| PIAGET | 3 | All goods in class 3. |
| PIAGET | 6 | Goods in common metals not included in other classes, key rings, money clips all made of common metal, being goods included in Class No. 6. |
| PIAGET | 8 | Cutlery, forks and spoons. |
| PIAGET | 9 | Eyeglasses, sunglasses, eyeglass frames and cases, magnifying glasses, being goods included in Class No. 9. |
| PIAGET | 14 | Goods in precious metals or coated therewith; jewellery, precious stones, horological and other chronometric instruments. |
| PIAGET | 14 | Horological instruments including watches, watch movements, dials, watch cases, and parts thereof. |
| PIAGET | 16 | Stationery, printed matter, diaries, playing cards, writing implements. |
| PIAGET | 18 | Articles made of leather and imitations of leather, handbags, travelling bags, trunks and valises. |
| PIAGET | 20 | Furniture, mirrors, picture frames, objets d’art and decorations, caskets of wood, shell, amber, mother-of-pearl, meerschaum, celluloid and substitutes for all these materials or of plastics, being goods included in Class No. 20. |

|  |  |  |
| --- | --- | --- |
| PIAGET | 21 | Glassware, porcelain and earthenware for dining and household purposes, objets d’art made of these materials, being goods included in Class No. 21. |
| PIAGET | 25 | Clothing and clothing accessories, belts, scarves, ties and footwear being goods in Class No. 25. |
| PIAGET | 28 | Games and playthings; sporting articles, being goods in Class No. 28. |
| PIAGET | 33 | Wines, champagnes, and spirits, being goods included in Class No. 33. |
| PIAGET | 34 | Tobacco, cigarettes, cigarillos, cigars; smokers’ articles including cigarette lighters and matches, being goods included in class no. 34. |
| PIAGET 14.02 | 14 | Cuff-links made of precious metals or coated therewith; jewellery, precious stones; chronometers, watches, clocks. |
| P – Animal, rampant atop shield leaves form mantling | 3 | Soaps, perfumery, essential oils, cosmetics, hair lotions, toothpastes. |
| P – Animal, rampant atop shield leaves form mantling | 6 | Goods in common metals including key rings, money clips, statues and statuettes, being goods included in class 6. |
| P – Animal, rampant atop shield leaves form mantling | 8 | Cutlery, forks and spoons, pocket knives, scissors, razors. |
| P – Animal, rampant atop shield leaves form mantling | 9 | Optical goods, eyeglasses, sun glasses, eyeglass frames and cases, magnifying glasses. |
| P – Animal, rampant atop shield leaves form mantling | 14 | Goods in precious metals or coated therewith; jewellery, precious stones, horological and other chronometric instruments. |
| P – Animal, rampant atop shield leaves form mantling | 16 | Stationery, printed matter, diaries, playing cards, writing instruments. |
| P – Animal, rampant atop shield leaves form mantling | 18 | Fine leather goods included in class 18, handbags, travelling bags, trunks and suitcases. |

|  |  |  |
| --- | --- | --- |
| P – Animal, rampant atop shield leaves form mantling | 20 | Furniture, mirrors, picture frames; statues and statuettes, caskets of wood, cork, reeds, cane, wicker, horn, bone, ivory, whalebone, shell, amber, meerschaum, mother-of- pearl, celluloid, substitutes for all these materials, or of plastics. |
| P – Animal, rampant atop shield leaves form mantling | 21 | Glassware, porcelain and earthenware for table and household purposes, statues and statuettes in these materials. |
| P – Animal, rampant atop shield leaves form mantling | 25 | Clothing, clothing accessories included in class 25, belts, scarves, ties; boots, footwear. |
| P – Animal, rampant atop shield leaves form mantling | 28 | Games, playthings; sporting articles. |
| P – Animal, rampant atop shield leaves form mantling | 33 | Wines, champagnes, spirits. |
| P – Animal, rampant atop shield leaves form mantling | 34 | Tobacco, cigarettes, cigarillos, cigars, smokers’ articles. |
| ALTIPLANO | 14 | Cuff-links made of precious metals or coated therewith; jewellery, precious stones; chronometers, watches, clocks. |
| DANCER | 14 | Horological and chronometric apparatus and instruments in Class 14; parts and fittings in this class for all said goods; jewellery and all other goods in Class 14. |
| LIMELIGHT | 14 | Cuff-links made of precious metals or coated therewith; jewellery, precious stones; chronometers, watches, clocks. |
| MAGIC LADY | 14 | Cuff-links made of precious metals or coated therewith; jewellery, precious stones; chronometers, watches, clocks. |
| MAGIC GARDENS OF PIAGET | 14 | Cuff-links made of precious metals or coated therewith; jewellery, precious stones; chronometers, watches, clocks. |
| PIAGE | 25 | Boots, shoes and slippers being goods included in Class No. 25. |
| POSSESSION | 14 | Goods in precious metals or coated therewith; jewellery, precious stones, horological and other chronometric instruments. |

|  |  |  |
| --- | --- | --- |
| THE MAGIC WORLD  OF PIAGET | 14 | Cuff-links made of precious metals or coated therewith;  jewellery, precious stones; chronometers, watches, clocks. |

***Effective Date : 26 March 2001 File No :C01/02798***

***The Timberland Company Mallesons Stephen Jaques (02) 9296 2000***

Trade Marks Class Goods

|  |  |  |
| --- | --- | --- |
| TIMBERLAND | 14 | Jewellery, watches and chronological instruments, parts and accessories therefor in this class. |
| TIMBERLAND | 18 | Leather and imitations of leather and goods made of these materials, boot liners, laces made of leather, leather leashes, leather thongs, leather thread, shoulder belt straps of leather, purses (not of precious metal), wallets, briefcases, attache cases, bags made of leather, game bags, haversacks, handbags, trunks and travelling bags, luggage, umbrellas, saddlery and all other goods in class 18. |
| TIMBERLAND | 25 | Footwear including shoes and slippers in class 25. |
| TIMBERLAND – Tree,  grotesque | 25 | All goods in class 25 excluding men’s shirts. |
| Tree, grotesque in disc | 14 | Jewellery, watches and chronological instruments, parts and accessories therefor in this class. |
| Tree, grotesque in disc | 25 | All goods in this class. |
| Tree, grotesque & stripes, oblique forming soil; circle incomplete | 18 | Leather and imitations of leather and goods made from these materials, boot liners, laces made of leather, leather leashes, leather thongs, leather thread, shoulder belt straps of leather, purses (not of precious metal), wallets, briefcases, attache cases, bags made of leather, game bags, haversacks, handbags, trunks and travelling bags, luggage, umbrellas, saddlery and all other goods in class 18. |
| MOUNTAIN ATHLETICS | 9 | Eyeglass frames, eyeglasses, sunglasses, eyeglass cases, eye shades, eyeglass chains, eyeglass cords, protective eye wear and eye wear for sports; protective gloves. |

|  |  |  |
| --- | --- | --- |
| MOUNTAIN ATHLETICS | 14 | Watches and other horological and chronometric instruments; jewellery belonging in Class 14 including jewellery made of precious and non-precious metals; key rings. |
| MOUNTAIN ATHLETICS | 18 | Carrying cases, bags, travelling bags and shoulder bags; backpacks and other strap-on packs; luggage, suitcases, attache cases and brief cases; handbags and purses; belts, wallets, credit card cases, key cases, identification tags, portfolios, appointment books, address books and cheque bookcovers, all made of leather; travel kits and toilet cases made of leather; leather shoe laces; umbrellas. |
| MOUNTAIN ATHLETICS | 25 | Footwear; clothing including headgear; gloves not belonging in any other class; baby buntings; leather aprons. |
| MOUNTAIN  ATHLETICS – Chevron or arrowhead breaks circle | 9 | Eyeglass frames, eyeglasses, sunglasses, eyeglass cases, eye shades, eyeglass chains, eyeglass cords, protective eye wear and eye wear for sports; protective gloves. |
| MOUNTAIN  ATHLETICS – Chevron or arrowhead breaks circle | 14 | Watches and other horological and chronometric instruments; jewellery belonging in Class 14 including jewellery made of precious and non-precious metals; key rings |
| MOUNTAIN  ATHLETICS – Chevron or arrowhead breaks circle | 18 | Carrying cases, bags, travelling bags and shoulder bags; backpacks and other strap-on packs; luggage, suitcases, attache cases and brief cases; handbags and purses; belts, wallets, credit card cases, key cases, identification tags, portfolios, appointment books, address books and cheque bookcovers, all made of leather; travel kits and toilet cases made of leather; leather shoe laces; umbrellas. |
| MOUNTAIN  ATHLETICS – Chevron or arrowhead breaks circle | 25 | Footwear; clothing including headgear; gloves not belonging in any other class; baby buntings; leather aprons. |
| WEATHERGEAR | 18 | Leather accessories; namely luggage, briefcases, handbags, backpacks, wallets, travel (toiletry) cases sold empty, key fobs, luggage tags, credit card cases, and nylon duffel bags and nylon backpacks, in class 18 |
| WEATHERGEAR | 25 | Clothing; namely, jackets, pants, shirts, sweaters, skirts, belts, socks, gloves and hats in class 25. |

***Effective Date : 6 April 2001 File No :C01/02796***